



**Registration of a Charge**

Company name: **STOBART ENERGY LIMITED**

Company number: **07042490**



X96W668I

Received for Electronic Filing: **10/06/2020**

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**Details of Charge**

Date of creation: **04/06/2020**

Charge code: **0704 2490 0008**

Persons entitled: **LLOYDS BANK 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: **HILL DICKINSON LLP**



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

Company number: 7042490

Charge code: 0704 2490 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th June 2020 and created by STOBART ENERGY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th June 2020 .

Given at Companies House, Cardiff on 11th June 2020

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**

**4 June 2020**

**(1) THE COMPANIES LISTED IN THE SCHEDULE  
as Chargors**

**(2) STOBART GROUP BRANDS LLP  
as the LLP**

**- and -**

**(3) LLOYDS BANK PLC  
as Security Trustee**

**SECOND CHARGE OVER MEMBERSHIP  
INTERESTS**

**This Deed is entered into with the benefit of (and subject to the terms of) the Intercreditor  
Agreement (as defined herein)**



Ref: F1/10143L/006958

Hogan Lovells International LLP  
Atlantic House, Holborn Viaduct, London EC1A 2FG

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## SCHEDULES

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THIS DEED is made on

4 June 2020

**BETWEEN:**

- (1) **THE COMPANIES LISTED IN THE SCHEDULE** (the "**Chargors**");
- (2) **STOBART GROUP BRANDS LLP** a limited liability partnership incorporated and registered under the laws of England and Wales with number OC370326 and having its registered office at Third Floor, 15 Stratford Place, London, W1C 1BE (the "**LLP**"); and
- (3) **LLOYDS BANK PLC** (as security trustee for the Finance Parties as defined in the Facilities Agreement (as defined below)) (in such capacity, the "**Security Trustee**").

**IT IS AGREED:**

**1. DEFINITIONS AND INTERPRETATION**

**Definitions:** Unless the context otherwise requires, words or expressions defined in the Facilities Agreement shall have the same meanings in this Deed and this construction shall survive the termination of the Facilities Agreement. In addition, in this Deed:

**"Act"** means the Law of Property Act 1925;

**"Assigned Assets"** means the Security Assets expressed to be assigned pursuant to Clause 4.2 (*LLP Agreement*)

**"Beneficiary"** means each Finance Party, each Hedge Counterparty, each Lloyds Facilities Lender and any Receiver or Delegate.

**"Declared Default"** means that an Event of Default has occurred and as a result the Agent has taken steps to exercise any of its rights under clause 26.20 (*Acceleration*) of the Facilities Agreement.

**"Default Rate"** means the rate of interest determined in accordance with clause 12.3 (*Default interest*) of the Facilities Agreement except that references to an Obligor are to be construed as references to the Chargor.

**"Facilities Agreement"** means the £120,000,000 multicurrency revolving facility agreement between, amongst others, (1) Stobart Group Limited (as Company), (2) the companies listed in Part 1 of Schedule 1 thereof (as Original Borrowers), (3) the companies listed in Part 1 of Schedule 1 thereof (as Original Guarantors), (4) Lloyds Bank plc and AIB Group (UK) plc (as Arrangers and Original Lenders), (5) Lloyds Bank plc and Lloyds Bank Capital Markets plc (as Original Hedge Counterparties) and (6) Lloyds Bank plc (as Security Trustee and Agent) originally dated 26 January 2015 and as amended and restated on 28 February 2017, 30 July 2018, 23 May 2020 and as further amended and restated on or about the date of this Deed, pursuant to which the Original Lenders agreed to make certain facilities available to the Borrowers.

**"Finance Document"** means the Facilities Agreement, the Amendment and Restatement Agreement, the First 2020 Amendment and Restatement Agreement, the Second 2020 Amendment and Restatement Agreement, the April 2020 Consent Letter, any Fee Letters, any Accession Deed, any Compliance Certificate, any Resignation Letter, any Hedging Agreement, the Intercreditor Agreement, any Transaction Security

Document, any Utilisation Request, any Ancillary Facility Letter, any Lloyds Facilities Document and any other document designated as such by the Agent and the Company.

**"Finance Party"** means the Agent, the Security Trustee, the Arranger, the Lenders and any Ancillary Lender.

**"Lloyds Facilities Documents"** has the meaning given to it in the Intercreditor Agreement.

**"Lloyds Facilities Lender"** has the meaning given to that term in the Intercreditor Agreement.

**"Lloyds Facilities Liabilities"** has the meaning given to it in the Intercreditor Agreement.

**"LLP Agreement"** means the Limited Liability Partnership Agreement dated 21 March 2012 entered into by Eddie Stobart Limited, Stobart Energy Limited (previously known as Stobart Biomass Products Limited), London Southend Airport Company Limited, Stobart Rail Limited, Westlink Holdings Limited and Stobart Group Brands LLP, as varied pursuant to a Deed of Adherence and Variation dated 6 March 2014 and amended, varied, replaced or restated from time to time.

