



**Registration of a Charge**

Company name: **CAPRICORN EXPLORATION AND DEVELOPMENT COMPANY LIMITED**  
Company number: **SC426519**



X7LHCSBC

Received for Electronic Filing: **24/12/2018**

---

**Details of Charge**

Date of creation: **20/12/2018**  
Charge code: **SC42 6519 0005**  
Persons entitled: **DNB BANK ASA (AS SECURITY TRUSTEE)**  
Brief description:

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

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

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

Certified by:

**BRODIES LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 426519

Charge code: SC42 6519 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 20th December 2018 and created by CAPRICORN EXPLORATION AND DEVELOPMENT COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th December 2018 .

Given at Companies House, Edinburgh on 27th December 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

**SCOTTISH SUPPLEMENTAL FLOATING CHARGE**

by

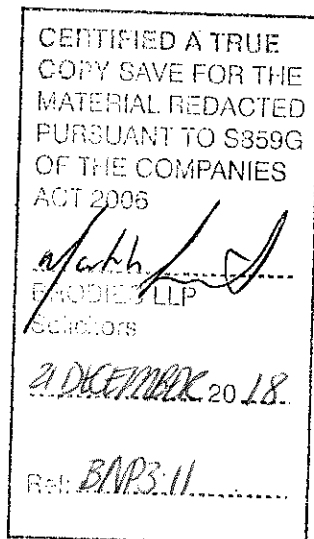
**CAPRICORN EXPLORATION AND DEVELOPMENT COMPANY LIMITED**

as the Company

in favour of

**DNB BANK ASA**

as the Security Trustee



**Brodies LLP**  
15 Atholl Crescent  
Edinburgh EH3 8HA  
T: 0131 228 3777  
F: 0131 228 3878  
DX ED 10  
Ref: MPST.CED.BNP3.11  
FAS 0468  
2018

For the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015, this Supplemental Floating Charge is delivered on 20 DECEMBER 2018

**THIS SUPPLEMENTAL BOND AND FLOATING CHARGE** is granted by:

- (1) **CAPRICORN EXPLORATION AND DEVELOPMENT COMPANY LIMITED**, a private limited company with registered number SC426519, and whose registered office is at 50 Lothian Road, Edinburgh, Midlothian EH3 9BY (the "**Company**");

in favour of

- (2) **DNB BANK ASA**, whose registered office is at Dronning Eufemias Gate 30, 0191 Oslo, Norway, as agent and trustee for itself and each of the other Finance Parties (the "**Security Trustee**").

#### **BACKGROUND**

- 1 The Company, amongst others, has entered into the Second Amendment and Restatement Agreement (as defined below) in order to amend and restate the Facility Agreement (as defined below).
- 2 Pursuant to the Original Floating Charge (as defined below) the Company charged its assets by way of floating charge as Security for, among other things, its present and future obligations and liabilities under the Finance Documents.
- 3 The Company considers that the Security granted under the Original Floating Charge secures payment of the Secured Liabilities but enters into this Supplemental Floating Charge in case it does not.
- 4 This Supplemental Floating Charge is supplemental to the Original Floating Charge, and is the "supplemental floating charge" entered into by the Company referred to in paragraph 3.2 to Schedule 2 of the Second Amendment and Restatement Agreement.

**IT IS AGREED** as follows:

#### **1 Definitions and construction**

##### **1.1 Definitions**

Terms defined in the Facility Agreement shall, unless otherwise defined in this Supplemental Floating Charge or unless a contrary intention appears, bear the same meaning when used in this Supplemental Floating Charge and the following terms shall have the following meanings:

- 1.1.1 "**Administrator**" means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the Company's affairs, business and property;

