

MR01

Particulars of a charge



Companies House

A fee is payable with this form.  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online.  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument. Use form MR08.

For further information, please  
refer to our guidance at:  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form must be delivered to the Registrar for registration within  
21 days beginning with the day after the date of creation of the charge.  
If delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery.

☒ You must enclose a certified copy of the instrument with this form,  
scanned and placed on the public record. Do not send the original.

FRIDAY



\*A45ZHV96\*

A08

24/04/2015

#296

COMPANIES HOUSE  
Using this form

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

1 Company details

Company number 0 4 5 4 2 7 6 9

Company name in full GLENCORE ENERGY UK LTD.

2 Charge creation date

Charge creation date 1 7 2 0 1 5

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name NATIXIS

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below.

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge.

**MR01****Particulars of a charge****4****Brief description**

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space

Brief description

**5****Other charge or fixed security**

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ **Yes**☐ **No****6****Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☐ **Yes** Continue☒ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ **Yes****7****Negative Pledge**

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ **Yes**☐ **No****8****Trustee statement <sup>①</sup>**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)

**9****Signature**

Please sign the form here.

Signature

X *Herbert Smith Freehills LLP* X

This form must be signed by a person with an interest in the charge

Signature

# MRO1

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name James Frecknell

Company name HERBERT SMITH FREEHILLS LLP

Address Exchange House

Primrose Street

Post town London

County/Region

Postcode E C 2 A 2 E G

Country England

DX

Telephone +44 20 7466 2795



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following.

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 4542769

Charge code: 0454 2769 0171

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th April 2015 and created by GLENCORE ENERGY UK LTD. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th April 2015.

P

Given at Companies House, Cardiff on 30th April 2015



**Companies House**



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



HERBERT  
SMITH  
FREEHILLS

We hereby certify that, save for material  
redacted pursuant to section 859G Companies  
Act 2006, this is a true and accurate copy of the  
original

*Herbert Smith Freehills LLP*  
Herbert Smith Freehills LLP  
Exchange House  
Primrose Street  
London EC2A 2EG  
Date...23. April 2015

17 April 2015

**GLENCORE ENERGY UK LTD.**

and

**NATIXIS**

---

**LENDERS' SECURITY ASSIGNMENT**

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Herbert Smith Freehills Paris LLP  
66, avenue Marceau  
Paris, 75008  
France

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**THIS DEED** is dated 17 April 2015 and made

**BETWEEN**

- (1) **GLENCORE ENERGY UK LTD.** (a company registered in England and Wales with registration number 4542769) whose registered office is at 50 Berkeley Street, London W1J 8HD, England (the "**Company**"), and
- (2) **NATIXIS** as facility agent, security agent and trustee for the Finance Parties (as defined in the Credit Agreement defined below) (the "**Facility Agent**" and the "**Security Agent**").

**BACKGROUND:**

- (A) The Company enters into this Deed in connection with the Credit Agreement (as defined below)
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand

**IT IS AGREED** as follows

**1. INTERPRETATION**

**1.1 Definitions**

In this Deed

**Act** means the Law of Property Act 1925.

**Assigned Contracts** means each of

- (a) the prepayment agreement originally dated 25 February 2015 between SNPC, SARPD Oil and the Company (as amended from time to time) (the "**Prepayment Agreement**"),
- (b) the commercial contract originally dated 25 February 2015 between SNPC, SARPD Oil and the Company (as amended from time to time) (the "**Commercial Contract**"),
- (c) any spot contract entered into between SNPC and the Company pursuant to Clause 5.2 (Other Conditions) of the Prepayment Agreement

**Assigned Rights** means all rights, titles, benefits powers and interests, whether present or future, of the Company in, to or arising under the Assigned Contracts including without limitation:

- (a) rights to all amounts payable to the Company under or in respect of each Assigned Contract and the full benefit of any security, options, indemnities, guarantees and warranties and any judgement or arbitration in connection with that Assigned Contract,
- (b) make all elections and demands and give all notices and confirmations which may be made or given by the Company under the Assigned Contracts,
- (c) exercise or seek enforcement of any rights, title and interest in, and perform and compel performance of, each Assigned Contracts in accordance with its terms,
- (d) accept delivery of and to take title to the Commodities under the Assigned Contracts on behalf of the Company and to execute all documents necessary for acceptance of those Commodities; and
- (e) be named as owner in all documents relating to delivery of the Commodities under the Assigned Contracts

