



**Registration of a Charge**

Company name: **ABBEY PROPERTIES CAMBRIDGESHIRE LIMITED**

Company number: **03138929**



X529SPZE

Received for Electronic Filing: **07/03/2016**

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**Details of Charge**

Date of creation: **04/03/2016**

Charge code: **0313 8929 0028**

Persons entitled: **LOMBARD NORTH CENTRAL PLC**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**SHOOSMITHS LLP ON BEHALF OF LOMBARD NORTH CENTRAL  
PLC**



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

Company number: 3138929

Charge code: 0313 8929 0028

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th March 2016 and created by ABBEY PROPERTIES CAMBRIDGESHIRE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th March 2016 .

Given at Companies House, Cardiff on 8th March 2016

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

EXECUTION VERSION

(1) ABBEY PROPERTIES CAMBRIDGESHIRE LIMITED

(2) YOOGEN 1 LLP

and

(2) LOMBARD NORTH CENTRAL PLC

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**CHARGE OVER SHARES**

Charge over shares held in  
London & Cambridge Energy Limited

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**SHIRAZ SMITHS**

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Ref. RMM/NPJM-00439148

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## CHARGE OVER SHARES

### BETWEEN

1. **ABBAY PROPERTIES CAMBRIDGESHIRE LIMITED**, a company incorporated in England and Wales (company number 03138929) whose registered office is at Nene Lodge, Funtams Lane, Whittlesoy, Peterborough, Cambridgeshire PE7 2PB ("**Abbey Properties**");
2. **YOOGEN 1 LLP**, a limited liability partnership incorporated in England and Wales (company number OC378795) whose registered office is at 2 Bentinck Street, London, W1U 2FA ("**Yoogen**"); and
2. **LOMBARD NORTH CENTRAL PLC**, a company incorporated in England and Wales (company number 00337004) whose registered office is at 135 Bishopsgate, London EC2M 3UR (the "**Lender**").

The Parties agree as follows:

## 1 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement the following definitions apply:

"Authorisation"	means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;
"Business Day"	means a day (other than a Saturday or Sunday) on which banks are open for general business in Edinburgh;
"Charged Property"	means all the assets of the Chargors which from time to time are, or are expressed to be, the subject of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement;
"Chargor(s)"	means each of Abbey Properties and Yoogen;
"Company"	means London & Cambridge Energy Limited, a company registered in Scotland with company number SC404328;
"Delegate"	means any delegate, agent, attorney appointed by the Lender;
"Enforcement Event"	means any event or circumstance specified as such in Clause 10 ( <i>Enforcement of Security</i> );
"EU Regulation"	means the Council of the European Union Regulation 1346/2000/EC on insolvency proceedings;
"Legal Reservations"	means:

(a) the principle that remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Prescription and Limitation (Scotland) Act 1973, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction;

**"Obligors"**

means each of:

(a) the Company;

(b) ILI (Neilstonside) Limited (company number SC405363);

(c) ILI (West Strathore) Farm Limited (company number SC424351);

(d) PRE (Whitehill) Limited (company number 09247083);

(e) Stafford Wind Limited (company number 09668432);

(f) Saunton Wind Limited (company number 09668409); and

(g) Coalville Wind Limited (company number 09870429);

and any other entity that subsequently becomes an Obligor pursuant to the facility agreement dated on or about the date of this Deed and made between, amongst others, (1) the Obligors and (2) the Lender;

**"Party"**

means a party to this Agreement;

**"Related Rights"**

means:

(a) all dividends, interest, distributions and all other rights and benefits of an income nature accruing, payable or paid at any time in respect of the Shares;

	<ul style="list-style-type: none"> <li>(b) all other rights, monies or property accruing, offered or issued at any time in respect of the Shares by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise; and</li> <li>(c) the proceeds of sale of any Share(s);</li> </ul>
"Relevant Jurisdiction"	<p>means, in relation to a Chargor:</p> <ul style="list-style-type: none"> <li>(a) the jurisdiction under whose laws it is incorporated at the date of this Agreement;</li> <li>(b) any jurisdiction where any asset subject to or intended to be subject to the Security created or expressed to be created in favour of the Lender pursuant to this Agreement;</li> <li>(c) any jurisdiction where it conducts its business; and</li> <li>(d) the jurisdiction whose laws govern the perfection of this Agreement;</li> </ul>
"Secured Obligations"	<p>means all present and future liabilities and obligations at any time due, owing or incurred by the Obligor to the Lender, both actual and contingent and whether incurred solely or jointly or jointly and severally, as principal or surety or in any other capacity together with all costs, charges and expenses incurred by the Lender in connection with the protection, preservation or enforcement of its rights;</p>
"Security"	<p>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;</p>
"Security Period"	<p>means the period beginning on the date of this Agreement and ending on the date on which the Secured Obligations have been unconditionally and irrevocably repaid and discharged in full and the Lender has no commitment to lend to any of the Obligor;</p>
"Shares"	<p>means all of the shares in the share capital of the Company; and</p>
"Tax"	<p>means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);</p>



## 1.2 Construction

1.2.1 Unless a contrary indication appears, a reference in this Agreement to:

- a) any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Agreement;
- b) "assets" includes present and future properties, revenues and rights of every description;
- c) any agreement or instrument is a reference to that agreement or instrument as amended, novated, supplemented, extended or restated;
- d) "Indebtedness" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- e) a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- f) 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 of any regulatory, self-regulatory or other authority or organisation;
- g) a provision of law is a reference to that provision as amended or re-enacted; and
- h) a time of day is a reference to London time.