- 1.1.2 **"Charged Assets"** means the property charged pursuant to Clause 3.1 (Creation of floating charge) of this Supplemental Floating Charge;
- 1.1.3 **"Enforcement Date"** means the date on which the Facility Agent issues a notice pursuant to clause 24.22 (Acceleration) of the Facility Agreement;
- 1.1.4 **"Facility Agreement"** means the senior secured borrowing base facility agreement dated 18 July 2014 between among others (1) the Original Obligors; (2) the Security Trustee and (3) the Original Lenders, as amended and/or restated from time to time, including pursuant to the Second Amendment and Restatement Agreement;
- 1.1.5 **"Fixed Security"** shall have the meaning given to it in section 486 of the Companies Act 1985;
- 1.1.6 **"Original Floating Charge"** means the bond and floating charge dated 18 July 2014 and registered 23 July 2014 by the Company in favour of the Security Trustee;
- 1.1.7 **"Receiver"** means any person appointed by the Security Trustee to be a receiver or administrative receiver of any property subject to the Security created by this Supplemental Floating Charge;
- 1.1.8 **"Second Amendment and Restatement Agreement"** means the amendment and restatement agreement dated on or about the date of delivery of this Supplemental Floating Charge amending and restating the Facility Agreement;
- 1.1.9 **"Secured Liabilities"** means all monies, obligations and liabilities covenanted to be paid or discharged pursuant to Clause 2 (Covenant to pay);
- 1.1.10 **"Security Period"** means the period from the date of this Supplemental Floating Charge until the date on which the Security Trustee has determined that all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full;
- 1.1.11 **"Supplemental Debenture"** means the English law governed supplemental debenture dated on or about the date of this Supplemental Floating Charge between, among others, the Continuing Companies (including the Company) and the Security Trustee; and
- 1.1.12 **"Supplemental Floating Charge"** means this supplemental bond and floating charge granted by the Company.

## 1.2 Other definitions

- 1.2.1 The terms "Continuing Companies" and "Original Debenture" shall have the meanings given to them in the Supplemental Debenture.
- 1.2.2 Words defined in the Companies Act 1985 (as amended) or, to the extent enacted, the Companies Act 2006 have the same meanings in this Supplemental Floating Charge.

## 1.3 Security trust provisions

The Company agrees that the terms of clause 29 (Security Trustee) of the Facility Agreement are incorporated into this Supplemental Floating Charge as if those terms were set out in full in this Supplemental Floating Charge, and that the Security Trustee holds the benefit of this Supplemental Floating Charge on trust for the Finance Parties in accordance with clause 29 (Security Trustee) of the Facility Agreement.

## 1.4 Incorporation

Without prejudice to the application of any other provisions of the Facility Agreement to this Supplemental Floating Charge (by reason of this Supplemental Floating Charge being a Finance Document for the purposes of the Facility Agreement), clauses 1.2 (Construction), 14 (Tax gross up and indemnities), 16 (Other indemnities), 32.7 (No set-off by Obligor), 33 (Set-off), 35 (Calculations and certificates), 36 (Partial invalidity), 37 (Remedies and waivers) and 38 (Amendments and waivers) of the Facility Agreement shall apply to this Supplemental Floating Charge, mutatis mutandis, as if the same had been set out in full herein with references in such clauses to:

- 1.4.1 the "Company" or any "Obligor" or "Borrower" or "Parent" being construed, if the context so requires, as references to the Company (as defined herein);
- 1.4.2 the "Agreement" being construed as references to this Supplemental Floating Charge;
- 1.4.3 the "Parties" or "Party" being construed as references to the parties or, as the case may be, a party to this Supplemental Floating Charge;
- 1.4.4 the "Finance Documents" being construed as (a) including this Supplemental Floating Charge (in accordance with the definition of "Finance Documents" included in the Facility Agreement) or (b) if the context so requires, as references specifically to this Supplemental Floating Charge; and
- 1.4.5 in the context of clause 14 (Tax gross up and indemnities) of the Facility Agreement, the "Facility Agent" being, if the context so requires, construed as references to the Security Trustee and, in the context of clause 14.6 (Stamp taxes) of the Facility Agreement, a "Finance Party" being construed as references to each Finance Party,

Receiver (as defined herein), attorney, manager, agent or other person as may be appointed by the Security Trustee under this Supplemental Floating Charge.

## **1.5 Third Party Rights**

- 1.5.1 Except as expressly provided in Clause 1.5.2 below, this Supplemental Floating Charge does not confer on any person other than the parties to it any right to enforce or otherwise invoke any term of this Supplemental Floating Charge under the Contract (Third Party Rights) (Scotland) Act 2017 (but this does not affect any right or remedy of any person which exists or is available apart from that Act).

