



Registration of a Charge

Company name: **EXTRA ENERGY SUPPLY LIMITED**

Company number: **08053154**



X71CUE3T

Received for Electronic Filing: **09/11/2018**

Details of Charge

Date of creation: **01/11/2018**

Charge code: **0805 3154 0002**

Persons entitled: **EXTRA ENERGIE GMBH**

Brief description: **FIXED AND FLOATING CHARGES OVER ALL ASSETS AND UNDERTAKING OF THE COMPANY, PRESENT AND FUTURE, AS MORE PARTICULARLY DESCRIBED IN CLAUSE 3 OF THE DEBENTURE**

Contains fixed charge(s).

Contains floating 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 SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

ANDREW JORDAN



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8053154

Charge code: 0805 3154 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st November 2018 and created by EXTRA ENERGY SUPPLY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th November 2018 .

Given at Companies House, Cardiff on 13th November 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

WE CERTIFY THIS DOCUMENT AS A TRUE COPY OF
THE ORIGINAL

ROSENBERG ABRAMOVICH SCHNEIDER, ADVOCATS

NOV. 7, 2018

Debenture

Extra Energy Supply Limited

and

ExtraEnergie GmbH

1 November, 2018

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THIS DEED is made on November 1, 2018

BETWEEN:

- (1) **EXTRA ENERGY SUPPLY LIMITED**, a company incorporated and registered in England with company number 08053154 and whose registered office is at 54 Hagley Road, Birmingham, England, B16 8PE (the "**Chargor**"); and
- (2) **EXTRA ENERGIE GMBH**, a company incorporated and registered in the Federal Republic of Germany with company number 82993 and whose registered office is at Mittelstraße 11-13, 40789 Mohnheim am Rhein, Federal Republic of Germany (the "**Chargee**").

WHEREAS:

- (A) The Chargor and the Chargee have entered into the Facilities Agreement (as defined below), pursuant to which the Chargee has made certain financing facilities available to the Chargor.
- (B) The Chargor has agreed to grant security to the Chargee for the Chargor's obligations under the Facilities Agreement on the terms set out in this deed.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed:

"Assigned Agreements" means the contracts listed as Assigned Agreements in schedule 4 (Assigned Agreements and any other agreement agreed to be an Assigned Agreement by the Chargor and the Chargee;

"Bank Accounts" means all rights in relation to cash-deposit, current or other accounts held with any bank, financial institution or other person;

"Book Debts" means all book and other debts of any nature and all monetary claims (excluding any such debts or claims in relation to the Bank Accounts, the Assigned Agreements and the Insurances);

"Cash Collateral Accounts" means the accounts (if any) listed in part 1 of schedule 3 (Cash Collateral Accounts (Blocked)) and any other Bank Account which is agreed to be a Cash Collateral Account by the Chargor and the Chargee, and any replacement account or any sub-division or sub-account of those accounts;

"Charged Property" means the assets mortgaged, charged or assigned to the Chargee by this deed;

"Collection Accounts" means the accounts (if any) listed in part 2 of schedule 3 (Collection Accounts (Not Blocked)) and any other Bank Account which is agreed to be a Collection Account by the Chargor and the Chargee, and any replacement account or any sub-division or sub-account of those accounts;

"Declared Default" means an Event of Default which has resulted in the Chargee exercising its rights under clause VI (Termination and Accelerated Maturity) of the Facilities Agreement to terminate the Facilities Agreement and demand immediate repayment of all amounts owing under the Facilities Agreement;

"Default Basis" means the rate at which interest is payable and the basis for determining payments due, as provided for in clause VII (1) of the Facilities Agreement;

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Chargee;

"Equipment" means all plant, machinery, vehicles, computers, office and other equipment including that equipment (if any) listed in schedule 6 (Equipment);

"Event of Default" means one of the events listed in clause VI (Termination and Accelerated Maturity) of the Facilities Agreement entitling the Chargee to terminate the Facilities Agreement and demand repayment of the amounts outstanding under the Facilities Agreement;

"Facilities Agreement" means all agreements and other commercial arrangements in place between the parties (whether written or otherwise) relating to the procurement and supply of energy by Chargee for the benefit and/or for the supply to the Chargor and/or which create a liability of the Chargor to the Chargee including without limitation:-

- (a) the EFET General Agreement in place between Chargor and Chargee,
- (b) arrangements for the settlement of energy trades including margin calls and balancing and settlement sums;
- (c) administrative and procurement activities in relation to energy procurement and supply;
- (d) any contracts for differences entered into by the Chargee to the benefit of itself and/or the Chargor.
- (e) for the value of any invoices rendered by the Chargee to the Chargor under (a)-(d)

as any agreement or arrangement may be amended from time to time;

"Floating Charge Asset" means an asset charged under clause 3.4 (Floating Charge);

"Insurances" means the benefits arising from all policies of insurance (including all rights of recovery and all proceeds of them) either now or in the future held by, or written in favour of, the Chargor or in which it is otherwise interested but excluding any third party liability or public liability insurance and any directors' and officers' insurance;

"Intellectual Property" means any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, the benefit of all applications and rights to use such assets including the intellectual property rights (if any) listed in schedule 5 (Intellectual Property);

"Investment" means any stock, share, debenture, loan stock, security, interest in any investment fund and any other comparable investment (whether or not marketable) whether owned directly by or to the order of the Chargor or by any trustee, fiduciary or clearance system on its behalf (including the Subsidiary Shares);

"Property" means all freehold and leasehold property and the buildings and fixtures (including trade fixtures) on that property from time to time including the property (if any) listed in schedule 1 (Property);

"Receiver" means a receiver or receiver and manager in each case appointed under this deed;

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of that asset or any part of that asset;

- (b) all dividends, distributions, interest and/or other income paid or payable in relation to that asset (including on any Investment), together with all shares or other property derived from that asset and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that asset (whether by way of conversion, redemption, bonus, preference, option or otherwise);
- (c) any monies and proceeds paid or payable in relation to that asset;
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that asset; and
- (e) the benefit of all other rights, powers, claims, consents, contracts, warranties, security, guarantees, indemnities or covenants for title in respect of that asset;

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by the Chargor to the Chargee under the Facilities Agreement and under this deed, both actual and contingent and whether incurred as principal or surety or in any other capacity except for any money or liability which, if it were so included, would cause the infringement of section 678 or 679 of the Companies Act 2006;

"Secured Parties" means the Chargee and any Receiver or Delegate;

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect; and

"Subsidiary Shares" means all shares owned by the Chargor in its Subsidiaries including the shares (if any) listed in schedule 2 (Subsidiary Shares).

