



**Registration of a Charge**

Company Name: **ATOG SAHARA LIMITED**

Company Number: **05247439**



XC9Y94RE

Received for filing in Electronic Format on the: **15/08/2023**

**Details of Charge**

Date of creation: **14/08/2023**

Charge code: **0524 7439 0007**

Persons entitled: **TRAFIGURA PTE LTD**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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: **WATSON FARLEY & WILLIAMS LLP**



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

Company number: 5247439

Charge code: 0524 7439 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th August 2023 and created by ATOG SAHARA LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th August 2023 .

Given at Companies House, Cardiff on 16th August 2023

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**

Dated 14 August 2023

**ANGLO TUNISIAN OIL & GAS LIMITED**  
**ATOG SAHARA LIMITED**  
as Assignors

and

**TRAFIGURA PTE LTD**  
as Lender

**SUPPLEMENTAL DEED OF ASSIGNMENT**

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THIS DEED is made on 14 August 2023

## PARTIES

- (1) **ANGLO TUNISIAN OIL & GAS LIMITED**, a company incorporated in England with registered number 11899484 whose registered office is The Hub Farnborough Business Park, Fowler Avenue, Farnborough, England, GU14 7JF, ("**ATOG**")
- (2) **ATOG SAHARA LIMITED**, a company incorporated and registered in the United Kingdom with company number 05247439 whose registered office is at The Hub Farnborough Business Park, Fowler Avenue, Farnborough, England, GU14 7JF, ("**ATOG Sahara**" and, together with ATOG, the "**Assignors**" and each an "**Assignor**")
- (3) **TRAFIGURA PTE LTD**, a company registered and incorporated under the laws of Singapore, with its registered address at 10 Collyer Quay #29-01/05 Ocean Financial Centre, Singapore 049315, (the "**Lender**")

## BACKGROUND

- (A) ATOG, as purchaser, entered into a sale and purchase agreement dated 23 April 2019, as amended on 14 June 2019, 16 August 2019 and 15 November 2019, for the acquisition of all the issued and outstanding shares in ATOG Petroleum Limited from Medco Energi Global Pte. Ltd., a company incorporated in Singapore, as seller (the "**Acquisition**").
- (B) The Acquisition was completed on 19 November 2019.
- (C) The Lender agreed to finance, amongst other things, part of the acquisition costs of the shares in ATOG Petroleum Limited and, in respect of the Increased Amount, to finance the development and capex program of any relevant Initial Petroleum Asset in respect of ATOG Petroleum Limited, ATOG Ventures Limited and ATOG Sahara on the terms and conditions set out in the Facility Agreement.
- (D) It was a condition under the Facility Agreement that the Assignors enter into the Original Assignment Agreement with the Lender.
- (E) Pursuant to the Original Assignment Agreement the Assignors created security over certain of its assets in favour of the Lender as continuing security for the payment and discharge of all the Secured Liabilities.
- (F) This Deed is supplemental to the Original Assignment Agreement.

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Terms defined in the Facility Agreement (as defined below) shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed. In addition, the following definitions apply in this Deed.

**"Contract"** means any Hedging Agreement and any Intragroup Loan Agreement, that is entered into by an Assignor, as amended, varied, novated, supplemented and replaced from time to time, and any Insurance.

**"Contract Benefits"** means all of the rights under, title to and interest in each Contract, including:

- (a) all moneys which may become payable, and the benefit of all property and claims, under each Contract;
- (b) any claim or action against any other party to each Contract; and

in the case of any Insurance, all claims, the proceeds of all claims and all returns of premium in connection with that Insurance.

**"Delegate"** means any person appointed by the Lender or any Receiver pursuant to Clause 14 (*Delegation*) and any person appointed as attorney of the Lender, Receiver or Delegate.

**"Expense"** means all charges, costs (including legal fees), damages and expenses sustained or incurred by the Lender or any Receiver or Delegate at any time in connection with the Secured Assets or the Secured Liabilities or in taking, holding or perfecting this Deed or in defending, enforcing, preserving or protecting the Security constituted by this Deed or in exercising any powers, remedies or rights provided by or pursuant to this Deed (including any power or right to make payments on behalf of the Assignors under the terms of this Deed) or by law in each case on a full indemnity basis.

**"Facility Agreement"** means the facility agreement originally dated 23 December 2019, as amended on 26 February 2020, 4 December 2020, 20 May 2021 and further amended and restated on 15 June 2023, between the Lender and ATOG, ATOG Petroleum Limited, ATOG Ventures Limited and ATOG Sahara, for the provision of the facility secured by this Deed.