## **2 Covenant to pay**

### **2.1 Covenant to pay Secured Liabilities**

The Company covenants that it shall on demand pay to the Security Trustee all monies and discharge all obligations and liabilities now or hereafter due, owing or incurred by any Transaction Party under or pursuant to the Finance Documents, in each case, whether by acceleration or otherwise, and whether such monies, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to the Finance Party(ies) or purchased (whether by assignment, assignation or otherwise) or acquired in any other way by the Finance Party(ies); denominated in dollars or any other currency; or incurred on any current or other banking account or in any other manner whatsoever.

### **2.2 Potential invalidity**

Neither the covenant to pay in Clause 2.1 (Covenant to pay Secured Liabilities) nor the obligation to pay interest pursuant to Clause 2.3 (Interest) nor the Security created by this Supplemental Floating Charge shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant, obligation or Security to be unlawful under any applicable law.

### **2.3 Interest**

- 2.3.1 The Company hereby agrees to pay to the Security Trustee, in respect of any amount demanded from it in accordance with this Supplemental Floating Charge (to the extent that interest on such amount is not otherwise being paid pursuant to any agreement between the Company and the relevant Finance Party) interest from first demand by the Security Trustee of the Company:

- 2.3.1.1 at the rate of interest payable or deemed to be payable by the Company in respect of the amount demanded as calculated and compounded in accordance with any agreement between the relevant Finance Party and the Company with respect to such amount; or



2.3.1.2 failing such agreement, at the rate per annum which is three per cent. (3%) above the interest cost to the relevant Finance Party (as conclusively determined by that Finance Party) of funding the amount demanded, such interest being compounded at monthly rests.

2.3.2 Such interest shall accrue due on a daily basis from the demand by the Security Trustee until actual payment by the Company (both before and after any further demand or judgment or the liquidation of the Company).

### **3 Floating Charge**

#### **3.1 Creation of floating charge**

3.1.1 The Company grants in favour of the Security Trustee as a continuing security for the payment and discharge of the Secured Liabilities a floating charge over all of the Company's rights to and title and interest from time to time in the whole of its property, assets, rights and revenues, whatsoever and wheresoever, present and future.

3.1.2 Notwithstanding any other provision of this Supplemental Floating Charge, the Security Trustee and the Finance Parties' rights under this Supplemental Floating Charge are, in relation to any current or future joint operating agreements in respect of Petroleum Assets (as defined in the Facility Agreement) to which the Company is a party, subject to and without prejudice to the rights of any joint operating parties thereto (other than the Company), but only to the extent that the joint operating agreement in question obliges the Company to include a provision such as this Clause 3.1.2 in a security document such as this Supplemental Floating Charge.

3.1.3 The floating charge hereby created is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

#### **3.2 Priority**

3.2.1 The floating charge hereby created shall, subject to section 464(2) of the Companies Act 1985, rank in priority to any Fixed Security (other than any Fixed Security granted by the Company in favour of the Security Trustee which shall rank in priority to the floating charge hereby created) and to any other floating charge except for

3.2.1.1 The Original Floating Charge and any floating charge under English law granted by the Company in favour of the Security Trustee under the Original Debenture, each of which shall rank in priority to the floating charge hereby created until such time as the Security created by the Original Floating Charge and any such English law floating charge ceases to have effect; and

3.2.1.2 the floating charge under English law granted by the Company in favour of the Security Trustee pursuant to the Supplemental Debenture which shall rank equally with this Supplemental Floating Charge.

3.2.2 The Company shall not, without the prior written consent of the Security Trustee, create or permit to exist any Fixed Security or floating charge over all or any part of the Charged Assets which ranks in priority to or equally with the floating charge hereby created except for any Fixed Security or floating charge granted by the Company in favour of the Security Trustee.

### 3.3 Continuation

3.3.1 The Original Floating Charge remains in full force and effect.

3.3.2 The Company agrees that the execution of this Supplemental Floating Charge shall in no way prejudice or affect the Security granted by it (or the undertakings given by it) under the Original Floating Charge.

3.3.3 References in the Original Floating Charge to "this Floating Charge" and expressions of similar import shall be deemed to be references to the Original Floating Charge as supplemented by this Supplemental Floating Charge.

