



Registration of a Charge

Company name: **SPARK ENERGY LIMITED**

Company number: **SC301188**

Received for Electronic Filing: **02/05/2017**



X65M2GT7

Details of Charge

Date of creation: **21/04/2017**

Charge code: **SC30 1188 0011**

Persons entitled: **MACQUARIE BANK LIMITED, LONDON BRANCH**

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: 301188

Charge code: SC30 1188 0011

The Registrar of Companies for Scotland hereby certifies that a charge dated 21st April 2017 and created by SPARK ENERGY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd May 2017 .

Given at Companies House, Edinburgh on 3rd May 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**

BOND AND FLOATING CHARGE

by

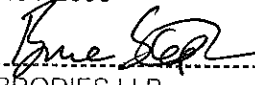
SPARK ENERGY LIMITED

in favour of

MACQUARIE BANK LIMITED, LONDON BRANCH

Brodies LLP
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FAS 0468
2017

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


BRODIES LLP
Solicitors

11/5/2017

Ref: MAC1553.5

BOND AND FLOATING CHARGE dated 21 April 2017

by

- 1 **SPARK ENERGY LIMITED**, a company incorporated in Scotland, with company number SC301188 whose registered office is at Ettrick Riverside, Dunsdale Road, Selkirk, United Kingdom, TD7 5EB (the "**Chargor**")

in favour of

- 2 **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**").

CONSIDERING THAT:-

- A. Spark Energy Supply Ltd is a licensed electricity and gas supplier for non-domestic and domestic customers and Spark Gas Shipping Ltd is a licensed gas shipper, and MBL is a wholesaler trader of electricity and natural gas.
- B. MBL and the Chargor are party to the Wholesale Energy Trading Agreement originally dated 24 December 2015, as amended from time to time (the "**WETA**").
- C. Spark Group shall source its electricity and gas requirements from MBL pursuant to the terms of the WETA, and the Chargor may from time to time trade certain quantities of electricity and gas with MBL under the terms of the WETA and the ISDA.
- D. The Chargor and MBL are parties to the ISDA. Spark Group wishes to trade and MBL has agreed to trade certain quantities of wholesale electricity and gas with Spark Group under the terms of the WETA and the ISDA.
- E. The Chargor has agreed to provide Security to MBL to secure the payment and discharge of the Secured Liabilities (as defined in the bond and floating charge by the Chargor in favour of MBL dated 24 December 2015 (the "**First Floating Charge**")) pursuant to the First Floating Charge.
- F. MBL and the Chargor are party to the Term and Revolving Facilities Agreement dated on or about the date of this Bond and Floating Charge (the "**Facility Agreement**").
- G. The Chargor has agreed to provide Security to MBL to secure the payment and discharge of the Secured Obligations (as defined below).

ACCORDINGLY IT IS AGREED AS FOLLOWS:

1 Undertaking to Pay

The Chargor undertakes to MBL that it will pay or discharge to MBL all the Secured Obligations from time to time incurred by it under or in connection with the relevant agreement when they become due for payment or discharge (whether by acceleration or otherwise).

2 Floating charge

2.1 The Chargor as security for the payment and discharge of all the Secured Obligations hereby grants in favour of MBL a floating charge over the Secured Assets.

2.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Bond and Floating Charge.

3 Negative Pledge and Ranking

3.1 Except by way of Permitted Encumbrance, the Chargor shall not create, incur, assume or permit to subsist any Security in respect of all or any part of the Secured Assets.

3.2 Except as may be agreed by MBL in advance and subject to section 464(2) of the Companies Act 1985, the floating charge created by this Bond and Floating Charge shall rank in priority to any fixed security which shall be created by the Chargor after its execution of this Bond and Floating Charge (other than a fixed security in favour of MBL) and to any other floating charge which shall be created by the Chargor after its execution of this Bond and Floating Charge.

3.3 If the Chargor creates, incurs, assumes or permits to subsist any Security in breach of this Clause 3, then this Bond and Floating Charge shall rank in priority to any such Security.

