

# 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

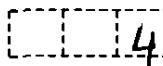
Please complete  
legibly, preferably  
in black type, or  
bold block lettering

\* insert full name  
of company

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

For official use

Company number



SC338426

Name of company

\* Energen Biogas Limited (the "Company")

Date of creation of the charge (note 1)

1 October 2009

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

Floating Charge

Names of the persons entitled to the charge

Paragon Efficiencies Limited (Company Number SC354580) and having its Registered Office at 14 City Quay, Dundee, Tayside, DD1 3JA ("Paragon")

Short particulars of all the property charged

The whole of the property, assets and undertaking (including uncalled capital) from time to time of the Company (the "Assets")

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

Kirsty Coventry (SHA/92/115)  
MacRoberts LLP  
DX GW 70  
Glasgow  
Tel: 0141 303 1100

For official use (02/06)

Charges Section

Post room

WEDNESDAY



\*S28VZ3IJ\*

SCT

22/05/2013

#10

COMPANIES HOUSE

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

Please see paper apart, Part A

*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

Please see paper apart, Part B

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

Please see paper apart, Part C

Short particulars of any property released from the floating charge

n/a

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

n/a

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*

Please see paper apart, Part D

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 James A. [Signature] Date 21 May 2013  
On behalf of [company] (chargee) PRIMA, MICHIGAN LP

*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

**Paper Apart**

This is the paper apart referred to in the foregoing form M466 (Scot) in relation to Energen Biogas Limited

**Part A**

**Names and addresses of the persons who have executed the instrument of alteration**

- (1) **PARAGON EFFICIENCIES LIMITED**, incorporated in Scotland under the Companies Acts (No. SC354580) and having its registered office at 14 City Quay, Dundee, Tayside DD1 3JA ("**Paragon**");
- (2) **SHANKS WASTE MANAGEMENT LIMITED**, incorporated in England and Wales under the Companies Acts (No. 02393309) and having its registered office at Dunedin House, Auckland Park, Milton Keynes, Buckinghamshire MK1 1BU ("**Shanks**");
- (3) **ENERGEN BIOGAS LIMITED**, incorporated in Scotland under the Companies Acts (No. SC338426) and having its registered office at 16 Charlotte Square, Edinburgh, EH2 4DF (the "**Company**"); and
- (4) **BARCLAYS BANK PLC**, having their Head Office at 1 Churchill Place, London (the "**Bank**")

**Part B**

**Dates of execution of the instrument of alteration**

- (1) Executed by Paragon on 16 May 2013;
- (2) Executed by Shanks on 15 May 2013;
- (3) Executed by the Company on 15 May 2013; and
- (4) Executed by the Bank on 17 May 2013.

**Part C**

**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 Charge.**

Until the Discharge Date, the Company will not (and will procure that no member of the Group will) without the prior written consent of the Bank further secure (directly or indirectly) all or any part of the Lenders' Debt unless the security is made subject to the Agreement and ranks behind the Bank's Security pursuant to and in accordance with the Agreement;

**Part D**

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

- 1.1 The Bank's Debt and the Lenders' Debt will rank for all purposes and at all times in the following order and are postponed and subordinated to any prior ranking liabilities as follows:-
  - 1.1.1 first, the Bank's Debt; and
  - 1.1.2 second, the Lenders' Debt (on a pro rata basis as between the individual components of the Lenders' Debt).

in accordance with the provisions of the Agreement.
- 1.2 Notwithstanding any of the provisions of section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970, sections 464 and 466 of the Companies Act 1985 or any other matter, all existing and future Securities will secure the Bank's Debt in priority to the Lenders' Debt regardless of:-

- 1.2.1 the date upon which the Bank's Debt arises;
- 1.2.2 the order of registration, recording, notice or execution of the Securities;
- 1.2.3 whether the Bank is obliged to advance monies included in the Bank's Debt; and
- 1.2.4 any fluctuations in the amount of the Bank's Debt outstanding or any intermediate discharge of the Bank's Debt in whole or in part.