## 4 Further assurance

During the Security Period, the Company shall promptly upon request by the Security Trustee execute (in such form as the Security Trustee may reasonably require) such documents (including assignments, transfers, standard securities, charges, notices and instructions) in favour of the Security Trustee or its nominees and do all such assurances and things as the Security Trustee may reasonably require for:

- 4.1.1 perfecting and/or protecting (by registration or in any other way) the Security created or intended to be created by this Supplemental Floating Charge;
- 4.1.2 conferring upon the Security Trustee such floating Security as it may require over the assets of the Company outside of Scotland which if in Scotland would form part of or be intended to form part of the Charged Assets;
- 4.1.3 facilitating at any time on or after the occurrence of an Event of Default, the realisation of all or any part of its assets; and
- 4.1.4 exercising all powers, authorities and discretions conferred on the Security Trustee or any Receiver pursuant to this Supplemental Floating Charge or by law.

## **5 General undertakings with respect to Charged Assets**

The Company undertakes to the Security Trustee with respect to the Charged Assets that it shall:

### **5.1 Negative pledge**

not, without the prior consent in writing of the Security Trustee, create or attempt to create or permit to subsist or arise any Security on, over or affecting the Charged Assets or any part of them other than in favour of the Security Trustee under the Security Documents;

### **5.2 Disposals**

not dispose of the Charged Assets or any part of them or agree so to do except in the case of disposals which are permitted by the Facility Agreement and for these purposes the term "disposal" shall include any form of disposal of any interest in any asset including any conveyance, transfer, lease, assignment, assignation, sale, right to use or occupy, surrender, declaration of trust or the creation of any other form of legal or equitable interest in or over any asset or any option in respect of any of the foregoing;

### **5.3 Compliance with Laws**

Comply in all material respects with all laws and regulations applicable to the Charged Assets or any Borrowing Base Asset or any activity relating to any Borrowing Base Asset;

### **5.4 Prejudicial action**

not do or cause or permit to be done anything which may in any way reduce, jeopardise or otherwise prejudice the value to the Security Trustee of the Charged Assets;

### **5.5 Subsequent charges**

subject to Clause 5.1 (Negative pledge), procure that any Security created by the Company after the date of this Supplemental Floating Charge (otherwise than in favour of the Security Trustee) shall be expressed to be subject to this Supplemental Floating Charge;

### **5.6 Consents and other necessary action**

during the Security Period, take all such action as may be available to it for the purpose of creating, perfecting or maintaining the Security created or intended to be created pursuant to this Supplemental Floating Charge which shall include, without limitation, the obtaining of any necessary consent (in form and content satisfactory to the Security Trustee) to enable its assets to be charged pursuant to this Supplemental Floating Charge. Immediately upon obtaining any necessary consent the asset concerned shall become subject to the Security created by this Supplemental Floating Charge. The Company shall promptly deliver a copy of each consent to the Security Trustee.

## **6 Rights of the Security Trustee**

### **6.1 Enforcement**

At any time on or after the Enforcement Date, the Security created pursuant to this Supplemental Floating Charge shall become immediately enforceable and the Security Trustee may in its absolute discretion and in any manner it sees fit and without prejudice to the generality of the foregoing:

- 6.1.1 sell, transfer or otherwise dispose of all or any of the Charged Assets on such terms as the Security Trustee may in its absolute discretion determine; and
- 6.1.2 exercise all the rights and powers attached to the Charged Assets and generally act in relation to the Charged Assets in such manner as the Security Trustee may determine as if it were the absolute owner thereof.

## **7 Exoneration**

### **7.1 Exoneration**

No Finance Party shall, nor shall any Receiver, be liable for any loss or damage which arises out of the exercise, attempted or purported exercise or the failure to exercise any of their powers or for any other loss of any nature.

### **7.2 Indemnity**

The Security Trustee and every Receiver, attorney, delegate, manager, agent or other person appointed by the Security Trustee hereunder shall be entitled to be indemnified out of the Charged Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Supplemental Floating Charge and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets or any part of them (other than by reason of that person's gross negligence or wilful misconduct). The Security Trustee and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received under the powers conferred by this Supplemental Floating Charge.