4 Undertakings

4.1 The Chargor undertakes to MBL that it shall carry on and conduct its business and affairs in a proper and efficient manner and it shall:-

4.1.1 keep all of the Secured Assets in good and sufficient repair and all plant and machinery or other moveable property in good working order and condition, in each case fair wear and tear excepted and, where necessary for the efficient conduct of its business, renew and replace the same as and when the same shall become obsolete, worn out or destroyed (if commercially prudent to do so);

4.1.2 pay all rents, rates, taxes, levies, assessments, impositions and outgoings whatsoever, whether governmental, municipal or otherwise, which may be imposed upon or payable in respect of the Secured Assets as and when the same shall become payable, taking into account agreed periods of grace (if any) and also punctually pay and discharge all debts and obligations which by law may have priority over the floating charge created by this Bond and Floating Charge;

- 4.1.3 observe and perform in all respects restrictive and other covenants and stipulations and burdens for the time being affecting its heritable, freehold or leasehold property or the mode of use or the enjoyment of the same or affecting its moveable or personal property or its ancillary or connected rights and will not, without the prior consent in writing of MBL, enter into any onerous or restrictive obligations with regard thereto and the Chargor will not do or permit or omit to be done any act, matter or thing whereby any provision of law from time to time in force affecting such property or rights shall be infringed;
- 4.1.4 insure and keep insured such of the Secured Assets as comprise heritable, freehold and leasehold, moveable and personal property and effects of every description with underwriters, insurance companies or other insurers to be approved by MBL against loss or damage by fire and such other contingencies and risks as may be required by MBL in their full reinstatement value or for such insured value as MBL may specify or agree from time to time in writing for the time being in the name of the Chargor with the interest of MBL endorsed on the policy or policies or noted as MBL may require;
- 4.1.5 duly pay all premiums and sums payable for the insurance policies required by Clause 4.1.4 and produce the receipts therefor or other evidence of payment to MBL within fourteen days of being requested by MBL so to do and not do anything or omit to do anything in or upon or relating to the Secured Assets or any part thereof which may render any insurance policies required by Clause 4.1.4 void or voidable;
- 4.1.6 notify MBL promptly in the event of any creditor exercising diligence against it or any of Secured Assets wherever situated or taking any steps which might be expected to lead thereto;
- 4.1.7 notify MBL promptly of the purchase by it of any interest in any heritable, freehold or leasehold property;
- 4.1.8 promptly get in and realise in the ordinary course of its trade or business all its book debts apart from balances standing to the credit of any account with any bank or financial institution and, until payment into an account as provided below, shall procure that it holds the proceeds of such getting in and realisation (including all monies receivable in respect thereof) in trust for MBL in such manner as MBL may require;
- 4.1.9 immediately pay into the Operational Accounts all monies whatever payable or paid to the Chargor from time to time including, without limitation, all monies which the Chargor may receive in respect of the book and other debts and claims secured under this Bond and Floating Charge;
- 4.1.10 if at any time called upon to do so by MBL, immediately execute and deliver to MBL an assignation of all or any of its book debts to MBL, at the cost of the Chargor and in

such form as MBL may require (provided that such assignment shall be automatically released following the end of the Security Period); and

- 4.1.11 maintain its centre of main interests, for the purposes of Council Regulation (EC) No. 1346/2000 on Insolvency Proceedings, in the United Kingdom.

4.2 The Chargor will not, without the prior written consent of MBL:

- 4.2.1 sell, assign, transfer, lease, hire out, lend, discount, factor, charge or otherwise dispose of, deal in or remove all or any of the Secured Assets, other than on arm's length terms in the ordinary course of trading, and, in respect of the accounts, other than disposals made at arm's length in good faith and in the ordinary course of trading in order to meet its payment obligations as they become due and payable;
- 4.2.2 make any material alteration to any heritable; freehold or leasehold property comprised in the Secured Assets or do or permit to be done anything which is a "development" within the meaning of the Town and Country Planning Act 1990 or the Town and Country Planning (Scotland) Act 1997 (or analogous legislation in any other jurisdiction) or do or permit to be done any act which would have a material and adverse effect on the value of such heritable, freehold or leasehold property;
- 4.2.3 become cautioner, guarantor or surety for any person, firm or company;
- 4.2.4 undertake any obligation to any third party whereby the Chargor's rights to recover or take payment of any monies due or which may become due to the Chargor from any debtor of the Chargor are postponed or subordinated to the claims of such third party.