**"Insurance"** means, as the context requires, all policies and contracts of insurance (or reinsurance) of each Assignor or to which each Assignor is a co-insured, an assured, a beneficiary or a loss payee, including those that each Assignor is required from time to time procure and maintain pursuant to the Transaction Documents, including each insurance policy specified in Schedule 2 (*Insurances*), as amended, varied, novated, supplemented and replaced from time to time.

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

**"Original Assignment Agreement"** means the assignment agreement originally dated 23 December 2019 and made between ATOG, ATOG Petroleum Limited, ATOG Ventures Limited, ATOG Sahara and the Lender.

**"Party"** means a party to this Deed.

**"Receiver"** means a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets (in whole or part or parts) appointed by the Lender under Clause 12 (*Receiver*).

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

- (a) the proceeds of sale and/or other realisation of that asset (or any part thereof or interest therein);
- (b) all Security, options, agreements, rights, easements, benefits, indemnities, guarantees, warranties or covenants for title held by the Assignors in respect of such asset; and
- (c) all of the Assignors' rights under any lease, licence or agreement for lease, sale or use in respect of such asset.

**"Secured Assets"** means all the assets for the time being subject to the Security created by, or pursuant to, this Deed.

**"Secured Liabilities"** means all present and future monies, indebtedness, obligations and liabilities owed by each Assignor to the Lender, whether actual or contingent, in whatever currency denominated and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever, under or in connection with the Finance Documents (including those arising under Clause 17.2(b) (*Discharge conditional*) of this Deed and any liabilities arising pursuant to an increase in Commitment), together with all interest (including default interest) accruing in respect of such monies or liabilities and including any liability in respect of any further advances made under the Finance Documents, together with all Expenses and all interest under clause 9 (*Interest*) of the Facility Agreement.

**"Security Period"** means the period starting on the date of this Deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

## 1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Deed to:
  - (i) **"asset"** or **"assets"** includes present and future assets and rights of every description;
  - (ii) **"disposal"** means any sale, lease, transfer or other disposal and **"dispose"** will be construed accordingly;
  - (iii) a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or any other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (iv) **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
  - (v) **"indebtedness"** includes any obligation (whether incurred as principal or as a surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (vi) 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);
  - (vii) 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;
  - (viii) the "**Lender**", the "**Assignor**", the "**Borrower**", any "**Party**", or any other 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 Deed;
  - (ix) a provision of law is a reference to that provision as amended or re-enacted;
  - (x) a time of day is a reference to London time; and
  - (xi) the singular includes the plural (and vice versa).
- (b) The words "**other**", or "**otherwise**" and "**whatsoever**" when used in this Deed shall not be construed ejusdem generis or construed in a narrower way by reference to any preceding words.
  - (c) Any words following the terms "**including**", "**include**", "**in particular**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
  - (d) Section, Clause and Schedule headings are for ease of reference only.
  - (e) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been remedied or waived.

### 1.3 Implied covenants for title

The obligations of each Assignor under this Deed shall be in addition to the covenant for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

### 1.4 Law of Property (Miscellaneous Provisions) Act 1989

To the extent necessary for any agreement for the disposition of the Secured Assets in this Deed to be a valid agreement under Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Finance Documents and of any side letters between the parties to this Deed are incorporated into this Deed.

### 1.5 Third party rights

A person who is not a Party (other than a permitted successor or assign, any Receiver or any Delegate) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.



**1.6 Perpetuity period**

If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

**1.7 Conflict**

In the event of a conflict between the terms of this Deed and the Facility Agreement, the terms of the Facility Agreement shall prevail to the extent permitted by law.

**1.8 Effect as a deed**

This document is intended to take effect as a deed notwithstanding that the Lender may have executed it under hand only.

**1.9 Schedules**

The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules.

**2 COVENANT TO PAY**

Each Assignor shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

**3 CONFIRMATION OF EXISTING SECURITY**

Each Assignor confirms for the benefit of the Lender that with effect from the date of this Deed, the Original Assignment Agreement shall (a) remain in full force and effect and (b) continue to secure its Secured Liabilities under the Finance Documents.

**4 GRANT OF SECURITY****4.1 Assignment**

Each Assignor, as continuing security for the payment, performance and discharge of all the Secured Liabilities and with full title guarantee, assigns to the Lender absolutely by way of a first legal assignment, subject to a proviso for reassignment on irrevocable and unconditional payment and discharge in full of the Secured Liabilities, all of its rights, title and interest in, each Insurance, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance, and the Contract Benefits, with all Related Rights in respect thereof.

**4.2 Trust**

If or to the extent that the assignment of any Contract Benefit is ineffective because of a prohibition on that assignment, the relevant Assignor holds it on trust for the Lender.