**Commodities** has the meaning given to such term in the Prepayment Agreement

**Credit Agreement** means the loan agreement dated 17 April 2015 between (among others) the Company, the Facility Agent and the Security Agent

**Party** means a party to this Deed

**Proceedings Event** means such event as set out under Clause 20.13 (*Proceedings*) of the Credit Agreement

**Receiver** means an administrative receiver, receiver and manager or a receiver, in each case, appointed under this Deed

**SARPD Oil** means Société Africaine de Recherche Pétrolière et de Distribution International Limited, a British Virgin Islands registered company located at Wickman's Cay, Rod Town, Tortola, British Virgin Islands.

**Secured Liabilities** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Company to any Finance Party under each Finance Document to which the Company is a party

**Security** means any mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect

**Security Assets** means all assets of the Company the subject of any security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Security Agent confirms in writing that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full

**SNPC** means Société Nationale des Pétroles du Congo, a Congolese *établissement public à caractère industriel et commercial* incorporated under the law of the Republic of Congo, with its registered office at Boulevard Denis Sassou N'Guesso, BP 188, Brazzaville, the Republic of Congo with registered number RCCM CG / BZV / 07 B 243

## **1.2 Construction**

- (a) Capitalised terms defined in the Credit Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The provisions of Clause 1.2 (Construction) of the Credit Agreement apply to this Deed as though they were set out in full in this Deed, except that references to the Credit Agreement will be construed as references to this Deed
- (c) In this Deed
  - (i) A Finance Document or any other agreement or instrument includes (without prejudice to any prohibition on amendments) any amendment to that Finance Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility,
  - (ii) the term **this Security** means any security created by this Deed, and
  - (iii) **assets** includes present and future properties, revenues and rights of every description.
- (d) Any covenant of the Company under this Deed (other than a payment obligation) remains in force during the Security Period
- (e) If the Security Agent considers that an amount paid to a Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the

liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed

- (f) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset

## **2. CREATION OF SECURITY**

### **2.1 General**

(a)

- (i) is created in favour of the Security Agent
- (ii) is created over present and future Assigned Rights;
- (iii) is security for the payment of all the Secured Liabilities, and
- (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994

- (b) The Security Agent holds the benefit of this Deed on trust for the Finance Parties in accordance with Clause 26 (The Security Agent) of the Credit Agreement

### **2.2 Assigned Rights**

- (a) The Company assigns absolutely, subject to the equity of redemption, all of the Assigned Rights.
- (b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (a) above will operate as an assignment of any causes and rights of action, damages, compensation, judgments, remuneration, profit, rent or income which the Company may derive from that right or be awarded or entitled to in connection with that right.
- (c) To the extent that they are not effectively assigned under paragraph (a) or (b) above, the Company charges by way of a first fixed charge all of the Assigned Rights

## **3. RESTRICTIONS ON DEALINGS**

The Company must not

- (a) create or permit to subsist any Security on any Security Asset; or
- (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset,

except as expressly allowed under the Credit Agreement.

## **4. FURTHER ASSURANCE**

### **4.1 Consents**

If the rights of the Company under an Assigned Contract cannot be secured without the consent of a party to that document

- (a) the Company must notify the Security Agent;
- (b) this Security will secure all amounts and other assets (including, without limitation, Commodities) which the Company may receive, or has received, under that Assigned Contract but exclude the Assigned Contract itself, and

- (c) unless the Security Agent otherwise confirms it does not require such consent, the Company must use best efforts to obtain the consent of the relevant party to that Assigned Contract being secured under this Deed

#### **4.2 Execution**

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

- (a) perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Deed;
- (b) confirming the security created or intended to be created by this Deed and delivering any additional or second ranking security assignment that may, in the opinion of the Security Agent (acting reasonably), be required in the event of any amendment to the Credit Agreement,
- (c) exercising all powers, authorities and discretions conferred on the Security Agent or any Receiver (or their delegates or sub-delegates) pursuant to this Deed or by law, and
- (d) facilitating the realisation of any Security Asset once the security has become enforceable;

This includes

- (i) the re-execution of this Deed,
- (ii) the execution of any further or supplemental assignment of any Security Asset,
- (iii) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; or
- (iv) the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Security Agent may, in its absolute discretion, think expedient