1.2.2 Clause headings are for ease of reference only.

1.2.3 Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

1.2.4 The words "including" shall not be construed as limiting the generality of the words preceding it.

1.2.5 Unless the context otherwise requires, any reference to "Charged Property" includes any part of that Charged Property and any proceeds of that Charged Property.

1.2.6 An Enforcement Event is "continuing" if it has not been remedied to the Lender's satisfaction or waived in writing by the Lender.

1.2.7 Any undertaking by either or both of the Chargors under this Agreement remains in force during the Security Period and is given for the benefit of the Lender.

1.2.8 Each Chargor's obligations under this Agreement are joint and several.

## 1.3 Third party rights

1.3.1 Unless expressly provided to the contrary in this Agreement a person who is not a Party has no right to enforce or to enjoy the benefit of any term of this Agreement.

1.3.2 Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1.3.3 Any Delegate or any nominee of the Lender may, subject to this Clause 1.3, rely on any Clause of this Agreement which expressly confers rights on it.

## **2 OBLIGATION TO PAY**

Each Chargor as principal obligor and not merely as surety undertakes that it will on demand pay and discharge the Secured Obligations to the Lender as and when the same are due.

## **3 SHARE CHARGE**

3.1 Subject always to the terms of this Agreement, each Chargor hereby, as continuing security for the payment, performance and observance of the Secured Obligations, pledges, charges and assigns to the Lender the Shares and all Related Rights (owned by them respectively or to which that are respectively entitled); including (without limitation) all dividends paid or payable after the last date of execution of this Agreement on or in respect of all or any of the Shares and Related Rights and all stocks, shares, securities (and the dividends and interest thereon), rights, monies or property accruing or offered at any time by way of redemption, bonus, preference, option rights, warrant rights or otherwise to or in respect of any of the Shares and Related Rights or in substitution or exchange for any of the Shares or Related Rights.

3.2 All dividends paid in respect of the Shares shall, until the occurrence of an Enforcement Event, be paid to the Chargors.

3.3 Each of the Chargors hereby agree with the Lender that immediately upon and with effect from the occurrence of an Enforcement Event all dividends paid on and received by the Lender in respect of the Shares or any of them and any other monies received by the Lender in respect of stocks, shares, securities, rights or property referred to (in clause 3.1 above) may be applied by the Lender as though they were proceeds of sale of the Shares and the Lender shall be entitled upon such occurrence to exercise in their absolute discretion all voting rights, all Related Rights and other powers in respect of the Shares.

3.4 Notwithstanding any other provision in this Agreement, the maximum liability of the Chargors shall be:

3.4.1 limited at all times to an amount equal to that recovered by the Lender as a result of the enforcement of this Agreement with respect to the Chargors' interests in the Charged Property; and

3.4.2 satisfied only from the proceeds of sale or other disposal or realisation or other exercise of rights of or in relation to the Charged Property pursuant to this Agreement.

## **4 NEGATIVE PLEDGE**

4.1 Neither Chargor shall create or permit to subsist any Security over any of the Charged Property other than the Security created or expressly permitted by this Agreement.

4.2 Neither Chargor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, discount, factor, transfer, assign, lease, lend or otherwise dispose of any of the Charged Property.

## **5 PERFECTION OF SECURITY**

**5.1** Immediately following the execution of this Agreement, each Chargor shall deposit with the Lender:

**5.1.1** all deeds, certificates and other documents of title relating to the Charged Property which are in the possession or control of that Chargor (and each Chargor undertakes to obtain possession of any such deeds and documents that are not in its possession and/or control); and

**5.1.2** stock transfer forms in respect of the Charged Property relating to that Chargor, executed and completed except for the name of the transferee, the date and the consideration.

**5.2** The Lender shall be entitled to hold all deeds, certificates and other documents of title relating to the Charged Property throughout the Security Period.

**5.3** Promptly upon the accrual, offer or Issue of any Related Rights in the form of stocks, shares, warrants or other securities, each Chargor shall procure the delivery to the Lender of:

**5.3.1** all deeds, certificates and other documents of title relating to such Related Rights; and

**5.3.2** such stock transfer forms or other instruments of transfer in respect of those Related Rights as the Lender may request, executed and completed except for the name of the transferee, the date and the consideration.