**5 SUPPLEMENTAL SECURITY**

All the Security created by or pursuant to Clause 4 (*Grant of Security*) is created in addition and without prejudice to the security confirmation contained in Clause 3 (*Confirmation of Existing Security*) and without prejudice but subject only to the Original Assignment Agreement.

## 6 FURTHER ASSURANCE

### 6.1 Further assurance

- (a) Each Assignor shall, at the direction of the Lender given at any time, immediately execute and deliver to the Lender all transfers and other documents and do all such things as may be necessary or desirable:
- (i) to register all or any of the Secured Assets in the name of the Lender or its nominee;
  - (ii) for creating, registering, perfecting, maintaining or protecting the Security created by this Deed; or
  - (iii) to facilitate the realisation of all or any of the Secured Assets after this Deed has become enforceable, or the exercise of any right, power or discretion vested in the Lender or any Delegate in relation to any Secured Assets or this Deed.

### 6.2 Avoidance of payment and reinstatement

- (a) No amount paid, repaid or credited to the Lender shall be deemed to have been irrevocably paid if the Lender considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.
- (b) If any discharge, release or arrangement (whether in respect of the obligations of any Assignor or any Security for those obligations or otherwise) is made by the Lender 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 each Assignor will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### 6.3 Waiver of defences

The obligations of each Assignor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 6.3 (*Waiver of defences*) would reduce, release or prejudice any of its obligations under this Clause 6.3 (*Waiver of defences*) (without limitation and whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, an Assignor or other person;
- (b) the release of an Assignor or any other person under the terms of any composition or arrangement with any creditor of any Affiliate of any Assignor;
- (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, an Assignor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Assignor or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document

or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security; or
- (g) any insolvency or similar proceedings.

#### **6.4 Assignor Intent**

Without prejudice to the generality of Clause 6.3 (*Waiver of defences*), each Assignor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### **6.5 Immediate recourse**

Each Assignor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or Security or claim payment from any person before claiming from an Assignor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### **6.6 Appropriations**

Until all Secured Liabilities have been irrevocably paid in full, the Lender (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Assignors shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from an Assignor or on account of an Assignor's liability under this Deed.

#### **6.7 Deferral of Assignors' rights**

Until all Secured Liabilities have been irrevocably paid in full and unless the Lender otherwise directs, each Assignor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by an Assignor;
- (b) to claim any contribution from any other guarantor of any Assignor's obligations under the Finance Documents;

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- (d) to bring legal or other proceedings for an order requiring any Assignor to make any payment, or perform any obligation, in respect of which an Assignor has given a guarantee, undertaking or indemnity under any Finance Documents;
- (e) to exercise any right of set-off against any Assignor; and/or
- (f) to claim or prove as a creditor of any Assignor in competition with the Lender.

If an Assignor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Assignors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with the Facility Agreement.

## **7 REPRESENTATIONS AND WARRANTIES**

Each Assignor makes the representations and warranties set out in this Clause 7 (*Representations and warranties*) to the Lender.

### **7.1 Ownership of Secured Assets**

The Assignors are the sole legal and beneficial owners of the Secured Assets, free from any Security other than the Security created by this Deed.

### **7.2 No adverse claims**

Each Assignor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

### **7.3 No conflicting rights or breaches**

- (a) This Deed does not and will not conflict with or constitute a default under any agreement, instrument or obligation to which an Assignor is a party or by which it is bound.
- (b) There is no prohibition on assignment in any Contract and the entry into this Deed by each Assignor does not, and will not, constitute a breach of any Contract.

### **7.4 Enforceable security**

Subject to the qualifications set out in the legal opinions delivered in connection with this Deed, this Deed constitutes the legal, valid, binding and enforceable obligations of each Assignor, and is and will continue to be effective Security over all and every part of the Secured Assets in accordance with its terms.

## **7.5 Avoidance of security**

Subject to the qualifications set out in the legal opinions delivered in connection with this Deed, no Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of an Assignor or otherwise.

## **7.6 Times for making representations and warranties**

The representations and warranties set out in this Clause 7 (*Representations and warranties*) are made by each Assignor on the date of this Deed and shall be deemed to be repeated by each Assignor on the date each Utilisation Request is delivered to the Lender, on each Interest Payment Date, on the date on which an Increase Confirmation is duly executed and on the date on which an Accession Deed is duly executed, with reference to the facts and circumstances then existing.

## **8 GENERAL COVENANTS**

Each Assignor covenants with the Lender, during the Security Period, in accordance with the terms set out in this Clause 7 (*General Covenants*).