#### **5. NOTICE OF ASSIGNMENT**

The Company must immediately on execution of this Deed (and in any event within one Business Day) give a notice of assignment to SNPC in the form specified in Schedule 1 and procure that SNPC promptly acknowledges receipt of the notice by executing the deed of acknowledgement substantially in the form annexed in Schedule 2 (or in such other form substantially the same in relation thereto, as may be agreed by the Facility Agent)

#### **6 WHEN SECURITY BECOMES ENFORCEABLE**

##### **6.1 General**

This Security will become immediately enforceable if an Event of Default occurs and is continuing, or if a Proceedings Event has occurred and has not been remedied, stayed, discharged or dismissed within 60 days of the earlier of (i) the Company becoming aware of its occurrence and (ii) the Facility Agent giving notice to the Company of such occurrence of such Proceedings Event.

##### **6.2 Discretion**

After this Security has become enforceable, the Security Agent may, in accordance with the Finance Documents, enforce all or any part of this Security in any manner it sees fit

### **6.3 Power of sale**

The power of sale and other powers conferred by Section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable

## **7 ENFORCEMENT OF SECURITY**

### **7.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and Section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

### **7.2 No liability as mortgagee in possession**

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable

### **7.3 Privileges**

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply

### **7.4 Protection of third parties**

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised,
- (c) whether any money remains due under the Finance Documents, or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied

### **7.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Security Agent may
  - (i) redeem any prior Security against any Security Asset, and/or
  - (ii) procure the transfer of that Security to itself, and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Company
- (b) The Company must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest

### **7.6 Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account

## **8. RECEIVER**

### **8.1 Appointment of Receiver**

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if
  - (i) this Security has become enforceable, or
  - (ii) the Company so requests the Security Agent in writing at any time
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986

### **8.2 Removal**

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **8.3 Remuneration**

The Security Agent may fix the reasonable remuneration of any Receiver appointed by it and the maximum rate specified in Section 109(6) of the Act will not apply.

### **8.4 Agent of the Company**

- (a) A Receiver will be deemed to be the agent of the Company for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Company alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver, other than arising from fraud, wilful misconduct or gross negligence on the part of the Receiver
- (b) No Finance Party will incur any liability (either to the Company or to any other person) by reason of the appointment of a Receiver, other than any liability arising from fraud, wilful misconduct or gross negligence on the part of the Finance Party in appointing the Receiver

### **8.5 Relationship with Security Agent**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver

## **9. POWERS OF RECEIVER**

### **9.1 General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law in relation to the Secured Assets, this includes:

- (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act, 1986, and
  - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act, 1986
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver

## **9.2 Possession**

A Receiver may take immediate possession of, get in and collect any Security Asset and give good receipt for the same

## **9.3 Employees**

- (a) A Receiver may appoint (and discharge the same) managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit
- (b) A Receiver may discharge any person appointed by the Company of their authority and right to deal with the Secured Assets.

## **9.4 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to the Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

## **9.5 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit

## **9.6 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person relating in any way to any Security Asset

## **9.7 Legal actions**

A Receiver may bring, prosecute, enforce, settle defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit

## **9.8 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset

## **9.9 Protection of assets**

A Receiver may do any act to protect or improve any Security Asset as he thinks fit.

#### **9.10 Other powers**

A Receiver may

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law,
- (b) apply for and maintain any regulatory permission, consent or licence required in connection with the Assigned Contracts; and
- (c) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset

#### **10. APPLICATION OF PROCEEDS**

Subject to any priority claims as a matter of law, any moneys received by the Security Agent or any Receiver after this Security has become enforceable must be applied in the order set out in Clause 29.7 (*Application of proceeds*) of the Credit Agreement and, without prejudice to Clause 29.6.2 of the Credit Agreement, for this purpose the Secured Liabilities shall be deemed to be due and payable in full

#### **11. DELEGATION**

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

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed

##### **11.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit

##### **11.3 Liability**

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Company for any loss or liability arising from any appointment, act, default, omission or misconduct on the part of any delegate or sub-delegate, other than any loss or liability arising in respect of any fraud, wilful misconduct or gross negligence of (as applicable) the Security Agent or a Receiver in appointing the delegate or sub-delegate

#### **12. POWER OF ATTORNEY**

##### **12.1 Power of attorney**

Subject to Clause 12.2 below, the Company, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of its delegates or sub-delegates to be its attorney to take any action which the Company is obliged to take but has not taken on demand by the Security Agent or a Receiver under this Deed. The Company ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause

##### **12.2 Exercise of powers**

Any attorney appointed under Clause 12.1 above must not exercise any power under Clause 12.1 above unless this Security has become enforceable pursuant to Clause 6.1

#### **13. MISCELLANEOUS**

##### **13.1 Covenant to pay**

The Company must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents

### **13.2 Tacking**

Each Lender must perform its obligations under the Credit Agreement (including any obligation to make available further advances).