## References

**In this Paper Apart, references to the following shall have the following meanings ascribed to them:**

**Agreement** means the ranking and priority agreement between the Parties dated on or around the date hereof;

**Bank's Debt** means the aggregate amount of principal, interest, commission, costs, charges, expenses and all other monies and liabilities now or hereafter due owing or incurred to the Bank by the Company in any manner whatsoever;

**Bank's Floating Charge** means the floating charge granted by the Company in favour of the Bank dated on or around the date of the Agreement and to be registered with the Registrar of Companies;

**Bank's Security** means the Bank's Standard Security and the Bank's Floating Charge together with all additional or substituted security which the Bank may from time to time hold from the Company to secure the Bank's Debt;

**Bank's Standard Security** means the standard security granted by the Company in favour of the Bank over the Property dated on or around the date of the Agreement and to be registered in the Land Register of Scotland and Registrar of Companies;

**Discharge Date** means the date on which the Bank is satisfied that all of the Bank's Debt has been fully and irrevocably paid and discharged (including, without limitation, any conditional or unmatured obligations);

**Group** means the Company and each of its Subsidiaries for the time being;

**Lenders** means Shanks and Paragon;

**Lenders' Debt** means the aggregate amount of principal, interest, commission, costs, charges, expenses and all other monies and liabilities now or hereafter due or owing or incurred to the Lenders by the Company in any manner whatsoever;

**Lenders' Security** means collectively the Shanks Floating Charge, the Shanks Standard Security, the Paragon Floating Charge and the Paragon Standard Security together with all additional or substituted security which any Lender may from time to time hold from the Company to secure the Lenders' Debt;

**Paragon Floating Charge** means the floating charge by the Company in favour of Paragon created 1 October 2009 and registered at the Registrar of Companies on 20 October 2009;

**Paragon Standard Security** means the standard security in relation to the Property by the Company in favour of Paragon registered in the Land Register of Scotland on 7 October 2009 and registered at the Registrar of Companies on 14 October 2009;

**Property** means the subjects known as and forming ALL and WHOLE that area of ground extending to 1.972 hectares or thereby lying to the southeast of Dunnswood Road, Cumbernauld and to the northwest of Forest Road, aforesaid all as more particularly described in the schedule annexed and executed as relative to the Bank's Standard Security, the Paragon Standard Security and to the Shanks Standard Security;

**Securities** means collectively the Bank's Security and the Lenders' Security and includes each of them

**Shanks Floating Charge** means the floating charge by the Company in favour of Shanks created 1 October 2009 and registered at the Registrar of Companies on 8 October 2009;

**Shanks Standard Security** means the standard security in relation to the Property by the Company in favour of Shanks registered in the Land Register of Scotland on 7 October 2009 and registered at the Registrar of Companies on 9 October 2009; and

**Subsidiary** means a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

A handwritten signature in black ink, appearing to read "James A. Hume". The signature is written in a cursive style with a long horizontal flourish at the end.



**FILE COPY**

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

COMPANY NO. 338426

CHARGE NO. 4

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 17 MAY 2013 WERE DELIVERED  
PURSUANT TO SECTION 878 OF THE COMPANIES ACT 2006  
ON 22 MAY 2013

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 1  
OCTOBER 2009

BY ENERGEN BIOGAS LIMITED

IN FAVOUR OF  
PARAGON EFFICIENCIES LIMITED

FOR SECURING ALL SUMS DUE OR TO BECOME DUE

GIVEN AT COMPANIES HOUSE, EDINBURGH 24 MAY 2013



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



GLASGOW 21 May 2013  
CERTIFIED A TRUE COPY

**macROBERTS**

GLASGOW

*Attest*  
*S. C. C. R.*

**(1) BARCLAYS BANK PLC**

**(AS BANK)**

**(2) SHANKS WASTE MANAGEMENT LIMITED AND PARAGON EFFICIENCIES LIMITED  
(AS LENDERS)**

**(3) ENERGEN BIOGAS LIMITED**

**(AS COMPANY)**

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**RANKING AND PRIORITY AGREEMENT**

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**Pinsent Masons**

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THIS AGREEMENT is made 17 May 2013

**BETWEEN:-**

- (A) **BARCLAYS BANK PLC** (the "**Bank**");
- (B) **SHANKS WASTE MANAGEMENT LIMITED** (No. 02393309) whose registered office is at Dunedin House, Auckland Park, Milton Keynes, Buckinghamshire MK1 1BU and **PARAGON EFFICIENCIES LIMITED** (No. SC354580) whose registered office is at 14 City Quay, Dundee, Tayside DD1 3JA (each a "**Lender**" and together the "**Lenders**"); and
- (C) **ENERGEN BIOGAS LIMITED** (No. SC338426) whose registered office is at 16 Charlotte Square, Edinburgh EH2 4DF (the "**Company**").

