



Registration of a Charge

Company name: **Glencore Energy UK Ltd**

Company number: **04542769**



X5XVNLLC

Received for Electronic Filing: **11/01/2017**

Details of Charge

Date of creation: **30/12/2016**

Charge code: **0454 2769 0177**

Persons entitled: **SBERBANK (SWITZERLAND) AG**

Brief description:

Contains fixed charge(s).

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PHILIP KORNBLUTH**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4542769

Charge code: 0454 2769 0177

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th December 2016 and created by Glencore Energy UK Ltd was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th January 2017 .

Given at Companies House, Cardiff on 12th January 2017

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



Companies House



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

THIS DEED OF ASSIGNMENT is made on 30th December 2016

BETWEEN:

- (1) **GLENCORE ENERGY UK LTD**, of 50 Berkeley Street, London, W1J 8HD (including its successors and assigns) (the "**Assignor**"); and
- (2) **SBERBANK (SWITZERLAND) AG**, of Gartenstrasse 24, P.O. Box 2136, CH-8027, Zurich, Switzerland (the "**Assignee**").

INTRODUCTION

- (A) The Assignor and EXMOR GROUP DMCC, a company registered and existing under the laws of Dubai, United Arab Emirates, with the corporate identification number DMCC28827 and whose registered office is at Unit No 30-01-2511, Jewellery & Gemplex 3, Plot No DMCC-PH-J&GPLEXS, Jewellery & Gemplex, Dubai, United Arab Emirates, ("**Exmor**") have entered into a contract No EMR-GL-H-11/2016 dated 17 November 2016 for the sale by Exmor (as Seller) to the Assignor (as Final Offtaker) of a minimum of 315'000 metric tons of hydrocarbon mixture for cold metal processing ("**Product**") to be delivered in agreed lots in the period to 30th April 2017 (the "**Final Offtake Contract**").
- (B) Exmor and OPEN JOINT-STOCK COMPANY "NOVOSHAHTINSKIY ZAVOD NEFTEPRODUCTOV" (Открытое акционерное общество "Новошахтинский завод нефтепродуктов"), registered and existing under the laws of the Russian Federation with the general state registration number (ОГРН) 1046151001071, ("**Supplier**") have concluded a contract under number 171675-1 dated 17 November 2016 for the sale and delivery by Supplier of the Product to Exmor (the "**Supply Contract**").
- (C) Under the Final Offtake Contract, the Assignor agreed to make prepayments to Exmor, who further agreed under the Supply Contract to make prepayments to the Supplier in respect of the Product.
- (D) By a risk participation agreement between (1) the Assignor and (2) the Assignee dated 30/12/2016 (the "**Risk Participation Agreement**"), the Assignee has agreed to assume part of the Assignor's risk in relation to the Final Offtake Contract and the Prepayments on and subject to the terms and conditions thereof.
- (E) It is a requirement under the Risk Participation Agreement that the Assignor enter into this Deed of Assignment in favour of the Assignee.

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS

- 1.1 In this Deed (including in the Introduction), unless the context requires otherwise, the following expressions have the respective meanings shown below:

EXPRESSION	MEANING
"Act"	the Law of Property Act 1925 (as amended);
"Assigned Property"	the various rights and other property assigned to the Assignee by Clause 2.1 and includes each such right and any part thereof;

"Assignor Event"	Any of (i) an Event of Default under clause 8 of the Risk Participation Agreement and (ii) default, howsoever described, of Exmor under the Final Offtake Contract;
"Exmor Assignment"	a deed of assignment dated <u>30/12/2016</u> between Assignor and Exmor in respect of Exmor's rights, title and interest in the Supply Contract;
"Security Interest"	any mortgage, charge, pledge, lien, right of set-off, assignment by way of security, retention of title or any other security interest whatsoever or any other agreement or arrangement having the effect of conferring security, howsoever created or arising; and
"Secured Liabilities"	the obligations of the Assignor under or in connection with the Risk Participation Agreement and the obligations of Exmor under or in connection with the Final Offtake Contract, in both cases including, but without limitation, all monies, obligations and liabilities to be paid or discharged by the Assignor under the Risk Participation Agreement or by Exmor under the Final Offtake Contract but at no time to exceed the Bank Portion.

