



**Registration of a Charge**

Company name: **TOGETHER ENERGY LIMITED**

Company number: **SC533489**



X7G65AZC

Received for Electronic Filing: **09/10/2018**

---

**Details of Charge**

Date of creation: **18/09/2018**

Charge code: **SC53 3489 0001**

Persons entitled: **BP GAS MARKETING LIMITED**

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.**





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

Company number: 533489

Charge code: SC53 3489 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 18th September 2018 and created by TOGETHER ENERGY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th October 2018 .

Given at Companies House, Edinburgh on 10th October 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

FLOATING CHARGE

by

TOGETHER ENERGY LIMITED

in favour of

BP GAS MARKETING LIMITED

as Chargee

I certify that, save for material  
redacted pursuant to s.859G  
of the Companies Act 2006,  
this copy instrument is a correct copy  
of the original instrument.

Sign & Dated ..... *Nathan Rose Fulbright LLP*  
9/10/18

## CONTENTS

|     |                                      |    |
|-----|--------------------------------------|----|
| 1.  | DEFINITIONS AND INTERPRETATION.....  | 1  |
| 2.  | PAYMENT OBLIGATION .....             | 5  |
| 3.  | FLOATING CHARGE .....                | 5  |
| 4.  | NEGATIVE PLEDGE .....                | 5  |
| 5.  | RANKING.....                         | 6  |
| 6.  | FURTHER ASSURANCE .....              | 6  |
| 7.  | ENFORCEMENT .....                    | 7  |
| 8.  | RECEIVER.....                        | 8  |
| 9.  | APPLICATION OF MONIES .....          | 10 |
| 10. | REPRESENTATIONS AND WARRANTIES.....  | 10 |
| 11. | POWER OF ATTORNEY.....               | 11 |
| 12. | PRESERVATION OF SECURITY .....       | 12 |
| 13. | PRESERVATION OF RIGHTS .....         | 14 |
| 14. | SUBSEQUENT SECURITY INTERESTS .....  | 14 |
| 15. | SUSPENSE ACCOUNT .....               | 14 |
| 16. | SET-OFF .....                        | 14 |
| 17. | RELEASE AND DISCHARGE .....          | 15 |
| 18. | CHANGES IN SECURED OBLIGATIONS ..... | 15 |
| 19. | ASSIGNATION .....                    | 15 |
| 20. | INDEMNITY .....                      | 16 |
| 21. | DISCRETION AND DELEGATION.....       | 16 |
| 22. | CALCULATIONS AND CERTIFICATES .....  | 17 |
| 23. | NOTICES .....                        | 17 |
| 24. | GOVERNING LAW.....                   | 18 |
| 25. | JURISDICTION.....                    | 19 |

THIS FLOATING CHARGE is entered into by: 18 September 2018

- (1) **TOGETHER ENERGY LIMITED**, a company incorporated in Scotland with registered number SC533489 and having its registered office at Erskine House, North Avenue, Clydebank, Dunbartonshire G81 2DR (the "**Company**"); in favour of
- (2) **BP GAS MARKETING LIMITED**, a company incorporated in England and Wales with registered number 908982 and having its registered office at Chertsey Road, Sunbury on Thames, Middlesex, TW16 7BP (the "**Chargee**").

IT IS HEREBY AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1. Definitions

In this Floating Charge:

"**Chargee Security**" means the Security created by the Floating Charge and any other existing or future Security granted by the Company to the Chargee to secure the payment and discharge of the Secured Obligations.

"**Chargee Security Document**" means a document creating or evidencing Chargee Security.

"**Default Rate**" means the rate specified in clause 8(4) of the PSA.

"**Disposal**" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Security.

"**Enforcement Time**" means any time at which:

- (a) any amount owing by the Company to the Chargee is payable but has not been paid, including any amount owing under a Transaction Document, provided such breach is not remedied within the grace period specified in clause 16(3)(t) (*Curable Events of Default*) of the PSA;
- (b) an Event of Default has occurred and is continuing;
- (c) any step is being taken by any person to put the Company into administration;
- (d) 14 days has passed following a petition being presented for the winding up or reorganisation of the Company without such petition being deemed frivolous or vexatious and having been discharged, stayed or dismissed;
- (e) an application is presented or resolution proposed for the winding up, reorganisation or administration of the Company; or

- (f) the Company or any other person entitled to do so gives written notice of its intention to appoint an administrator or liquidator to the Company or the appointment of an administrator or liquidator to the Company.