**WHEREAS:-**

- (A) The Bank has agreed to make available to the Company banking and other facilities secured by the security granted by the Company particulars of which are set out in Part 1 of the Schedule.
- (B) Each Lender has made available to the Company credit and other financial facilities secured by the security granted by the Company particulars of which are set out in Part 2 of the Schedule.
- (C) The parties have agreed by this Agreement to regulate the respective priorities of the Bank and the Lenders and their rights of recourse to the assets of the Company in satisfaction of the liabilities of the Company to the Bank and to the Lenders.
- (D) This Agreement is intended to replace all previous arrangements (if any) between the Bank and the Lenders in relation to priority of the Lender's Debt and the Bank Debt.

**IT IS AGREED as follows:-**

**1. INTERPRETATION**

**1.1** In this Agreement, unless the context otherwise requires:-

- |                                   |  |
|-----------------------------------|--|
| <b>"Bank's Debt"</b>              | means the aggregate amount of principal, interest, commission, costs, charges, expenses and all other monies and liabilities now or hereafter due owing or incurred to the Bank by the Company in any manner whatsoever  |
| <b>"Bank's Security"</b>          | means the security described in Part 1 of the Schedule together with all additional or substituted security which the Bank may from time to time hold from the Company to secure the Bank's Debt   |
| <b>"Debt"</b>                     | means the Bank's Debt and the Lenders' Debt  |
| <b>"Debt Service Cover Ratio"</b> | means the Debt Service Cover ratio set out in clause 20.2 ( <i>Financial condition</i> ) of the Facilities Agreement   |
| <b>"Discharge Date"</b>           | means the date on which the Bank is satisfied that all of the Bank's Debt has been fully and irrevocably paid and discharged (including, without limitation, any conditional or unmatured obligations)   |
| <b>"Enforcement Date"</b>         | means the earliest of:- <ul style="list-style-type: none"><li>(a) the date on which the Bank or a Lender shall give notice to the other that it has made demand for any monies then owing to it and secured by the Securities or any part thereof;</li><li>(b) the first date on which the Bank or a Lender appoints a</li></ul> |

receiver of all or any part of the property of the Company, takes any step in relation to the appointment of any Insolvency Representative in relation to the Company or takes any other step to enforce the Securities or any part thereof;

- (c) the first date on which the Company is wound up voluntarily or ordered to be wound up compulsorily (save in connection with an amalgamation or reconstruction previously approved in writing by the Bank and the Lender)

**"Facilities Agreement"** means the term and revolving facilities agreement between the Company and the Bank dated 28 March 2013

**"Group"** means the Company and each of its Subsidiaries for the time being

**"Insolvency Event"** means:

- (a) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of any Obligor or a moratorium is declared in relation to any indebtedness of any Obligor or an administrator is appointed to any Obligor or
- (b) the appointment of any liquidator, receiver, administrator, administrative receiver, compulsory manager or similar officer in respect of any Obligor

**"Insolvency Representative"** means any liquidator, administrator, receiver, receiver and manager, administrative receiver, custodian, trustee or similar officer in any jurisdiction

**"Lenders' Debt"** means the aggregate amount of principal, interest, commission, costs, charges, expenses and all other monies and liabilities now or hereafter due or owing or incurred to the Lenders by the Company in any manner whatsoever

**"Lenders' Security"** means the security described in Part 2 in favour of any Lender together with all additional or substituted security which any Lender may from time to time hold from the Company to secure the Lenders' Debt

**"Pari Passu"** in relation to the ranking of the Lenders' Security and repayment of the Lenders' Debt owed to each Lender after the Enforcement Date out of the proceeds of assets subject to the Lenders' Security means repayments thereof shall be made pro rata in the proportion which the amount of such debt owing to each Lender at the date of calculation of each repayment bears to the aggregate thereof at such date

**"Permitted Junior Payments"** means a payment in respect of the Lenders' Debt provided that:

- (a) the Bank has provided its prior written consent or
- (b) the payment (the **"Relevant Junior Payment"**) constitutes a Shareholder Payment (as such term is defined in the Facilities Agreement) and such payment is due or overdue for payment pursuant to and in accordance with the terms of the Subordination Documentation and each of the following conditions are

satisfied at the date of such payment:

- (i) no Default has occurred or is continuing
- (ii) the Bank has received the financial statements for the latest Financial Quarter and related Compliance Certificate in accordance with clauses 19.1.2 (*Financial statements*) and 19.2 (*Compliance Certificate*) of the Facilities Agreement (the "Relevant Compliance Certificate")
- (iii) the Relevant Compliance Certificate confirms the following conditions are satisfied and sets out in reasonable detail the computations or evidence supporting such confirmation:
  - (1) no breach of the Debt Service Cover Ratio would have occurred if the Relevant Junior Payment had been made in the Relevant Period to which the Relevant Compliance Certificate relates and
  - (2) the Debt Service Cover Ratio is forecast to continue to be satisfied when tested for the four Relevant Periods falling after the date of such Relevant Compliance Certificate

provided that:

- (3) for the purpose of calculating the Debt Service Cover Ratio where the Relevant Junior Payment is made after the expiry of a Relevant Period following delivery of the Relevant Compliance Certificate, but is made in respect of a preceding Relevant Period it will be deemed to have been paid in the immediately preceding Relevant Period for the purpose of calculating the Debt Service Cover Ratio (to avoid double counting the Relevant Junior Payments made and/or deemed to have been made in respect of each Relevant Period) and
- (4) in the event any proposed payment is not permitted to be paid by reason of this Agreement (such amount being an "Unpaid Payment"), on the occurrence of a date on which a Permitted Junior Payment is permitted to be made in full or in part in accordance with this Agreement, any Unpaid Payment may also be paid, in full or part provided the conditions of this Agreement are satisfied

<b>"Securities"</b>	means collectively the Bank's Security and the Lenders' Security and includes each of them
<b>"Subordinated Documentation"</b>	means any agreements evidencing or recording the terms of the Lenders' Debt
<b>"Subsidiary"</b>	means a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

**1.2 In this Agreement, unless the context otherwise requires:-**

- 1.2.1 the singular includes the plural and vice versa and reference to any gender includes the other genders;
- 1.2.2 reference to persons include bodies corporate, unincorporated associations and partnerships;
- 1.2.3 words and phrases defined in the Companies Act 2006 have the same meaning in this Agreement but the word "company" includes any body corporate;
- 1.2.4 references to Clauses are to clauses or sub-clauses of this Agreement, references to Schedules are to the schedules to this Agreement;
- 1.2.5 references to any rate of interest shall be construed as meaning that rate as from time to time in force, calculated from day to day, and compounded on the last day of March, June, September and December in each year, both before and after judgment; and references to a base lending rate shall, if there is no such published or determinable rate at the appropriate time, be construed as meaning such reasonably equivalent rate as either the Bank or the Lender (as appropriate) shall select;
- 1.2.6 the expression **"Bank"** and **"Lender"** shall include their respective assigns and successors in title; and
- 1.2.7 references to this Agreement or any other document include references to this Agreement or such other document as varied, substituted, replaced, novated or restated in any manner from time to time.

**1.3 In this Agreement:-**

- 1.3.1 any reference to any statute or statutory instrument or any section or part thereof includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced;
- 1.3.2 headings are for reference purposes only and shall not affect the construction of anything in this Agreement; and
- 1.3.3 unless the context otherwise requires or unless otherwise defined in this Agreement, terms defined in the Facilities Agreement shall have the same meaning in this Agreement.

**1.4 The Schedule shall be treated as an integral part of this Agreement and references to this Agreement shall include the Schedule.**

**2. CONSENTS**

- 2.1 The Bank hereby consents to the continuation of the Lenders' Security and each Lender consents to the creation of the Bank's Security (insofar as any consent may be necessary by implication or otherwise).

2.2 The Company hereby agrees to the terms of this Agreement and undertakes with the Bank and each Lender to observe the provisions hereof and not to do or omit to do anything which may prejudice or affect the enforcement of such provisions.

2.3 If there is any inconsistency between the terms of the Facilities Agreement and the terms of the documents constituting the Bank's Security (the "**Bank's Security Documents**"), the terms of the Facilities Agreement shall prevail. Accordingly, if the Bank's Security Documents contain undertakings or representations which relate to the same subject matter as corresponding undertakings or representations of the Facilities Agreement, the Company will not be in breach of the Bank's Security Documents provided it at all times remains in compliance with the corresponding undertakings or representations of the Facilities Agreement.