**"Membership Interest"** means each Chargor's interest in the LLP (whether arising under the LLP Agreement, the Limited Liability Partnership Act 2000 (or any other law or regulation relating to limited liability partnerships) or otherwise), including, without limitation, all of its interest in the capital of, all of its rights to receive the profits of, and all of its rights to receive any distributions of assets, of the LLP.

**"New Member"** means any additional person admitted as a member of the LLP in accordance with the terms of the LLP Agreement.

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

**"Receiver"** means any receiver or receiver and manager appointed under 11.1(a) (*Powers of the Security Trustee*) including (where the context requires or permits) any substituted receiver or receiver and manager.

**"Related Rights"** means:

- (a) all dividends, distributions and other income paid or payable in relation to any Membership Interest or on any asset referred to in paragraph 1(b) of this definition; and
- (b) all rights, monies or property accruing or offered at any time in relation to such Membership Interest whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

**"Secured Sums"** means all present and future obligations and liabilities (whether actual or contingent and whether incurred jointly or severally and whether as principal or surety or in any other capacity whatsoever and whether incurred originally by a Chargor or by some other person) of each Chargor to all or any of the Beneficiaries under each or any of the Finance Documents, in each case together with:

- (a) all costs, charges and expenses incurred by any Beneficiary in connection with the protection, preservation or enforcement of its rights under any Finance Document; and

- (b) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under any Finance Document or the obligations and liabilities imposed under such documents.

**"Security Assets"** means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed.

1.2 **Interpretation:** Unless the context otherwise requires, the interpretative provisions set out in the paragraphs below shall apply in this Deed:

- (a) References to any Party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- (b) **"Including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing".
- (c) A **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- (d) References to "this Deed", the "Facilities Agreement", any other "Finance Document" or any other agreement or instrument is a reference to this Deed, the Facilities Agreement, that other Finance Document or that other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any Obligor or provides for further advances).
- (e) The singular shall include the plural and vice versa and any gender shall include the other genders.
- (f) Clauses, paragraphs and Schedules shall be construed as references to Clauses and paragraphs of, and Schedules to, this Deed.
- (g) Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.
- (h) Headings in this Deed are inserted for convenience and shall not affect its interpretation.
- (i) A Default (other than an Event of Default) is **"continuing"** for the purposes of the Finance Documents if it has not been remedied or waived and an Event of Default for those purposes is "continuing" if it has not been remedied within any specified grace period or waived.
- (j) If the Security Trustee or the Agent reasonably considers that an amount paid by any Obligor to a Beneficiary under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of such Obligor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.



- (k) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

**2. COVENANT TO PAY**

**2.1 Covenant to pay:** Each Chargor (as primary obligor and not merely as surety) covenants with the Security Trustee (as trustee for the Beneficiaries) that it will, on the Security Trustee's written demand, pay or discharge the Secured Sums when due at the times and in the manner provided in the relevant Finance Documents.

**2.2 Proviso:** The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

**2.3 Demands:**

- (a) The making of one demand shall not preclude the Security Trustee from making any further demands.
- (b) Any third party dealing with the Security Trustee or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Deed.

**2.4 Limited Recourse:**

- (a) Subject to Clause 2.4(b) and notwithstanding any other provisions of this Deed, the Security Trustee hereby acknowledges and agrees that the Security Trustee's recourse under this Deed to each Chargor in respect of the Secured Sums shall be limited to that Chargor's interest in the Security Assets and the Security Trustee shall not, under this Deed, have recourse to any other assets of any Chargor or otherwise take or pursue any judicial or other steps or proceedings or exercise any other right or remedy that it may have against either Chargor for the discharge of the Secured Sums.
- (b) The limitation specified in Clause 2.4(a) above shall not apply to any amount due to the Security Trustee, or any cost, charge or expense incurred by the Security Trustee, as a result of a Chargor's breach of its present and future obligations and liabilities under this Deed or any other Finance Document.

**3. NATURE OF SECURITY**

All Security and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Security Trustee;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Sums.

#### **4. GRANT OF SECURITY**

##### **4.1 Membership Interests**

Each Chargor charges and agrees to charge by way of first fixed charge all of its present and future right, title and interest in and to:

- (a) all Membership Interests, together with all Related Rights from time to time relating to those Membership Interests; and
- (b) to the extent that any Assigned Asset is not effectively assigned under Clause 4.2 (*LLP Agreement*), such Assigned Asset,  
  
including all rights of enforcement of the same.

##### **4.2 LLP Agreement**

Each Chargor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all of its present and future rights, title and interest in and to the LLP Agreement, all rights and remedies in connection with the LLP Agreement and all proceeds and claims arising from them.

##### **4.3 Notice of assignment**

- (a) This Deed constitutes notice of the Security created by each Chargor by or pursuant to this Deed to each other Chargor and the LLP.
- (b) Each Chargor and the LLP acknowledges such notice and consents to the granting of the Security under or pursuant to this Deed.