1.2 Construction

- (a) In this deed, unless a contrary intention appears, a reference to:
 - (i) words and expressions defined in the Facilities Agreement have the same meanings when used in this deed unless otherwise defined in this deed;
 - (ii) **"amendment"** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **"amend"**, **"amending"** and **"amended"** shall be construed accordingly;
 - (iii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iv) **"Chargor"**, **"Chargee"** or any other person shall be construed so as to include its successors in title, permitted assignees and transferees;
 - (v) **"including"** means including without limitation and **"includes"** and **"included"** shall be construed accordingly;
 - (vi) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly;
 - (vii) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing;

- (viii) 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, department or regulatory, self-regulatory or other authority or organisation;
 - (ix) a provision of law is a reference to that provision as amended or re-enacted; and
 - (x) any clause or schedule is a reference to, respectively, a clause of and schedule to this deed and any reference to this deed includes its schedules.
- (b) Section, clause and schedule heading are for ease of reference only.
 - (c) The terms of the documents under which the Secured Obligations arise and of any side letters between the Chargor and the Chargee relating to the Secured Obligations are incorporated in this deed to the extent required for any purported disposition of any Property contained in this deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
 - (d) The parties intend that this document shall take effect as a deed, notwithstanding the fact that a party may only execute it under hand.

1.3 **Third Party Rights**

- (a) Any Receiver or Delegate will have the right to enforce the provisions of this deed which are given in its favour however the consent of a Receiver or Delegate is not required for the rescission or variation of this deed.
- (b) Subject to paragraph (a), a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this deed.

2. **COVENANT TO PAY**

The Chargor as primary obligor covenants with the Chargee (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment.

3. **CHARGING CLAUSE**

3.1 **Fixed Charges**

The Chargor, as security for the payment and discharge of the Secured Obligations, charges in favour of the Chargee with full title guarantee all of its right, title and interest in the following assets, both present and future, from time to time owned by it or in which it has an interest and, in each case, all Related Rights:

- (a) by way of first legal mortgage, all Property; and
- (b) by way of first fixed charge:
 - (i) all other interests (not effectively charged under clause 3.1(a)) in any Property;
 - (ii) all Subsidiary Shares;
 - (iii) all Investments (other than Subsidiary Shares);
 - (iv) all Equipment;

- (v) all Book Debts;
- (vi) all Cash Collateral Accounts;
- (vii) all Intellectual Property;
- (viii) its goodwill and uncalled capital; and
- (ix) to the extent not effectively assigned by clause 3.2 (Security Assignment):
 - (A) the Assigned Agreements (but only to the extent that such Assigned Agreements do not contain a restriction on the granting of such a charge); and
 - (B) the Insurances.

3.2 Security Assignment

As further security for the payment and discharge of the Secured Obligations, the Chargor assigns absolutely with full title guarantee in favour of the Chargee all its right, title and interest in the following assets, both present and future, and, in each case, all Related Rights:

- (a) the Assigned Agreements; and
- (b) the Insurances,

provided that on payment or discharge in full of the Secured Obligations the Chargee will at the request and cost of the Chargor re-assign the relevant rights, title and interest in the assigned assets to the Chargor (or as it shall direct).

3.3 Fixed Security

Clause 3.1 (Fixed Charges) and clause 3.2 (Security Assignment) shall be construed as creating a separate and distinct mortgage, fixed charge or security assignment over each relevant asset within any particular class of assets specified in this deed. Any failure to create effective fixed security (for whatever reason) over an asset shall not affect the fixed nature of the security on any other asset, whether within the same class of assets or not.

3.4 Floating Charge

As further security for the payment and discharge of the Secured Obligations, the Chargor charges with full title guarantee in favour of the Chargee by way of first floating charge all its present and future assets not effectively charged by way of fixed charge under clause 3.1 (Fixed Charges) or assigned under clause 3.2 (Security Assignment).

3.5 Conversion of Floating Charge

- (a) Subject to paragraph (b) below, if:
 - (i) a Declared Default has occurred; or
 - (ii) the Chargee is of the view that any legal process or execution is being enforced against any Floating Charge Asset or that any Floating Charge Asset is in danger of being seized or otherwise in jeopardy; or
 - (iii) the Chargee considers that it is desirable to protect the priority of the security,

the Chargee may, by notice to the Chargor (but only in relation to the Floating Charge Assets referred to in clause 3.5 (a) (ii) above but not otherwise) convert the floating charge created under this deed into a fixed charge as regards the relevant Floating Charge Assets which it specifies in the notice.

- (b) The floating charge created under this deed may not be converted into a fixed charge solely by reason of the obtaining of a moratorium under section 1A of the Insolvency Act 1986 in relation to the Chargor, or anything done with a view to obtaining such a moratorium.

3.6 Automatic Conversion of Floating Charge

If:

- (a) the Chargor creates (or purports to create) any Security in breach of clause 6.2 (Negative Pledge) over any Floating Charge Asset; or
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset,

the floating charge created under this deed over the relevant Floating Charge Asset will automatically and immediately be converted into a fixed charge.

3.7 Leases Restricting Charging

- (a) There shall be excluded from the charge created by clause 3.1 (Fixed Charges) and from the operation of clause 4 (Further Assurance) any leasehold property held by the Chargor under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Chargor from creating any charge over its leasehold interest in that property (each an "**Excluded Property**") until the relevant condition or waiver has been satisfied or obtained.
- (b) For each Excluded Property, the Chargor undertakes to apply for the relevant consent or waiver of prohibition or condition within thirty days of the date of this deed (or, as the case may be, the date of the acquisition of the relevant Excluded Property) and, in respect of each Excluded Property which provides that the relevant third party will not unreasonably withhold its consent to charging, to use all reasonable endeavours to obtain that consent as soon as possible and to keep the Chargee informed of the progress of its negotiations.
- (c) Forthwith upon receipt of the relevant waiver or consent, the relevant formerly Excluded Property shall stand charged to the Chargee under clause 3.1 (Fixed Charges). If required by the Chargee at any time following receipt of that waiver or consent, the Chargor will forthwith execute a valid legal mortgage in such form as the Chargee shall reasonably require.