- 1.2 In this Deed, unless the context otherwise requires, words and expressions not otherwise defined herein, shall have the same meaning as defined in the Risk Participation Agreement.
- 1.3 Unless otherwise stated, references to the Recitals, Clauses and the Schedules are to the Recitals to, Clauses of, and the Schedules to, this Deed. The Clause headings are for convenience only and have no legal effect.
- 1.4 References to any legislation shall include any amendment, re-enactment or extension of that legislation and references to any contract or document include the same as amended, novated and/or replaced from time to time and all addendums thereto.
- 1.5 If any provision hereof is or becomes invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected thereby.
- 1.6 Any right, power or remedy which may be exercised or any request or determination which may be made hereunder by the Assignee may be exercised or made in the absolute discretion of the Assignee.
- 1.7 This Deed shall bind the Assignor and its successors and assigns, and shall inure to the benefit of the Assignee and its successors and assigns.
- 1.8 The parties intend that this Assignment shall take effect as a deed, irrespective of whether a party executes it under hand and this Deed may be executed in any number of counterparts or originals, each of which when executed and delivered shall constitute an original, but which shall together constitute but one and the same instrument.
- 1.9 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed.

2. ASSIGNMENT

- 2.1 By way of continuing security for the due and punctual payment and discharge of the Secured Liabilities, the Assignor, with full title guarantee, intends and agrees to assign

absolutely and agrees to assign absolutely to the Assignee the Bank Portion of its rights, title and interest, present and future, in respect of each of (i) the Prepayments (and interest thereon), including the Bank Portion of all of the Assignor's rights in relation to the relevant Prepayment under law and under any and all of the Transaction Documents, supporting documents, insurances, remittances, securities, bonds, letters of credit, guarantees and indemnities (as relevant) and the Bank Portion of the benefit of the Final Offtake Contract and (ii) the Exmor Assignment insofar as relating to the relevant Prepayment, including, in each case limited to the Bank Portion thereof insofar as relating to the relevant Prepayment:

- (i) rights to receive delivery of the Product which is to be delivered under the Final Offtake Contract and/or of any moneys, compensation or other sums of whatever kind which may from time to time be due and payable to the Assignor arising out of or as a result of the Final Offtake Contract;
- (ii) claims for damages in respect of any breach thereof;
- (iii) the right to demand, sue for, receive and enforce payment of any and all moneys, compensation and/or any other sum and payable as aforesaid; and
- (iv) moneys payable to the Assignor under or by virtue of any policy of insurance taken out by it against the loss, damage or destruction of such Product or against non-performance of the Final Offtake Contract.

2.2 The Assignor shall immediately following execution of this Deed:

- (a) deliver to Exmor a notice of this Assignment in respect of the Final Offtake Contract in the form set out in Schedule 1; and
- (b) request that Exmor promptly execute and return to the Assignee an acknowledgement in the form set out in Schedule 2.

3. REPRESENTATIONS

3.1 Title

The Assignor hereby represents and warrants to the Assignee on a continuing basis that it is the sole owner of the Assigned Property and that except for the security created hereby, the Assignor has not created or permitted to subsist any Security Interest over any Assigned Property, nor sold, assigned, transferred or otherwise disposed of any Assigned Property or any interest therein (and the Assignor covenants with the Assignee that it will not hereafter create or permit to subsist any such Security Interest, or sell, assign, transfer or otherwise dispose of any Assigned Property or any interest therein to anyone other than the Assignee, nor attempt or agree so to do).

3.2 Nature of security

The Assignor represents and warrants to the Assignee that:

- (a) this Deed creates the security it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Assignor or otherwise;
- (b) the Assigned Property is capable of being freely assigned by the Assignor to the Assignee without any further consent of any relevant counterparty; and

- (c) its entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with any term of the Final Offtake Contract.

3.3 Time for making representations

- (a) The representations and warranties set out in this Deed are made on the date of this Deed.
- (b) Unless a representation and warranty is expressed to be given at a specific date, each representation and warranty under this Deed is deemed to be repeated by the Assignor on each date during this Deed is in force.
- (c) When a representation and warranty is repeated, it is applied to the circumstances existing at the time of repetition.

4. SECURITY PROVISIONS

4.1 This Deed shall:

- (a) be a continuing security until the Assignee has issued its full and final unconditional discharge of all the Secured Liabilities, and shall not be satisfied or discharged by, (i) any intermediate payment or satisfaction of any part of the Secured Liabilities; or (ii) any settlement of account or other matter whatsoever (whether between the Assignor and the Assignee or any other person); and
- (b) not be prejudiced or affected by the Assignee exchanging, releasing, varying or abstaining from perfecting or enforcing any rights which the Assignee may now or hereafter have or by the Assignee giving time or indulgence to, or compounding with, any person.

4.2 No failure or delay by the Assignee in exercising any right, power or remedy shall operate as a waiver thereof; nor shall any single or partial exercise or waiver of any right, power or remedy preclude its further exercise or the exercise of any other right, power or remedy; nor shall any required consent given by the Assignee preclude the Assignee revoking such consent or giving or withholding any other or subsequently required consent.

4.3 All the rights, powers and remedies conferred on the Assignee hereunder shall be cumulative and in addition to, and not a limitation of, every other right, power or remedy conferred on the Assignee by this Deed or by law; and each right, power or remedy may be exercised as often and in such order as the Assignee may determine and without prior recourse to any other security or person.

5. COVENANTS

- 5.1 The Assignor will duly and punctually observe and perform all the terms and conditions of the Final Offtake Contract in all material respects (provided that any failure to do so will not be considered a breach hereof unless it continues unremedied for a period of 30 days from the earlier of the date on which the Assignor becomes aware of such failure and the date on which the Assignee gives written notice thereof to the Assignor) and will not (except as permitted under the Risk Participation Agreement) vary, extend, release, terminate or rescind the Final Offtake Contract or grant time for payment or performance or other indulgence, or compound with, discharge, waive, release or vary the liability of any person thereunder or do or permit any set-off or other thing whereby the performance of any obligations or the recovery of any moneys payable under the Final Offtake Contract may be delayed or impeded.

- 5.2 The Assignor will provide the Assignee with a copy of the Final Offtake Contract and such information in its possession relating to each Assigned Property as the Assignee may from time to time reasonably require.
- 5.3 The Assignor will provide the Assignee with any document or information in its possession relating to any Assigned Property which the Assignee may reasonably require for the purposes of making any claim or taking any action in connection with any Assigned Property.
- 5.4 Unless done by the Bank earlier, the Assignor must promptly, but in any event no later than 21 days from the date of this Deed, make a filing of this Deed and the necessary forms for the registration of a charge at the Companies House and deliver to the Assignee evidence reasonably satisfactory to the Assignee that the filing has been made and the relevant Companies House fees have been paid.

6. ENFORCEMENT OF SECURITY

- 6.1 The security constituted by this Deed shall become immediately enforceable (and the power of sale and of appointing a receiver, and the other powers conferred by Section 101 of the Act, as varied or amended or extended hereby, shall be immediately exercisable) upon the occurrence of an Assignor Event and at any time thereafter whilst it is continuing, and the Assignee shall be entitled, without notice or further demand, immediately or at any time thereafter (in its absolute discretion):
- (a) to exercise all the rights, powers and remedies possessed by it as Assignee of the Assigned Property;
 - (b) to sell or assign all or any part of its rights, title and interest in and to the Assigned Property;
 - (c) to collect, recover, compromise and give a good discharge for any monies payable to the Assignor under or pursuant to the Final Offtake Contract;
 - (d) with or without judicial procedure or arbitration to take possession of the Assigned Property and for that purpose:
 - (i) to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands relating in any way to any of the Assigned Property;
 - (ii) to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Assigned Property which may seem to it to be expedient;
 - (iii) to exercise in relation to any of the Assigned Property all the powers, authorities and things which it would be capable of exercising if it were the absolute owner of the same; and
 - (iv) to apply for and maintain any relevant regulatory permission, consent or licence; and
 - (e) otherwise, to put into force and effect all rights, powers and remedies available to it at law or otherwise as Assignee of the Assigned Property.
- 6.2 The power of sale or other disposal conferred on the Assignee by this Deed shall operate as a variation and extension of the statutory power of sale under Section 101 of the Act

and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Assignment.

- 6.3 The restrictions contained in Sections 93 and 103 of the Act shall not apply to this Assignment or to the exercise by the Assignee of its right to consolidate all or any of the security created by or pursuant to this Assignment with any other security in existence at any time or to its power of sale, which powers may be exercised by the Assignee without notice to the Assignor on or at any time after the occurrence of an Assignor Event.
- 6.4 The Assignee shall at any time have the right to require the performance by and at the expense of the Assignor of its material obligations under the Final Offtake Contract.
- 6.5 The Assignee and its nominees, by reason of it or their entering into possession of the Assigned Property or any part thereof or any other reason whatsoever, shall not be liable to account, as mortgagee in possession or otherwise, or be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.
- 6.6 The Assignor shall do or permit to be done any act or thing which the Assignee may from time to time require for the purpose of enforcing the Assignee's rights under this Deed and will allow its name to be used as and when required by the Assignee for that purpose.
- 6.7 The Assigned Property may be dealt with, sold or disposed of at such times, in such manner and generally on such terms and conditions and for such consideration as the Assignee may, in its absolute discretion think fit, and at the Assignor's expense and risk, without the Assignee being responsible for any loss on realisation.

7. PROTECTION OF THE ASSIGNEE

- 7.1 The Assignee shall not be liable for any loss or damage arising in connection with the exercise, or purported exercise, or failure to exercise, any of its rights, powers, remedies and discretions hereunder or be obliged to make any enquiry as to the nature or sufficiency of any payment received by it under this Deed or to make any claim or take any action to collect any moneys hereby assigned or to enforce any rights or benefits hereby assigned or to which the Assignee may at any time be entitled under this Deed, or be liable to account as mortgagee in possession, or for anything, except actual receipts.
- 7.2 The Assignor shall remain liable to perform all the obligations assumed by the Assignor in relation to any Assigned Property and the Assignee shall be under no obligation or liability whatsoever if the Assignor fails to perform any such obligations and the Assignor hereby indemnifies and agrees to keep indemnified the Assignee on a full indemnity basis from and against all actions, claims or demands of whatever nature now or at any time hereafter brought or made against the Assignee in connection with any Assigned Property.

8. PROTECTION OF THIRD PARTIES

- 8.1 No person dealing with the Assignee shall be bound to enquire, or be affected by any notice, as to (a) whether any right, power, remedy or discretion which the Assignee has exercised or is purporting to exercise has become exercisable; (b) whether any of the Secured Liabilities remain outstanding; (c) the propriety or validity of the exercise or purported exercise of any such right, power, remedy or discretion; or (d) the application of any money paid to the Assignee.

- 8.2 All the protections to purchasers contained in Sections 104 and 107 of the Act shall apply to any such person.

9. INDEMNITIES

- 9.1 The Assignor shall on demand indemnify and keep the Assignee fully indemnified from and against all actions, claims, demands, liabilities, costs, charges and expenses arising out of, or in connection with its Assigned Property or this Deed (including but not limited to costs in relation to actions involving third parties), any act or omission by or on behalf of the Assignee hereunder, or in connection with the preservation, exercise or attempted preservation or exercise of the Assignee's rights, powers, remedies or discretions hereunder.
- 9.2 If the Assignor fails to comply with any obligation hereunder the Assignee may (without thereby prejudicing any of its rights hereunder) perform, or procure the performance of, such obligation and the Assignor shall pay to the Assignee on demand all costs, charges and expenses thereby incurred by the Assignee.

10. FURTHER ASSURANCE

The Assignor shall, at its own cost, from time to time execute and deliver, in such form and containing such terms and conditions as the Assignee may request, all deeds and documents and do all acts or things which the Assignee may reasonably request for protecting or improving the security intended to be created hereby or for facilitating the exercise or proposed exercise of any of the Assignee's rights, powers or remedies hereunder.

11. GOVERNING LAW AND JURISDICTION

The provisions of Clause 12.8 of the Risk Participation Agreement apply hereto as if fully set out herein but in relation to this Deed.

SCHEDULE 1
NOTICE OF ASSIGNMENT

From: **GLENCORE ENERGY UK LTD**

To: **EXMOR GROUP DMCC (the "Seller")**

Date: [30/12/2016]

Dear Sirs,

We refer to (i) the contract number EMR-GL-H-11/2016 dated 17 November 2016 (the "Final Offtake Contract") made between you and us for the sale by you to us of a minimum of 315'000 metric tons of hydrocarbon mixture for cold metal processing (the "Product") and (ii) the deed of assignment dated 30/12/2016 between you and us (the "Deed") in respect of your rights, title and interest in the contract number 171675-1 dated 17 November 2016 between you and OPEN JOINT-STOCK COMPANY "NOVOSHAHTINSKIY ZAVOD NEFTEPRODUKTOV" (Открытое акционерное общество "Новошахтинский завод нефтепродуктов"), registered and existing under the laws of the Russian Federation with the general state registration number (ОГРН) 1046151001071, ("Supplier") for the sale and delivery by Supplier of the Product to you during the period to 30 April 2017 (in each case, as the same may be amended and supplemented from time to time) (together, the "Contracts").

We hereby give you notice that by a deed of assignment dated 30/12/2016 (the "Assignment") made between us as Assignor and SBERBANK (SWITZERLAND) AG as Assignee (the "Assignee") we have assigned to the Assignee the Bank Portion of our rights, claims and interest in respect of each of the Prepayments under the Offtake Contract (and interest thereon) and in respect of the Deed (including the Bank Portion of all rights to require performance, receive money including refund of the prepaid amount in case of non-delivery of Product on its scheduled delivery date, compensation or other payments and any rights to claim damages) arising out of or as a result of the Contracts (the "Assigned Rights") in order, inter alia, to secure our obligations under a risk participation agreement dated 30/12/2016 between us and the Assignee.