### **13.3 New Accounts**

- (a) If any subsequent Security affects any Security Asset, the Security Agent may open a new account with the Company
- (b) If the Security Agent does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest
- (c) As from that time all payments made to the Security Agent will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability

### **13.4 Time deposits**

Without prejudice to any right of set-off any Finance Party may have under any other Finance Document or otherwise, if any time deposit matures on any account the Company has with any Finance Party within the Security Period when

- (a) this Security has become enforceable, and
- (b) no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which that Finance Party considers appropriate

## **14. RELEASE**

- (a) At the end of the Security Period, the Finance Parties must, at the request and cost of the Company, take whatever action is necessary to release and/or reassign the Security Assets from this Security
- (b) No amount paid, repaid or credited to the Security Agent shall be deemed to have been irrevocably paid if the Security Agent 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 similar laws
- (c) If any amount paid, repaid or credited to the Security Agent is avoided or reduced by virtue of any laws applicable on bankruptcy, insolvency, liquidation or similar laws then any release, discharge or settlement between the Security Agent and the Company shall be deemed not to have occurred and the Security Agent shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made

## **15. COUNTERPARTS**

This Deed may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

## **16. GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law

## **17. ENFORCEMENT**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to its existence, validity or termination or any non-contractual obligation arising out of or in connection with it) (a "Dispute")

- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary

**THIS DEED has been entered into as a deed on the date stated at the beginning of this Deed**

**SIGNATORIES**

**Company**

EXECUTED AS A DEED by  
GLENCORE ENERGY UK LTD.  
acting by

)  
)  
)



**Attorney**

In the presence of

Witness's signature



Name . NATHAN E. COENE

Address 50 BERKELEY ST. W1J 8HD LONDON

**Facility Agent**

**NATIXIS**

B,

**Security Agent**

**NATIXIS**

By

**SIGNATORIES**

**Company**

EXECUTED AS A DEED by           )  
GLENCORE ENERGY UK LIMITED   )  
acting by                            )

**Attorney**

In the presence of

Witness's signature   . . . . .

Name   . . . . .

Address   . . . . .

**Facility Agent**

**NATIXIS**

By

Véronique MAGNILLAT-JACQU

Graziella Roca L barre

**Security Agent**

**NATIXIS**

By



Véronique MAGNILLAT-JACQUES

Graziella Roca Labarre

## **SCHEDULE 1**

### **FORM OF NOTICE OF ASSIGNMENT**

#### **NOTICE TO COUNTERPARTIES**

To      **Société Nationale des Petroles du Congo**

Date    [•]

Dear Sirs,

**Lenders' Security Assignment dated \_\_\_\_ April 2015 between Glencore Energy UK Ltd and Natixis (the Security Agreement)**

This letter constitutes notice to you that under the Security Agreement we have assigned absolutely, subject to the equity of redemption, to Natixis (the "Facility Agent" and the "Security Agent") all our rights in respect of the prepayment agreement and the commercial contract entered into between Société Nationale des Pétroles du Congo and Glencore Energy UK Ltd., and dated 25 February 2015 (the "Assigned Contracts").

We confirm that whether prior to, or on or after delivery of an Enforcement Notice (as defined below)

- (a) we will remain liable under the Assigned Contracts to perform all the obligations assumed by us under the Assigned Contracts; and
- (b) none of the Facility Agent, the Security Agent, their agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Assigned Contracts,

We confirm that we will also remain entitled to exercise all our rights, powers and discretions under the Assigned Contracts, and you should continue to give us notices under the Assigned Contracts, unless and until you receive notice from the Security Agent to the contrary stating that it has been directed by the Facility Agent to exercise any or all of its rights, remedies powers or discretions under this Deed (the "Enforcement Notice"). In this event, all the rights, powers and discretions under the Assigned Contracts will be exercisable by, and notices must be given to the Security Agent or as it directs only and we hereby irrevocably instruct and authorise you to continue to comply with your delivery and other obligations in accordance with the Assigned Contracts for the benefit of the Security Agent.