3.8 Intellectual Property Restricting Charging

- (a) There shall be excluded from the charge created by clause 3.1 (Fixed Charges) and from the operation of clause 4 (Further Assurance) any Intellectual Property in which the Chargor has an interest under any licence or other agreement which either precludes absolutely or conditionally (including requiring the consent of any third party) the Chargor from creating any charge over its interest in that Intellectual Property (each an "**Excluded Intellectual Property**") until the relevant condition or waiver has been satisfied or obtained.
- (b) For each Excluded Intellectual Property, the Chargor undertakes to apply for the relevant consent or waiver of prohibition or condition immediately upon receipt of a written request from the Chargee, and, in respect of any licence or agreement which

provides that the relevant third party will not unreasonably withhold its consent to charging, to use its reasonable endeavours to obtain such consent as soon as possible and to keep the Chargee informed of the progress of its negotiations.

- (c) Forthwith upon receipt of the relevant waiver or consent, the relevant formerly Excluded Intellectual Property shall stand charged to the Chargee under clause 3.1 (Fixed Charges). If required by the Chargee, at any time following receipt of that waiver or consent, the Chargee will forthwith execute a valid fixed charge or legal assignment in such form as the Chargee shall reasonably require.

4. FURTHER ASSURANCE

- (a) The Chargor shall promptly (and at its own expense) do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require in favour of the Chargee or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by this deed or for the exercise of any rights, powers and remedies of the Chargee or any Receiver or Delegate provided by or pursuant to this deed or by law;
 - (ii) to confer on the Secured Parties Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this deed; and/or
 - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this deed.
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Secured Parties by or pursuant to this deed.

5. REPRESENTATIONS AND WARRANTIES

5.1 Matters Represented

The Chargor represents and warrants to the Chargee as set out in clauses 5.2 (Property) and 5.3 (Subsidiary Shares) on the date of this deed and on each day that any Secured Obligation is outstanding.

5.2 Property

Schedule 1 (Property) identifies all Property situated in England and Wales which is beneficially owned by it as at the date of this deed. There are no proceedings, actions or circumstances relating to any of that Property which materially and adversely affect the value of that Property or its ability to use that Property for the purposes for which it is currently used.

5.3 Subsidiary Shares

- (a) It is the legal and beneficial owner of the Subsidiary Shares identified against its name in schedule 2 (Subsidiary Shares) (save in relation to those Subsidiary Shares which are held by a nominee for it, in which case it is the beneficial owner only of those Subsidiary Shares).
- (b) All of the Subsidiary Shares are fully paid.

6. UNDERTAKINGS - GENERAL

6.1 Duration of Undertakings

All of the undertakings given in this deed are given from the date of this deed and for so long as any security constituted by this deed remains in force.

6.2 Negative Pledge

The Chargor may create or agree to create or permit to subsist any Security over all or any part of the Charged Property to the extent not restricted by the Facilities Agreement.

6.3 Preservation of Charged Property

- (a) The Chargor will observe and perform in all material respects all covenants and stipulations from time to time affecting the Charged Property, make all payments, carry out all registrations or renewals and generally take all steps which are necessary to preserve, maintain and renew when necessary all the Charged Property.
- (b) The Chargor may not vary any lease, licence, contract or other document relevant to its interest in any Charged Property where such variation would have a material adverse effect on the value of the relevant Charged Property or the rights of the Chargee.
- (c) The Chargor will enforce the due observance and performance of all material covenants given for its benefit in relation to the Charged Property.

6.4 Documents Relating to Charged Property

- (a) Without prejudice to any specific requirements in this deed for the delivery of documents, the Chargor will promptly deliver to the Chargee all documents relating to the Charged Property which the Chargee from time to time reasonably requires.
- (b) The Chargee may retain any document delivered to it under this deed for so long as any security constituted by this deed remains in force and, if for any reason it returns any document to the Chargor (or its nominee) before that time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice.

6.5 Power to Remedy

If the Chargor fails to comply with any undertaking given in this deed and that failure is not remedied to the satisfaction of the Chargee within 30 days of the Chargee notifying the Chargor that remedy is required, it will allow (and irrevocably authorises) the Chargee, or any Delegate, to take any action on behalf of the Chargor which is necessary to ensure that those covenants are complied with.

7. PROPERTY

7.1 Maintenance

The Chargor will keep in good and substantial repair all of the Property in which it has an interest.

7.2 Inspection

The Chargor will permit the Chargee and any person nominated by the Chargee to enter into any Property which is part of the Charged Property in which it has an interest at all reasonable times during business hours and on not less than 24 hours' notice to view the

state and condition of that Property and will remedy any material defect or want of repair forthwith after service by the Chargee of notice of the defect or want of repair.

7.3 **Property Acquisitions**

The Chargor will promptly notify the Chargee if it acquires, or enters any agreement to acquire, any interest in Property.

7.4 **Leases**

The Chargor shall:

- (a) comply in all material respects with all covenants and conditions applicable to it (whether as lessor, lessee or in any other capacity) contained in any lease, licence or other document relevant to its interest in any Property;
- (b) enforce the due observance and performance of all material covenants given for its benefit in relation to any Property;
- (c) not accept any surrender of any lease of Property in respect of which it is the lessor, except as permitted by the Facilities Agreement or with the prior consent of the Chargee; and
- (d) give immediate notice to the Chargee if it receives any notice under section 146 of the Law of Property Act 1925 or any proceedings are commenced against it for the forfeiture of any lease of any Property.

7.5 **Perfection of Property Security**

- (a) The Chargor will, promptly following execution of this deed or (if later) acquisition of Property, deposit with the Chargee (or as it shall direct) certified copies of all deeds and documents of title relating to all Property in which it has an interest and, if those deeds and documents are with the Land Registry, will promptly deposit them with the Chargee (or as it shall direct) upon their release.