5 Enforcement

- 5.1 In addition to any statutory provisions concerning enforceability or attachment the floating charge created by this Bond and Floating Charge shall become enforceable and MBL may appoint an administrator or a Receiver at any time after:

- 5.1.1 the occurrence of an Enforcement Event (as defined in the WETA) or an Event of Default; or
- 5.1.2 the receipt by MBL of a request from the board of directors of the Chargor to appoint an administrator or a Receiver.

- 5.2 To the extent that all or any part of the Secured Assets constitutes Financial Collateral and are subject to a Security Financial Collateral Arrangement created by or pursuant to this Bond and Floating Charge, MBL and any Receiver shall have the right, at any time after this Bond and Floating Charge becomes enforceable, to appropriate all or any part of those Secured Assets in or towards the payment or discharge of the Secured Obligations. The value of any Secured Assets so appropriated shall be the price of those Secured Assets at the time the right of appropriation is

exercised as listed on any recognised market index, or determined by such other method as MBL may select. The Chargor agrees that the methods of valuation provided for in this Bond and Floating Charge are commercially reasonable for the purposes of Regulation 18 of the Financial Collateral Regulations.

- 5.3 Upon the floating charge created by this Bond and Floating Charge becoming enforceable MBL may (in writing) appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act) a Receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause, in the event that any person appointed to be a Receiver shall be removed by a Court or shall otherwise cease to act as such, then MBL shall be entitled so to appoint another person as Receiver in his place.
- 5.4 An administrator shall have the powers set out in Schedule 1 to the Insolvency Act 1986. A Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act.
- 5.5 A Receiver may exercise any powers or rights incidental to ownership of the Secured Assets, including power to:-
 - 5.5.1 exercise any voting rights attached to shares or to enforce any securities;
 - 5.5.2 implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Secured Assets;
 - 5.5.3 make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;
 - 5.5.4 promote or procure the formation of any new company or corporation;
 - 5.5.5 subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;
 - 5.5.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Secured Assets or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in the name of the Chargor and on its behalf and/or in the names of any nominee(s) or trustee(s) for it, any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;

- 5.5.7 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 5.5.8 convene an extraordinary general meeting of the Chargor;
- 5.5.9 acquire any property on behalf of the Chargor;
- 5.5.10 do all such other acts and things as he may consider necessary or desirable for protecting or realising the Secured Assets, or any part thereof, or incidental or, conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Bond and Floating Charge and exercise in relation to the Secured Assets, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid.

6 Office of receiver

- 6.1 Any Receiver appointed under Clause 5 shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and MBL shall not incur any liability therefor (either to the Chargor or any other person) by reason of MBL making his appointment as such Receiver or for any other reason whatsoever.
- 6.2 Any Receiver appointed under Clause 5 shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act, the remuneration of the Receiver may be fixed by MBL (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Obligations and accordingly be secured on the Secured Assets under the floating charge created by this Bond and Floating Charge.

7 Application of enforcement proceeds

- 7.1 Subject at all times to the Deed of Priority, all monies received under or by virtue of this Bond and Floating Charge following enforcement of the floating charge hereby granted shall be applied, subject to the claims of any account bank in respect of the Accounts referred to in the Deed of Priority ranking in priority to or *pari passu* with the claims of MBL under this Bond and Floating Charge, in the following order:-

- 7.1.1 first, in or towards payment of or provision for all costs and expenses incurred by MBL or any Receiver under or in connection with this Bond and Floating Charge and of all remuneration due to any Receiver under or in connection with this Bond and Floating Charge;
 - 7.1.2 secondly, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of MBL and any Receiver under this Bond and Floating Charge or the Finance Documents (as defined in the WETA) or the WETA;
 - 7.1.3 thirdly, in or towards all liabilities having priority to the Secured Obligations;
 - 7.1.4 fourthly, in or towards the discharge of the Secured Obligations in accordance with the WETA and the Finance Documents (as defined in the WETA);
 - 7.1.5 fifthly, in or towards the discharge of the Secured Obligations in accordance with the Facility Documents and the Facility Agreement; and
 - 7.1.6 sixthly, in the payment of any surplus to the Chargor or other person entitled to it.
- 7.2 Nothing contained in this Bond and Floating Charge shall limit the right of the Receiver or MBL (and the Chargor acknowledges that the Receiver and MBL are so entitled) if and for so long as the Receiver or MBL, in their discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the floating charge hereby granted into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Obligations.
- 7.3 Any amount received under this Bond and Floating Charge by MBL or any Receiver in a currency other than that in which the Secured Obligations are denominated and payable shall be converted into the relevant currency at a market rate of exchange from time to time.