Please note that we have agreed that in certain cases, we will not be able to amend, waive, vary or terminate the Assigned Contracts without the prior consent of the Facility Agent

Please acknowledge receipt of this letter by executing and returning the deed of acknowledgement to the Facility Agent and the Security Agent at [•], with a copy to ourselves

This letter and any non-contractual obligations arising out of or in connection with it are governed by English law

Yours faithfully,

.....

**Glencore Energy UK Ltd.**

(Authorised signatory)

## SCHEDULE 2

### DEED OF ACKNOWLEDGEMENT

To Natixis as Facility Agent and Security Agent

Copy Glencore Energy UK Ltd

Date [•]

Dear Sirs

We confirm receipt from Glencore Energy UK Ltd (the "Assignor") of a notice dated [•] (the "Notice") of an assignment upon the terms of the Security Assignment of all the Assignor's rights, benefits and interests under the Assigned Contracts (as defined in the Notice).

We confirm that

- (A) as at the date of this Deed we have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of the rights of the Assignor under or in respect of the Assigned Contracts,
- (B) upon receipt of an Enforcement Notice we will pay all sums due, give notices and continue to comply with our delivery and other obligations in accordance with the Assigned Contracts for the benefit of, and as directed by, the Security Agent,
- (C) upon receipt of an Enforcement Notice we will consider the Security Agent, or any person nominated by it as successor and assignee of the Assignor, as the replacement of the Assignor with respect to the Assigned Contracts (but not the obligations or liabilities arising thereunder),
- (D) we have been informed that in certain cases, the Assignor will not be able to amend, waive, vary or terminate the Assigned Contracts without the prior consent of the Security Agent, however, it is not bound to enquire as to whether such consent has been obtained when dealing with the Assignor under the Assigned Contracts;
- (E) we acknowledge and agree to the terms of the side letter between the Assignor and the Société Africaine de Recherche Pétrolière et de Distribution International Limited ("SARPD Oil"), attached as a schedule to this deed (the "Side Letter"), which, *inter alia*, amends the terms of the Assigned Contracts, sets out the decision-making rules governing the relationship between SARPD Oil, SNPC and the Assignor, and evidences SARPD Oil's consent to the transactions envisaged by the Lenders' Security Assignment, and
- (F) the reference to the "Transaction Documents" in Clause 6.2 of the Prepayment Agreement shall be construed as including the loan agreement between, amongst others, Natixis and Glencore Energy UK Ltd dated 17 April 2015

Save for sub-paragraphs (E) and (F) which shall be governed by French law, this Deed and any non-contractual obligations arising out of or in connection with it are governed by English law

Any dispute arising under or in connection with this Deed shall be settled in accordance with Clause 9.11 (*Dispute resolution and Jurisdiction*) of the Prepayment Agreement and shall be subject to Clause 9.12 (*Waiver of Immunity*) of the Prepayment Agreement

**THIS DEED has been entered into as a deed on the date stated at the beginning of this Deed**

**EXECUTED AS A DEED by** )  
**SOCIÉTÉ NATIONALE DES** )  
**PÉTROLES DU CONGO** )  
**acting by** )

**[SIGNATORY]**

**In the presence of**

**Witness's signature** . . . . .

**Name:** . . . . .

**Address** . . . . .

## **SCHEDULE TO THE FORM OF ACKNOWLEDGEMENT**

### **GLENCORE – SARPD OIL SIDE LETTER**

**From** GLENCORE ENERGY UK Ltd.  
50 Berkeley Street  
London W1J 8HD  
England

**To** SOCIÉTÉ AFRICAINE DE RECHERCHE  
PÉTROLIÈRE ET DE DISTRIBUTION  
INTERNATIONAL LTD. ("SARPD Oil")  
Wickham's Cay, Rod Town, Tortola  
British Virgin Islands

London, [ ] 2015

#### **Letter Agreement**

Dear Sirs

We refer to the prepayment agreement dated 25 February 2015 between Glencore Energy UK Ltd. ("Glencore"), SARPD Oil and Société Nationale des Petroles du Congo ("SNPC") (the "Prepayment Agreement") and the commercial contract dated 25 February 2015 between Glencore, SARPD Oil and SNPC (the "Commercial Contract")

- 1 Unless a contrary indication appears, terms used in the Prepayment Agreement and not defined in this letter (the "Letter Agreement") shall have the same meaning when used in this Letter Agreement. In addition, the following terms shall have the following meaning  
  
"Enforcement Date" means the date on which the Security Assignment (as defined below) is enforced.  
  