### 3. **RANKING AND PRIORITY OF SECURITY**

3.1 The Bank's Debt and the Lenders' Debt will rank for all purposes and at all times in the following order and are postponed and subordinated to any prior ranking liabilities as follows:-

3.1.1 first, the Bank's Debt; and

3.1.2 second, the Lenders' Debt (on a pro rata basis as between the individual components of the Lender's Debt),

in accordance with the provisions of this Agreement.

3.2 Notwithstanding any of the provisions of section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970, sections 464 and 466 of the Companies Act 1985 or any other matter, all existing and future Securities will secure the Bank's Debt in priority to the Lenders' Debt regardless of:-

3.2.1 the date upon which the Bank's Debt arises;

3.2.2 the order of registration, recording, notice or execution of the Securities;

3.2.3 whether the Bank is obliged to advance monies included in the Bank's Debt; and

3.2.4 any fluctuations in the amount of the Bank's Debt outstanding or any intermediate discharge of the Bank's Debt in whole or in part.

3.3 The Bank, the Lenders and the Company will co-operate with a view to reflecting the priority of the Securities in any register or with any filing or registration authority and in giving notice to insurers and debtors liable for receivables covered by the Securities and other persons.

3.4 The priorities set forth above shall rank as provided in Clauses 3.1 and 3.2 and shall not be affected by any act, omission or circumstances which, but for this provision, might operate to release or otherwise exonerate the Lenders from their obligations hereunder or affect such obligations including, without limitation, and whether or not known to the Lenders or the Bank:-

3.4.1 the nature of the Securities and the respective dates or times of their execution and registration;

3.4.2 the respective date or dates or time or times at which each of the Bank or a Lender received notice of any of the Securities held by the other and the respective date or dates or time or times at which monies may be or have been advanced or become owing or payable or secured under the Securities;

3.4.3 any fluctuation from time to time in the amount of the monies secured by the Securities and in particular any reduction and subsequent increase in the monies so secured or the existence at any time of a credit balance on any current or other account and the Securities shall rank as continuing securities for the repayment of the Bank's Debt and the Lenders' Debt respectively;

- 3.4.4 the appointment of any Insolvency Representative in relation to the Company;
  - 3.4.5 any other provision contained in the Securities;
  - 3.4.6 any time or indulgence granted to or composition with the Company or any other person;
  - 3.4.7 the taking, variation (no matter how fundamental or extensive), compromise, renewal or release of or refusal or neglect to effect or enforce, any rights, remedies or securities against or granted by the Company or any other person; or
  - 3.4.8 any legal limitation, disability, incapacity or other circumstances relating to the Company or to any other person or any amendment to, or variation of the terms of the Subordinated Documentation or the Facilities Agreement.
- 3.5 All monies received after the Enforcement Date by the Bank or a Lender or by any receiver appointed under the Securities or otherwise realised from the Securities or any of them shall (after payment of every such receiver's remuneration and receivership expenses and after providing for all outgoings, costs, charges, expenses, liabilities and other payments ranking in priority) be applied in accordance with the provisions of Clause 3.

#### **4. UNDERTAKINGS**

##### **4.1 Undertakings of the Company**

Until the Discharge Date, the Company will not (and will procure that no member of the Group will) without the prior written consent of the Bank:-

- 4.1.1 further secure (directly or indirectly) all or any part of the Lenders' Debt unless such security is made subject to the terms of this Agreement and ranks behind the Bank's Security pursuant to and in accordance with this Agreement;
- 4.1.2 redeem, purchase or otherwise acquire any of the Lenders' Debt other than pursuant to a Permitted Junior Payment;
- 4.1.3 repay or prepay any, or pay any interest, fees or commissions (but without prejudice to accrual thereof) on, or by reference to, any of the Lenders' Debt other than pursuant to a Permitted Junior Payment;
- 4.1.4 take or omit to take any action whereby the subordination of the Lenders' Debt or any part thereof to the Bank's Debt might be terminated, impaired or adversely affected other than pursuant to a Permitted Junior Payment;
- 4.1.5 discharge any of the Lenders' Debt by set-off or any right of combination of accounts or similar right other than pursuant to a Permitted Junior Payment; or
- 4.1.6 amend, vary, waive, release or supplement any term of any of the Subordinated Documentation.