### **8.1 Negative pledge and disposal restrictions**

Each Assignor shall not at any time:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Assets other than any Security created by this Deed;
- (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or
- (c) create or grant (or purport to create or grant) any interest in any Secured Assets in favour of a third party,

in each case, except as expressly permitted by the Facility Agreement.

### **8.2 No adverse actions or variations**

Each Assignor shall not cause or permit to be done anything which may adversely affect the Security created by this Deed or which is a variation or abrogation of the rights attaching to or conferred on all or any part of the Secured Assets by this Deed, without the prior written consent of the Lender.

### **8.3 Enforcement of rights**

Each Assignor shall use its best endeavours to:

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on that Assignor's counterparties (including, where applicable, each insurer in respect of any Insurance); and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lender may require from time to time.

**8.4 Notice of misrepresentation and breaches**

Each Assignor shall, promptly upon becoming aware of any of the same, give the Lender notice in writing of:

- (a) any representation or warranty set out in this Deed that is incorrect or misleading when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this Deed.

**8.5 Notices to be given by each Assignor**

Unless delivered previously to each relevant counterparty under and in connection with the Original Assignment Agreement, each Assignor shall immediately on the execution of this Deed (in relation to those Contracts which are in existence on the date of this Deed) and promptly upon the entering into of the same in relation to each Contract (other than any Hedging Agreement) entered into after the date of this Deed, give notice (in the form set out in Schedule 1 (*Form of Notice*)) to each counterparty that it has assigned its rights and interest in and under each Contract (other than any Hedging Agreement) pursuant to this Deed and to promptly deliver within five (5) Business Days a copy of any such notice to the Lender, and use reasonable endeavours to procure that each addressee of any such notice promptly provides within fifteen (15) Business Days to the Lender an acknowledgement of the notice of the Lender's interest (in the form annexed to the notice in Schedule 1).

**8.6 Information**

Each Assignor shall promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the relevant Assignor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

**8.7 Payment of outgoings**

Each Assignor shall promptly pay all Taxes, fees, licence duties, registration charges, Insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

**9 WHEN SECURITY BECOMES ENFORCEABLE**

At any time on or after an Event of Default occurs and is continuing, the Security created pursuant to this Deed shall be immediately enforceable and the Lender may in its absolute discretion and without further notice to each Assignor or the prior authorisation of any court:

- (a) enforce all or any part of the Security created by this Deed and take possession of or dispose of all or any of the Secured Assets in each case at such times and upon such terms as it sees fit; and
- (b) whether or not the Lender has appointed a Receiver, exercise all of the powers, authorities and discretions:

- (i) conferred from time to time on mortgagees by the LPA 1925 (as varied or extended by this Deed) or by law; and/or
- (ii) granted to a Receiver by this Deed or by law.

## **10 POWERS OF THE LENDER**

### **10.1 Power to remedy**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by an Assignor of any of its obligations contained in this Deed.
- (b) Each Assignor irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Lender in remedying a breach by an Assignor of its obligations contained in this Deed shall be reimbursed by that Assignor to the Lender on a full indemnity basis and shall carry interest in accordance with clause 17 (*Expenses and Increased Costs*) of the Facility Agreement.

### **10.2 Exercise of rights**

- (a) The rights of the Lender under Clause 10.1(a) (*Power to remedy*) are without prejudice to any other rights of the Lender under this Deed. The exercise of any rights of the Lender under this Deed shall not make the Lender liable to account as a mortgagee in possession.
- (b) The Lender shall not, in connection with the Secured Assets, have any duty or incur any liability for:
  - (i) any loss on realisation;
  - (ii) any failure to present any interest coupon or other document in respect of the Secured Assets;
  - (iii) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Secured Assets or the nature or sufficiency of any payment whether or not the Lender has or is deemed to have knowledge of such matters;
  - (iv) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Secured Assets;
  - (v) any negligence or default by its nominees; or
  - (vi) any other loss of any nature whatsoever arising as a result of the exercise or non-exercise of any rights or powers attaching or accruing to the Secured Assets which may be exercised by the Lender (or its nominee).

### **10.3 Protection of interests**

The powers conferred on the Lender by this Deed are solely to protect its interests in the Secured Assets and shall not impose any duty on the Lender to exercise any of those powers.

**10.4 Lender has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by law or by this Deed on a Receiver may, after the Security constituted by this Deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

**10.5 New accounts**

- (a) If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the relevant Assignor in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the relevant Assignor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under Clause 10.5(a) (*New accounts*) then, unless the Lender gives express written notice to the contrary to the relevant Assignor, all payments made by the relevant Assignor to the Lender shall be treated as having been credited to a new account of the relevant Assignor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Lender.