- (b) In relation to Property situated in England and Wales and charged by way of legal mortgage under this deed, the Chargor hereby irrevocably consents to the Chargee applying to the Chief Land Registrar for a restriction to be entered on the Register of Title of all that Property in which it has an interest (including any unregistered properties subject to compulsory first registration at the date of this deed) on the prescribed Land Registry form and in the following or substantially similar terms:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated ● in favour of ● (as Chargee) referred to in the charges register. "

- (c) Subject to the terms of the Facilities Agreement, the Chargee (as Lender) is under an obligation to make further advances (which obligation is deemed to be incorporated into this deed) and this security has been made for securing those further advances. In relation to Property which is situated in England and Wales and charged by way of legal mortgage under this deed, the Chargee may apply to the Chief Land Registrar for a notice to be entered onto the Register of Title of all that Property (including any unregistered Property subject to compulsory first registration at the date of this deed) that there is an obligation to make further advances on the security of the registered charge.

8. INVESTMENTS

8.1 Investment Acquisitions

The Chargor will promptly notify the Chargee if it acquires, or enters any agreement to acquire, any interest in an Investment.

8.2 Voting and Distribution Rights

- (a) Until a Declared Default occurs, the Chargor may:
 - (i) receive and retain all dividends, distributions and other monies paid on or derived from the Investments; and
 - (ii) exercise all voting and other rights and powers attaching to the Investments provided that it may not exercise any such voting or other rights or powers in a manner which is inconsistent with the Facilities Agreement or which may be prejudicial to the value of the security given by this deed or the realisation of it.
- (b) On and after the occurrence of a Declared Default:
 - (i) the Chargor will promptly pay all dividends, distributions and other monies paid on or derived from the Investments into a Cash Collateral Account; and
 - (ii) the Chargee may (in its sole discretion) directly or indirectly (by instruction to the relevant legal owner of the relevant Investments) exercise, refrain from exercising or disclaim any right to exercise any voting or other rights and powers attaching to the Investments. Any exercise of such voting rights may only be for the purpose of preserving the value of the security given by this deed or facilitating the realisation of it. The Chargor will promptly comply with any direction given by the Chargee in relation to the exercise of voting or other rights and powers. Any such disclaimer will confer on the Chargor the authority to direct the exercise of the disclaimed right, as if a Declared Default had not occurred, in accordance with paragraph (a)(ii) above.
- (c) At any time when any Investments are registered in the name of the Chargee or its nominee, the Chargee will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of those Investments are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Investments.

8.3 Perfection of Investments Security

The Chargor will promptly following the execution of this deed or (if later) acquisition of an Investment deposit with the Chargee (or as it shall direct) all stock and share certificates and other documents of title relating to the Investments in which it has an interest together with stock transfer forms executed in blank and left undated on the basis that the Chargee shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall be entitled, at any time, following the occurrence of a Declared Default to complete, under its power of attorney given by clause 15 (Attorney) below, the stock transfer forms on behalf of the Chargor in favour of itself or its nominee(s).

8.4 Perfection of Uncertificated Investments Security

The Chargor will, in respect of the Uncertificated Investments in which it has an interest:

- (a) promptly following the execution of this deed or (if later) acquisition of an Uncertificated Investment, procure that any Uncertificated Investments in which it has an interest are transferred to:
 - (i) the Chargor's Escrow Balance; or
 - (ii) (if the Chargee requires) a CREST account of the Chargee or its nominee; andin relation to any Uncertificated Investments required to be transferred to its Escrow Balance, deliver an instruction to CREST identifying the Chargee (or, if the Chargee so requires, its nominee) as its escrow agent in respect of the relevant Escrow Balance; and
- (b) if required by the Chargee, promptly procure the conversion of all or the required part (as applicable) of the Uncertificated Investments in which it has an interest into certificated form and will deposit of all certificates and other documents of title in respect of such Uncertificated Investments in accordance with clause 8.3 (Perfection of Investments Security).

In this deed:

"CREST" means Euroclear UK & Ireland Limited (as operator of the CREST settlement system) or any successor operator for the time being;

"Escrow Balance" means the escrow balance of an account maintained with CREST; and

"Uncertificated Investments" means an Investment which is "uncertificated" within the meaning of the Uncertificated Securities Regulations 2001.

9. EQUIPMENT

9.1 Maintenance

The Chargor will keep all Equipment in which it has an interest comprised in the Charged Property in good and substantial repair (fair wear and tear excepted) and in good working order.

9.2 Perfection of Equipment Security

The Chargor will, promptly upon receipt of a written request from the Chargee, securely affix to and maintain on each item of Equipment listed in Schedule 7 (or other Equipment acquired after the date of this deed), a plaque (which is conspicuous in size and place), inscribed as below and not conceal, alter or remove such plaque or its inscription or permit it to be concealed, altered or removed:

"NOTICE OF CHARGE

This [specify nature of Equipment] and additions and ancillary equipment are subject to a first fixed charge in favour of [name of the Chargee].

10. BOOK DEBTS

10.1 Collection of Book Debts

The Chargor will collect all Book Debts due to it and pay the proceeds into a Collection Account forthwith on receipt.

11. BANK ACCOUNTS

11.1 Withdrawals

The Chargor may not withdraw all or any monies from time to time standing to the credit of a Cash Collateral Account, except as permitted by the Facilities Agreement or with the prior consent of the Chargee.

11.2 Perfection of Bank Account Security

The Chargee shall be entitled, upon the occurrence of an Event of Default, to give notice (substantially in the form set out in the relevant part of 0 (Forms of notice to counterparties) and having been pre-signed by the Borrower on the date of this deed) to each institution with which the Borrower holds any Collection Account or Cash Collateral Account (each an "**Account Bank**"), of the charges created by this deed over those accounts. The Chargor shall, if requested by the Chargee, use its reasonable endeavours to procure that each Account Bank promptly acknowledges that notice by countersigning a copy of it and delivering that copy to the Chargee.

12. INTELLECTUAL PROPERTY

12.1 Intellectual Property Acquisitions

The Chargor will promptly, upon receipt of a written request from the Chargee, notify the Chargee if it creates, acquires, or enters any agreement to acquire, any interest in Intellectual Property which is of material value to its business.

12.2 Perfection of Intellectual Property Security

The Chargor appoints the Chargee as its agent to apply for the Secured Parties' interest in any of the Chargor's Intellectual Property that is material to the Chargor's business to be recorded on any of the following registers, in the Chargee's discretion:

- (a) the relevant Intellectual Property register of the UK Intellectual Property Office;
- (b) the relevant Intellectual Property register of the EU Office of Harmonization for the Internal Market; and
- (c) all other national, regional and international Intellectual Property registers.

13. ASSIGNED AGREEMENTS

13.1 Performance and Maintenance of Agreements

The Chargor will:

- (a) duly perform all its obligations under the Assigned Agreements;
- (b) enforce the due observance and performance of all material covenants given for its benefit in relation to the Assigned Agreements; and
- (c) not make or agree to make any amendments (except of a non-material and purely administrative nature) to, waive any of its rights under, or exercise any right to terminate any of the Assigned Agreements, except with the prior consent of the Chargee.

13.2 Proceeds of Assigned Agreements

The Chargor will, as agent for the Chargee, collect all amounts payable to it under the Assigned Agreements and forthwith pay those monies into a Collection Account.

13.3 Perfection of Agreements Security

The Chargor will, if requested to do so by the Chargee upon reasonable notice:

- (a) give notice (substantially in the form set out in the relevant part of Schedule 7 (Forms of notice to counterparties)) to the other parties to the Assigned Agreements of the security created by this deed over its interest therein and provide evidence satisfactory to the Chargee (acting reasonably) of the delivery of that notice; and
- (b) use reasonable endeavours to procure that each counterparty promptly acknowledges that notice by countersigning a copy of it and delivering that copy to the Chargee.

14. INSURANCES

14.1 Proceeds of Insurances

The Chargor will collect all amounts payable to it under the Insurances and forthwith pay those monies into a Collection Account and, pending that payment, hold those proceeds on trust for the Chargee.

14.2 Perfection of Insurances Security

The Chargor will, if requested to do so by the Chargee upon reasonable notice:

- (i) give notice (substantially in the form set out in the relevant part of Schedule 7 (Forms of notice to counterparties)) to the other parties to the Insurances of the security created by this deed over its interest therein and provide evidence satisfactory to the Chargee (acting reasonably) of the delivery of that notice, and
- (ii) use reasonable endeavours to procure that each counterparty promptly acknowledges that notice by countersigning a copy of it and delivering that copy to the Chargee.

15. ATTORNEY

- (a) The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any person nominated for the purpose by the Chargee or any Receiver (in writing and signed by an officer of the Chargee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, deliver and perfect any deed, agreement or other instrument and to do any act or thing:
 - (i) which the Chargor is required to do by the terms of the Facilities Agreement or this deed; and/or
 - (ii) which is for the purpose of enabling the exercise of any rights or powers conferred on the Chargee or any Receiver by Facilities Agreement or this deed or by law,

and the Chargor covenants with the Chargee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

- (b) The power given under paragraph (a) may be exercised at any time after the occurrence of a Declared Default.

16. **ENFORCEMENT**

16.1 **Exercise of Enforcement Powers**

At any time after a Declared Default has occurred or notice demanding payment of any sum which is then due but unpaid in respect of the Secured Obligations has been given by the Chargee to the Chargor:

- (a) the security created by or pursuant to this deed is immediately enforceable;
- (b) the Chargee may enforce all or any part of the security and take possession of and hold, sell or otherwise dispose and/or deal with all or any part of the Charged Property; and
- (c) the Chargee may exercise the power of sale and all other rights and powers conferred by this deed or by statute (as varied or extended by this deed) on the Chargee or on a Receiver, irrespective of whether the Chargee has taken possession or appointed a Receiver of the Charged Property.

16.2 **Appointment of Receiver or Administrator**

- (a) Subject to paragraph (d) and (e) below, if:
 - (i) a Declared Default has occurred;
 - (ii) notice demanding payment of any sum which is then due but unpaid in respect of the Secured Obligations has been given by the Chargee to the Chargor; or
 - (iii) so requested by the Chargor,the Chargee may by writing under hand appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this deed.
- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this deed.
- (d) The Chargee shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986.
- (e) A Receiver may not be appointed solely by reason of the obtaining of a moratorium under section 1A of the Insolvency Act 1986 in relation to the Chargor, or anything done with a view to obtaining such a moratorium.

16.3 **Appropriation**

- (a) In this deed, "**financial collateral**" has the meaning given to that term in the Financial Collateral Arrangements (No. 2) Regulations 2003.
- (b) If:
 - (i) a Declared Default has occurred; or
 - (ii) notice demanding payment of any sum which is due but unpaid in respect of the Secured Obligations has been given by the Chargee to the Chargor,

the Chargee may appropriate all or part of the financial collateral in or towards satisfaction of the Secured Obligations.

- (c) The Chargee must attribute a value to the appropriated financial collateral in a commercially reasonable manner.
- (d) Where the Chargee exercises its rights of appropriation and the value of the financial collateral appropriated differs from the amount of the Secured Obligations, as the case may be, either:
 - (i) the Chargee must account to the Chargor for the amount by which the value of the appropriated financial collateral exceeds the Secured Obligations; or
 - (ii) the Chargor will remain liable to the Secured Parties for any amount whereby the value of the appropriated financial collateral is less than the Secured Obligations.

16.4 Restriction on Withdrawal of Dealing Authority

The Chargee shall not be entitled to give any notice referred to in paragraph 2(b) of the notice in the form of 0 (Form of notice to Account Banks) unless and until a Declared Default has occurred or any of the circumstances described in clause 3.5 (Conversion of Floating Charge) or clause 3.6 (Automatic Conversion of Floating Charge) have arisen.

17. EXTENSION AND VARIATION OF STATUTORY POWERS

17.1 Statutory Powers

The powers conferred on mortgagees, receivers or administrative receivers by statute shall apply to the security created by this deed, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers conferred by statute and those contained in this deed, those contained in this deed shall prevail.

17.2 Section 101 LPA Powers

The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 shall arise on the date of this deed and for that purpose the Secured Obligations are deemed to have fallen due on the date of this deed.

17.3 Powers of Leasing

The Chargee may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925.

17.4 Restrictions Disapplied

The restrictions on the consolidation of mortgages and on exercise of the power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this deed.

18. STATUS, POWERS, REMOVAL AND REMUNERATION OF RECEIVER

18.1 Receiver as Agent

Each Receiver shall be the agent of the Chargor which shall be solely responsible for his or her acts or defaults, and for his or her remuneration and expenses, and be liable on any

agreements or engagements made or entered into by him or her. The Chargee will not be responsible for any misconduct, negligence or default of a Receiver.

18.2 Powers of Receiver

Each Receiver appointed under this deed shall have all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this deed), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Chargor, each Receiver shall have power to:

- (a) develop, reconstruct, amalgamate or diversify any part of the business of the Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) exercise all voting and other rights attaching to the Investments and stocks, shares and other securities owned by the Chargor and comprised in the Charged Property;
- (h) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (i) appoint and discharge officers and others for any of the purposes of this deed and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (j) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property;
- (k) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any Property comprised in the Charged Property;
- (l) purchase or acquire any land or any interest in or right over land;
- (m) exercise on behalf of the Chargor all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Property; and

- (n) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this clause 18.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Chargor for all such purposes,

and in each case may use the name of the Chargor and exercise the relevant power in any manner which he may think fit.

18.3 Removal of Receiver

The Chargee may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

18.4 Remuneration of Receiver

The Chargee may from time to time fix the remuneration of any Receiver appointed by it. Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this deed.

18.5 Several Receivers

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this deed (unless the document appointing such Receiver states otherwise).

19. PROTECTION OF THIRD PARTIES

19.1 No Obligation to Enquire

No purchaser from, or other person dealing with, the Chargee, any Receiver or Delegate shall be obliged or concerned to enquire whether:

- (a) the right of the Chargee or any Receiver to exercise any of the powers conferred by this deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

19.2 Receipt Conclusive

The receipt of the Chargee or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys or other consideration paid to or by the direction of the Chargee or any Receiver.

20. PROTECTION OF CHARGE AND RECEIVER

20.1 Delegation

The Chargee may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Chargee will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any Delegate.

20.2 No Liability

Neither the Chargee nor any Receiver or Delegate shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his or her gross negligence or wilful default.

20.3 Possession of Charged Property

Without prejudice to clause 20.2 (No Liability), if the Chargee or any Delegate enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

20.4 Indemnity

- (a) The Chargor shall promptly indemnify the Chargee and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
 - (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (ii) the taking, holding, protection or enforcement of the security constituted by this deed;
 - (iii) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Chargee and each Receiver and Delegate by this deed or by law;
 - (iv) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this deed;
 - (v) instructing lawyers, accountants, tax advisors, surveyors or other professional advisors or experts as agreed with the Chargor; or
 - (vi) acting as Chargee, Receiver or Delegate (otherwise, in each case, than by reason of the relevant Chargee's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Chargor expressly acknowledges and agrees that the continuation of its indemnity obligations under this clause 20.4 will not be prejudiced by any release of security or disposal of any Charged Property.
- (c) The Chargee and every Receiver and Delegate may indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 20.4.

21. APPLICATION OF ENFORCEMENT PROCEEDS

21.1 Order of Application

All proceeds of enforcement (whether cash or non-cash) received or recovered by the Chargee or any Receiver pursuant to this deed shall (subject to the claims of any person having prior rights thereto) be applied in the following order notwithstanding any purported appropriation by the Chargor:

- (a) in discharging any sums owing to the Chargee, any Receiver or any Delegate in relation to this deed or the Facilities Agreement; and

- (b) in payment of all costs and expenses incurred by the Chargee in connection with any realisation or enforcement of the security created by this deed taken in accordance with the terms of this deed.

21.2 Suspense Account

- (a) Until the Secured Obligations are paid in full, each Secured Party may place and keep (to the extent possible and for such time as it shall determine) any recoveries or other proceeds of enforcement (whether cash or non-cash) received pursuant to this deed or otherwise on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account, without having any obligation to apply all or any part of the same in or towards discharge of the Secured Obligations.
- (b) If the security created by this deed is enforced at a time when no amount is due under the Facilities Agreement but at the time when amounts may or will become due, a Secured Party may pay any recoveries or other proceeds of enforcement into a suspense account.

22. PROTECTION OF SECURITY

22.1 Continuing Security

This security is to be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other matter or thing.

22.2 Other Security

- (a) This security is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other security or other right which the Chargee or any other Secured Party may now or after the date of this deed hold for any of the Secured Obligations.
- (b) This security may be enforced against the Chargor without first having recourse to any other rights of the Chargee or any other Secured Party.

22.3 Cumulative Powers

- (a) The powers which this deed confers on the Chargee, the other Secured Parties and any Receiver appointed under this deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate.
- (b) The Chargee, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever.
- (c) The respective powers of the Chargee, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

22.4 Amounts Avoided

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this deed that amount shall not be considered to have been paid.

22.5 Discharge Conditional

If any discharge, release or arrangement (whether in respect of the obligations of the Chargor or in respect of any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under this deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

22.6 Waiver of Defences

The obligations of the Chargor under this deed will not be affected by an act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this deed (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement;
- (c) 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, any person;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Facilities Agreement or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under the Facilities Agreement or any other document or security; or
- (g) any insolvency or similar proceedings.

22.7 Non-competition

Until all amounts which may be or become payable in respect of the Secured Obligations have been irrevocably paid in full and unless the Chargee otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this deed or by reason of any amounts being payable, or liability arising under this deed:

- (a) to claim any right of indemnity or contribution in respect of any payment made or other satisfaction of the Chargor's liability under this deed; and/or
- (b) to take the benefit (whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Facility Agreement.

The Chargor shall hold any benefit, payment or distribution received by it contrary to this clause 22.7 (Non-competition) on trust for the Secured Parties and shall promptly pay or transfer the same to the Chargee or as the Chargee may direct for application in accordance with clause 21 (Application of Enforcement Proceeds).

22.8 Subsequent Security - Ruling-off Accounts

If the Chargee or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property it may open a new account for the

Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it shall (in the absence of any express appropriation to the contrary) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

22.9 Redemption of Prior Charges

The Chargee may, at any time after a Declared Default has occurred, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Chargee all principal monies and interest and all losses incidental to any such redemption or transfer.

23. COSTS AND EXPENSES

23.1 Initial Expenses

The Chargor shall within 10 Business Days pay to each of the Chargee and any Receiver the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Chargee, by any Delegate) in connection with:

- (a) the negotiation, preparation, printing, execution, completion and perfection of this deed and any other documents referred to in, or incidental to, this deed; and
- (b) any amendment, waiver or consent relating to this deed (and documents, matters or things referred to in this deed).

23.2 Enforcement Expenses

The Chargor shall, within 10 Business Days of demand, pay to each of the Chargee, any Receiver and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under (and any documents referred to in) this deed and any proceedings instituted by or against the Chargee and any Secured Party as a consequence of taking or holding the security created by this deed or enforcing these rights.

23.3 Stamp Duties, etc

The Chargor shall pay and, within 10 Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this deed.

23.4 Default Interest

Any amounts payable by the Chargor under this deed will, if not paid when due, carry interest determined on the Default Basis.

24. SET-OFF

- (a) Any Secured Party may set off any matured obligation due from the Chargor under the Facilities Agreement or this deed (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

- (b) If the relevant obligation or liability of the Chargor is unliquidated or unascertained, the Secured Party may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.

25. NOTICES

25.1 Communications in Writing

Any communication made under or in connection with this deed shall be made be in writing and, unless otherwise stated, must be made by letter.

25.2 Addresses

The address of each party to this deed for any communication or document to be made or delivered under or in connection with this deed is:

- (a) as shown immediately after its name on the execution pages of this deed (in the case of any person who is a party as at the date of this deed);
- (b) in the case of any person who becomes a party after the date of this deed, notified in writing to the Chargee on or prior to the date on which it becomes a party,

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

25.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this deed will only be effective 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 25.2 (Addresses), if addressed to that department or officer.

- (b) 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 identified with the Chargee's signature below (or any substitute department or officer as the Chargee shall specify for this purpose).

25.4 Electronic Communication

Any communication to be made in connection with this deed, between any two parties to this deed may be made by electronic mail or other electronic means:

- (a) to the extent that those two parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

- (b) Any electronic communication made between those two parties will be effective only when actually received in readable form and in the case of any electronic communication made by a party to the Chargee only if it is addressed in such a manner as the Chargee shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

26. CHANGES TO PARTIES

26.1 Assignment by the Chargee

The Chargee may at any time assign or otherwise transfer all or any part of its rights under this deed in accordance with the Facilities Agreement.

27. CURRENCY

27.1 Conversion

All monies received or held by the Chargee or any Receiver under this deed may be converted into any other currency which the Chargee considers necessary to discharge any obligations and liabilities comprised in the Secured Obligations in that other currency at a market rate of exchange then prevailing.

27.2 No Discharge

No payment to the Chargee (whether under any judgment or court order or otherwise) shall discharge any obligation or liability in respect of which it was made unless and until the Chargee has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action in relation to the shortfall and shall be entitled to enforce the security constituted by this deed to recover that amount.

28. MISCELLANEOUS

28.1 Certificates Conclusive

A certificate or determination of the Chargee as to any amount or rate under this deed is, in the absence of manifest error, conclusive evidence of the matter to which it relates.

28.2 Invalidity of any Provision

If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

28.3 Counterparts

This deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this deed.

28.4 Failure to Execute

Failure by one or more parties ("**Non-Signatories**") to execute this deed on the date hereof will not invalidate the provisions of this deed as between the other parties who do

execute this deed. Such Non-Signatories may execute this deed on a subsequent date and will thereupon become bound by its provisions.

28.5 Covenant to Release

Once all the Secured Obligations have been paid in full and none of the Chargee nor any Secured Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, the Chargor, the Chargee and each Secured Party shall, at the request and cost of the Chargor, take any action which is necessary to release the Charged Property from the security constituted by this deed.

29. GOVERNING LAW AND JURISDICTION

- (a) This deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- (b) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed or any non-contractual obligation arising out of or in connection with this deed) (a "**Dispute**").
- (c) The parties to this deed 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.

IN WITNESS whereof this deed has been duly executed and delivered on the above date first above written.

SCHEDULE 1

Property

Registered Land

None at the date of this deed

Unregistered Land

None at the date of this deed

SCHEDULE 2

Subsidiary Shares

None at the date of this deed

SCHEDULE 3

Part 1

Cash Collateral Accounts (Blocked)

None at the date of this deed

Part 2

Collection Accounts (Not blocked)

Account Bank	Sort Code	Account Number	Account Name
LLOYDS BANK PLC	30-00-03	00654629	EXTRA ENERGY SUPPLY LTD.

SCHEDULE 4

Assigned Agreements

None at the date of this deed

SCHEDULE 5

Intellectual property

None at the date of this deed

SCHEDULE 6

Equipment

None at the date of this deed

SCHEDULE 7

Forms of notice to counterparties

Part 1

Form of notice to counterparties of Assigned Agreements

To: **[insert name and address of counterparty]**

Dated: ●

Dear Sirs

Re: [here identify the relevant Assigned Agreement] (the "Agreement")

We notify you that Extra Energy Supply Limited (the "**Chargor**") has assigned to Extra Energie GmbH (the "**Chargee**") for the benefit of itself and certain other parties (the "**Secured Parties**") all its right, title and interest in the Agreement as security for certain obligations owed by the Chargor and others to the Secured Parties.

We further notify you that:

1. the Chargor may not amend or terminate the Agreement without the prior written consent of the Chargee;
2. you may continue to deal with the Chargor in relation to the Agreement until you receive written notice to the contrary from the Chargee. Thereafter, the Chargor will cease to have any right to deal with you in relation to the Agreement and therefore from that time you should deal only with the Chargee;
3. you are authorised to disclose information in relation to the Agreement to the Chargee on request;
4. after receipt of written notice in accordance with paragraph 2 above, you must pay all monies to which the Chargor is entitled under the Agreement direct to the Chargee (and not to the Chargor) unless the Chargee otherwise agrees in writing; and
5. the provisions of this notice may only be revoked with the written consent of the Chargee.

Please sign and return the enclosed copy of this notice to the Chargee (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to the terms set out in this notice and to act in accordance with its provisions;
- (b) you have not received notice that the Chargor has assigned or charged its rights under the Agreement to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party; and
- (c) you have not claimed or exercised, nor do you have any outstanding right to claim or exercise against the Chargor any right of set-off, counter-claim or other right relating to the Agreement.

The provisions of this notice are governed by English law.

Yours faithfully

.....
Name:
for and on behalf of
Extra Energy Supply Limited

[On acknowledgement copy]

To: Extra Energie GmbH, Mittelstraße 11-13, 40789 Mohnheim am Rhein, Federal Republic of Germany

Copy to: Extra Energy Supply Limited, 54 Hagley Road, Birmingham, England, B16 8PE

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (c) above.

.....
Name:
for and on behalf of
[insert name of Counterparty]

Dated: ●

Part 2

Form of notice to insurers

To: **[insert name and address of insurance company]**

Dated: ●

Dear Sirs

Re: [here identify the relevant insurance policy(ies)] (the "Policies")

We notify you that Extra Energy Supply Limited (the "**Chargor**") has assigned to Extra Energie GmbH (the "**Chargee**") for the benefit of itself and certain other parties (the "**Secured Parties**") all its right, title and interest in the benefits arising under the Policies (including rights of recovery and proceeds) as security for certain obligations owed by the Chargor and others to the Secured Parties. The Chargor remains the insured person under the Policies.

We further notify you that:

1. the Chargor may not amend or terminate the Policies without the prior written consent of the Chargee;
2. you may continue to deal with the Chargor in relation to the Policies until you receive written notice to the contrary from the Chargee. Thereafter, the Chargor will cease to have any right to deal with you in relation to the Policies and therefore from that time you should deal only with the Chargee;
3. you are authorised to disclose information in relation to the Policies to the Chargee on request; and
4. the provisions of this notice may only be revoked with the written consent of the Chargee.

Please sign and return the enclosed copy of this notice to the Chargee (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) after receipt of written notice in accordance with paragraph 2 above, you will pay all monies to which the Chargor is entitled under the Policies direct to the Chargee (and not to the Chargor) unless the Chargee otherwise agrees in writing;
- (c) you will not cancel or otherwise allow the Policies to lapse without giving the Chargee not less than 14 days' written notice;
- (d) you have not received notice that the Chargor has assigned or charged its rights under the Policies to a third party or created any other interest (whether by way of security or otherwise) in the Policies in favour of a third party; and
- (e) you have not claimed or exercised nor do you have any outstanding right to claim or exercise against the Chargor, any right of set-off, counter-claim or other right relating to the Policies.

The provisions of this notice are governed by English law.

Yours faithfully

.....
Name:
for and on behalf of
Extra Energy Supply Limited

[On acknowledgement copy]

To: Extra Energie GmbH, Mittelstraße 11-13, 40789 Mohnheim am Rhein, Federal
Republic of Germany

Copy to: Extra Energy Supply Limited, 54 Hagley Road, Birmingham, England, B16 8PE

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to
(e) above.

.....
Name:
for and on behalf of
[insert name of insurance company]

Dated: ●

Part 3

Form of notice to Account Banks

To: **[insert name and address of Account Bank]** (the "**Account Bank**")

Dated: ●

Dear Sirs

Re: Extra Energy Supply Limited - Security over Bank Accounts

We notify you that Extra Energy Supply Limited (the "**Customer**") has, pursuant to a Debenture executed as security in respect of energy procurement and supply arrangements, charged in favour of Extra Energie GmbH (the "**Chargee**") for the benefit of itself and certain other parties all of its right, title and interest in and to the monies from time to time standing to the credit of the accounts identified in the schedule to this notice (the "**Charged Accounts**") and to all interest (if any) accruing on the Charged Accounts.

1. We irrevocably authorise and instruct you:
 - (a) to hold all monies from time to time standing to the credit of the Charged Accounts to the order of the Chargee and to pay all or any part of those monies to the Chargee (or as it may direct) promptly following receipt of written instructions from the Chargee to that effect; and
 - (b) to disclose to the Chargee any information relating to the Customer and the Charged Accounts which the Chargee may from time to time request you to provide.
2. We also advise you that:
 - (a) the Chargee will have sole signing rights to the Blocked Accounts and therefore the Customer may not withdraw any monies from the Charged Accounts designated as "Blocked" in the schedule below without first having obtained the prior written consent of the Chargee;
 - (b) by counter-signing this notice the Chargee confirms that the Customer may make withdrawals from the Charged Accounts designated as "Not blocked" in the schedule below until such time as the Chargee shall notify you in writing that their permission is withdrawn. That permission may be withdrawn or modified by the Chargee in its absolute discretion at any time; and
 - (c) the provisions of this notice may only be revoked or varied with the prior written consent of the Chargee.
3. Please sign and return the enclosed copy of this notice to the Chargee by way of your confirmation that:
 - (a) you agree to act in accordance with the provisions of this notice;
 - (b) you have not received notice that the Customer has assigned or charged its rights to the monies standing to the credit of the Charged Accounts or otherwise granted any security or other interest over those monies in favour of any third party;

- (c) you will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Charged Accounts, except for the netting of credit and debit balances pursuant to current account netting arrangements previously approved in writing by the Chargee; and
- (d) you have not claimed or exercised, nor do you have outstanding any right to claim or exercise against the Customer, any right of set-off, counter-claim or other right relating to the Charged Accounts.

The provisions of this notice are governed by English law.

Schedule

Customer	Account Number	Sort Code	Status
●	●	●	[Blocked][Not blocked]

Yours faithfully,

.....
Name:
for and on behalf of
Extra Energy Supply Limited

Counter-signed by

.....
Name:
for and on behalf of
Extra Energie GmbH

[On acknowledgement copy]

To: Extra Energie GmbH, Mittelstraße 11-13, 40789 Mohnheim am Rhein, Federal Republic of Germany

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (d) above.

.....
Name:
for and on behalf of
[Insert name of Account Bank]

Dated: ●

SIGNATORIES TO DEBENTURE

Chargor

Executed as a deed by **EXTRA ENERGY SUPPLY LIMITED**, acting by Mordechay Maurice Ben-Moshe, Director, in the presence of:

)
)
)
)

Signature of Witness:

Name of Witness: Ari Rosenberg

Address of Witness: 1 Azrieli Center, Tel Aviv, Israel...

Occupation of Witness: Attorney

Notice Details

Address: Registered office from time to time (at the date of this deed, this is 54 Hagley Road, Birmingham, England, B16 8PE)

Attention: Company Secretary (with a copy to Head of Legal)

Chargee

Signed for and on behalf of **EXTRA ENERGIE GMBH**:

)
)
)
)

.....
Name: Mordechay Ben-Moshe, Director

Notice Details

Address: Registered office from time to time (at the date of this deed, this is Mittelstraße 11-13, 40789 Mohnheim am Rhein, Federal Republic of Germany)

Attention: Managing Director (with a copy to Head of Legal)