You are hereby irrevocably directed that all deliveries due to be made by you under the Final Offtake Contract shall be made to us in accordance with the Final Offtake Contract until such time as the Assignee may otherwise direct and thereafter the Bank Portion of such deliveries shall be made as the Assignee may direct in writing from time to time and that the Bank Portion of payments due to be made by you under the Contracts shall be made to the Assignee or as it may direct in writing from time to time and only such payment and/or delivery duly made shall afford you a good discharge. All payments due under the Contracts shall be made free and clear of any deduction (in or on account of any set-off or counterclaim or otherwise).

Please note that:

- (a) this notice and the instructions contained herein may not be varied or revoked without the prior written consent of the Assignee;
- (b) while an Assignor Event is continuing, we may not (except with the prior written consent of the Assignee) agree to or permit any amendment to, variation or waiver of any term of the Contracts;
- (c) we may not, without the prior written consent of the Assignee, permit or agree to the cancellation, suspension, early termination or revocation of the Contracts; and

- (d) we shall continue to be solely responsible for the performance of our obligations under and in connection with the Contracts.

This notice and your acknowledgement of this notice shall be governed by and construed in accordance with English law.

Please confirm your acknowledgement and agreement to the terms of this notice by completing the acknowledgement letter attached to this notice and returning the same to us and to the Assignee.

Yours faithfully

For and on behalf of **GLENCORE ENERGY UK LTD**

By:



Name: Karen Davis

Title: Authorized Signatory

By:



Name: Michael Reubman

Title: Authorized Signatory

SCHEDULE 2
ACKNOWLEDGMENT

To: **GLENCORE ENERGY UK LTD**

From: **EXMOR GROUP DMCC**

Date: []

Dear Sirs,

We acknowledge receipt of the notice (the "Notice") of the assignment under the deed of assignment dated 30/12/2016 made between you as Assignor and SBERBANK (SWITZERLAND) AG as Assignee (the "Assignment") of the Bank Portion of your rights under (i) the contract number EMR-GL-H-11/2016 dated 17 November 2016 made between you and us for the sale by us to you of a minimum of 315'000 metric tons of hydrocarbon mixture for cold metal processing and (ii) the deed of assignment dated 30/12/2016 between you and us in respect of our rights, title and interest in the contract number 171675-1 dated 17 November 2016 between us and OPEN JOINT-STOCK COMPANY "NOVOSHAHTINSKIY ZAVOD NEFTEPRODUCTOV" (Открытое акционерное общество "Новошахтинский завод нефтепродуктов"), registered and existing under the laws of the Russian Federation with the general state registration number (ОГРН) 1046151001071, ("Supplier") for the sale and delivery by Supplier of the Product to us during the period to 30 April 2017 (in each case, as the same may be amended and supplemented from time to time) (together, the "Contracts").

Capitalised terms used in this acknowledgement letter and not otherwise defined herein shall have the meanings ascribed to them in the Notice.

We hereby confirm our consent to the Assignment and confirm that we will comply fully with the terms of the Notice.

We confirm that we have not previously agreed to, and have received no other notice of, any assignment of or other encumbrance over the Contracts.

This acknowledgement letter shall be governed by and construed in accordance with English law.

Yours faithfully,

For and on behalf of

EXMOR GROUP DMCC

By:

By:

Name:

Name:

Title:

Title:

IN WITNESS whereof this Deed has been duly executed the day and year first above written.

Executed as a Deed by

GLENCORE ENERGY UK LTD acting by

(Signature of director)

Karen Davis
Sam
Michael Reubann

In the presence of

Marya Lazarova

(Name of witness)

.....

.....

.....

(Address of witness)

[Signature]

(Signature of witness)

Executed as a Deed by

SBERBANK (SWITZERLAND) AG acting by

[•]

[•]

in the presence of

.....

(Name of witness)

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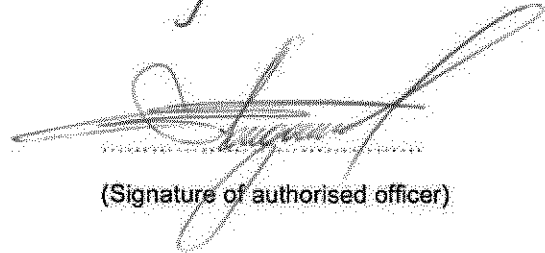
(Address of witness)

.....

(Signature of witness)

Alexandre Rech
Senior Trade Finance Manager
Vice Director

Sberbank (Switzerland) AG
(Signature of authorised officer)



(Signature of authorised officer)