**10.6 Indulgence**

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a Party (whether or not any such person is jointly liable with the Assignors) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this Deed or to the liability of the Assignors for the Secured Liabilities.

**11 ENFORCEMENT OF SECURITY****11.1 Enforcement**

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this Deed, but the Lender shall not exercise such power of sale or other powers until the Security constituted by this Deed has become enforceable under Clause 9 (*When Security becomes enforceable*).
- (b) Section 103 of the LPA 1925 does not apply to the Security constituted by this Deed.

**11.2 Prior Security**

At any time after the Security constituted by this Deed has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Lender may:

- (a) redeem that or any other prior Security;
- (b) procure the transfer of that Security to it; and



- (c) settle and pass any account of the holder of any prior Security.

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Assignors. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Assignors to the Lender on current account and shall bear interest at the default rate of interest specified in the Facility Agreement and be secured as part of the Secured Liabilities.

### **11.3 Protection of third parties**

- (a) No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:
- (i) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
  - (ii) whether any power the Lender, a Receiver or Delegate is purporting to exercise, pursuant to any Finance Document, has become exercisable or is properly exercisable;
  - (iii) whether any consents, directions, regulations or restrictions relating to such rights have been obtained or complied with;
  - (iv) otherwise as to the propriety or regularity of acts intended, or purporting, to be in exercise of any such rights; or
  - (v) as to the application of any money paid to the Lender, any Receiver or any Delegate.
- (b) All the protection to purchasers contained in sections 104 and 107 of the LPA 1925, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Lender, any Receiver or any Delegate.

### **11.4 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

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

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

### **11.6 Conclusive discharge to purchasers**

The receipt of the Lender or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

**12 RECEIVER****12.1 Appointment**

At any time after the Security constituted by this Deed has become enforceable, or at the request of an Assignor, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

**12.2 Removal**

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

**12.3 Remuneration**

Subject to Section 36 of the Insolvency Act 1986, the Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately on its being paid by the Lender.

**12.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

**12.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

**12.6 Agent of the Assignors**

Any Receiver appointed by the Lender under this Deed shall be the agent of the Assignors and the Assignors shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until an Assignor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

**13 POWERS OF RECEIVER****13.1 General**

- (a) Any Receiver appointed by the Lender under this Deed shall, in addition to the powers conferred on him by statute, have the powers set out in this Deed and have all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver).

- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by Clause 13 (*Powers of Receiver*) may be on behalf of an Assignor or himself.

### **13.2 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Lender may prescribe or agree with him.

### **13.3 Disposal of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

### **13.4 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

### **13.5 Make settlements**

A Receiver may make any arrangement, settlement or compromise between an Assignor and any other person that he may think expedient.

### **13.6 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit.

### **13.7 Powers under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

### **13.8 Borrow**

A Receiver may, for any of the purposes authorised by this Clause 13 (*Powers of Receiver*), raise money by borrowing from the Lender (or from any other person) either unsecured or on the Security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this Deed).

### **13.9 Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest

error, conclusive and binding on the Assignors, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

#### **13.10 Absolute beneficial owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

#### **13.11 Incidental powers**

A Receiver may do any other acts and things:

- (a) that he may consider desirable or necessary for realising any of the Secured Assets;
- (b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; and
- (c) that he lawfully may or can do as agent for the Assignors.

### **14 DELEGATION**

#### **14.1 Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under Clause 16.1 (*Appointment of attorneys*)).

#### **14.2 Terms**

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

#### **14.3 Liability**

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Assignors for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

### **15 APPLICATION OF PROCEEDS**

#### **15.1 Order of application of proceeds**

All monies received or recovered by the Lender, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs, charges, expenses, losses and liabilities of, or incurred by, or on behalf of, the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under, or in connection with, or incidental to, this Deed and the appointment

of any Receiver or Delegate and the exercise of his rights, including his remuneration under or in connection with this Deed;

- (b) in or towards payment of or provision for the Secured Liabilities in accordance with clause 15 (*Payments*) of the Facility Agreement; and
- (c) in payment of the surplus (if any) to any Assignor or other person entitled to it.

## **15.2 Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

## **15.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this Deed:

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest, if any, in accordance with clause 9 (*Interest*) of the Facility Agreement; and
- (c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

## **16 POWER OF ATTORNEY**

### **16.1 Appointment of attorneys**

By way of security, each Assignor irrevocably appoints the Lender, every Receiver and every Delegate jointly and severally as its attorneys (with full power of substitution) in its name, on its behalf, or otherwise, at such time and in such manner as the attorney thinks fit, to execute any documents, exercise any rights and do any acts and things that:

- (a) that Assignor is required to execute, exercise and do under any Finance Document to which it is a party (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Secured Assets); and
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Lender, any Receiver or any Delegate in relation to the Secured Assets or under any Finance Document, the LPA 1925 or the Insolvency Act 1986.