## **8 Appointment of Receiver or Administrator**

### **8.1 Appointment**

- 8.1.1 At any time on or after the Enforcement Date, or at the request of the Company or its directors, the Security Trustee may, without prior notice to the Company, in writing (under seal, by instrument or otherwise under hand) appoint:

8.1.1.1 a Receiver in respect of the Charged Assets or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his stead; or

8.1.1.2 one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act 1986.

8.1.2 Nothing in Clause 8.1.1 shall restrict the exercise by the Security Trustee of any one or more of the rights of the Security Trustee under Schedule B 1 to the Insolvency Act 1986 and the rules thereunder or at common law.

## 8.2 More than one Receiver

Where more than one Receiver is appointed, each joint Receiver shall have the power to act severally, independently of any other joint Receiver, except to the extent that the Security Trustee may specify to the contrary in the appointment.

## 8.3 Receiver as agent

A Receiver shall be the agent of the Company which shall be solely responsible for his acts or defaults and for his remuneration. No Receiver shall at any time act as agent of any Finance Party.

## 8.4 Receiver's remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be determined by the Security Trustee from time to time (and without being limited to any maximum rate specified by any statute or statutory instrument).

## 8.5 Actions of the Administrator

Save as provided for in statute or as otherwise agreed in writing by that Finance Party, no Finance Party shall have any liability for the acts or omissions of an Administrator.

# 9 Receiver's powers

## 9.1 Powers

A Receiver shall have (and be entitled to exercise) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Supplemental Floating Charge):

9.1.1 all of the powers of a receiver set out in Schedule 2 to the Insolvency Act 1986;

9.1.2 all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Company itself could do or omit to do;

- 9.1.3 the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Supplemental Floating Charge or upon receivers by statute or law generally (including, without limitation, the bringing or defending of proceedings in the name of, or on behalf of, the Company; the collection and/or realisation of Charged Assets in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Company (whether under hand or by utilisation of the company seal of the Company)).

**9.2 Powers may be restricted**

The powers granted to a Receiver pursuant to this Supplemental Floating Charge may be restricted by the instrument (signed by the Security Trustee) appointing him but they shall not be restricted by any winding-up or dissolution of the Company.

**10 Protection of purchasers**

**10.1 Absence of enquiry**

No person or persons dealing with the Security Trustee or any Receiver shall be concerned to enquire whether any event has happened upon which any of the powers in this Supplemental Floating Charge are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Supplemental Floating Charge.

**10.2 Receipt: conclusive discharge**

The receipt of the Security Trustee or any Receiver shall be a conclusive discharge to any purchaser of the Charged Assets.

**11 Power of attorney and delegation**

**11.1 Power of attorney: general**

The Company hereby irrevocably and by way of security appoints the Security Trustee and any Receiver severally to be its attorney in its name and on its behalf:

- 11.1.1 to execute and deliver any documents or instruments which the Security Trustee or such Receiver may require for perfecting the title of the Security Trustee to the Charged Assets or for vesting the same in the Security Trustee, its nominee or any purchaser;

- 11.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document which the Company is required to enter into pursuant to this Supplemental Floating Charge;

- 11.1.3 otherwise generally to sign, seal, execute and deliver all instruments, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Security Trustee or any Receiver under this Supplemental Floating Charge or which the Company is required to do pursuant to this Supplemental Floating Charge or which may be deemed expedient by the Security Trustee or a Receiver in connection with any preservation, disposition, realisation or getting in by the Security Trustee or such Receiver of the Charged Assets or in connection with any other exercise of any other power under this Supplemental Floating Charge.

## 11.2 **Power of attorney: exercise of power**

Whilst the appointment under Clause 11.1 (Power of attorney: general) shall take effect immediately from the date of this Supplemental Floating Charge, any attorney appointed under Clause 11.1 (Power of attorney: general) above must not exercise any power under Clause 11.1 (Power of attorney: general) unless

- 11.2.1 an Event of Default has occurred and is continuing; or
- 11.2.2 the Company has failed to do the same within three Business Days following any request by the Security Trustee or the Receiver (as the case may be).

## 11.3 **Power of attorney: ratification**

The Company ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this Clause 11 (Power of attorney and delegation) does or purports to do in exercise of the powers granted by this Clause.