**"Event of Default"** means an Event of Default as defined in the PSA.

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations (SI 2003 No. 3226).

**"Indebtedness"** means Indebtedness as defined in the PSA.

**"PSA"** means the preferred supplier agreement dated 5 July 2018 between, amongst others, the Company, and the Chargee as amended from time to time.

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

**"Secured Assets"** means the whole of the property, assets and rights (including uncalled capital) comprised in the property and undertaking of the Company as charged under Clause 3.1 (Floating Charge) of this Floating Charge.

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, cautioner, surety or otherwise or as the equivalent obligor under the laws of any other jurisdiction) of the Company to the Chargee under the Transaction Documents together with:

- (a) any extension of or increase in any of those obligations or liabilities;
- (b) any other amounts which may be made by the Chargee to the Company under any Transaction Document or any agreement expressed to be supplemental to any of the Transaction Documents and all interest, fees and costs in connection therewith;
- (c) any claim for damages or restitution in the event of rescission of any of those obligations or liabilities or otherwise in connection with any of the Transaction Documents;
- (d) any claim against the Company flowing from the recovery by the Company of a payment or discharge in respect of any of those liabilities on grounds of preference or otherwise;
- (e) any amounts which would be included in any of the foregoing but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings; and
- (f) all costs, charges and expenses incurred by the Chargee in connection with the protection, preservation or enforcement of its rights against the Company.

**"Security"** means:

- (a) any fixed security, standard security, mortgage, charge, pledge, lien, hypothecation, assignation in security, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any proprietary interest over an asset, or any contractual arrangement in relation to an asset, in each case created in relation to Indebtedness and which has the same commercial effect as if security had been created over it; and
- (c) any right of set-off created by agreement.

**"Termination Date"** means the date on which the Chargee expressly confirms in writing to the Company that the Security created pursuant to this Floating Charge is released.

**"Transaction Documents"** means:

- (a) the PSA;
- (b) this Floating Charge, and any other Chargee Security Document;
- (c) any other document defined as such in the PSA; and
- (d) any other document designated as such by the Company and the Chargee at any time.

## **1.2. Interpretation**

Save where the contrary is indicated, any reference in this Floating Charge to:

- 1.2.1. **"assets"** includes present and future properties, revenues and rights of every description;
- 1.2.2. a **"company"** includes any body corporate;
- 1.2.3. **"fixed security"**, in relation to any property of a company, means any security (other than a floating charge or a charge having the character of a floating charge) which on the winding up of the company in Scotland would be treated as an effective security over that property including, in particular, a heritable security (within the meaning of Section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970;
- 1.2.4. **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of



any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- 1.2.5. a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.6. a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department or of any regulatory, self-regulatory or other authority or organisation;
- 1.2.7. "**set-off**" includes compensation, rights of retention and the balancing of accounts in bankruptcy;
- 1.2.8. a provision of law is a reference to that provision as amended or re-enacted;
- 1.2.9. the singular shall include the plural and vice versa;
- 1.2.10. this Floating Charge and any provisions of this Floating Charge or to any other agreements, instrument or document are to be construed as references to this Floating Charge, those provisions or that agreement, instrument or document as amended, varied, supplemented, substituted, replaced or novated (however fundamentally) from time to time including (without limiting the generality of the foregoing) any variation, increase, extension or addition of or any variation of or to any facility or amount made available under any Transaction Document or any variation of the purposes for which such facility or amount may be available from time to time; and
- 1.2.11. Clauses are to be construed as references to the Clauses of this Floating Charge as amended or varied from time to time and references to sub-clauses shall unless otherwise specifically stated be construed as references to the sub-clauses of the Clause in which the reference appears.

### **1.3. Successors and assignees**

Any reference in this Floating Charge to the Chargee shall include the successors, permitted assignees and permitted transferees of the Chargee.