**5.4** The Lender shall be entitled at any time whether before or after the occurrence of an Enforcement Event without any further consent or authority from the relevant Chargor complete the Instrument(s) of transfer for the Charged Property on behalf of that Chargor(s) in favour of the Lender or such trustee or nominee of the Lender as the Lender may select.

## **6 FURTHER ASSURANCE**

**6.1** Each Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):

**6.1.1** to perfect the Security created or expressed to be created in favour of the Lender pursuant to this Agreement (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement) or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Agreement or by law, and/or

**6.1.2** to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement.

**6.2** Each 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 created or expressed to be created in favour of the Lender pursuant to this Agreement.

## **7 REPRESENTATIONS**

### **7.1 General**

Each Chargor makes the representations and warranties set out in this Clause 7 to the Lender on the date of this Agreement and on each date during the Security Period by reference to the facts and circumstances then existing.

### **7.2 Status**

7.2.1 It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of Incorporation.

7.2.2 It has the power to own its assets and carry on its business as it is being conducted.

### **7.3 Binding obligations**

Subject to the Legal Reservations:

7.3.1 the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and

7.3.2 this Agreement creates the security interests which it purports to create and those security interests are valid and effective.

### **7.4 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, this Agreement, and the granting of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement, do not and will not conflict with:

7.4.1 any law or regulation applicable to it;

7.4.2 its constitutional documents; or

7.4.3 any agreement or interest binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

### **7.5 Power and authority**

7.5.1 It has the power to enter into, perform and deliver and has taken all necessary action to authorise its entry into, performance and delivery of this Agreement and the transactions contemplated by this Agreement.

7.5.2 No limit on its powers will be exceeded as a result of the grant of Security created or expressed to be created in favour of the Lender by this Agreement.

### **7.6 Validity and admissibility in evidence**

All Authorisations required or desirable:

7.6.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Agreement; and

7.6.2 to make this Agreement admissible in evidence in its Relevant Jurisdictions.



have been obtained or effected and are in full force and effect.

**7.7 Governing law and enforcement**

7.7.1 The choice of governing law of this Agreement will be recognised and enforced in its Relevant Jurisdictions.

7.7.2 Any decree or judgment obtained in relation to this Agreement in Scotland or England and Wales will be recognised and enforced in its Relevant Jurisdictions.

**7.8 Insolvency**

No:

7.8.1 corporate action, legal proceeding or other procedure or step described in Clause 10.6 (*Insolvency proceedings*); or

7.8.2 creditors' process described in Clause 10.7 (*Creditors' process*),

has been taken or, to its knowledge, threatened in relation to it and none of the circumstances described in Clause 10.5 (*Insolvency*) apply to it.

**7.9 Ranking**

The Security created or expressed to be created in favour of the Lender pursuant to this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security.

**7.10 Legal and beneficial ownership**

It is the sole legal and beneficial owner of the assets over which it purports to grant the Security created or expressed to be created in favour of the Lender pursuant to this Agreement.

**7.11 Shares**

7.11.1 The Shares include the entire issued share capital of the Company.

7.11.2 The Shares are fully paid and not subject to any option to purchase or similar rights.

7.11.3 The constitutional documents of the Company do not and could not restrict or inhibit any transfer of the Shares on creation or enforcement of this Agreement.

7.11.4 There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of the Company (including any option or right of pre-emption or conversion).

7.11.5 No nominations have been made in respect of any of the Charged Property.

**7.12 Centre of main interests and establishments**

For the purposes of the EU Regulation, its centre of main interests (as that expression is used in Article 3(1) of the EU Regulation) is situated in England and Wales and it has no other "establishment" (as that term is used in Article 2(h) of the EU Regulation) in any other jurisdiction.

## **8 UNDERTAKINGS**

The undertakings in this Clause 8 remain in force throughout the Security Period.

### **8.1 Information**

Each Chargor shall supply to the Lender:

- 8.1.1 at the same time as they are dispatched, copies of all documents dispatched by it to its creditors generally (or any class of them);
- 8.1.2 promptly, copies of all notices, circulars, reports, accounts and other documents which are sent or received by it in relation to the Charged Property; and
- 8.1.3 promptly, such information as the Lender may reasonably require about the Charged Property and each Chargor's compliance with the terms of this Agreement.

### **8.2 Notification of default**

Each Chargor shall, promptly upon becoming aware of its occurrence, notify the Lender of any occurrence of an Enforcement Event.

### **8.3 Authorisations**

Each Chargor shall promptly:

- 8.3.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and
- 8.3.2 supply certified copies to the Lender of:

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- a) enable it to perform its obligations under this Agreement; and
- b) ensure the legality, validity, enforceability or admissibility in evidence of this Agreement.

### **8.4 Preservation of assets**

Neither Chargor shall do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Property.