## 11.4 **Power of attorney: general delegation**

The Security Trustee and any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Supplemental Floating Charge (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

## 12 **Application of monies received under this Supplemental Floating Charge**

Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Supplemental Floating Charge and to any applicable statutory requirement as to (i) the payment of preferential debts or (ii) the payment of unsecured creditors in accordance with section 176A Insolvency Act 1986, be applied for the following purposes and in the following order of priority:

- 12.1.1 in satisfaction of all costs, charges and expenses and payments made or incurred by the Security Trustee or the Receiver and of remuneration to the Receiver in such order as the Security Trustee shall in its absolute discretion decide;
- 12.1.2 in or towards satisfaction of the Secured Liabilities which, subject to any provision to the contrary in the Facility Agreement, shall be applied in such order as the Security Trustee shall in its absolute discretion decide; and
- 12.1.3 the surplus, if any, shall be paid to the Company or other person or persons entitled to it,

save that the Security Trustee may credit any monies received under this Supplemental Floating Charge to an interest bearing suspense account for so long and in such manner as the Security Trustee may from time to time determine and the Security Trustee may retain the same for such period as the Security Trustee considers appropriate.

### **13 Release of Security**

#### **13.1 Release**

At the end of the Security Period or if permitted under the Finance Documents, the Security Trustee shall, at the request and cost of the Company, execute or procure the execution by its nominee (in a form acceptable to the Security Trustee) and do all such deeds, acts and things as are necessary to release and/or reassign the Charged Assets from the Security created by or in accordance with this Supplemental Floating Charge.

#### **13.2 Avoidance of payments**

- 13.2.1 No amount paid, repaid or credited to a Finance Party shall be deemed to have been irrevocably paid if the Security Trustee (acting reasonably) considers that the payment or credit of such amount is capable of being avoided or reduced by virtue of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.
- 13.2.2 If any amount paid, repaid or credited to a Finance Party is avoided or reduced by virtue of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between that Finance Party and the Company shall be deemed not to have occurred and the Security Trustee shall be entitled to enforce this Supplemental Floating Charge subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

### **14 Amounts Payable**

#### **14.1 No Deduction**

All payments to be made by the Company under this Supplemental Floating Charge shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear



of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. Subject to any provision to the contrary in the Facility Agreement, if the Company is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to a Finance Party under this Supplemental Floating Charge, the Company shall pay such additional amount so as to ensure that the net amount received by that Finance Party shall equal the full amount due to it under the provisions of this Supplemental Floating Charge (had no such withholding or deduction been made).

#### **14.2 Currency of Payment**

The obligation of the Company under this Supplemental Floating Charge to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgement or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by a Finance Party of the full amount of the currency expressed to be payable under this Supplemental Floating Charge.

#### **15 Power of severance**

In the exercise of the powers conferred by this Supplemental Floating Charge, the Security Trustee or any Receiver may sever and sell plant, machinery or other fixtures separately from the property to which they may be annexed and the Security Trustee or any Receiver may apportion any rent or other amount without the consent of the Company.

#### **16 New accounts**

If a Finance Party receives notice of any subsequent charge or other interest affecting any part of the Charged Assets (the date of receipt of such notice being the "Notice Date") it may, without prejudice to its rights under this Supplemental Floating Charge, open a fresh account or accounts with the Company and continue any existing account in the name of the Company and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Company after that time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If a Finance Party fails to open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

#### **17 Miscellaneous**

##### **17.1 The Company**

This Supplemental Floating Charge shall be binding on the successors and assignees of the Company.

## 17.2 Assignment and transfer

The Company may not assign or transfer any of its rights or obligations under this Supplemental Floating Charge. The Security Trustee may assign any of its rights and transfer all or any part of its rights and obligations under this Supplemental Floating Charge.

## 17.3 Property

This Supplemental Floating Charge is and will remain the property of the Security Trustee.

## 17.4 Continuing security and indemnity

17.4.1 This Supplemental Floating Charge shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

17.4.2 If any purported obligation or liability of any Transaction Party to the Finance Parties which if valid would have been the subject of any obligation or charge created by this Supplemental Floating Charge is or becomes unenforceable, invalid or illegal on any ground whatsoever whether or not known to any Finance Party, the Company shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Company was the principal debtor in respect thereof. The Company hereby agrees to keep the Finance Parties fully indemnified against all damages, losses, costs and expenses arising from any failure of any Transaction Party to carry out any such purported obligation or liability.

## 17.5 Waiver of defences

The obligations of the Company under this Supplemental Floating Charge will not be affected by an act, omission, matter or thing which, but for this Clause 17.5, would reduce, release or prejudice any of its obligations under this Supplemental Floating Charge (without limitation and whether or not known to any Finance Party) including:

- 17.5.1 any time, waiver or consent granted to, or composition with, the Company, any Transaction Party under or pursuant to the Finance Documents or other person;
- 17.5.2 the release of any Transaction Party under or pursuant to the Finance Documents or any other person under the terms of any composition or arrangement with any creditor of any person;
- 17.5.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Company, any Transaction Party under or pursuant to the Finance Documents or any other person or any non-presentation or non-observance of any formality or other

requirement in respect of any instrument or any failure to realise the full value of any Security;

- 17.5.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company, any Transaction Party under or pursuant to the Finance Documents or any other person;
- 17.5.5 any amendment (however fundamental) or replacement of any Finance Document or any other document or Security;
- 17.5.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security; or
- 17.5.7 any insolvency or similar proceedings.

#### 17.6 Company's intent

Without prejudice to the generality of Clause 17.5 (Waiver of defences), the Company expressly confirms that it intends that this Supplemental Floating Charge, the Security constituted by this Supplemental Floating Charge and its obligations under this Supplemental Floating Charge, in each case, shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with the foregoing.

#### 17.7 Non-competition

- 17.7.1 Until the Security Period has ended and unless the Security Trustee otherwise directs, the Company will not exercise any rights which it may have by reason of performance by it of its obligations under this Supplemental Floating Charge:
  - 17.7.1.1 to be indemnified by any Transaction Party under or pursuant to the Finance Documents (including any rights it may have by way of subrogation);
  - 17.7.1.2 to claim any contribution from any guarantor of any Transaction Party under or pursuant to the Finance Documents of the obligations under the Finance Documents;
  - 17.7.1.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Security Trustee or any of the other

Finance Parties under any Finance Document or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents;

17.7.1.4 to claim, rank, prove or vote as a creditor of any Transaction Party under or pursuant to the Finance Documents or its estate in competition with the Security Trustee or any of the other Finance Parties; and/or

17.7.1.5 receive, claim or have the benefit of any payment, distribution or Security from or on account of any Transaction Party under or pursuant to the Finance Documents, or exercise any right of set-off against any Transaction Party under or pursuant to the Finance Documents.

The Company shall hold on trust for and immediately pay or transfer to the Security Trustee any payment or distribution or benefit of Security received by it contrary to this Clause 17.7.

#### **17.8 Additional Security**

This Supplemental Floating Charge shall be in addition to and not be affected by any other Security or guarantee at any time held by a Finance Party for all or any part of the Secured Liabilities nor shall any such other Security or guarantee of liability to a Finance Party of or by any person not a party to this Supplemental Floating Charge be in any way impaired or discharged by this Supplemental Floating Charge nor shall this Supplemental Floating Charge in any way impair or discharge such other Security or guarantee.

#### **17.9 Variation of Security**

This Supplemental Floating Charge shall not in any way be affected or prejudiced by a Finance Party at any time dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any Security or guarantee referred to in Clause 17.8 (Additional Security) or any rights which a Finance Party may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

#### **17.10 Enforcement of other Security**

No Finance Party shall be obliged to enforce any other Security it may hold for, or exercise any other rights it may have in relation to, the Secured Liabilities before enforcing any of its rights under this Supplemental Floating Charge.

#### **17.11 Redemption of prior Incumbrances**

The Security Trustee may redeem or take a transfer of any prior Security over the Charged Assets and may agree the accounts of prior Incumbrancers. An agreed account shall be conclusive and binding on the Company. Any amount paid in connection with such redemption or transfer

(including expenses) shall be paid on demand by the Company to the Security Trustee and until such payment shall form part of the Secured Liabilities.