##### **4.4 LLP Agreement**

- (a) Subject to Clause 4.4(b), the Security Trustee shall not be deemed to be a New Member solely by virtue of this Security.
- (b) Notwithstanding the provisions of clause 12 (*Admission of Members*) of the LLP Agreement, at any time after this Security has become enforceable the Security Trustee may serve notice on the LLP and the Chargors that it, or such other person or persons to whom it has assigned the Membership Interests in exercise of the powers under this Deed, are to become New Members, whereupon the Security Trustee or such other person or persons (as applicable) shall become members of the LLP in place of the Chargors.
- (c) Clause 19 (*Entitlements of Outgoing Members*) of the LLP Agreement shall not apply to any assignment or transfer of Membership Interests under or pursuant to this Deed or effected by the Security Trustee, a Receiver or Delegate in exercise of its powers under this Deed.

#### **5. PERFECTION OF SECURITY**

##### **5.1 Further Assurance**

Each Chargor shall at any time (and from time to time), to the extent required to do so by and in accordance with clause 25.24 (*Further Assurance*) of the Facilities Agreement,

promptly sign, seal, deliver and complete all documents and do all acts and things which the Security Trustee is entitled by the terms of this Deed to require for:

- (a) perfecting or improving its title to and Security over any Security Assets; or
- (b) vesting or enabling the Security Trustee to vest any Security Assets in itself or its nominee or in any purchaser or to facilitate the sale or other disposal of any of the Security Assets; or
- (c) the exercise of any of the rights or powers attaching to any Security Assets conferred on the Trustee by this Deed,

such documents to be prepared by or on behalf of the Security Trustee (at the cost of the relevant Chargor) and to be in such form as the Security Trustee may require.

## **5.2 Deed of Adherence and Transfer**

Upon execution of this Deed or at any time or times thereafter at the request of the Security Trustee and notwithstanding any other term of a Finance Document, each Chargor shall irrevocably:

- (a) in its capacity as an existing member of the LLP, immediately execute and hand over to the Security Trustee a deed of adherence in the form set out in Schedule 2 (*Deed of Adherence*); and
- (b) execute and hand over to the Security Trustee a deed of transfer in the form set out in Schedule 3 (*Transfer*).

Delivery, completion and dating of the deeds of adherence and transfer shall be contingent upon the occurrence of a Declared Default.

## **5.3 Security Assets and title documentation**

Upon execution of this Deed and notwithstanding any other term of the Finance Documents, the Chargors will deposit with the Security Trustee in respect of the Security Assets:

- (a) a certified copy of the LLP Agreement; and
- (b) all other deeds or documents relating thereto as the Security Trustee may require.

## **6. RIGHTS OF THE PARTIES IN RESPECT OF MEMBERSHIP INTERESTS**

### **6.1 Voting prior to a Declared Default:** Prior to a Declared Default, each Chargor shall be entitled to:

- (a) receive and retain all dividends, distributions, profits and other monies paid on or derived from its Membership Interests; and
- (b) exercise all voting and other rights and powers attaching to its Membership Interests provided that it must not do so in a manner which:
  - (i) has the effect of changing the rights attaching to any Membership Interests;

- (ii) has the effect of changing the terms of any Related Rights; or
- (iii) is prejudicial to the interests of the Beneficiaries.

6.2 Notwithstanding Clause 6.1 (and without prejudice to clauses 6.1(b)(i) and ((iii))), at no time shall any Chargor agree to any person being admitted as a member of the LLP other than the Security Trustee, its nominee or any other person to whom a Chargor's Membership Interests are transferred or assigned pursuant to an exercise by the Security Trustee, a Receiver or a Delegate of its powers under this Deed.

6.3 **Voting after a Declared Default:** Following a Declared Default, the Security Trustee may, for the purposes of protecting its interests in relation to the Secured Sums and preserving the value of the security created by this Deed (in each case in its absolute discretion) and/or realising the security created by this Deed, exercise any rights (including the right to collect distributions dividends, interest, principal or other payments of money) in respect of the Security Assets and may do anything necessary to deliver, complete and date any transfer in favour of itself or otherwise and/or any deed of adherence in each case without notice to or consent from any Chargor and in a Chargor's name or otherwise.

6.4 **Obligations:**

- (a) Each Chargor shall promptly pay all calls, costs and/or other payments in respect of its Membership Interests and shall give to the Security Trustee, at the time of issue, copies of all information, offers, notices or other materials supplied to the members of the LLP and shall advise the Security Trustee promptly of any material occurrence affecting the Security Assets or any other part of the security granted to the Security Trustee and shall give to the Security Trustee such information as they may reasonably require relating to the Security Assets.
- (b) Each Chargor shall do all things necessary to keep the LLP Agreement in full force and effect.
- (c) Each Chargor hereby:
  - (i) shall be deemed to have consented to each charge of a Membership Interest granted pursuant to this Deed; and
  - (ii) waives any right of pre-emption vested in it in relation to any Membership Interest (or the interest in the LLP of any further or future member of the LLP) transferred or otherwise sold pursuant to the enforcement of any Transaction Security Document.

7. **REPRESENTATIONS**

Each Chargor makes the representations and warranties set out in this Clause 7 to the Security Trustee and to each other Beneficiary:

7.1 **No Security:** No Security (other than that created by this Deed or any other Transaction Security Document) exists over any Security Asset.