## **2. PAYMENT OBLIGATION**

### **2.1. Undertaking to Pay**

The Company hereby, as principal debtor and not merely as surety, cautioner or guarantor, undertakes to the Chargee that it will pay or discharge the Secured Obligations on the due date therefor in the manner provided in the relevant Transaction Document or, where no such provision is made in the Transaction Documents, on written demand.

### **2.2. Interest**

If the Company fails to pay any sum on the due date for payment of that sum, the Company shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the Default Rate.

## **3. FLOATING CHARGE**

### **3.1. Floating Charge**

The Company in security of the Secured Obligations hereby grants in favour of the Chargee a floating charge over the whole of the property, assets and rights (including uncalled capital) which is or may from time to time while this Floating Charge is in force be comprised in the property and undertaking of the Company.

### **3.2. Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by this Floating Charge.

## **4. NEGATIVE PLEDGE**

### **4.1. No other fixed or floating charges**

The Company shall not (without the prior written consent of the Chargee) grant, create or permit to subsist any Security over all or any part of its present or future property, revenues or assets.

### **4.2. No disposals**

The Company shall ensure that there is no Disposal of any part of its property, revenues, assets or rights without the prior written consent of the Chargee otherwise than for market value in the ordinary course of trading of the Chargor.

## **5. RANKING**

### **5.1. Ranking of fixed security and floating charge**

Any fixed security created or granted by the Company (whether before or after the date of its execution of this Floating Charge) in favour of the Chargee shall rank in priority to the floating charge created by this Floating Charge.

### **5.2. Priority of floating charge**

If the Company creates or grants any fixed security or floating charge either in breach of the prohibition in Clause 4.1 (No other fixed or floating charges) or with the consent of the Chargee but without the written agreement of the Chargee in relation to the ranking of such fixed security or floating charge, then the floating charge created by this Floating Charge shall rank in priority to such fixed security or floating charge.

## **6. FURTHER ASSURANCE**

### **6.1. Further assurance**

The Company shall, at its own expense, promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee may require (and in such form as the Chargee may require in favour of the Chargee or its nominee(s)):

- 6.1.1. to perfect the Security created or intended to be created under or evidenced by this Floating Charge or for the exercise of any rights, powers and remedies of the Chargee or any receiver provided by or pursuant to this Floating Charge or by law;
- 6.1.2. to confer on the Chargee Security over any property and assets of the Company located in any jurisdiction outside Scotland equivalent or similar to the Security intended to be conferred by or pursuant to this Floating Charge;
- 6.1.3. to confer on the Chargee any further Security over any property, assets and rights of the Company as the Chargee may require; and
- 6.1.4. to facilitate the realisation of the Secured Assets.

### **6.2. Necessary Action**

The Company shall, at its own expense, take all such action as is available to it (including making all filings and registrations) as may be necessary for the purposes of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Chargee by or pursuant to this Floating Charge.

## **7. ENFORCEMENT**

### **7.1. Enforcement**

This Floating Charge shall be enforceable immediately upon or at any time after:

- 7.1.1. any time which is an Enforcement Time; and
- 7.1.2. a written request has been made by the Company to the Chargee for the appointment of a receiver or an administrator.

### **7.2. Appointment of receiver or administrator**

At any time after this Floating Charge has become enforceable, the Chargee shall be entitled:

- 7.2.1. to appoint one or more persons as an administrator or administrators of the Company;
- 7.2.2. (subject to the provisions of Section 72A of the Insolvency Act) to appoint one or more persons as a receiver or receivers of the Secured Assets;
- 7.2.3. to remove (so far as it is lawfully able) any receiver or administrator so appointed;
- 7.2.4. to appoint another person(s) as an additional or replacement receiver or administrator;

and, without prejudice to the foregoing provisions, in the event that any person so appointed to be a receiver or administrator is removed by the court or otherwise ceases to act then the Chargee shall be entitled to appoint another person or persons as receiver or administrator in his place.

### **7.3. Joint and several appointment of administrators**

If at any time and by virtue of any such appointments any two or more persons shall hold office as administrators then such administrators may act jointly and/or severally so that each one of such administrators shall be entitled (save to the extent that the contrary shall be stated in any of the deeds or other instruments appointing them) to exercise all powers and discretions conferred by this Floating Charge and by law on administrators generally and to the exclusion of the other or others of them.