##### **4.2 Undertakings of the Lenders**

- 4.2.1 Until the Discharge Date, no Lender will without the prior written consent of the Bank:-
- (a) purport to set off at any time any amount of the Lenders' Debt against any amount payable by any Lender to the Company, other than pursuant to a Permitted Junior Payment;
  - (b) attempt to obtain repayment or prepayment of principal or payment of any interest, fees or commissions (but without prejudice to accrual thereof) on, or by reference to, any of the Lenders' Debt other than a Permitted Junior Payment;



- (c) ask, demand, accelerate, take steps to enforce (including crystallisation of any floating charge), sue, claim or prove for, take or receive from the Company in any manner whatsoever (including, without limitation, by way of cash receipt or set-off) the whole or any part of the Lenders' Debt or the Lenders' Security other than a Permitted Junior Payment;
- (d) make an application for, petition for, or vote in favour of, any resolution or take any other action whatsoever for, or which may lead to, the administration, winding-up or dissolution of the Company;
- (e) take or omit to take any action whereby the subordination of the Lenders' Debt or any part thereof to the Bank's Debt might be terminated, impaired or adversely affected other than pursuant to a Permitted Junior Payment; or
- (f) amend, vary, waive, release or supplement any term of any of the Subordinated Documentation.

4.2.2 Notwithstanding anything in Clause 4.2.1(a) to the contrary, if an Insolvency Event occurs in relation to the Company, a Lender may exercise any right it may have to:

- (a) accelerate the Lender's Debt or declare it due and payable or payable on demand;
- (b) exercise any right of set-off; or
- (c) claim and approve in the liquidation of the Company for the Lender's Debt owing to it,

provided always that the Bank has already taken such action.

## 5. APPOINTMENT OF INSOLVENCY REPRESENTATIVE

5.1 If the Bank proposes to appoint any Insolvency Representative in relation to the Company or remove or apply for the removal of any Insolvency Representative or exercise its powers of sale or otherwise enforce the Securities held it shall be entitled to do so without notice to the Lenders and each Lender shall co-operate with the Bank in realising the assets charged to it and ensuring that the net proceeds after deduction of the expenses of realisation are paid in accordance with the provisions of this Agreement.

5.2 A Lender may not take any steps to appoint any Insolvency Representative in relation to the Company without the consent of the Bank.

5.3 If:-

- 5.3.1 on an enforcement of any of the Securities, the Bank (or any Insolvency Representative) sells or otherwise disposes of any asset; or
- 5.3.2 the Company sells or otherwise disposes of an asset at the request of the Bank after any Event of Default,

the Bank (or any Insolvency Representative) may execute on behalf of each Lender without the need for any further referral to or authority from such Lender any release of the Securities over that asset provided that the net cash proceeds of sale or disposal are applied in payment of the Debts in the order set out in Clause 3 (*Ranking and Priority of Security*). Each Lender will execute such releases and other documents as the Bank (or any Insolvency Representative) may reasonably require to give effect to this Clause 5.3.

5.4 If any of the circumstances mentioned in Clause 5.1 occur in relation to the Company, the provisions of Clause 5.2 shall continue to apply but, in addition, the Bank is irrevocably authorised by the Lenders on their behalf to:-

- 5.4.1 demand, claim, enforce and prove for;
- 5.4.2 receive any payment or distribution made by the liquidator of the Company or any other person making the payment or distribution in respect of;
- 5.4.3 submit any proof and/or to instruct the relevant liquidator or other person to make payments or distributions in accordance with the above provisions and do all such things as the Bank considers necessary to recover; and
- 5.4.4 exercise all powers of convening meetings, voting and representation in respect of,

each and every part of the Lenders' Debt. Nothing in this clause 5.4 will authorise the Bank to release any part of the Lender's Debt or waive any right to receive any part of the Lender's Debt or reduce any amount otherwise receivable in respect of the Lender's Debt.

5.5 If any of the circumstances mentioned in Clause 5.1 occur, if and to the extent that the Bank is not entitled to exercise any of the authorities given to it under Clause 5.4, each Lender shall give notices, issue directions and take such other action as may from time to time be requested by the Bank to give effect to such provisions.