"Majority Buyer" means a Buyer whose Buyer's Share aggregates more than 80% of the total Buyers' Shares
- 2 The provisions of clause 1.2 (*Construction*) of the Prepayment Agreement apply to this Letter Agreement as though they were set out in full in this Letter Agreement except that references to "this Agreement" are to be construed as references to this Letter Agreement
- 3 We confirm that on or about the date of this Letter Agreement, Glencore will enter into a loan agreement (the "Loan Agreement") with, *inter alios*, Natixis as lender, facility agent and security agent (the "Security Agent") and that in connection with the Loan Agreement, Glencore is required to assign by way of security to the Security Agent all its rights, powers, authorities and discretions under the Commercial Contract and the Prepayment Agreement (the "Security Assignment")
- 4 By signing and accepting this Letter Agreement, you confirm and agree that you consent and agree to the assignment made by Glencore under the Security Assignment

- 5 Notwithstanding anything to the contrary in the Prepayment Agreement or the Commercial Contract, and whether or not Glencore is acting as Buyers' Agent at the relevant time, Glencore and SARPD Oil unconditionally and irrevocably acknowledge and agree that until all amounts outstanding under or in connection with the Loan Agreement have been fully and irrevocably paid and notice thereof has been given to SARPD Oil by the Majority Buyer:
- (a) any determination, decision, instruction or notice (including the making of any amendments, supplements and variations or any exercise or non-exercise of any right, power or discretion) to be made by the Buyers under or in connection with any Transaction Document will be made.
    - (i) solely by the Majority Buyer, until the Enforcement Date, and
    - (ii) as from the Enforcement Date, solely by the Security Agent or its successor in title, permitted assign or permitted transferee (together the "Secured Party"),and, in each case, each Buyer unconditionally and irrevocably acknowledges and agrees that it will be bound by any such determination or decision made in accordance with paragraph (i) or (ii) above, provided that when the decision or determination relates to a Reserved Matter, the written consent of SARPD Oil shall be required,
  - (b) prior to the Enforcement Date, any delivery of Commodities by SNPC pursuant to the Commercial Contract will be made directly to the Majority Buyer who will, *inter alia*, be in charge of marketing such Commodities, collecting the relating proceeds and effecting all deductions and payments required under the Prepayment Agreement,
  - (c) as from the Enforcement Date, any delivery of Commodities by SNPC pursuant to the Commercial Contract will be made directly to the Secured Party or its nominee who will, *inter alia*, be in charge of marketing such Commodities, collecting the relating proceeds and effecting all deductions and payments required under the Prepayment Agreement,
  - (d) any proceeds arising out of the marketing of the Commodities by or on behalf of the Secured Party which corresponds to the portion of the Prepayment that is not refinanced under the Loan Agreement shall be returned by the Secured Party to Glencore or any of its successors in title, assignees or nominees who shall in turn pay over to SARPD Oil its pro rata share in accordance with the terms of the Prepayment Agreement and/or Commercial Contract and SARPD Oil shall not have the right to claim any payment whatsoever from the Secured Party, and
  - (e) SARPD Oil shall not assign any of its rights or transfer by novation any of its right and obligations under the Commercial Contract, the Prepayment Agreement or this letter, prior to the Enforcement Date, without Glencore's written consent and following the Enforcement Date, without the Secured Party's written consent
- 6 The Buyers acknowledge that nothing herein constitutes any Secured Party as a trustee or fiduciary of any person
- 7 Upon acknowledgement by SNPC of this Letter Agreement, this Letter Agreement will be designated as a Finance Document under the Prepayment Agreement.
- 8 This letter shall be governed by French law and the provisions of clause 9.11 (*Dispute resolution and Jurisdiction*) of the Prepayment Agreement shall apply to this letter as if set out herein and as if references to "this Agreement" in the Prepayment Agreement were to this Letter Agreement.

We would be grateful if you could sign and return to us the attached copy of this Letter Agreement confirming your acceptance of its terms

Your faithfully,

Name  
for and on behalf of **Glencore Energy UK Ltd.**

Accepted and agreed by

.....  
Name  
Date  
for and on behalf of **Société Africaine de Recherche et de Distribution Pétrolière International Limited (SARPD Oil)**