8 Protection of security

- 8.1 The floating charge created by this Bond and Floating Charge shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Obligations and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Obligations.
- 8.2 The floating charge created by this Bond and Floating Charge shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which MBL may now or at any time hereafter hold for all or any part of the Secured Obligations.
- 8.3 No failure on the part of MBL to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Bond and Floating Charge or any other document

relating to, creating or securing all or any part of the Secured Obligations will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Bond and Floating Charge and any such other document are cumulative and not exclusive of any right or remedies provided by law.

- 8.4 Each of the provisions in this Bond and Floating Charge shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise, the validity, legality and enforceability of the remaining provisions of this Bond and Floating Charge shall not in any way be affected or impaired thereby.
- 8.5 If MBL receives or is deemed to be affected by notice, whether actual or constructive, of any subsequent security or other interest affecting any part of the Secured Assets and/or the proceeds of sales thereof, MBL may open a new account or accounts with the Chargor. If MBL does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice and as from that time, all payments made to MBL shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount for which this Bond and Floating Charge is security.
- 8.6 Neither the security created by, nor any security interest constituted pursuant to, this Bond and Floating Charge nor the rights, powers, discretions and remedies conferred upon MBL by this Bond and Floating Charge or by law shall be discharged, impaired or otherwise affected by reason of:-
- 8.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to MBL being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by MBL from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
 - 8.6.2 MBL compounding with, discharging or releasing or varying the liability of or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
 - 8.6.3 any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of or security held from the Chargor or any other person in connection with the Secured Obligations; or
 - 8.6.4 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of a guarantor or indemnifier or by

anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargor from the Secured Obligations.

8.7 MBL shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Bond and Floating Charge or by law, to:-

- 8.7.1 take any action or obtain judgement or decree in any court against the Chargor; or
- 8.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or
- 8.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to MBL, in respect of any of the Chargor's obligations to MBL.

9 Further assurance

9.1 The Chargor shall, at its own expense, promptly take any action and sign or execute any further documents which MBL or any Receiver may reasonably require in order to:

- 9.1.1 give effect to the requirements of this Bond and Floating Charge;
- 9.1.2 protect, preserve and perfect the Security intended to be created by or pursuant to this Bond and Floating Charge;
- 9.1.3 protect and preserve the ranking of the Security intended to be created by or pursuant to this Bond and Floating Charge with any other Security over any assets of the Chargor; or
- 9.1.4 facilitate the realisation of all or any of the Secured Assets or the exercise of any rights, powers and discretions conferred on MBL, any Receiver or any administrator in connection with all or any of the Secured Assets following an enforcement of the security created hereunder.

9.2 The Chargor undertakes that, while this Bond and Floating Charge is in force, as soon as it receives them (and in any event as soon as MBL so requests), it shall deposit with MBL, in respect of or in connection with the Secured Assets:

- 9.2.1 all deeds, certificates and other documents of or evidencing title;
- 9.2.2 any other documents which MBL may from time to time reasonably require for perfecting its title, or the title of any purchaser,

all of which will be held by MBL at the expense and risk of the Chargor.

10 Set-off

10.1 The Chargor authorises MBL to apply any credit balance (whether or not then due) to which the Chargor is at any time entitled on any account or accounts with MBL towards satisfaction of the

Secured Obligations. If such balances are in different currencies, MBL may convert either balance at a market rate of exchange for the purpose of the set-off.

- 10.2 MBL shall not be obliged to exercise its rights under this Clause 10, which shall be without prejudice and in addition to any right of set-off, compensation, combination of accounts, lien or other right to which it is at any time otherwise entitled (whether by operation of law, contract or otherwise).

11 Mandate and attorney

The Chargor hereby irrevocably appoints MBL and (as a separate appointment) any Receiver to be its mandatory and attorney for it and on its behalf and in its name or otherwise to do anything which the Chargor is obliged to do under this Bond and Floating Charge, and to exercise any of the rights conferred on the attorney by this Bond and Floating Charge or by law.

12 Indemnity

- 12.1 The Chargor shall, notwithstanding any release or discharge of all or any part of the Secured Obligations indemnify MBL on demand and on a full and unqualified indemnity basis against:

12.1.1 any properly documented costs, claims, losses, expenses (including legal fees) and liabilities reasonably incurred by MBL or made against MBL for anything done or omitted in the exercise or purported exercise of any rights, powers or discretions herein contained or occasioned by any breach by the Chargor of any of its obligations hereunder or in the preservation or enforcement of MBL's rights under this Bond and Floating Charge;

12.1.2 all proper and lawful actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred (and properly documented) by MBL in respect of any payment relating to or in respect of all or any of the Secured Assets which becomes payable at any time by MBL, and any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Bond and Floating Charge; and

12.1.3 all proper and lawful actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred (and properly documented) by MBL in respect of any breach by the Chargor of any of its undertakings or other obligations to MBL

provided that this indemnity shall not apply to the extent that such a claim results from MBL's gross negligence or wilful misconduct, and nothing in this clause shall restrict or limit MBL's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity

- 12.2 None of MBL, any Receiver or any of their respective officers or employees shall have any responsibility or liability:

- 12.2.1 for any proper and lawful action taken, or any proper and lawful failure to take any action, in relation to all or any of the Secured Assets;
 - 12.2.2 for any loss resulting from any fluctuation in interest rates;
 - 12.2.3 for the loss or destruction of, or damage to, any of the Secured Assets, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargor); or
 - 12.2.4 for any other default or omission in relation to all or any of the Secured Assets for which a mortgagee in possession might be liable,
- except in the case of gross negligence or wilful misconduct.

13 Avoidance of payments

Any amount which has been paid by the Chargor to a Receiver or MBL and which is, in the opinion of MBL, capable of being reduced or restored or otherwise avoided, in whole or in part, in the liquidation or administration of the Chargor shall not be regarded as having been irrevocably paid for the purposes of this Bond and Floating Charge.

14 Notices

The provisions of Clause 29 (*Notices*) of the Facility Agreement shall apply mutatis mutandis in respect of any certificate, notice, demand or other communication given or made under this Bond and Floating Charge.

15 Assignment

- 15.1 MBL may, at any time, with the prior written consent of the Chargor (such consent not to be unreasonably withheld or delayed), assign or otherwise transfer all or any part of its rights under this Bond and Floating Charge to any person.
- 15.2 The Chargor may not assign or transfer any of its rights or obligations under this Bond and Floating Charge.

16 Duration of this security

- 16.1 The Security created hereunder shall remain in full force and effect as a continuing security for the Secured Obligations until the earlier of (i) the end of the Security Period or (ii) such time as the Security is discharged by MBL.
- 16.2 No part of the Security from time to time intended to be constituted by this Bond and Floating Charge will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of any part of the Secured Obligations.

- 16.3 Once MBL is satisfied, that all the Secured Obligations have been irrevocably discharged in full, and that MBL has no actual or contingent liability or commitment to incur further liability towards the Chargor or any other company in the Spark Group under or pursuant to the WETA and Finance Documents, (as defined in the WETA), the WETA Amendment Agreement, the Facility Agreement and the other Facility Document, MBL shall, at the request and expense of the Chargor, execute any documents or take any action which may be necessary to release the Secured Assets from the Security constituted by this Bond and Floating Charge.

17 Definitions

- 17.1 Unless the context otherwise requires, or unless otherwise defined in this Bond and Floating Charge, words and expressions defined in the Facility Agreement shall have the same meaning in this Bond and Floating Charge. In this Bond and Floating Charge:-

- 17.1.1 **"Assignment"** means the Scottish law assignment in security between the Chargor and MBL dated on or about the date of this Bond and Floating Charge;
- 17.1.2 **"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London;
- 17.1.3 **"Debenture"** means the English law debenture between, among others, the Chargor and MBL dated on or about the date of this Bond and Floating Charge;
- 17.1.4 **"Facility Document"** means 'Finance Document' as such term is defined in the Facility Agreement;
- 17.1.5 **"Financial Collateral"** has the meaning given to that term in the Financial Collateral Regulations;
- 17.1.6 **"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2006 No 3226);
- 17.1.7 **"Insolvency Act"** means the Insolvency Act 1986;
- 17.1.8 **"ISDA"** means the ISDA Master Agreement (including the schedule thereto) between MBL and the Chargor originally dated 24 December 2015, as amended from time to time;
- 17.1.9 **"Permitted Encumbrance"** means any Security granted in favour of MBL, any Security granted in favour of an Account Bank that is referred to in the Deed of Priority, and any Security that has been consented to by MBL in writing;
- 17.1.10 **"Receiver"** means any receiver or administrative receiver or manager appointed in respect of the Secured Assets (whether pursuant to this Bond and Floating Charge, pursuant to any statute, by a Court or otherwise) and includes joint receivers;