## **6. TURNOVER OF DISTRIBUTIONS AND RECOVERIES**

If at any time prior to the Discharge Date, any Lender receives or receives the benefit of:-

- 6.1 any payment or distribution in respect of or on account of the Lenders' Debt from the Company or any other source with recourse to the Company; or
- 6.2 any payment under any guarantee in respect of the Lenders' Debt where such guarantor has recourse to the Company; or
- 6.3 any payment made, or directly or indirectly assisted, by the Company or any of its Subsidiaries on account of the purchase or other acquisition of the Lenders' Debt, or any other payment made by the Company or any of its Subsidiaries in breach of this Agreement,

that Lender will hold on trust and immediately pay and distribute to the Bank for application in accordance with the priorities set out in this Agreement an amount determined by the Bank to be the lesser of:

- 6.4 the outstanding aggregate unrecovered balance of the Bank's Debt; and
- 6.5 the amount of such payment or distribution received by that Lender (net of any payments required by law or statute to be made by such Lender).

## **7. GRANT OF FACILITIES TIME AND INDULGENCE**

At any time prior to but not after the Enforcement Date and subject to the provisions of Clause 9.3, the Bank shall be entitled without obtaining the consent of any other person and without affecting any provisions of this Agreement to renew, vary or determine any advance, accommodation or facilities given or to be given to the Company and to agree as to the application thereof or to hold, renew, modify or release or abstain from taking, perfecting or enforcing any security, guarantee or right now or in the future held from or against the Company in respect of any liability to the Bank and to deal with and receive monies in respect of the Securities and to grant time or indulgence to or compound with the Company.

**8. RETENTION OF PROPERTY DEEDS AND INSURANCE**

- 8.1 The Bank and each Lender hereby agree that all deeds and documents required to be deposited with them under the Securities shall be held and deposited with the Bank during the subsistence of the Bank's Security and (following the complete discharge of the Bank's Security) by each Lender during the subsistence of that Lender's Security and such deposit shall be deemed in favour of the Company a sufficient performance of any obligation on it to deposit deeds and documents under the Securities.
- 8.2 Notwithstanding any contrary provisions in either the Bank's Security or the Lenders' Security in the event of any monies being received prior to the Enforcement Date under any insurance covering any of the property or assets charged under the Securities such monies shall (subject to the rights of any landlord or the holder of any prior encumbrance) be applied in replacing, restoring or reinstating the property or assets destroyed, damaged or lost unless the Bank shall otherwise direct in writing.

**9. GENERAL**

It is further agreed between the parties as follows:-

- 9.1 no Lender may, whether by way of charge or otherwise, assign or make a disposition of the benefit of all or any of its rights in relation to the Securities to any party (an "Assignee") unless the Bank has provided prior written consent and the Assignee and the Company shall first have executed an accession agreement by which each of the Assignee and the Company agree to be bound by the terms of this Agreement;
- 9.2 notwithstanding any provision in the Lenders' Security during the subsistence of the Bank's Security all book and other debts charged by the Bank's Security shall be paid to the Bank pursuant to the provisions of the Bank's Security and compliance by the Company with the terms of this Clause shall be a sufficient performance of any similar obligations under the Lenders' Security;
- 9.3 any security (other than the Securities) for the time being and from time to time held by the Bank or a Lender and any monies at any time recovered out of or in respect of any such security shall be independent of and shall not be prejudiced or affected by the terms of this Agreement; and
- 9.4 as between the Bank and the Lenders, the Bank and each Lender shall bring into account all preferential payments received by them.

**10. SUBROGATION**

A Lender shall not, by virtue of any payment or distribution or other benefit in respect of that Lender's Debt and received by the Bank, be entitled to any right of subrogation until the Bank's Debt has been paid in full.

**11. WARRANTIES FROM THE LENDERS**

- 11.1 Each Lender warrants on the date of this Agreement and on each date that this Agreement is outstanding that:-
- 11.1.1 this Agreement constitutes its legal, valid and binding obligations, is within its powers and has been duly authorised by it;
- 11.1.2 this Agreement does not and will not breach any instrument, agreement or undertaking or violate any applicable law, rule or regulation; and
- 11.1.3 all consents and authorisations necessary in relation to this Agreement have been obtained and are in force.

**12. VARIATION/ALTERATION**

The Securities are hereby varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as a variation within the meaning of section 16 of the Conveyancing and Feudal Reform (Scotland) Act 1970.

This Agreement shall also operate as an instrument of alteration for the purposes of section 466 of the Companies Act 1985.

**13. CURRENCY**

Any monies received by the Bank under or by virtue of the Bank's Security may be converted by the Bank at any time as it shall think fit (and notwithstanding any previous such conversion) into any currency in which monies or liabilities are due owing or incurred by the Company to the Bank in which event the net amount available to the Bank in such other currency after allowing for all costs of conversion shall be deemed to be the amount received by the Bank under or by virtue of the Bank's Security.

**14. DISCLOSURE OF INFORMATION**

During the continuance of the Securities or any of them the Bank and each Lender shall be at liberty from time to time to disclose to the other information concerning the financial and other affairs of the Company and any Subsidiary in such manner and to such extent as the Bank and that Lender shall from time to time desire.

**15. NOTICES**

Any notice to be given in connection with this Agreement shall be in writing and (without prejudice to proof that it has been effectively given in any other manner) shall be deemed duly served if delivered at or posted by recorded delivery post to the address of the party concerned which is set out in this Agreement or notified to the other party in accordance with the provisions of this Clause. Any such notice shall be deemed to be served if delivered personally, on the day on which it is delivered or if posted, 48 hours after the time of posting. Evidence that the notice was properly addressed stamped and put into the post shall be conclusive evidence of service.

**16. DURATION**

This Agreement shall cease to have effect as regards the Bank and the Lenders when the Bank's Security or all of the Lenders' Security has been fully discharged.

17. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Scots law. The parties hereby submit to the exclusive jurisdiction of the Scottish courts in relation to any claim or matter arising out of this Agreement and any non-contractual obligations arising out of or in connection with it.

**IN WITNESS WHEREOF** these presents consisting of this and the preceding ten pages and the Schedule (in two parts) are subscribed as follows:

**THE BANK**

**SUBSCRIBED** for and on behalf of **BARCLAYS BANK PLC**

at 3 Hardman Street, Manchester M3 3AU

on the 17 day of May 2013

by



Director/Secretary/Attorney/Authorised Signatory

ANDREW LOGAN HEADCROFT

Full Name

In the presence of:

S J Limer

Director/Authorised Signatory/Secretary/Witness

Sophie Limer

Full Name

3 Hardman Street, Manchester

, Address (address to be completed for witness only)

M3 3AU

THE LENDERS

SUBSCRIBED for and on behalf of SHANKS WASTE MANAGEMENT LIMITED

at DUNEDIN HOUSE, AUCKLAND PARK, MILTON KEYNES MK1 1BU

on the 15 day of May 2013

by

..... Director/Secretary/Attorney/Authorised Signatory

..... Full Name

In the presence of:

..... Director/Authorised Signatory/Secretary/Witness

..... Full Name

..... Address (address to be completed for witness only)

SUBSCRIBED for and on behalf of PARAGON EFFICIENCIES LIMITED

at DUNSWOOD ROAD, CUMBERNAULD, G67 3EN

on the 16 day of May 2013

by

..... Director/Secretary/Attorney/Authorised Signatory

..... Full Name

In the presence of:

..... Director/Authorised Signatory/Secretary/Witness

..... Full Name

..... Address (address to be completed for witness only)

.....

THE COMPANY

SUBSCRIBED for and on behalf of **ENERGEN BIOGAS LIMITED**

at DUNEDIN HOUSE, AUCKLAND PARK, MILTON KEYNES, MK1 1BU

on the 15 day of MAY 2013

by

..... Director/~~Secretary~~/~~Attorney~~/Authorised Signatory

..... JOHN SIMPSON Full Name

In the presence of:

..... P. GIFFIN Director/~~Authorised Signatory~~/Secretary/~~Witness~~

..... PHILIP GIFFIN SMITH Full Name

..... Address (address to be completed for witness only)

This is the Schedule referred to in the foregoing Priority and Ranking Agreement made between Barclays Bank PLC, Shanks Waste Management Limited, Paragon Efficiencies Limited and Energen Biogas Limited

**PART 1**

**BANK'S SECURITY**

Bond and floating charge dated 28.03.2013

Standard security dated 28.03.2013

**PART 2**

**LENDERS' SECURITY**

<b>Lender</b>	<b>Description</b>	<b>Date</b>
Shanks Waste Management Limited	Floating charge	01.10.2010
Shanks Waste Management Limited	Standard security	07.10.2010
Paragon Efficiencies Limited	Standard security	07.10.2009
Paragon Efficiencies Limited	Floating charge	01.10.2009