7.2 **Ownership of Security Assets:** The Chargors together are the sole legal and beneficial owners of all the Security Assets.

- 7.3 **Membership Interests fully paid:** The Membership Interests are fully paid and at the date of this Deed no amounts are owing from any Chargor to the LLP in respect of capital contributions whether arising under the LLP Agreement or otherwise.
- 7.4 **Membership:** The Chargors are the only members of the LLP.
- 7.5 **Status:** It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation and it has the power to own its assets and carry on its business as it is being conducted.
- 7.6 **Binding obligations:** This Deed has been properly executed by it and the obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal, valid and binding enforceable obligations.
- 7.7 **Non-conflict with other obligations:** The entry into and performance by it of, and the transactions and granting of Security contemplated by, this Deed do not and will not conflict with:
- (a) any law or regulation applicable to it;
  - (b) its constitutional documents; or
  - (c) any agreement, instrument or Authorisation binding upon it or any member of the Group or any member of the Group's assets or constitute a default or termination event (howsoever described) under any such agreement or instrument or would result in any liability on the part of a Beneficiary to any third party or require the creation of any security interest over any asset in favour of a third party.
- 7.8 **Power and authority:**
- (a) 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 Deed and the transactions contemplated by this Deed.
  - (b) No limit on its powers will be exceeded as a result of the grant of security contemplated by this Deed.
  - (c) It is acting in all matters relating to this Deed for its own account and not as trustee, nominee or agent or any other capacity whatsoever.
- 7.9 **Validity and admissibility in evidence:** All Authorisations required:
- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and
  - (b) to make this Deed admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect.
- 7.10 **Time when representations made**
- All the representations and warranties in this Clause 7 shall be deemed to be repeated on each day on which there are any Secured Sums outstanding by reference to the facts and circumstances then subsisting.

## **8. UNDERTAKINGS BY THE CHARGORS**

### **8.1 Negative pledge and disposals**

Without the prior written consent of the Security Trustee, except as specifically permitted by the Facilities Agreement, no Chargor shall:

- (a) create or permit to subsist any Security over any Security Asset except as created by this Deed;
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Security Asset; or
- (c) take or permit the taking of any action which may result in the rights attaching to the Membership Interests being altered.

### **8.2 General provisions relating to the Membership Interests**

- (a) No Chargor shall, except with the prior written consent of the Security Trustee, enter into any onerous or restrictive obligation affecting its Membership Interests or any Related Rights.
- (b) Each Chargor shall provide the Security Trustee with all information which it may reasonably request in relation to its Membership Interests or any Related Rights.
- (c) The Chargor shall not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of its Membership Interests or any Related Rights (or make any omission which has such an effect).

## **9. LIABILITY OF CHARGORS RELATING TO SECURITY ASSETS**

Notwithstanding anything contained in this Deed or implied to the contrary, each Chargor remains liable to observe and perform all the conditions and obligations assumed by it in relation to the Security Assets. The Security Trustee is under no obligation to perform or fulfil any such condition or obligation or make any payment in respect of such condition or obligation.

## **10. WHEN SECURITY BECOMES ENFORCEABLE**

### **10.1 When enforceable**

The enforcement powers of the Security Trustee in connection with this Deed shall become immediately enforceable at any time after:

- (a) the occurrence of a Declared Default;
- (b) in relation to any Chargor, a step or proceeding is taken, or a proposal made, for the appointment of an administrator, liquidator or provisional liquidator or for a voluntary arrangement under Part I of the Insolvency Act 1986;
- (c) a step or proceeding is taken in relation to a Chargor with a view to seeking a moratorium; or

- (d) a request has been made by the Company and/or a Chargor to the Security Trustee for the appointment of a Receiver over the Security Assets or in respect of a Chargor.

10.2 **Section 103 of the LPA:** Section 103 of the Law of Property Act 1925 shall not apply to this Debenture, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Debenture. However, the Security Trustee shall not exercise such power of sale until this Debenture has become enforceable.

## 11. ENFORCEMENT OF SECURITY

### 11.1 Powers of Security Trustee

At any time after this Security becomes enforceable (or if so requested by any Chargor by written notice at any time), the Security Trustee may without further notice (unless required by law):

- (a) appoint any person or persons to be a Receiver of all or any part of the Membership Interests and/or Related Rights and/or of the income of the Membership Interests; and/or
- (b) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver and without becoming a mortgagee in possession; and/or
- (c) exercise (in the name of any Chargor and without any further consent or authority of such Chargor) any voting rights and any powers or rights which may be exercised by any person(s) in whose name any Membership Interests and/or Related Rights are registered or who is the holder of any of them and/or
- (d) appoint in writing any person or persons to be an administrator or administrators of such Chargor,

as the Security Trustee may choose in its entire discretion.