### **16.2 Ratification of acts of attorneys**

Each Assignor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in Clause 16.1 (*Appointment of attorneys*).

**17 RELEASE****17.1 Security Period**

Subject to Clause 17.2 (*Discharge conditional*), on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Assignors, take whatever action is necessary to:

- (a) release the Secured Assets from the Security constituted by this Deed; and
- (b) reassign the Secured Assets to the Assignors.

**17.2 Discharge conditional**

Any release, discharge or settlement between the Assignors and the Lender shall be deemed conditional on no payment or Security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this Deed and the Security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- (b) the Lender may recover the value or amount of such Security or payment from the Assignors subsequently as if the release, discharge or settlement had not occurred.

**18 ASSIGNMENT AND TRANSFER****18.1 Assignment by Lender**

- (a) At any time, without the consent of the Assignors, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this Deed to any person.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information about the Assignors, the Secured Assets and this Deed that the Lender considers appropriate.
- (c) The Assignors shall upon request take all actions reasonably required by the Lender to effect or perfect such assignment or transfer, including executing and delivering any receipts and/or acknowledgements that the Lender may require.

**18.2 Assignment by Assignors**

The Assignors may not assign any of their rights, or transfer any of their obligations, under this Deed, or enter into any transaction that would result in any of those rights or obligations passing to another person.

**19 FURTHER PROVISIONS****19.1 Independent security**

This Deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the

Lender over the whole or any part of the Secured Assets shall merge in the security created by this Deed.

#### **19.2 Continuing security**

This Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this Deed in writing.

#### **19.3 Certificates**

A certificate or determination by the Lender as to any rate or amount for the time being due to it from the Assignors under this Deed shall be, in the absence of any manifest error, conclusive evidence of the matters to which it relates.

#### **19.4 Partial invalidity**

If, at any time, any provision of this Deed 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.

#### **19.5 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Lender any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed 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 Deed are cumulative and not exclusive of any rights or remedies provided by law.

#### **19.6 Property**

This Deed is and will remain the property of the Lender.

#### **19.7 Amendments**

Clause 26 (*Amendments and Waivers*) of the Facility Agreement shall apply to this Deed *mutatis mutandis* as if the same had been set out herein in full.

#### **19.8 Enforcement costs and expenses**

The Assignors shall, on demand reimburse the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, this Deed.

#### **19.9 Indemnity**

- (a) The Assignors shall promptly indemnify the Lender and every Receiver and Delegate against any cost, loss or liability incurred by any of them on a joint and several basis as a result of:

- (i) any failure by any Assignor to comply with clause 17 (*Expenses and Increased Costs*) of the Facility Agreement;
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
  - (iii) the taking, holding, protection or enforcement of the Security created pursuant to this Deed;
  - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Lender and each Receiver and Delegate by this Deed or by law;
  - (v) acting as Lender, Receiver or Delegate under this Deed or which otherwise relates to any of the Secured Assets (otherwise, in each case, than by reason of the relevant Lender's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Lender and every Receiver, attorney, delegate, manager, agent or other person appointed by the Lender (each a "**Relevant Person**") hereunder shall be entitled to be indemnified jointly and severally out of the Secured Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Secured Assets or any part of them (other than by reason of such Relevant Person's gross negligence or wilful misconduct). The Lender and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Deed.
- (c) The Assignors expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 19.9 (*Indemnity*) will not be prejudiced by any release of Security or disposal of assets.

#### 19.10 Set off

- (a) The Lender may set off any matured obligation due from the Assignors under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Assignors, 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.
- (b) All payments to be made by the Assignors under this Deed shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If an Assignor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to the Lender under this Deed or, if any such withholding or deduction is made in respect of any recovery under this Deed, the Assignors shall pay such additional amount so as to ensure that the net amount received by the Lender shall equal the full amount due to it under the provisions of this Deed had no such withholding or deduction been made.



### 19.11 Stamp Taxes

The Assignors shall pay immediately on demand to the Lender a sum equal to any liability which the Lender incurs in respect of any stamp duty, registration fees and other taxes which is or becomes payable in connection with the entry into, performance or enforcement of this Deed (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

### 19.12 Tax

Clause 15.2 (*Payments*) of the Facility Agreement shall apply to this Deed mutatis mutandis as if the same had been set out in full herein with references in such clause to:

- (a) "Borrowers" being construed as if the context so requires a reference to the Assignors; and
- (b) the "Agreement" being construed as a reference to this Deed.