- 17.1.11 **"Secured Assets"** means the whole of the property and undertaking of the Chargor (including uncalled capital) from time to time;
- 17.1.12 **"Secured Obligations"** means the liabilities of any of the Spark Group to MBL under or pursuant to the WETA and each Finance Document (as defined in the WETA), each Facility Document, the WETA and the WETA Amendment Agreement, 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;
- 17.1.13 **"Security"** means a mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment or assignation by way of security, standard security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect;
- 17.1.14 **"Security Financial Collateral Arrangements"** shall have the meaning given to that expression in the Financial Collateral Regulations;
- 17.1.15 **"Security Period"** means the period starting on the date of this Bond and Floating Charge and ending on the date on which MBL is satisfied that all of the Secured Obligations have been irrevocably discharged in full and MBL has no commitment or liability, whether present or future, actual or contingent, in relation to the Finance Documents, (as defined in the WETA), each Facility Document, the WETA, and the WETA Amendment Agreement;
- 17.1.16 **"Spark Group"** means, collectively, the Chargor, Spark Energy Supply Limited (Registered Number 05857467), Spark Gas Shipping Limited (Registered Number 05857480) and Spark Generation Limited (Registered Number SC362870); and
- 17.1.17 **"WETA Amendment Agreement"** means the amendment agreement between the Parties dated on or about the date of this Deed, in respect of the WETA.

18 Interpretation

- 18.1 Unless otherwise indicated any reference in this Bond and Floating Charge to:
 - 18.1.1 a **"fixed security"** shall be construed as a reference to a fixed security as defined by Section 486 of the Companies Act 1985;
 - 18.1.2 a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (in each case whether or not having separate legal personality);

- 18.1.3 any person shall include that persons successor in title, permitted assignees or permitted transferees;
 - 18.1.4 a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
 - 18.1.5 words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
 - 18.1.6 a clause heading is a reference to a clause or sub-clause of this Bond and Floating Charge and is for ease of reference only;
 - 18.1.7 this Bond and Floating Charge (and any provisions of it) or any other document referred to in this Bond and Floating Charge shall be construed as references to it for the time being as amended, varied, supplemented, restated, substituted or novated from time to time.
- 18.2 Any appointment of a Receiver under Clause 5 may be made by any successor or permitted assignee or transferee of MBL and the Chargor hereby irrevocably appoints each such successor or assignee or transferee to be its attorney in the terms and for the purposes stated in Clause 11.
- 18.3 The date of delivery of this Bond and Floating Charge is the date of delivery stated below the signature of the Chargor. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Chargor.
- 18.4 In the event of a conflict between the terms of this Bond and Floating Charge and the Debenture, the terms of the Debenture shall prevail.

19 Governing law and jurisdiction

This Bond and Floating Charge and any non-contractual obligations arising out of it or in connection with it shall be governed by and construed in all respects in accordance with the law of Scotland and, for the benefit of MBL, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish Courts but without prejudice to the ability of MBL to proceed against the Chargor in any other appropriate jurisdiction.

20 Certificates

A certificate signed by any official, manager or equivalent account officer of MBL shall, in the absence of manifest error, conclusively determine the Secured Obligations at any relevant time.

21 Consent and authorisation

21.1 The Chargor hereby irrevocably consents to the registration of this Bond and Floating Charge and of any certificate referred to in Clause 20 for preservation and execution.

21.2 The Chargor hereby authorises MBL or its agent to insert the date of delivery of this Bond and Floating Charge in the execution box below: IN WITNESS WHEREOF these presents consisting of this and the preceding 15 pages are executed as follows:

For Spark Energy Limited

signature of
director/secretary/authorised signatory/witness

HAMISH OSBORN
full name of above (print)

Address of witness

signature of
~~director/secretary/authorised signatory~~

DEBBIE HARDING
full name of above (print)

21/04/2017
date of signing

SELKIRK
place of signing

21/04/2017
date of delivery