### **8.5 Pari passu ranking**

Each Chargor shall ensure that at all times any unsecured and unsubordinated claims of the Lender against it under this Agreement rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

### **8.6 Shares**

Each Chargor shall:

- 8.6.1 promptly pay all calls or other payments which may become due in respect of the Shares. If either Chargor fails to make any such payment the Lender may make that

payment on behalf of the relevant Chargor and any sums so paid by the Lender shall be reimbursed by that Chargor on demand;

- 8.6.2 promptly upon the accrual, offer or issue of any Related Rights in the form of stocks, shares, warrants or other securities, execute in favour of the Lender such additional charge or other document as the Lender may require in respect of them in each case in form and substance satisfactory to the Lender;
- 8.6.3 at the request of the Lender, procure all consents, waivers and approvals which are necessary, under the articles of association of the Company or otherwise, for the transfer of the Charged Property to the Lender or its nominee and to procure the amendment of the share transfer provisions of the Company's articles of association in such manner as the Lender may require in order to permit such a transfer;
- 8.6.4 not at any time exercise its right to nominate any person other than the Lender to enjoy or exercise any right relating to any of the Charged Property;
- 8.6.5 not without the prior written consent of the Lender amend, vary, novate, supplement, supersede, waive or terminate the articles of association of the Company; and
- 8.6.6 not take nor allow the taking of any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Charged Property being altered nor cause or permit any of the Charged Property to be consolidated, sub-divided, converted, re-organised, exchanged or repaid nor allow any further shares in the share capital of the Company to be issued.

#### **8.7 Centre of main interests and establishments**

Neither Chargor shall, without the prior written consent of the Lender, change its centre of main interest (as that expression is used in Article 3(1) of the EU Regulation) to somewhere other than England and Wales, nor will it have any establishment (as that term is used in Article 2(h) of the EU Regulation) in any other jurisdiction.

### **9 VOTING RIGHTS AND DIVIDENDS**

#### **9.1 Prior to an Enforcement Event**

- 9.1.1 Provided that no Enforcement Event is continuing and whether or not the Lender (or its nominee) are registered as holders of the Charged Property (or any part of it):
  - a) each Chargor shall be entitled to:
    - i receive and retain all dividends, distributions and other moneys paid on or derived from the Charged Property; and
    - ii exercise or refrain from exercising all voting and other rights and powers attaching to the Charged Property provided that it must not do so in a manner which is prejudicial to the interests of the Lender under this Agreement;
  - b) If any dividends, distributions or other moneys paid on or derived from the Charged Property are paid or payable to the Lender or its nominees, the Lender or its nominees (as the case may be) shall hold such dividends, distributions and other moneys paid on or derived from the Charged Property

that they receive for the relevant Chargor and pay them to the that Chargor promptly on request; and

- a) If any voting and other rights and powers attaching to the Charged Property are exercisable by the Lender or any of its nominees, the Lender or its nominees (as the case may be) shall exercise or refrain from exercising all voting and other rights and powers attaching to the Charged Property in accordance with any directions given in writing by the relevant Chargor. The Lender will not, by following such directions, be construed to consent to any exercise or failure to exercise which is prejudicial to the interests of the Lender under this Agreement. The relevant Chargor shall indemnify the Lender and its nominees against any loss or liability incurred by them as a consequence of following such directions.

## 9.2 After an Enforcement Event

9.2.1 At any time after an Enforcement Event has occurred and is continuing (and whether or not the Lender (or its nominee) are registered as holders of the Charged Property (or any part of it)):

- a) each Chargor shall:
  - i) hold all dividends, distributions and other monies paid on or derived from the Charged Property on trust for the Lender and pay the same immediately upon receipt to the Lender or as it may direct;
  - ii) comply and procure that its nominees (if any) comply with any directions from the Lender concerning the exercise of all voting and other rights and powers attaching to the Charged Property; and
  - iii) (to the extent that it has not already done so) permit the Lender to complete the instrument(s) of transfer for the Charged Property on behalf of that Chargor in favour of the Lender or such nominee of the Lender or other person as the Lender may select; and
- b) the Lender may at its discretion in the name of each Chargor and without any further consent or authority from the relevant Chargor and irrespective of any direction given by that Chargor:
  - i) exercise or refrain from exercising (or direct its nominee or trustee to exercise or refrain from exercising) all voting rights and any other power or rights in respect of the Charged Property and give any directions in respect of them to that Chargor;
  - ii) apply all dividends, interest or other monies paid or payable in respect of the Charged Property in accordance with Clause 12 (*Application of Moneys*);
  - iii) (to the extent it has not already done so) complete all instruments of transfer held by it in relation to the Charged Property in favour of itself or such other person as it may select and have the Charged Property transferred into its name, the name of its nominee or such other person as the Lender may select or, as applicable, into an account in the name of any of them; and



- iv In addition to any other power created under this Agreement, exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all the powers and rights conferred on or exercisable by the owner of the Charged Property.

## **10 ENFORCEMENT OF SECURITY**

The Security created in favour of the Lender pursuant to this Agreement shall become immediately enforceable on the occurrence of an Enforcement Event. Each of the events and circumstances set out in this Clause 10 is an Enforcement Event. For the purposes of this clause "Relevant Entity" means a Chargor or an Obligor.

### **10.1 Non-Payment**

Any of the Secured Obligations are not paid or discharged when the same ought to be paid or discharged by any Obligor (whether on demand, at schedule maturity, or by acceleration or otherwise) unless its failure to pay is caused only by administrative or technical error or breakdown and the relevant amount is paid within two Business Days of its original due date;

### **10.2 Other obligations**

Any Obligor is in breach of any of its obligations under any agreement between an Obligor and the Lender or any Chargor is in breach of any obligations under this Agreement or any other agreement between a Chargor and the Lender.

### **10.3 Misrepresentation**

Any representation, warranty or statement made or deemed to be made by any Relevant Entity under this Agreement or any other agreement between any Relevant Entity and the Lender is or proves to have been incorrect or misleading when made or deemed to be made.

### **10.4 Cross Default**

A default or event of default, however defined, occurs under any agreement between a Relevant Entity and the Lender.

### **10.5 Insolvency**

#### **10.5.1 Any Relevant Entity:**

- a) is unable or admits inability to pay its debts as they fall due;
- b) is deemed to, or is declared to, be unable to pay its debts under applicable law;
- c) suspends or threatens to suspend making payments on any of its debts or,
- d) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.

#### **10.5.2 The value of the assets of any Relevant Entity is less than its liabilities (taking into account contingent and prospective liabilities).**

A moratorium is declared in respect of any indebtedness of any Relevant Entity. If a moratorium occurs, the ending of the moratorium will not remedy any Enforcement Event caused by that moratorium.

## **10.6 Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- 10.6.1 the suspension or re-scheduling of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Relevant Entity;
- 10.6.2 a composition, compromise, assignment or arrangement with any creditor of any Relevant Entity;
- 10.6.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Relevant Entity or any of its assets; or
- 10.6.4 enforcement of any Security over any assets of any Relevant Entity;

## **10.7 Creditors' process**

Any expropriation, attachment, sequestration, diligence, distress or execution affects any asset or assets of any Relevant Entity and is not discharged within 14 days.

## **10.8 Analogous process**

Any event occurs in relation to any Relevant Entity that is analogous to those set out in paragraphs 10.5 to 10.7 above in any jurisdiction except any winding-up petition which is proved to the satisfaction of the lender to be an abuse of process or to have no real prospect of success and which is, in any event, discharged within 7 days of its presentation and before it is advertised.

## **11 POWERS OF THE LENDER**

### **11.1 Powers on enforcement**

11.1.1 At any time after an Enforcement Event has occurred, the Lender may, without notice to either Chargor exercise all or any of the powers conferred by this Agreement and in addition shall have the power to:

- a) to take possession of, collect and get in all or any part of the Charged Property;
- b) to borrow or raise money and secure the payment of any money in priority to the charges created by this Agreement for the purpose of exercising its powers and/or defraying any costs or expenses incurred by him in such exercise;
- c) sell, exchange, convert into money and realise all or any of the Charged Property in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. The consideration for any such transaction may consist of cash or of shares or securities or other obligations (and the amount of such consideration may be determined by a third party) and may be payable in a lump sum or in instalments;
- d) to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Charged Property, including, without limitation, all voting and other rights attaching to the Shares;

- e) to exercise in relation to all or any part of the Charged Property all such powers and rights as he would be capable of exercising if he were the owner of the Charged Property;
- f) give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Charged Property; and
- g) to do all other acts and things as may be considered by the Lender to be incidental or conducive to the above or otherwise expedient for or incidental or conducive to the preservation, improvement or realisation of the Charged Property.

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

Neither the Lender nor any of its nominees shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission for which a mortgagee in possession might otherwise be liable.

#### **11.3 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Lender or any of its nominees may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

#### **11.4 Delegation**

The Lender shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Lender itself or any subsequent delegation or revocation thereof.

#### **11.5 Investigations**

Following the occurrence of an Enforcement Event, the Lender may initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of either or both Chargors which it considers necessary to ascertain the financial position of the relevant Chargor. All fees and expenses incurred by the Lender in connection with such investigations shall be payable by the relevant Chargor and that Chargor consents to the provision by the Lender of all information in relation to that Chargor which the Lender provides to any person in relation to the preparation of any such report.

#### **11.6 Power to remedy**

If at any time either Chargor does not comply with any of its obligations under this Agreement, the Lender may (but shall not be obliged to) rectify such default and each Chargor irrevocably authorises the Lender, its employees and agents, at the relevant Chargor's expense, to do all such things as are necessary or desirable to rectify such default.

## **12 APPLICATION OF MONEYS**

### **12.1 Order of application**

All moneys received or recovered by the Lender or any Delegate or nominee of the Lender pursuant to this Agreement shall be applied in the following order:

12.1.1 **first**, in satisfaction of, or provision for, all costs, charges and expenses incurred by or on behalf of the Lender its Delegate or any of its nominees under or in connection with this Agreement and the payment of the remuneration of any nominee or agent of the Lender under or in connection with this Agreement;

12.1.2 **secondly**, in or towards satisfaction of the Secured Obligations; and

12.1.3 **thirdly**, any surplus shall be paid to the relevant Chargor or any other person entitled to it.

This Clause is subject to the payment of any claims having priority over the Security created in favour of the Lender pursuant to this Agreement. This Clause does not prejudice the right of the Lender to recover any shortfall from the relevant Chargor.

### **12.2 Actual receipts**

Only money actually paid by the Lender shall be capable of being applied in or towards the satisfaction of the Secured Obligations and neither Chargor shall have any rights in respect of the application by the Lender of any sums received, recovered or realised by the Lender under this Agreement.

### **12.3 Avoidance of payments**

If the Lender reasonably considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of each Chargor under this Agreement and the Security created or expressed to be created in favour of the Lender pursuant to this Agreement shall continue and such amount shall not be considered to have been irrevocably paid.

## **13 PROTECTION OF PURCHASERS**

### **13.1 Receipts**

The receipt of the Lender or its delegate or nominee shall be conclusive discharge to a purchaser in any sale or disposal of any of the Charged Property.

### **13.2 Protection of purchasers**

No purchaser or other person dealing with the Lender shall be bound to enquire whether the right of the Lender or such nominee to exercise any of its powers has arisen or become exercisable or be concerned with any notice to the contrary, or be concerned to see whether any such delegation by the Lender shall have lapsed for any reason or have been revoked.

## **14 POWER OF ATTORNEY**

### **14.1 Appointment**

Each Chargor, by way of security, irrevocably appoints the Lender, each person to whom the Lender shall from time to time have delegated the exercise of the power of attorney conferred



by this Clause and any Delegate jointly and severally to be its attorney and in its name and on its behalf to execute, deliver and perfect all documents and to do all things which the attorney may consider to be required or desirable for;

14.1.1 carrying out any obligation imposed on a Chargor by this Agreement (including the execution and delivery of any deeds, charges, assignments or other Security and any transfers of the Charged Property); and

14.1.2 enabling the Lender and any Delegate or nominee to exercise any of the powers conferred on them by or pursuant to this Agreement or by law,

and in both cases only in respect of anything the relevant Chargor is otherwise obliged to do in accordance with the terms of this Agreement and has not done,

#### **14.2 Ratification**

Each Chargor ratifies and confirms, and agrees to ratify and confirm, all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers,

### **15 PRESERVATION OF SECURITY**

#### **15.1 Continuing security**

The Security created or expressed to be created in favour of the Lender pursuant to this Agreement will be a continuing security for the ultimate balance of the Secured Obligations notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations.

#### **15.2 Waiver of defences**

The obligations of each Chargor under this Agreement will not be affected by any act, omission or thing which, but for this provision would reduce, release or prejudice any of its obligations under this Agreement (whether or not known to it or the Lender). This includes (without limitation):

15.2.1 any time or waiver granted to, or composition with, any person;

15.2.2 any release or any person under the terms of any composition or arrangement;

15.2.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or Security over assets of, any person;

15.2.4 any non-presentation, non-observance of any formality or other requirements in respect of any instrument or any failure to realise the full value of any Security;

15.2.5 any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of any person;

15.2.6 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any document or Security;

15.2.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any document or Security or the failure by any person to enter into or be bound by any document or Security; and

15.2.8 any insolvency or similar proceedings.

### **15.3 Chargor Intent**

Without prejudice to the generality of Clause 15.2 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security created or expressed to be created in favour of the Lender pursuant to this Agreement shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any document creating a Secured Obligation and/or any facility or amount made available under such document.

### **15.4 Immediate recourse**

Each Chargor waives any rights it may have of first requiring the Lender (or any nominee, trustee or agent on its behalf) to proceed against or enforce any other right or Security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up, liquidation or bankruptcy proceedings relative to any other person before claiming from either or both Chargors under this Agreement.

### **15.5 Further Advances**

Any obligation of the Lender to make further advances to the Obligor is deemed to be incorporated in this Agreement.

### **15.6 Financial collateral**

15.6.1 For the purposes of this Clause, the expressions "financial collateral arrangement", "financial collateral" and "financial instrument" have the meaning given to them by the Financial Collateral Arrangements (No.2) Regulations 2003 (Amendment) Regulations 2009.

15.6.2 To the extent that this Agreement constitutes a financial collateral arrangement, any part of the Charged Property that constitutes financial collateral may be appropriated by the Lender at any time after an Enforcement Event has occurred.

15.6.3 If the Lender exercises its power of appropriation:

- a) any Charged Property that consists of a financial instrument shall be valued as the cash payment which the Lender would have received on a disposal of that Charged Property for immediate payment; and
- b) any Charged Property that consists of a balance on an account shall be valued as the amount standing to the credit of that account, together with any accrued interest not credited to the account at the time of the appropriation.

15.6.4 The exercise of any right of appropriation shall not prejudice or affect any other right or remedy available in respect of the remainder of the Charged Property or any Secured Obligations that remain unpaid.

#### 15.7 Appropriations

Until all amounts which may be or become payable by each Chargor and each Obligor to the Lender have been Irrevocably paid in full, the Lender (or any nominee, trustee or agent on its behalf) may without affecting the liability of the Chargors under this Agreement:

- 15.7.1 refrain from applying or enforcing any other monies, Security or rights held or received by the Lender (or any trustee or agent on its behalf) against those accounts; or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
- 15.7.2 hold in a suspense account any moneys received under or in connection with this Agreement.

#### 15.8 Additional security

- 15.8.1 This Agreement is in addition to and is not in any way prejudiced by any other Security now or subsequently held by the Lender.
- 15.8.2 No prior Security held by the Lender (in its capacity as such or otherwise) over any Charged Property will merge into the Security created or expressed to be created in favour of the Lender pursuant to this Agreement.

#### 15.9 Non-competition

Unless:

- 15.9.1 all amounts which may be or become payable by the Obligors to the Lender have been Irrevocably paid in full; or
- 15.9.2 the Lender otherwise directs,

neither Chargor will, after a claim has been made or by virtue of any payment or performance by it under this Agreement:

- a) be subrogated to any rights, Security or moneys held, received or receivable by the Lender (or any trustee or agent on its behalf);
- b) be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of each Chargor's liability under this Clause;
- c) claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with the Lender (or any trustee or agent on its behalf); or
- d) receive, claim or have the benefit of any payment, distribution or Security from or on account of any Obligor, or exercise any right of set-off as against any Obligor.

Each Chargor must hold in trust for and must immediately pay or transfer to the Lender for the Lender any payment or distribution or benefit of Security received by it contrary to this Clause or in accordance with any directions given by the Lender under this Clause.

## **16 NEW ACCOUNTS**

- 16.1 If the Lender at any time receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Charged Property It may open a new account or accounts with the relevant Chargor.
- 16.2 If the Lender does not open a new account or accounts It shall nevertheless be treated as if it had done so as at the time when it received or was deemed to have received such notice.
- 16.3 As from such time all payments made to the Lender shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount of the Secured Obligations.

## **17 COSTS, EXPENSES AND INDEMNITIES**

### **17.1 Costs and expenses**

- 17.1.1 Each Chargor shall, promptly on demand, pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender and any Receiver or Delegate or nominee of the lender in connection with the negotiation, preparation, printing, execution and perfection of this Agreement and any other documents referred to in this Agreement.
- 17.1.2 Each Chargor shall, within three Business Days of demand, pay to the Lender 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 this Agreement and the Security created or expressed to be created in favour of the Lender pursuant to this Agreement and any proceedings instituted by or against the Lender as a consequence of taking or holding that Security or enforcing these rights.

### **17.2 Indemnities**

- 17.2.1 Each Chargor shall promptly indemnify the Lender and any Delegate or nominee of the Lender against any cost, loss or liability incurred by any of them as a result of:
- a) the taking, holding, protection or enforcement of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement;
  - b) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Lender by this Agreement or by law;
  - c) any default by either Chargor in the performance of the obligations expressed to be assumed by it in this Agreement; or
  - d) acting as Lender under this Agreement or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the Lender's gross negligence or wilful misconduct).
- 17.2.2 The Lender and every Delegate and nominee of the Lender 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 Clause 17.2.1.

### **17.3 Currency Indemnity**

If any sum due from a Chargor under this Agreement (a "Sum"), or any decree, order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "First



Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of:

17.3.1 making or filing a claim or proof against that Chargor; or

17.3.2 obtaining or enforcing a decree, order, judgment or award in relation to any litigation or arbitration proceedings,

that Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

## **18 CHANGES TO THE PARTIES**

18.1 The Lender may assign or transfer all or any of its rights and obligations under this Agreement.

18.2 The Lender shall be entitled to disclose such information concerning either Chargor and this Agreement as the Lender considers appropriate to any actual or proposed direct or indirect successor and to any person to whom information may be required to be disclosed by any applicable law.

18.3 Neither Chargor may assign any of its rights or transfer any of its rights or obligations under this Agreement.

## **19 MISCELLANEOUS**

### **19.1 No deductions and tax gross-up**

19.1.1 All payments to be made by each Chargor under this Agreement shall be made in freely available funds and in sterling and shall be calculated and be made without (and free and clear of any deduction for) set-off, counterclaim or deduction on account of Tax.

19.1.2 If a Tax deduction is required by law to be made by either Chargor, the amount of the payment due from the relevant Chargor shall be increased to an amount which (after making any Tax deduction) leaves an amount equal to the payment which would have been due if no Tax deduction has been required.

### **Interest**

If either Chargor fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of two (2) per cent. per annum. Any interest accruing under this Clause 0 shall be immediately payable by the relevant Chargor on demand by the Lender and shall be compounded with the overdue amount on the last Business Day of each month but will remain immediately due and payable.

### **19.2 Currency**

For the purpose of or pending the discharge of the Secured Obligations, the Lender may, in its sole discretion, convert any moneys received, recovered or realised in any currency under this Agreement (including the proceeds of any previous conversion under this Clause) from their existing currency into any other currency at such rate or rates of exchange and at such time as the Lender thinks fit.

### **19.3 No liability**

19.3.1 None of the Lender, its delegate(s) and nominee(s) shall be liable for any loss by reason of (a) taking any action permitted by this Agreement or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part.

19.3.2 The Lender will not be required in any manner to perform or fulfil any obligation of either Chargor, make any payment, make any enquiry as to the nature or sufficiency of any payment received by it or present or file any claim or take any action to collect or enforce the payment of any amount.

19.3.3 The Lender shall not be liable to either Chargor or to any other person by reason of the appointment of a delegate or nominee or for any other reason.

### **19.4 Certificates**

Any certification or determination by the Lender of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **19.5 Release**

At the end of the Security Period, the Lender must, at the request and cost of either Chargor, take whatever action is reasonably necessary to release the Charged Property from the Security created or expressed to be created in favour of the Lender pursuant to this Agreement and re-assign any Charged Property assigned under this Agreement.

## **20 SET-OFF**

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

## **21 NOTICES**

### **21.1 Communications in writing**

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

### **21.2 Addresses**

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

21.2.1 In the case of the Chargors:

21.2.2 In the case of the Lender:

or any substitute address, department or officer as one Party may notify to the other Party by not less than five Business Days' notice.

### **21.3 Delivery**

- 21.3.1 Any communication or document made or delivered by one person to another under or in connection with this Agreement 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 21.2 (*Addresses*), if addressed to that department or officer.
- 21.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's details provided under Clause 21.2 (*Addresses*) (or any substitute department or officer as the Lender shall specify for this purpose).
- 21.3.3 Any communication or document which becomes effective in accordance with Clauses 21.3.1 and 21.3.2 above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### **21.4 English language**

Any notice given under or in connection with this Agreement must be in English.

### **22 PARTIAL INVALIDITY**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired. If any part of the Security created or expressed to be created in favour of the Lender pursuant to this Agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of Security created or expressed to be created in favour of the Lender pursuant to this Agreement.

### **23 REMEDIES AND WAIVERS**

No failure to exercise, nor delay in exercising, on the part of the Lender, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

### **24 COUNTERPARTS**

This Agreement 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 Agreement.

### **25 GOVERNING LAW**

This Agreement and any non-contractual obligation arising in connection with it are governed by Scots law.




**26 JURISDICTION**

- 26.1 The courts of Scotland have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "Dispute").
- 26.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 26.3 The Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF these presents consisting of this and the preceding 24 pages of this Agreement are executed as follows:

SUBSCRIBED for and on behalf of



ABBEY PROPERTIES CAMBRIDGESHIRE LIMITED

by NICHOLAS SUTTON, Director

at 

on 12 February 2016

In the presence of:

 (Witness)

EMMA LUCY BETTLES (Full Name)

 (Address)





SUBSCRIBED for and on behalf of

YOGEN 1 LLP

by JAGDISH JHAI, Designated  
Member

at

on 12 FEBRUARY 2016

In the presence of:

[Redacted]

(Witness)

EMMA LUCY BETTEES

(Full Name)

POPPY BENNETT

[Redacted]

(Address)

[Redacted]

[Redacted]

[Redacted]

(Occupation)

SUBSCRIBED for and on behalf of

Lombard North Central plc

by [Redacted], Authorised  
Signatory/Attorney

at

on 17 FEBRUARY 2016

In the presence of:

[Redacted]

(Witness)

(Full Name)

(Address)

(Occupation)



SUBSCRIBED for and on behalf of

YOGEN 1 LLP

by \_\_\_\_\_, Designated  
Member

at

on 12 FEBRUARY 2016

In the presence of:

(Witness)

EMMA LUCY BETTLES

(Full Name)

(Address)

(Occupation)

SUBSCRIBED for and on behalf of

Lombard North Central plc

by \_\_\_\_\_, Authorised  
Signatory/Attorney

Zoe Hunt

at

on 17 FEBRUARY 2016

In the presence of:

(Witness)

(Full Name)

(Address)

(Occupation)

Ian Alder