11.2 **Receipt of debts:** Following the occurrence of a Declared Default, the Security Trustee, its nominee or any manager, officer or agent of the Security Trustee is hereby irrevocably empowered to:

- (a) receive all debts and claims which may be assigned to the Security Trustee pursuant to this Debenture and/or under any other Transaction Security Document;
- (b) on payment give an effectual discharge for them and on non-payment to take and institute (if the Security Trustee in its sole discretion so decides) all steps and proceedings either in the name of the relevant Chargor or in the name of the Security Trustee for their recovery; and
- (c) agree accounts and make allowances and give time to any surety.

Each Chargor ratifies and confirms whatever the Security Trustee or any manager or officer of the Security Trustee shall do or purport to do under this Clause 11 (*Enforcement of Security*).

- 11.3 **Security Trustee's powers:** The Security Trustee shall have no liability or responsibility to any Chargor arising out of the exercise or non-exercise of the powers conferred on it by this Clause 11, except for gross negligence or wilful default.
- 11.4 **No duty of enquiry:** The Security Trustee need not enquire as to the sufficiency of any sums received by it in respect of any debt or claim or make any claim or take any other action to collect in or enforce them.
- 11.5 **Power to act separately:** Where more than one Receiver is appointed, the appointees shall have power to act separately unless the Security Trustee shall specify to the contrary.
- 11.6 **Receiver's remuneration:** The Security Trustee may from time to time determine the remuneration of a Receiver.
- 11.7 **Removal of Receiver:** The Security Trustee may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Security Assets of which he is the Receiver.
- 11.8 **Further appointments of a Receiver:** Such an appointment of a Receiver shall not preclude:
- (a) the Security Trustee from making any subsequent appointment of a Receiver over all or any Security Assets over which a Receiver has not previously been appointed or has ceased to act; or
  - (b) the appointment of an additional Receiver to act while the first Receiver continues to act.
- 11.9 **Receiver's agency:** The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until such Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Trustee or any other Beneficiary.
- 11.10 **Further powers:** If a Chargor defaults in the observance and performance of any obligation to the Security Trustee, the Security Trustee or its agents (without any of them becoming mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default. The relevant Chargor shall pay to the Security Trustee any monies which are expended by the Security Trustee in exercising its powers under this Clause 11.10 in accordance with Clause 19 (*Costs and Expenses*).

## 12. **POWERS OF A RECEIVER**

The Receiver may exercise, in relation to each Chargor over whose Security Assets he is appointed, all the powers, rights and discretions set out in Schedules 1 and 2 to the Insolvency Act 1986 and in particular, by way of addition to and without limiting such powers, the Receiver may, with or without the concurrence of others (and in each case without becoming a mortgagee in possession):



- (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Security Assets of the relevant Chargor, without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, investments or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of such Chargor;
- (b) promote the formation of a Subsidiary of the relevant Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Security Assets of such Chargor;
- (c) make any arrangement or compromise with any Beneficiary or others as he shall think fit;
- (d) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (e) pay the proper administrative charges of any Beneficiaries in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the relevant Chargor; and
- (f) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Security Assets.

## 12.2 Privileges

- (a) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets, or any part of them, constitute "*financial collateral*" and this Deed and the obligations of the Chargors under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Security Trustee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Sums.
- (c) For the purpose of Clause 12.2(b), the value of the financial collateral appropriated shall be such amount as the Receiver or Security Trustee reasonably determines to be the market value at the time of appropriation by reference to a public index or other applicable generally recognised source or such other process as the Security Trustee may reasonably select, including a valuation carried out by an independent firm of accountants or valuers appointed

by it. For the avoidance of doubt, each Chargor agrees that the method of valuing financial collateral as set out in this clause is commercially reasonable.

- (d) The Security Trustee shall provide written notice to the relevant Chargor of any appropriation pursuant to Clause 12.2(b) and any determination for the purposes of Clause 12.2(c) within five Business Days of such appropriation or determination, provided that any failure to serve such notice shall not prejudice the effectiveness of any such appropriation.

### 13. POWER OF ATTORNEY

- 13.1 **Appointment of attorney:** Each Chargor, by way of security and to more fully secure the performance of its obligations under the Transaction Security Documents, hereby irrevocably appoints the Security Trustee and separately any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a Receiver or administrator has been appointed) to:

- (a) do anything which that Chargor is obliged to do (but has not done within 5 Business Days of being notified by the Security Trustee of such failure and being requested to comply) in accordance with the terms of any Transaction Security Document, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
- (b) enable the Security Trustee or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by any Transaction Security Document or by statute in relation to that Transaction Security Document or the Assets charged, or purported to be charged, by it.

- 13.2 **Ratification:** Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to his appointment under this Clause 13.

- 13.3 **Sums recoverable:** All sums expended by the Security Trustee, any nominee and/or any Receiver under this Clause 13 shall be recoverable from each Chargor under the terms of clause 19 (*Costs and Expenses*) and clause 20 (*Other Indemnities*) of the Intercreditor Agreement.