### 19.13 Currency of Payment

- (a) The obligation of the Assignors under this Deed to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by the Lender of the full amount of the currency expressed to be payable under this Deed. To the extent that there is a shortfall between the amount of receipt in one currency and the amount due under this Deed in the original currency then the Lender shall have a further separate cause of action against the Company and shall be entitled to enforce the security created over the Secured Assets to recover the amount of that shortfall.
- (b) If any sum due from the Assignors under this Deed (a "**Sum**"), or any 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:
  - (i) making or filing a claim or proof against the Assignors; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Assignors 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.
- (c) The Assignors waive any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable.

### 19.14 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this Deed.

**19.15 Counterparts**

This Deed may be executed in any number of counterparts which, together, have the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**20 FINANCE DOCUMENT**

Each Assignor and the Lender hereby designate this Deed as a Finance Document and a Security Document.

**21 NOTICES****21.1 Communications in writing**

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

**21.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed are as set out in the Facility Agreement or an Accession Deed (as applicable).

**21.3 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:

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

and, if a particular department or officer is specified as part of its address details provided under Clause 21.2 (*Addresses*), if addressed to that department or officer.

(b) 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 (or any substitute department or officer as the Lender shall specify for this purpose).

(c) Any communication or document which becomes effective, in accordance with paragraphs (a) and (b) 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**

(a) Any notice given under or in connection with this Deed must be in English.

(b) All other documents provided under or in connection with this Deed must be:

- (i) in English; or

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

## 22 DISPUTE RESOLUTION

- 22.1 This Deed and any dispute, difference, controversy or claim arising out of or in connection with it, including any question regarding its subject matter, existence, validity, formation or termination (including non-contractual disputes or claims) (a "**Dispute**") shall be governed by and construed in accordance with the law of England and Wales.
- 22.2 Any Dispute shall be referred to and determined by arbitration under the UNCITRAL Arbitration Rules. The appointing authority shall be the International Chamber of Commerce. The seat of the arbitration shall be London, England. The language of the arbitration shall be English.
- 22.3 The arbitral tribunal (the "**tribunal**") shall be composed of three arbitrators appointed as follows:
- (a) Subject to Clause 21.3(b) (*Delivery*), the claimant, or claimants jointly, shall appoint one arbitrator and the respondent, or respondents jointly, shall appoint one arbitrator. Once appointed, the two arbitrators shall appoint a third arbitrator who shall act as chairman of the tribunal.
  - (b) Where a Dispute is between the Lender and more than one Borrower, the Lender shall appoint one arbitrator and those Borrowers involved in the Dispute shall jointly appoint one arbitrator. If any Borrower is added as a party to any arbitration after the other Borrower or Borrowers has or have already appointed an arbitrator, the Borrower that is added shall join the arbitral appointment already made by the other Borrower or Borrowers.
  - (c) If either side (i.e., the claimant(s) or respondent(s)) fails to appoint an arbitrator within 30 days of receiving notice of the appointment of an arbitrator by the other side, such arbitrator shall be appointed by the International Chamber of Commerce.
  - (d) If the two arbitrators appointed by the parties fail to agree upon a third arbitrator within 30 days of the appointment of the second arbitrator, the third arbitrator shall be appointed by the International Chamber of Commerce.
- 22.4 Subject to any right of appeal or challenge under the UNCITRAL Arbitration Rules, any arbitral award rendered by the tribunal shall be final and binding upon the relevant parties and the parties waive irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority insofar as such waiver may be validly made. The parties undertake to carry out any award immediately and without delay and judgment may be entered thereon or any order of enforcement obtained in any courts having jurisdiction.
- 22.5 As soon as practicable after its constitution, the tribunal shall convene a meeting with the parties and/or their representatives (either in person or by telephone) to determine the procedure to be followed in the arbitration. The procedure shall be as agreed by the parties or, in default of agreement, as determined by the tribunal. The tribunal shall hold a hearing before reaching any determination in respect of any jurisdictional objection or on the merits of the dispute, unless the parties agree otherwise in writing.
- 22.6 Without prejudice to the availability of such remedies in aid of arbitration as may be available under the jurisdiction of a competent court or other judicial authority, the tribunal shall have

full authority to grant interim measures of protection and to award damages for failure by any party to comply with any such order.

- 22.7 By agreeing to arbitration under this clause, the Parties shall not be precluded from seeking interim measures of protection from a court of competent jurisdiction or other judicial authority. For the avoidance of doubt, Lender shall have the right to commence and pursue proceedings for interim or conservatory relief against any Borrower in any court in any jurisdiction and the commencement and pursuit of such proceedings in any one court or jurisdiction shall not preclude Lender commencing or pursuing proceedings in any other court or jurisdiction (whether concurrently or not) if and to the extent permitted by the applicable law.