#### **17.12 Right of Appropriation**

- 17.12.1 Without prejudice to the other provisions of this Supplemental Floating Charge, to the extent that any of the Charged Assets constitute "financial collateral", and this Supplemental Floating Charge and the obligations of the Company hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No.2) Regulations 2003 (Amendment) Regulations 2009 (SI2009/2462)) (the "Regulations")), the Security Trustee shall at any time on or after the Enforcement Date have the right to appropriate all or any part of those Charged Assets in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of any such Charged Assets so appropriated shall be the market price of such Charged Assets at the time the right of appropriation is exercised as determined by the Security Trustee by reference to such method or source of valuation as the Security Trustee may reasonably select, including by independent valuation. The parties agree that the methods or sources of valuation provided for in this Clause or selected by the Security Trustee in accordance with this Clause shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.
- 17.12.2 The Security Trustee shall notify the Company as soon as reasonably practicable of the exercise of its right of appropriation as regards such of the Charged Assets as are specified in such notice.

#### **17.13 Stamp Taxes**

To the extent not paid in accordance with clause 14.6 of the Facility Agreement, the Company covenants to pay each Finance Party and any Receiver, attorney, manager, agent or other person appointed by the Security Trustee under this Supplemental Floating Charge immediately on demand a sum equal to any liability which that Finance Party, Receiver, attorney, manager, agent or other person appointed by the Security Trustee under this Supplemental Floating Charge incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the entry into, performance or enforcement of this Supplemental Floating Charge (including any interest, penalties, liabilities costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

#### **17.14 Costs and expenses**

To the extent not paid in accordance with clause 18 of the Facility Agreement, the Company shall promptly on demand reimburse each Finance Party and any Receiver, attorney, manager, agent or other person appointed by the Security Trustee under this Supplemental Floating Charge for all costs and expenses (including legal fees) incurred by that Finance Party, Receiver, attorney,

manager, agent or other person (on a full indemnity basis together with applicable VAT) in connection with the negotiation, preparation, printing and execution of this Supplemental Floating Charge, the completion of the transactions and perfection of the Security contemplated by this Supplemental Floating Charge and the exercise, preservation and/or enforcement or attempted enforcement of the Security created by or contemplated by this Supplemental Floating Charge.

## **18 Notices**

Any communication to be made under or in connection with this Floating Charge shall be made in accordance with Clause 34 (*Notices*) of the Facility Agreement.

## **19 Counterparts and delivery**

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

19.2 Where executed in counterparts:

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

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

## **20 Law**

This Supplemental Floating Charge and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Scotland.

## **21 Consent and authorisation**

21.1 The Company hereby consents to the registration of this Supplemental Floating Charge for preservation and execution.

21.2 The Company hereby authorises the Security Trustee or its agent to insert the date of delivery of this Supplemental Floating Charge in the execution box below.

## **22 Enforcement**

### **22.1 Jurisdiction of the Scottish courts**

22.1.1 The courts of Scotland have jurisdiction to settle any dispute or claim arising out of or in connection with this Supplemental Floating Charge or its subject matter, existence,

negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a "Dispute").

22.1.2 The Company agrees that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly the Company will not:

22.1.2.1 argue to the contrary; or

22.1.2.2 initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than Scotland.

IN WITNESS whereof these presents consisting of this and the preceding 18 pages are executed as follows and are delivered for the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 on the date set out on page 1 of this document which the Parties agree shall be the same as the date of signing by the Security Trustee:

For CAPRICORN EXPLORATION AND DEVELOPMENT COMPANY LIMITED

signature of  
director/secretary/authorised signatory/witness

SUSAN GIBB  
full name of above (print)

Address of witness

signature of  
director/secretary/authorised signatory

JAMES SMITH  
full name of above (print)

26 September 2018  
date of signing

EDINBURGH  
place of signing

For DNB BANK ASA as SECURITY TRUSTEE

signature of  
authorised signatoryDavid Hopwood  
Authorised Signatory

full name of above (print)

signature of  
authorised signatoryCraig Ramsay  
Authorised Signatory

full name of above (print)

date of signing

20/12/18

place of signing

LONDON

before this witness

signature of witness

Gemma Coppen  
Authorised Signatory

full name of above (print)

date of signing

20/12/18

address of witness