### 14. APPLICATION OF MONEY RECEIVED BY THE SECURITY TRUSTEE OR A RECEIVER

- 14.1 **Order of priority:** Any money received or realised under the powers conferred by this Deed shall be paid or applied in accordance with the terms of the Intercreditor Agreement.
- 14.2 **Suspense account:** Until all the Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Trustee may place and keep to the credit of a suspense account any money received from or realised in respect of any Chargor's liability under this Deed. The Security Trustee shall have no intermediate obligation to apply such money in or towards the discharge of any of the Secured Sums. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Security Trustee in good faith to be a fair market rate.
- 14.3 **Discretion to apply:** Until all Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Trustee may refrain from applying or enforcing

any other moneys, security or rights held by it in respect of the Secured Sums or may apply and enforce such moneys, security or rights in such manner and in such order as it shall decide in its unfettered discretion.

15. **PROTECTION OF THIRD PARTIES**

15.1 **No duty to enquire:** No purchaser from, or other person dealing with, the Security Trustee, its nominee or any Receiver appointed under this Deed shall be concerned to enquire whether any of the powers which the Security Trustee has exercised or purported to exercise has arisen or become exercisable, or whether this Deed has become enforceable, or whether any nominee or Receiver has been validly appointed, or whether any event or cause has happened to authorise the Security Trustee, any nominee or a Receiver to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.

15.2 **Receipt:** The receipt of the Security Trustee shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any money paid to or by the direction of the Security Trustee.

16. **PROTECTION OF THE SECURITY TRUSTEE, ANY NOMINEE AND RECEIVER**

16.1 **Limitation:** Neither the Security Trustee nor any nominee nor Receiver shall be liable in respect of any Liability which arises out of the exercise or the purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Deed, except if and in so far as such Liability results from its own gross negligence or wilful default.

16.2 **Entry into possession:** Without prejudice to the generality of Clause 16.1 (*Limitation*), neither the Security Trustee, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Trustee, or any nominee enters into possession of any Security Assets, it shall be entitled at any time at its discretion to go out of possession.

17. **SECURITY TRUSTEE**

17.1 **Security Trustee as trustee:** The Security Trustee declares itself to be a trustee of this Deed (and any other Security created in its favour pursuant to this Deed) for the Beneficiaries. The retirement of the person for the time being acting as Security Trustee and the appointment of a successor shall be effected in the manner provided for in the Intercreditor Agreement.

17.2 **Trustee Act 2000:** The Parties agree that the Security Trustee shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.

17.3 **No partnership:** Nothing in this Deed shall constitute or be deemed to constitute a partnership between any of the Beneficiaries and the Security Trustee.

18. **INTEREST ON OVERDUE AMOUNTS**

Any amount not paid in accordance with this Deed when due shall carry interest at the rate and in accordance with the terms contained in the relevant Finance Document in

relation to overdue sums or at such other rate as may be agreed between the relevant Chargor and Beneficiary from time to time.

**19. TRANSFER BY A BENEFICIARY**

- (a) Any Beneficiary may at any time assign and transfer all or any of its rights in relation to this Deed to any person or otherwise grant an interest in them to any person to the extent that it is permitted to transfer its rights under the terms of the Facilities Agreement.
- (b) The Security Trustee may assign and transfer all of its rights and obligations under this Deed to any replacement Security Trustee appointed in accordance with the Intercreditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Trustee shall be, and be deemed to be, acting as agent and trustee for each of the Beneficiaries (including itself) for the purposes of this Deed in replacement of the previous Security Trustee.

**20. CONTINUING SECURITY**

This Deed shall be a continuing security for the Beneficiaries, notwithstanding any intermediate payment or settlement of accounts or other matter whatever, and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien or other rights exercisable by any Beneficiary as banker against any Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Beneficiary.

**20.1 Right to enforce**

This Deed may be enforced against each or any Chargor without any Beneficiary first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

**21. RELEASE OF SECURITY**

- 21.1 Redemption:** Subject to Clause 21.2 (*Avoidance of Payments*), if all Secured Sums have been irrevocably paid in full and none of the Beneficiaries are under any further actual or contingent liability to make advance or provide other financial accommodation to any person under any Finance Document, the Security Trustee will (at the request and cost of the Chargors), execute and do all such reasonable acts as may be necessary to release the Assets from the Security constituted by this Deed.

- 21.2 Avoidance of Payments:** If the Security Trustee considers in good faith that any amount received in payment or purported payment of the Secured Sums is capable of being avoided or reduced by virtue of any insolvency, bankruptcy, liquidation or other similar laws, the liability of each Chargor under this Deed and the Security constituted by this Deed shall continue and such amount shall not be considered to have been irrevocably paid.

**22. THIRD PARTY RIGHTS**

- 22.1 Directly enforceable rights:** Pursuant to the Contracts (Rights of Third Parties) Act 1999:

- (a) the provisions of Clause 20 (*Continuing Security*), and Clause 19 (*Transfer by a Beneficiary*) shall be directly enforceable by a Beneficiary;
- (b) the provisions of Clause 12 (*Powers of a Receiver*) Clause 16 (*Protection of the Security Trustee, any nominee and Receiver*) inclusive shall be directly enforceable by any nominee or Receiver; and
- (c) the provisions of Clause 15 (*Protection of third parties*) shall be directly enforceable by any purchaser.