### **7.4. Small company moratorium**

Notwithstanding any other provision of this Floating Charge, where the Company is an eligible company in terms of section 1A and Schedule A1 of the Insolvency Act

1986, the obtaining of moratorium or anything done with a view to obtaining a moratorium (including any preliminary decision or investigation) shall not entitle the Chargee to appoint a receiver.

## **7.5. Financial Collateral**

7.5.1. The Chargee may, to the extent that any of the Secured Assets constitute "financial collateral" (as defined in the Financial Collateral Regulations) and that this Floating Charge constitutes a "security financial collateral arrangement" (as defined in the Financial Collateral Regulations), appropriate such financial collateral in or towards the discharge of the Secured Obligations.

7.5.2. The Company and the Chargee agree for the purposes of Clause 7.5.1 above that the value of any such financial collateral so appropriated shall be:

- (a) in the case of any cash, the amount standing to the credit of the relevant account together with any accrued interest at the date of appropriation; and
- (b) in the case of any shares or stock of any nature whatsoever in the capital of any company, the market value thereof as determined by the Chargee (acting reasonably) by reference to the information available to the Chargee.

In each case the Company and the Chargee agree that the method of valuation referred to above shall constitute a commercially reasonable method of valuing the relevant financial collateral for the purposes of the Financial Collateral Regulations.

## **8. RECEIVER**

### **8.1. Powers**

A receiver appointed under this Floating Charge shall have and be entitled to exercise all the powers conferred upon a receiver by the Insolvency Act 1986 together with the following powers:

- 8.1.1. the power to exercise all voting and other rights attaching to stocks, shares and other securities comprised within the Secured Assets;
- 8.1.2. the power to convene a general meeting of the Company or circulate written resolutions to members of the Company;
- 8.1.3. in respect of any Secured Asset situated in England and Wales or Northern Ireland, the power to exercise all powers conferred by the

Insolvency Act 1986 or any other enactment or under law on receivers or administrators appointed in that jurisdiction; and

8.1.4. the power to make such elections for value added tax purposes as he thinks fit.

## **8.2. Joint and several appointment of receivers**

If at any time and by virtue of any such appointments any two or more persons shall hold office as receivers then such receivers may act jointly and/or severally so that each one of such receivers shall be entitled (save to the extent that the contrary shall be stated in any of the deeds or other instruments appointing them) to exercise all powers and discretions conferred by this Floating Charge and by law on receivers generally and to the exclusion of the other or others of them.

## **8.3. Agent of Company**

Any receiver appointed under this Floating Charge shall be the agent of the Company for all purposes and the Company shall be solely responsible for the acts and defaults of a receiver appointed under this Floating Charge and for his remuneration, costs, charges and expenses.

## **8.4. No liability**

Neither the Chargee nor any receiver appointed under this Floating Charge shall by reason of it or such receiver entering into possession of any of the assets charged under this Floating Charge be liable to account as heritable creditor or mortgagee in possession or be liable for any loss on realisation or for any default or omission for which a heritable creditor or mortgagee in possession might otherwise be liable.

## **8.5. Third Parties**

No purchaser or other person dealing with the Chargee or its delegate or any receiver appointed under this Floating Charge shall be concerned whether the Secured Obligations have become payable or enforceable or whether any money remains outstanding under the Transaction Documents (or any of them) or shall be concerned with any application of any monies paid to the receiver.

## **8.6. Consideration**

In making any sale or the disposal of any of the Secured Assets in the exercise of their respective powers, a receiver or the Chargee may accept as, and by way of, consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including, without limitation, consideration fluctuating, according to or dependent on turnover and consideration the amount of which is to be determined by a third party. Any such consideration may be received in a lump sum or by way of instalments.

## **9. APPLICATION OF MONIES**

### **9.1. Application of Monies**

All moneys received by the Chargee or by any receiver appointed under this Floating Charge shall (subject to the repayment of any claims having priority to this Floating Charge) be applied in the following order:

- 9.1.1. in the payment of the costs, charges and expenses of and incidental to the appointment of any receiver under this Floating Charge and the payment of his remuneration;
- 9.1.2. in the payment and discharge of any outgoings paid and liabilities incurred by any receiver appointed under this Floating Charge in the exercise of any powers of such receiver;
- 9.1.3. in or towards payment of the Secured Obligations in such order as the Chargee may determine (and, if any of the Secured Obligations are not then payable, by payment into a suspense account until they become payable); and
- 9.1.4. any surplus shall be paid to the Company or any other person entitled thereto.