**This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.**

## SCHEDULE 1

## FORM OF NOTICE OF ASSIGNMENT

To: [counterparty]

Attention: [insert name]

Copy: [insert name / address of the Lender]

[●] 2023

Dear Sirs,

### Notice of Assignment

We refer to the assignment agreement dated [●] between Anglo Tunisian Oil & Gas Limited, ATOG Sahara Limited and Trafigura Pte Ltd (the "**Lender**") (the "**Assignment Agreement**").

Terms defined in the Assignment Agreement shall, unless otherwise defined in this notice, have the same meaning when used herein.

We hereby give you notice that, pursuant to the Assignment Agreement we assigned, in favour of the Lender, by way of a first legal assignment all of our rights to and title and interest from time to time in "*Energy Package Reinsurance (Property Damage, Operator's Extra Expense and Third Party Liabilities)*", together with all Related Rights thereto, the "**Secured Assets**".

Accordingly, we hereby irrevocably instruct and authorise you to:

- 1 disclose to the Lender such information regarding the Secured Assets as the Lender may from time to time request;
- 2 comply with the terms of any written notice or instruction relating to the Secured Assets received by you from the Lender; and
- 3 following written confirmation from the Lender that the Security constituted by the Assignment Agreement has become enforceable, make all payments due to us in respect of the Secured Assets to the Lender as set out in such written confirmation unless and until the Lender notifies you otherwise.

We will remain liable to perform all our obligations under or in relation to the Secured Assets and the Lender shall not be under any obligation or liability under or in relation to the Secured Assets by reason of the Assignment Agreement or anything arising therefrom.

We also remain entitled to exercise all our rights, powers and discretions under the Secured Assets and you should continue to give notices under the Secured Assets to us, in each case unless and until you receive notice from the Lender to the contrary stating that the Assignment Agreement has become enforceable. In such event, all the rights, powers and discretions under the Secured Assets will be exercisable by, and notices should be given to, the Lender or as it directs.

We acknowledge that you may comply with the instructions in this letter without any further permission from us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

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

Please confirm your agreement to this above by sending the attached acknowledgement to the Lender at *[insert address]*, for the attention of *[insert name / position]* with a copy to ourselves.

Yours faithfully,

.....  
(Authorised signatory)

for and on behalf of

*[insert name of the Assignor]*

**ANNEX**

*[Insert Company letterhead]*

To:               Trafigura Pte Ltd

Attention:       *[insert name / position]*

Copy:            *[insert name and address of the Assignor]*

Dear Sirs,

**Notice of Assignment**

We refer to the assignment agreement dated [●] between Anglo Tunisian Oil & Gas Limited, ATOG Sahara Limited and Trafigura Pte Ltd (the "**Assignment Agreement**").

We acknowledge receipt of the notice dated [●] relating to the Assignment Agreement (the "**Notice**").

Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We confirm that we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Secured Assets (other than any notices delivered pursuant to an assignment agreement dated 23 December 2019 and made between Anglo Tunisian Oil & Gas Limited, ATOG Petroleum Limited, ATOG Ventures Limited, ATOG Sahara Limited and Trafigura Pte Ltd) and we will comply with the instructions set out in the Notice.

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

Yours faithfully,

-----  
duly authorised signatory for and on

behalf of *[insert name of contract counterparty]*

## **SCHEDULE 2**

### **INSURANCES**

The Insurances assigned by each Assignor to the Lender on the date of this Deed are as follows:

Energy Package Reinsurance (Property Damage, Operator's Extra Expense and Third Party Liabilities).



EXECUTION PAGE

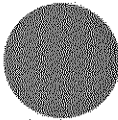
EXECUTED as a DEED by )  
ANGLO TUNISIAN OIL & GAS LIMITED )  
acting by )  
Olukayode Olufemi Kuti )  
a director, in the presence of: ) Director  
Witness' signature: )  
Witness' name: Teagan Smith )  
Witness' address: )

EXECUTED as a DEED by )  
ATOG SAHARA LIMITED )  
acting by )  
Olukayode Olufemi Kuti )  
a director, in the presence of: ) Director  
Witness' signature: )  
Witness' name: Teagan Smith )  
Witness' address: )

EXECUTED as a DEED by  
TRAFIGURA PTE LTD  
acting by



Name: Shobhit Singh  
Title: Attorney-in-fact



Name: Nicolas Marsac  
Title: Attorney-in-fact