22.2 **Exclusion of Contracts (Rights of Third Parties) Act 1999:** Save as otherwise expressly provided in Clause 22.1 (*Directly enforceable rights*), no person other than a Party shall have any right by virtue of either the Contracts (Rights of Third Parties) Act 1999 or any other provision of English law under which rights might accrue to persons other than a Party, to enforce any term (express or implied) of this Deed.

22.3 **Rights of the Parties to vary:** The Parties (or the Company, on behalf of the Chargors, and the Security Trustee (on behalf of the Beneficiaries)) may by agreement vary any term of this Deed (including this Clause 22) without the necessity of obtaining any consent from any other person.

## 23. JOINT AND SEPARATE LIABILITY

All covenants, agreements, representations and warranties on the part of the Chargors contained in this Deed are given by them jointly and separately and shall be construed accordingly.

## 24. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS

24.1 **Delay etc:** All rights, powers and privileges under this Deed shall continue in full force and effect, regardless of any Beneficiary, nominee or Receiver exercising, delaying in exercising or omitting to exercise any of them.

24.2 **Severability:** No provision of this Deed shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.

24.3 **Illegality, invalidity, unenforceability:** Any provision of this Deed which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Deed.

24.4 **Variations:** No variation of this Deed shall be valid and constitute part of this Deed, unless such variation shall have been made in writing by all Parties.

24.5 **Consents:** Save as otherwise expressly specified in this Deed, any consent of the Security Trustee may be given absolutely or on any terms and subject to any conditions as the Security Trustee may determine in its entire discretion.

## 25. COUNTERPARTS

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

26. **NOTICES**

26.1 **Notices provision:** Any communications to be made under or in connection with this Deed shall be made in accordance with the notice provisions of the Facilities Agreement.

26.2 **Addresses:** If no address has been provided for any Chargor under the Facilities Agreement, then the address (and the officer, if any, for whose attention the communication is to be made) of each Chargor for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name in Schedule 1 (*The Original Chargors*) or any substitute address or department or officer as that Chargor may notify to the Security Trustee by not less than five Business Days' notice.

27. **SECURITY TRUSTEE**

The provisions of clause 17 (*The Security Trustee*) and clause 24 (*Consents, Amendments and Override*) of the Intercreditor Agreement shall apply to the Security Trustee's rights, obligations and duties under this Deed as if set out in this Deed in full.

28. **GOVERNING LAW**

This Deed and all non-contractual obligations arising in any way whatsoever out of or in connection with this Deed shall be governed by, construed and take effect in accordance with English law.

29. **ENFORCEMENT**

29.1 **Jurisdiction:**

- (a) The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any claim for set-off) or the legal relationships established by this Deed (a "**Dispute**"), only where such Dispute is the subject of proceedings commenced by a Chargor.
- (b) Where a Dispute is the subject of proceedings commenced by one or more Beneficiaries, the Beneficiaries are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Chargor raises a counter-claim in the context of proceedings commenced by one or more of the Beneficiaries, that Chargor shall bring such counter-claim before the court seized of the Beneficiary's claim and no other court.
- (c) The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude any Beneficiary from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- (d) To the extent allowed by law, each Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

**THIS DEED** has been executed by each Chargor and the LLP as a deed and signed by the Security Trustee and it has been delivered and shall take effect on the date stated at the beginning of this document.

**SCHEDULE 1**

**The Original Chargors**

<b>Company name</b>	<b>Registered number</b>	<b>Registered office</b>
Stobart Holdings Limited	07246663	Third Floor, 15 Stratford Place, London, England, W1C 1BE
Stobart Rail Limited	02821207	
London Southend Airport Company Limited	02881745	
Stobart Energy Limited	07042490	
Westlink Holdings Limited	04444522	



**SCHEDULE 2**  
**Deed of Adherence**

THIS DEED is made on

20[●]

**BETWEEN:**

- (1) **[Stobart Group Brands LLP]** (a limited liability partnership incorporated and registered in England and Wales under number [●]), the registered office of which is at [●] (the "LLP");
- (2) **[Chargor]** (registered in England and Wales with number [●]) whose registered office is at [●] (the "Existing member"); and
- (3) The incoming member(s) specified in the schedule to this Deed (the "Further Member(s)").

**BACKGROUND**

By a Limited Liability Partnership Agreement dated [●] (the "**LLP Agreement**") the Members (as defined in that agreement) agreed to regulate their relations as members of the LLP.

IT IS AGREED as follows:

1. **INTERPRETATION**

Save where the context otherwise requires, the words and expressions used in this Deed shall have the meanings respectively assigned to them in the LLP Agreement.

2. **ADHERENCE TO LLP**

- (a) The Further Member(s) confirms that it has been supplied with a copy of the LLP Agreement.
- (b) The Further Member(s) covenants with the Members for the time being to observe and perform and be bound by the terms and conditions of the LLP Agreement (in so far as the same remain subsisting and unfulfilled) on terms that it shall become a Member under the LLP Agreement with effect from the date of this Deed.
- (c) Each of the parties covenants with the Further Member(s) that the Further Member(s) shall be entitled to the benefit of the terms of the LLP Agreement as if it were a party to it and named in it as a Member.