## **10. REPRESENTATIONS AND WARRANTIES**

### **10.1. Representations and Warranties**

The Company represents and warrants to the Chargee on the date of this Agreement and on each day thereafter up until the Termination Date that:

- 10.1.1. it is a limited liability company, duly incorporated and validly existing under the law of Scotland;
- 10.1.2. it has the power to own its assets and carry on its business as it is being conducted;
- 10.1.3.
  - (a) the obligations expressed to be assumed by it under this Floating Charge are legal, valid, binding and enforceable obligations; and
  - (b) (without limiting the generality of paragraph (a) above), this Floating Charge creates the security interests which it purports to create and those security interests are valid and effective;
- 10.1.4. no limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by this

Floating Charge and the other Transaction Documents to which it is a party;

- 10.1.5. the entry into and performance by it of, and the transactions contemplated by, this Floating Charge do not and will not conflict with:
  - (a) any law or regulation applicable to it;
  - (b) its constitutional documents; or
  - (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument;
- 10.1.6. it has power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Floating Charge and the transactions contemplated by this Floating Charge;
- 10.1.7. all authorisations, consents, approvals, resolutions, licenses, exemptions, filings, notarisations or registrations required or desirable:
  - (a) to enable it to lawfully enter into, exercise its rights and comply with its obligations under this Floating Charge; and
  - (b) to make this Floating Charge admissible in evidence in Scotland.

have been obtained or effected and are in full force and effect;
- 10.1.8. it is the sole owner of the Secured Assets, free and clear of any Security, claims, third party rights or competing interests;
- 10.1.9. it has a good, valid and marketable title to, or valid leases or licences of, and all appropriate authorisations to use, the assets necessary to carry on its business as presently conducted;
- 10.1.10. its payment obligations under the Transaction Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for the obligations mandatorily preferred by law applying to companies generally;
- 10.1.11. this Floating Charge creates a first ranking floating charge and is not subject to any prior ranking or pari passu ranking charge.

## **11. POWER OF ATTORNEY**

### **11.1. Power of Attorney**

The Company hereby irrevocably appoints the Chargee and any receiver or administrator appointed under this Floating Charge and for the time being holding



office as such severally to be its attorney and on its behalf and in its name to sign, seal, execute, deliver and perfect all deeds, instruments and documents which may be required for:

- 11.1.1. carrying out any obligation imposed on the Company by or pursuant to this Floating Charge but which the Company has failed to do within 7 days of being requested; and
- 11.1.2. enabling the Chargee or the receiver or administrator to exercise the rights and powers conferred upon them by this Floating Charge or by law (including the right to sell, lease, convey, transfer or realise any of the Secured Assets).

The Chargee shall have full power to delegate the power conferred on it by this Clause 11.1 and no such delegation shall preclude the subsequent exercise of such power by the Chargee itself or preclude the Chargee from making a subsequent delegation thereof to some other person and any such delegation may be revoked by the Chargee at any time.

## **11.2. Ratification**

The Company shall ratify and confirm all acts and things done and all deeds, instruments and/or documents signed, sealed, executed and/or perfected by any attorney in the exercise or purported exercise of all or any of his powers.

## **12. PRESERVATION OF SECURITY**

### **12.1. Continuing Security**

The Security created by or pursuant to this Floating Charge shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Chargee and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Secured Obligations or for any other reason.

### **12.2. Independence of charge**

The Security constituted by or pursuant to this Floating Charge shall be in addition to and independent of, and shall not in any way prejudice or be prejudiced by, any other Security, right or remedy against any person which the Chargee may at any time hold for the satisfaction of all or any part of the Secured Obligations.

### **12.3. Waiver of Defences**

Neither the obligations of the Company under this Floating Charge nor the rights, powers and remedies conferred in respect of the Company upon the Chargee will be affected by any act, omission, matter or thing which, but for this Clause 12.3, would reduce, release or prejudice any of those obligations or those rights, powers and

remedies (without limitation and whether or not known to the Company or the Chargee) including:

- 12.3.1. any time, waiver or consent granted to, or composition with, the Company or any other person;
- 12.3.2. the release of the Company or any other person under the terms of any composition or arrangement with any creditor of the Company or any other person;
- 12.3.3. 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 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;
- 12.3.4. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
- 12.3.5. any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous) or replacement of a Transaction Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Transaction Document or other document or security;
- 12.3.6. any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security; or
- 12.3.7. any insolvency or similar proceedings.

#### **12.4. Rights Cumulative**

The obligations of the Company contained in this Floating Charge and all rights, powers and remedies of the Chargee expressed in this Floating Charge are in addition to and independent of all other rights, powers and remedies possessed by the Chargee including, without limitation, those provided for in any Transaction Document, by applicable law or in any other written instrument or agreement relating to the Company's obligations or the Secured Assets.

#### **12.5. Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of the Chargee, any right or remedy under this Floating Charge shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy.

**12.6. Partial Invalidity**

If, at any time, any provision of this Floating Charge is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Floating Charge nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

**13. PRESERVATION OF RIGHTS****13.1. Preservation of Rights**

Other than as provided in this Floating Charge, the Chargee shall not be obliged before exercising any of the rights, powers, discretions or remedies conferred upon it by this Floating Charge or by law:

- 13.1.1. to take any action, including but not limited to the giving of notice to, or making any demand upon, the Company or any other person or the obtaining or enforcement of any judgment, decree or order in any court against the Company or any other person;
- 13.1.2. to make or file any claim or proof in the administration, winding-up or liquidation of the Company or any other person; or
- 13.1.3. to enforce or seek to enforce any of its rights, powers, discretions or remedies under any other Security in respect of the Secured Obligations.

**14. SUBSEQUENT SECURITY INTERESTS**

If the Chargee receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Secured Assets, all payments thereafter by or on behalf of the Company to the Chargee shall be treated as having been credited to a new account of the Company and not as having been applied in reduction of the Secured Obligations as at the time when the Chargee received such notice.

**15. SUSPENSE ACCOUNT**

Until all of the Secured Obligations have been irrevocably paid in full, all monies received by the Chargee or any receiver may, at the discretion of the Chargee or receiver, be credited to an interest bearing suspense account and may be held in such account for so long as the Chargee or receiver sees fit.

**16. SET-OFF**

The Chargee may set-off any matured obligation due from the Company (to the extent owned by the Chargee) against any matured obligation owed by the Chargee to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may

convert either obligation at a market rate of exchange in its usual course of trading business for the purpose of the set-off.

**17. RELEASE AND DISCHARGE**

**17.1. Release**

Subject to Clause 17.2 (Conditional discharge), the Company shall be entitled, after the Secured Obligations have been irrevocably and unconditionally discharged in full to require, at its cost and request, the release of any of the Secured Assets charged under this Floating Charge.

**17.2. Conditional Discharge**

Any settlement or discharge between the Company and the Chargee shall be conditional upon no security or payment to the Chargee by the Company or any other person on behalf of the Company being avoided or reduced by the virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and, if any such payment is so avoided or reduced, the Chargee shall be entitled to recover the value or amount of such security or payment from the Company subsequently as if such settlement or discharge had not occurred.

**18. CHANGES IN SECURED OBLIGATIONS**

The Company expressly agrees and acknowledges that the parties to the Transaction Documents may from time to time agree to make amendments to the terms of those documents and may enter into such supplemental agreements as are required from time to time in order to give effect to such amendments. Such amendments may include, inter alia, the increase or reduction of the amounts outstanding under those documents and, for the avoidance of doubt, those a will form part of the Secured Obligations under and in terms of this Floating Charge.

**19. ASSIGNATION**

**19.1. The Chargee**

The Chargee may (without prejudice to its right to appoint any joint trustee) assign and transfer all or any of its rights and obligations under this Floating Charge to any person. The Chargee shall be entitled to disclose such information concerning the Company and this Floating Charge as the Chargee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

**19.2. The Company**

The Company may not assign or transfer any of its obligations under this Floating Charge or enter into any transaction which would result in any of those rights or obligations passing to another person.

## **20. INDEMNITY**

**20.1.** The Chargor agrees that it will bear all reasonable legal and other costs and expenses (including any stamp duty, registration or other similar taxes) incurred in connection with the preparation and negotiation of this Floating Charge, the perfection and registration of the Security created pursuant to this Floating Charge and any amendment, waiver, consent or release required in connection with Transaction Documents or Chargee Security.

**20.2.** The Company will, on demand, pay all legal and other costs and expenses incurred by the Chargee or by any Receiver relating to the enforcement or preservation of rights under the Transaction Documents, the Chargee Security or the Charged Assets.

**20.3.** The Company shall indemnify the Chargee and any receiver against any cost, loss or liability incurred by either of them as a result of:

20.3.1. the taking, holding, protection or enforcement of this Floating Charge;

20.3.2. the exercise or purported exercise of any of the rights, powers, discretions and remedies vested in the Chargee and each receiver by this Floating Charge or by law; or

20.3.3. any default by the Company of any of the obligations expressed to be assumed by it in this Floating Charge,

and any such receiver may retain and pay all sums in respect of the same out of monies received under powers conferred by the Insolvency Act 1986.

## **21. DISCRETION AND DELEGATION**

### **21.1. Discretion**

Any power or right which may be exercised by the Chargee or any receiver under this Floating Charge may be exercised in the absolute and unfettered discretion of the Chargee or receiver and without any obligation to give reasons.

### **21.2. Delegation**

The Chargee and any receiver may delegate (either generally or specifically) by power of attorney or any other manner to any person any right, power, authority or discretion conferred on it by this Floating Charge (including the power of attorney granted under Clause 11 (Power of Attorney)). The Chargee and any receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit. Any such delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such right, power, authority or discretion by the Chargee or the receiver.

## **22. CALCULATIONS AND CERTIFICATES**

### **22.1. Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Floating Charge, the Company agrees and acknowledges that the entries made in the accounts maintained by the Chargee are prima facie evidence of the matters to which they relate.

### **22.2. Certificates and determinations**

The Company agrees and acknowledges that, any certificate or determination by the Chargee of a rate or amount under this Floating Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **22.3. Consent to registration**

The Company hereby consents to the registration of this Floating Charge and of any account or certificate referred to in Clauses 22.1 and 22.2 above for preservation and execution.

## **23. NOTICES**

### **23.1. Communications in writing**

Any communication to be made under or in connection with this Floating Charge shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### **23.2. Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Floating Charge is:

23.2.1. in the case of the Company, Together Energy Limited, 2nd Floor, Erskine House, North Avenue, Clydebank G81 2DR, Attn. Paul Richards; and

23.2.2. in the case of the Chargee BP Gas Marketing Limited, 20 Canada Square, Canary Wharf, London E14 5NJ, Attn. CFO, Gas Trading, International Gas, with a copy to IST Credit Manager,

or any substitute address, fax number or department or officer as the Company may notify to the Chargee (or the Chargee may notify to the Company, if a change is made by the Chargee) by not less than five Business Days' notice.

### **23.3. Delivery**

23.3.1. Any communication or document made or delivered by one person to another under or in connection with this Floating Charge will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 23.2 (Addresses), if addressed to that department or officer.

23.3.2. Any communication or document to be made or delivered to the Chargee will be effective only when actually received by the Chargee and then only if it is expressly marked for the attention of the department or officer (if any) specified as part of its address details provided under Clause 22.2 (Addresses) (or any substitute department or officer as the Chargee shall specify for this purpose).

### **23.4. English language**

23.4.1. Any notice given under or in connection with this Floating Charge must be in English.

23.4.2. All other documents provided under or in connection with this Floating Charge must be:

- (a) in English; or
- (b) if not in English, and if so required by the Chargee, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **24. GOVERNING LAW**

This Floating Charge shall be governed by and construed in accordance with Scots law.

## 25. JURISDICTION

### 25.1. Jurisdiction of Scottish Courts

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

### 25.2. Convenient Forum

The Company agrees that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

IN WITNESS WHEREOF this and the preceding 18 pages are executed as follows:-

They are signed for and on behalf of

**TOGETHER ENERGY LIMITED**

at 20 Canada Square  
on the 18 day of September 2018  
by:



Director

in the presence of:



Signature



Name



Address



DIRECTOR.

Occupation