3. **RESIGNATION OF EXISTING MEMBER**

The Existing Member with effect from the date of this Deed resigns as a Member of the LLP.

4. **OTHER MATTERS**

[       ]

5. **SUPPLEMENTAL**

- 5.1 This Deed shall be supplemental to and read together with the LLP Agreement.
- 5.2 The provisions of clause 27 (*Jurisdiction*) of the LLP Agreement shall apply as if set out in full in this Deed.
- 5.3 For the purposes of clause 26 (*Notice*) of the LLP Agreement, the address for service of any Further Member shall be the address stated against its name in the schedule to this Deed of Adherence, subject to notification of a change of address by the (relevant) Further Member to the parties to the LLP Agreement in accordance with that clause.

**THIS DEED** has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

### SCHEDULE 3

#### Transfer

THIS DEED is made on

[•]

**BETWEEN:**

- (1) **[Chargor]** (registered in England and Wales with number [•]) whose registered office is at [•] (the "**Transferor**"); and
- (2) **[• ]** (the "**Transferee**").

**1. RECITAL**

The Transferor has agreed to transfer its interest in Stobart Group Brands LLP (registered number OC370326) (the "**LLP**") to the Transferee.

**2. OPERATIVE PROVISIONS:**

- 2.1 The Transferor hereby transfers to the Transferee with full title guarantee and free from all encumbrances the Transferor's interest in the LLP.
- 2.2 The Transfer effected in the terms of Clause 1 above shall take effect on the execution and delivery of this Deed by the relevant parties.
- 2.3 This Deed may be executed in counterparts each of which shall be deemed to be an original hereof.
- 2.4 The Transfer shall be governed by and construed in accordance with the laws of England and Wales.

**THIS DEED** has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

EXECUTION PAGES

THE CHARGORS

Executed as a )  
Deed by **STOBART HOLDINGS LIMITED** )  
(pursuant to a resolution of its Board )  
of Directors) acting by: )

Director

in the presence of:

Signature of witness:

Name of witness:

Paula Rodrigues

Address of witness:

15 Stratford Place  
W1C 1BE

Executed as a )  
Deed by **STOBART RAIL LIMITED** )  
(pursuant to a resolution of its Board )  
of Directors) acting by: )

Director

in the presence of:

Signature of witness:

Name of witness:

Paula Rodrigues

Address of witness:

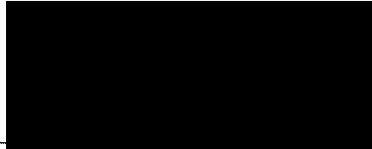
15 Stratford Place  
W1C 1BE

Executed as a )  
Deed by **LONDON SOUTHEAST AIRPORT** )  
**COMPANY LIMITED** )  
(pursuant to a resolution of its Board ) Director  
of Directors) acting by:



in the presence of:

Signature of witness:

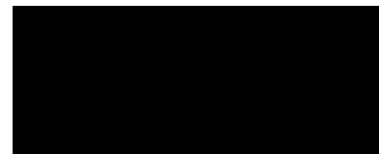


Name of witness: Paula Rodrigues

Address of witness:

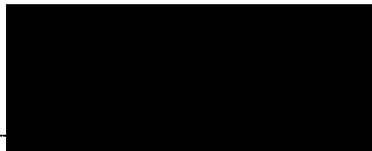
13 Stratford Place  
W1C 1BE

Executed as a )  
Deed by **STOBART ENERGY LIMITED** )  
(pursuant to a resolution of its Board )  
of Directors) acting by: ) Director



in the presence of:

Signature of witness:



Name of witness: Paula Rodrigues

Address of witness:

15. Stratford Place  
W1C 1BE

Executed as a )  
Deed by **WESTLINK HOLDINGS LIMITED** )  
(pursuant to a resolution of its Board )  
of Directors) acting by: )

Director

in the presence of:

Signature of witness:

Name of witness:

Paula Rodrigues

Address of witness:

15 Stratford Place  
W1C 1BE

#### THE LLP

Executed as a Deed by **STOBART GROUP BRANDS LLP** (pursuant to a resolution of its members) acting by:

**WARWICK BRADY**, duly authorised by **STOBART HOLDINGS LIMITED** to sign on its behalf as member of **STOBART GROUP BRANDS LLP**

and

**WARWICK BRADY**, duly authorised by **WESTLINK HOLDINGS LIMITED** to sign on its behalf as member of **STOBART GROUP BRANDS LLP**

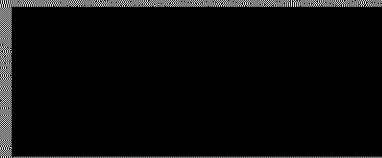
Warwick Brady on behalf of  
Stobart Holdings Limited

Warwick Brady on behalf of  
Westlink Holdings Limited

THE SECURITY TRUSTEE

Signed by  
for and on behalf of LLOYDS BANK PLC:

)  
)  
)



Authorised Signatory

Address details: