



Registration of a Charge

Company name: **Metinvest Capital UK Limited**

Company number: **08785187**



X62U6TAX

Received for Electronic Filing: **23/03/2017**

Details of Charge

Date of creation: **22/03/2017**

Charge code: **0878 5187 0001**

Persons entitled: **MADISON PACIFIC TRUST LIMITED, SUITE 1720, 17/F, TOWER 1,
ADMIRALTY CENTRE, 18 HARCOURT ROAD, ADMIRALTY, HONG KONG
(AS COMMON SECURITY AGENT)**

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:

CLIFFORD CHANCE



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8785187

Charge code: 0878 5187 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd March 2017 and created by Metinvest Capital UK Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd March 2017 .

Given at Companies House, Cardiff on 24th March 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



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

EXECUTION VERSION

DATED 22 March 2017

METINVEST CAPITAL UK LIMITED

IN FAVOUR OF

MADISON PACIFIC TRUST LIMITED
AS COMMON SECURITY AGENT

SECURITY ASSIGNMENT OF CONTRACTUAL
RIGHTS UNDER A SPECIFIC CONTRACT

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THIS AGREEMENT is made by way of deed on 22 March 2017

BY

- (1) **METINVEST CAPITAL UK LIMITED**, a legal entity incorporated in accordance with the laws of England and Wales, with its registered office at 3rd Floor, 11-12 St.James' Square, London, United Kingdom SW1Y 4LB, and with company number 08785187 (the "**Assignor**") in favour of
- (2) **MADISON PACIFIC TRUST LIMITED** as common security agent for the Secured Parties (the "**Common Security Agent**").

RECITALS:

- (A) Pursuant to the US\$1bn PXF Facility Agreement the US\$1bn Lenders made available to the Company an up to \$1,000,000,000 pre-export finance term facility for the purposes of refinancing its existing indebtedness, financing its working capital requirements, capital expenditure and general corporate purposes.
- (B) Pursuant to the US\$325m PXF Facility Agreement the US\$325m Lenders made available to the Company an up to \$325,000,000 pre-export finance term facility for the purposes of financing its working capital requirements, capital expenditure and general corporate purposes.
- (C) Pursuant to the US\$560m PXF Facility Agreement the US\$560m Lenders made available to the Company an up to \$560,000,000 pre-export finance term facility for the purposes of financing its working capital requirements, capital expenditure and general corporate purposes.
- (D) Pursuant to the US\$300m PXF Facility Agreement the US\$300m Lenders made available to the Company an up to \$300,000,000 pre-export finance term facility for the purposes of refinancing its existing indebtedness and general corporate purposes.
- (E) The Company and the Lenders have agreed to amend the Original PXF Facility Agreements on the terms set out in the Amendment and Restatement Agreement, so as to combine them into a single facility agreement, with shared security and a common set of terms.
- (F) The Company has authorised the issue of the Notes to be constituted by the Note Trust Deed.
- (G) It is a condition precedent to the amendment of the Original PXF Facility Agreements and the issuance of the Notes that the Assignor enters into this Agreement.
- (H) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Amendment and Restatement Agreement" has the meaning given to that term in the PXF Facility Agreement.

"Assigned Property" means the rights and property expressed to be assigned or charged in Clause 2 (*Creation of security interests*).

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Collateral Rights" means all rights, powers and remedies of the Common Security Agent provided by or pursuant to this Agreement or by law.

"Contracts" means each of:

- (a) the Initial Contract; and
- (b) the Future Contracts.

"Delegate" means a delegate or sub—delegate appointed by the Common Security Agent or a Receiver in accordance with Clause 26.2 (*Delegation*) of this Agreement.

"Encumbrance Register" means the State Register of Encumbrances over Movable Property established and maintained pursuant to the Law of Ukraine "On Securing Creditors' Claims and Registration of Encumbrances" dated 18 November 2003, No. 1255-IV, as amended, and the Resolution of the Cabinet of Ministers of Ukraine "On the Approval of the Procedure for Maintenance of the State Register of Encumbrances over Movable Property" dated 5 July 2004, No. 830, as amended, or any other state register established in substitution thereof.

"Future Contract" means any agreement or instrument under which any amounts are owed to the Assignor by Ilyich Steel, Ingulets GOK or Central GOK or any Subsidiary of Ilyich Steel, Ingulets GOK or Central GOK in connection with any loans, credits or other financial arrangements having a similar effect, which is entered into on or after the date of this Agreement and assigned in accordance with Clause 3.5 (*Future Contracts*).

"Initial Contract" means loan agreement no. 3431-21 dated 21 April 2010 and entered into between MetalUkr Holding Limited as creditor and Ingulets GOK as borrower (as amended from time to time), the rights and obligations of MetalUkr Holding under which were assigned to the Assignor pursuant to an assignment agreement dated 25 November 2013 and which entered into force on 25 December 2013.

"Intercreditor Agreement" means the intercreditor agreement dated on or around the date of this Agreement and made between, amongst others, the Company, the Common Security Agent and the Note Trustee.

"Interest Period" has the meaning given to that term in the PXF Facility Agreement.

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered pursuant to the terms of an Intercreditor Document.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"Note Trust Deed" means the trust deed governing the Notes dated on or about the date of this Agreement and made between the Company as issuer and the Note Trustee.

"Note Trustee" means Madison Pacific Trust Limited.

"Notice of Assignment" means a notice of assignment in substantially the form set out in the Schedule or in such form as may be specified by the Common Security Agent.

"Original Jurisdiction" means England and Wales.

"Original PXF Facility Agreements" has the meaning given to that term in the PXF Facility Agreement.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Assigned Property.

"Related Rights" means, in relation to a Contract:

- (a) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that Contract; and
- (b) any monies and proceeds paid or payable in respect of that Contract.

"Relevant Jurisdiction" means, in relation to the Assignor:

- (a) its Original Jurisdiction;

- (b) any jurisdiction where any Assigned Property is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of the Security created by this Agreement.

"**Scheme** " means the scheme of arrangement pursuant to Part 26 of the Companies Act 2006 sanctioned on 8 February 2017 by order of the High Court of Justice of England and Wales made between, amongst others, the Company, the Lenders and the holders of the Notes.

"**Secured Obligations**" means all the Liabilities and all other liabilities and obligations at any time due, owing or incurred by any member of the Group and by any Debtor to any Secured Party under the Debt Documents, including without limitation the obligations of each Debtor set out in clause 17.3 (*Parallel debt*) of the Intercreditor Agreement, whether present or future, actual and contingent (and whether incurred solely or jointly and as principal or surety or in any other capacity), together with any of the following matters relating to or arising in respect of the Liabilities and any other liability or obligation falling within this definition:

- (a) any deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or under any indemnity given under or in connection with any document or agreement evidencing or constituting the Liabilities and any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by the Group and by any Debtor of a payment, prepayment, repayment, redemption, defeasance or discharge of the Liabilities and any other liability or obligation falling within this definition on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

"**Security Period**" means the period beginning on the date of this Agreement and ending on the earlier of:

- (a) the date on which this Security is released in accordance with paragraph (c) of clause 11.5 (*Release of OpCo Share Pledges and OpCo Security Assignments*) or clause 13.2 (*Facilitation of Non-Distressed Disposals*) of the Intercreditor Agreement; and
- (b) the date on which the Common Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally paid or discharged in full and no Secured Party is under any further actual or contingent obligation to make advances or provide other financial accommodation to any Debtor or any member of the Group or any other person under any of the Debt

Documents, subject always to the provisions of the Intercreditor Agreement.

"**Test Date**" has the meaning given to that term in the PXF Facility Agreement.

1.2 Terms defined in Intercreditor Agreement

Unless defined in this Agreement or the context otherwise requires, a term defined in the Intercreditor Agreement has the same meaning in this Agreement or any notice given under or in connection with this Agreement.

1.3 Construction

In this Agreement:

- (a) the rules of interpretation contained in clause 1.2 (*Construction*) of the Intercreditor Agreement shall apply to the construction of this Agreement, or in any notice given under or in connection with this Agreement;
- (b) any reference to "**including**" and "**include**" shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and
- (c) unless otherwise specified in this Agreement, references in this Agreement to any Clause or Schedule shall be to a Clause or Schedule contained in this Agreement.

1.4 Incorporation of provisions from Intercreditor Agreement

The provisions of clause 1.3 (*Third party rights*) of the Intercreditor Agreement are incorporated into this Agreement as if expressly set out in full in this Agreement, but so that references in those clauses to the Intercreditor Agreement are references to this Agreement.

1.5 Present and future assets

- (a) A reference in this Agreement to any Assigned Property or other asset includes, unless the contrary intention appears, present and future Assigned Property and other assets.
- (b) The absence of or incomplete details of any Assigned Property shall not affect the validity or enforceability of any Security under this Agreement.

1.6 Common Security Agent assumes no obligations

Neither the Common Security Agent, any Receiver nor any Delegate shall be under any obligation in relation to the Assigned Property as a consequence of this Agreement and the Assignor shall at all times remain liable to perform all obligations in respect of the Assigned Property.

2. CREATION OF SECURITY INTERESTS

2.1 Assignment

The Assignor assigns and agrees to assign absolutely to the Common Security Agent with full title guarantee all of its rights, title and interest from time to time in and to all the Contracts and all Related Rights as continuing Security for the payment and discharge of all the Secured Obligations.

2.2 Charge

The Assignor, with full title guarantee and as security for the payment of all Secured Obligations, charges in favour of the Common Security Agent by way of first fixed charge, all the Contracts and all Related Rights, to the extent not validly and effectively assigned under Clause 2.1 (*Assignment*).

3. PROVISIONS AS TO SECURITY AND PERFECTION

3.1 Negative pledge

Except as permitted under the Debt Documents, the Assignor shall not at any time during the Security Period create or permit to subsist any Security over all or any part of the Assigned Property.

3.2 Restriction on dealings

The Assignor shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any Assigned Property, except as permitted by the Debt Documents.

3.3 Implied covenants for title

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (*Creation of security interests*).
- (b) It shall be implied in respect of Clause 2 (*Creation of security interests*) that the Assignor is disposing of the Assigned Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

3.4 Notice of Assignment of Initial Contract

The Assignor shall, on the date of this Agreement, deliver to the Common Security Agent (or procure the delivery of) a Notice of Assignment duly executed by, or on behalf of, the Assignor in respect of the Initial Contract acknowledged by the relevant third party.

3.5 Future Contracts

- (a) The Assignor shall not be a creditor in respect of any Financial Indebtedness owing to it by Ilyich Steel, Ingulets GOK or Central GOK, unless such

Financial Indebtedness is documented in writing and in a form that is acceptable to the Common Security Agent prior to the incurrence of that indebtedness (either in whole or in part).

- (b) Promptly upon the Assignor entering into any agreement or instrument under which the Assignor is a creditor in respect of any Financial Indebtedness owing to it by Ilyich Steel, Ingulets GOK or Central GOK, the Assignor shall assign its rights, title and interest in and to such agreement and instrument and all Related Rights to the Common Security Agent and that agreement shall be designated a "Future Contract" for the purposes of this Agreement.
- (c) The Assignor shall, within five Business Days of the date of the relevant agreement or instrument, deliver to the Common Security Agent (or procure the delivery of) a Notice of Assignment duly executed by, or on behalf of, the Assignor in respect of that agreement or instrument, as the case may be, acknowledged by the relevant third party.

4. FURTHER ASSURANCE

4.1 Extension of implied covenant

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 4.2 below.

4.2 Further assurance

The Assignor shall promptly, at its own cost, take all such action (including making all filings, registrations and notarisations) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Common Security Agent may reasonably specify (and in such form as the Common Security Agent may reasonably require) in favour of the Common Security Agent or its nominee(s):

- (a) to create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Assigned Property (which may include, without limitation, (i) the execution by the Assignor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Assigned Property or (ii) such actions to be taken or documents to be executed as the Common Security Agent may specify in order to register the Security on the Encumbrance Register) or for the exercise of the Collateral Rights; and/or
- (b) to facilitate the realisation of the Assigned Property.

5. ASSIGNOR'S REPRESENTATIONS AND UNDERTAKINGS

5.1 Representations

(a) General

The Assignor makes the representations and warranties set out in this Clause 5 to each Secured Party.

(b) **Status**

- (i) It is a limited liability corporation, duly incorporated and validly existing under the law of its Original Jurisdiction.
- (ii) It has the power to own its assets and carry on its business as it is being conducted.

(c) **Binding obligations**

Subject to the Legal Reservations:

- (i) the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and
- (ii) (without limiting the generality of paragraph (i) above) subject to any registration of the Assigned Property or this Agreement required by applicable laws, this Agreement is a party creates the security interests which it purports to create and those security interests are valid and effective.

(d) **Non-conflict with other obligations**

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

- (i) any law or regulation applicable to it, subject to the Legal Reservations;
- (ii) its constitutional documents; or
- (iii) any agreement or instrument binding upon it or its assets or constitute a default or termination event (however described) under any such agreement or instrument.

(e) **Power and authority**

- (i) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement.
- (ii) No limit on its powers will be exceeded as a result of the grant of security contemplated by this Agreement.

(f) **Validity and admissibility in evidence**

All Authorisations and any other acts, conditions or things required or desirable:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement; and
- (ii) to make this Agreement admissible in evidence in its Relevant Jurisdictions,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

(g) Governing law and enforcement

Subject to the Legal Reservations:

- (i) the choice of governing law of this Agreement will be recognised and enforced in each of its Relevant Jurisdictions;
- (ii) any judgment obtained in relation to this Agreement in England will be recognised and enforced in each of its Relevant Jurisdictions, save that a judgment will only be recognised and enforced in Ukraine:
 - (A) to the extent that there exists a treaty or convention providing for the recognition and enforcement of judgments in civil and commercial matters between England and Ukraine; or
 - (B) if, and to the extent that, there exists a principle of reciprocity in relation to the recognition and enforcement of judgments in civil and commercial matters between England and Ukraine; and
- (iii) any arbitral award obtained in relation to this Agreement in the relevant seat of that arbitral tribunal specified in this Agreement will be recognised and enforced in each of its Relevant Jurisdictions.

(h) No filing or stamp taxes

Under the laws of the Relevant Jurisdictions it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated by this Agreement, except for the registration of amendments to any Contract with the National Bank of Ukraine (or any authority that replaces the National Bank of Ukraine) to enable the Assignor's counterparty under that Contract to make any and all voluntary payments under that Contract in favour of the Common Security Agent in accordance with its instructions.

(i) Security

No Security exists over the Assigned Property other than the Security created pursuant to this Agreement.

(j) **Ranking**

The Security created by this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security.

(k) **Contract in force**

Each Contract is in full force and effect, enforceable in accordance with its terms, has not been amended, varied, superseded or supplemented, no provisions have been waived and, at the date specified above, the Assignor is not in breach of any term or condition of any Contract.

(l) **No restrictions**

There are no restrictions on the Assignor's ability to assign the Assigned Property, whether contained in a Contract or in any other document.

(m) ***Ownership of the Assigned Property***

- (i) It is the absolute legal and beneficial owner of the Assigned Property and has not sold or disposed of or granted any interest in or rights in respect of any of its right, title and interest, in the Assigned Property.
- (ii) The Assigned Property is not subject to any options to purchase, pre-emption rights or similar rights or other restrictions upon disposal which would operate to restrict in any way their disposal by the Common Security Agent should it come to enforce its Security contained in this Agreement.

(n) ***Centre of main interests and establishments***

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**"), the Assignor's centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

(o) ***Repetition***

The representations set out in paragraphs (a) (*Status*) to (n) (*Centre of main interests and establishments*) of this Clause are deemed to be made by the Assignor (by reference to the facts and circumstances then existing) on:

- (i) the Effective Date;
- (ii) the first day of each Interest Period and on each Test Date; and
- (iii) on each date on which a Contract is assigned under this Agreement.

5.2 **Undertakings**

(a) ***Authorisations***

The Assignor shall promptly:

(i) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(ii) supply certified copies to the Common Security Agent of:

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

(A) enable it to perform its obligations under this Agreement; and

(B) ensure the legality, validity, enforceability or admissibility in evidence of this Agreement.

(b) ***Compliance with laws***

The Assignor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Agreement.

(c) ***Information and access***

The Assignor shall from time to time on request of the Common Security Agent, provide the Common Security Agent with any information as the Common Security Agent may reasonably require about the Assigned Property and the Assignor's compliance with the terms of this Agreement (including copies of the Contracts and any amendments thereto).

(d) ***Preservation of assets***

The Assignor shall not do or permit to be done any act or thing which might jeopardise the rights of the Common Security Agent in the Assigned Property or which might adversely affect or diminish the value of the Assigned Property.

(e) ***Notify***

The Assignor shall promptly notify the Common Security Agent of any circumstances which give rise, or may reasonably be expected to give rise, to a claim on or in relation to the Assigned Property.

(f) ***No variation***

The Assignor shall not, except with the prior written consent of the Common Security Agent:

(i) amend, supplement, vary or waive (or agree to amend, supplement, vary or waive) any provision of any Contract, unless such amendment, supplement, variation or waiver:

(A) is of a minor or administrative nature; and

- (B) is not prejudicial to any Secured Party; and
 - (C) is notified to the Common Security Agent as soon as reasonably practicable;
 - (ii) exercise any right to rescind, cancel or terminate any Contract;
 - (iii) release any counterparty from any obligations under any Contract;
 - (iv) waive any breach of a Contract by any counterparty or consent to any act or omission which would otherwise constitute such a breach; or
 - (v) except as provided in this Agreement, novate, transfer or assign any of its rights under any Contract.
- (g) ***Compliance with Contract***

The Assignor shall promptly comply with its obligations under the Contracts.

(h) ***Breach***

The Assignor shall notify the Common Security Agent of:

- (i) any breach of or default under a Contract by it or any other party;
- (ii) any right of it or any other party arising to rescind, cancel or terminate a Contract; and
- (iii) any claim made or to be made by it or any other party under or in connection with a Contract,

promptly upon becoming aware of the same. The Assignor shall provide the Common Security Agent with reasonable details of any such claim. The Assignor shall not take any action or proceedings in relation to any such claim except with the prior consent of the Common Security Agent.

(i) ***No set off etc***

The Assignor shall not take or omit to take any action which might result in

- (i) the alteration or impairment of any rights in the Assigned Property;
- (ii) any default of any of its obligations under any Contract;
- (iii) any right to terminate a Contract becoming exercisable by the obligor(s) under that Contract; or
- (iv) any counterclaims or rights of set-off arising under any Contract.

6. PAYMENTS UNDER THE CONTRACTS

If, at any time after the occurrence of an OpCo Collateral Enforcement Event (as long as it is continuing), the Assignor receives any payment under a Contract in breach of any payment instructions of the Common Security Agent, it shall hold that payment on trust for the Secured Parties and shall promptly pay or transfer the same to the Common Security Agent or as the Common Security Agent may direct.

7. ENFORCEMENT OF SECURITY

Any time after the occurrence of an OpCo Collateral Enforcement Event (as long as it is continuing), the Security created by or pursuant to this Agreement is immediately enforceable and the Common Security Agent may, without notice to the Assignor or prior authorisation from any court, in its discretion (but always subject to the terms of the Debt Documents):

- (a) secure and perfect its title to all or any part of the Assigned Property (including transferring the same into the name of the Common Security Agent or its nominee(s)) or otherwise exercise in relation to the Assigned Property all the rights of an absolute owner;
- (b) enforce all or any part of that Security, at the times, in the manner and on the terms it thinks fit, and take possession of, hold, dispose of, apply or transfer all or any part of the Assigned Property (and any assets of the Assignor which, when got in, would be part of the Assigned Property), at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration) or as directed by the Instructing Group; and
- (c) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on mortgagees and by this Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

8. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION

8.1 Extension of power of sale

The power of sale or other disposal conferred on the Common Security Agent and on any Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Agreement.

8.2 Restrictions

The restrictions contained in sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Common Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Common Security Agent without notice to the Assignor on or at any time after the Security created by or pursuant to this Agreement

has become enforceable in accordance with Clause 7 (*Enforcement of Security*).

8.3 Right of appropriation

- (a) After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 7 (*Enforcement of Security*), to the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended (the "**Regulations**") apply to all or any part of the Assigned Property, the Common Security Agent shall have the right to appropriate the relevant Assigned Property in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Assignor. For this purpose, the parties agree that the value of the Assigned Property so appropriated shall be the market value at the time of appropriation as determined by the Common Security Agent by reference to such process as it may select, including, but not limited to, a valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Common Security Agent.
- (b) The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

8.4 Statutory powers

The powers conferred by this Agreement on the Common Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Agreement) and such powers shall remain exercisable from time to time by the Common Security Agent in respect of each Contract. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Agreement, the terms of this Agreement shall prevail.

9. APPOINTMENT OF RECEIVER

9.1 Appointment and removal

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 7 (*Enforcement of Security*), the Common Security Agent may by deed or otherwise (acting through an authorised officer of the Common Security Agent), without prior notice to the Assignor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Assigned Property;
- (b) appoint two or more Receivers of separate parts of the Assigned Property;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

9.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 9.1 (*Appointment and Removal*) shall be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) the agent of the Assignor which shall be solely responsible for his acts, defaults, omissions, contracts, engagements and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Common Security Agent ; and
- (c) entitled to remuneration for his services at a rate to be fixed by the Common Security Agent (acting reasonably) from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

9.3 Statutory powers of appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Common Security Agent under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Common Security Agent in respect of any part of the Assigned Property.

10. POWERS OF RECEIVERS

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Assignor) have and be entitled to exercise, in relation to the Assigned Property (and any assets of the Assignor which, when got in, would be part of the Assigned Property) in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Assignor or in his own name and, in each case, at the cost of the Assignor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (in force at the date of exercise) (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner of all or part of the Assigned Property and power to do or omit to do anything which the Assignor itself could do or omit to do; and
- (d) the power to do all things (including bringing, enforcing, abandoning or defending proceedings, actions and suits in the name or on behalf of the Assignor) which seem to the Receiver to be incidental or conducive to:
 - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
 - (ii) the exercise of the Collateral Rights (including realisation of all or any

part of the Assigned Property in respect of which that receiver was appointed); or

- (iii) bringing to his hands any assets of the Assignor forming part of, or which when got in would be part of, the Assigned Property.

11. APPLICATION OF PROCEEDS

All monies received or recovered and any non-cash recoveries made or received by the Common Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925 and to the extent permitted by applicable law) be applied by the Common Security Agent (notwithstanding any purported appropriation by the Assignor) in accordance with the terms of clause 16.1 (*Order of application*) of the Intercreditor Agreement.

12. PROTECTION OF PURCHASERS

12.1 Consideration

A receipt in writing of the Common Security Agent, any Receiver or its agents shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Assigned Property or making any acquisition, the Common Security Agent or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

12.2 Protection of purchasers

No purchaser or other person dealing with the Common Security Agent, any Receiver or its agents shall be bound to inquire whether the right of the Common Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned to inquire whether that power has been properly or regularly exercised by the Common Security Agent or such Receiver in such dealings.

13. POWER OF ATTORNEY

13.1 Appointment and powers

The Assignor, by way of security, at any time while a Default is continuing, irrevocably appoints the Common Security Agent and any other person nominated in writing by the Common Security Agent (such nominated person being either an officer of the Common Security Agent or a professional adviser of the Common Security Agent or an insolvency officeholder) severally to be its attorney (with full power of substitution) and in its name, on its behalf and at such time and manner as the attorney thinks fit, to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on the Assignor by this Agreement (including the execution and delivery of any deeds, charges, assignments or other Security and any transfers of the assets (in such form as the Common Security Agent may reasonably require in favour of the Common Security Agent or its nominee(s)) subject to the Security and perfecting and/or

releasing the Security created or intended to be created in respect of the Assigned Property); and

- (b) enabling the Common Security Agent, any Receiver and any Delegate to exercise, or delegate the exercise of, all or any of the Collateral Rights (including after the occurrence of an Event of Default, the exercise of any right of a legal or beneficial owner of the Assigned Property).

13.2 Ratification

The Assignor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

14. EFFECTIVENESS OF SECURITY

14.1 Continuing security

- (a) The Security created by or pursuant to this Agreement shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Common Security Agent in writing.
- (b) No part of the Security from time to time intended to be created by this Agreement will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

14.2 Cumulative rights

The Security created by or pursuant to this Agreement, and the Collateral Rights shall be cumulative, in addition to and independent of every other Security which the Common Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior Security held by the Common Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Assigned Property shall merge into the Security created by this Agreement.

14.3 No prejudice

The Security created by or pursuant to this Agreement and the Collateral Rights, shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Assignor or any other person, or the Common Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties or by any variation of the terms of the trust upon which the Common Security Agent holds the Security or by any other thing which might otherwise prejudice that Security or any Collateral Right.

14.4 Remedies and waivers

No failure on the part of the Common Security Agent to exercise, nor any delay on its

part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Common Security Agent shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

14.5 No liability

None of the Common Security Agent, its nominee(s) or any Receiver shall be liable:

- (a) to account as a mortgagee or mortgagee in possession; or
- (b) for any loss arising by reason of taking any action permitted by this Agreement or any neglect or default in connection with the Assigned Property or taking possession of or realising all or any part of the Assigned Property,

except in the case of fraud, gross negligence or wilful default upon its part.

14.6 Partial invalidity

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

14.7 Waiver of defences

The obligations assumed, and the Security created, by the Assignor under this Agreement, and the Collateral Rights, will not be affected by any act, omission, matter or thing which, but for this Clause 14.7, would reduce, release or prejudice any of its obligations under, or the Security created by, this Agreement (whether or not known to the Assignor or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Assignor, any Debtor or any member of the Group or other person;
- (b) the release of the Assignor, any Debtor or any member of the Group or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (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, the Assignor, any Debtor or any member of the Group 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, the Assignor, any Debtor or any member of the Group or any other person;

- (e) any amendment, novation, supplement, extension, restatement (in each case, however fundamental and whether or not more onerous) or replacement of a Debt Document or any other document or Security or of the Secured Obligations including, any change in the purpose of, any extension of or any increase in any facility or notes or the addition of any new facility or notes under any Debt Document or other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or Security or of the Secured Obligations; or
- (g) any insolvency or similar proceedings.

14.8 Assignor intent

Without prejudice to the generality of Clause 14.7 (*Waiver of defences*), the Assignor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Debt Documents and/or any facility or amount made available under any of the Debt 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.

14.9 Immediate recourse

The Assignor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from the Assignor under this Agreement or enforcing the Security created by this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

14.10 Deferral of Rights

Until the end of the Security Period, the Assignor will not exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by a Debtor or any member of the Group or any other person;
- (b) to claim any contribution from any guarantor or other person in respect of the obligations of any Debtor or any member of the Group under the Debt Documents;

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

If the 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 any Secured Party by the Debtors or any member of the Group under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Common Security Agent or as the Common Security Agent may direct for application in accordance with Clause 11 (*Application of Proceeds*).

14.11 Additional Security

The Security created by the Assignor under this Agreement and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party.

15. PRIOR SECURITY INTERESTS

15.1 Redemption or transfer

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any of the Assigned Property or in case of exercise by the Common Security Agent or any Receiver of any power of sale or right of appropriation or application under this Agreement, the Common Security Agent may redeem such prior Security or procure the transfer thereof to itself.

15.2 Accounts

The Common Security Agent may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be, in the absence of manifest error, conclusive and binding on the Assignor.

15.3 Costs of redemption or transfer

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Assignor to the Common Security Agent

within ten Business Days of demand.

16. SUBSEQUENT SECURITY INTERESTS

If the Common Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives or is deemed to have received notice of any subsequent Security, assignment or transfer affecting all or any part of the Assigned Property which is prohibited by the terms of any Debt Document, all payments thereafter by or on behalf of the Assignor to the Common Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties will (in the absence of any express contrary appropriation by the Assignor) be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations at the time that notice was received.

17. SUSPENSE ACCOUNTS

All monies received, recovered or realised by the Common Security Agent under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Common Security Agent be credited to any interest bearing suspense or impersonal account(s) maintained with any bank, building society, financial institution or other person which the Common Security Agent considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Common Security Agent's discretion, in or towards the discharge of any of the Secured Obligations in accordance with the Intercreditor Agreement, and save as provided herein, no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

18. RELEASE OF SECURITY

18.1 Release of Security

Upon the expiry of the Security Period, if not already done, the Common Security Agent shall, at the request and cost of the Assignor, as soon as reasonably practicable procure the reassignment to the Assignor of the Assigned Property, subject to Clause 18.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Common Security Agent or any of its nominees.

18.2 Clawback

If the Common Security Agent considers that any amount paid or credited to any Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Assignor under this Agreement and the Security created by this Agreement will continue and such amount will not be considered to have been irrevocably paid or credited.

19. SET-OFF

The Assignor authorises the Common Security Agent (but the Common Security Agent shall not be obliged to exercise such right), after the occurrence of an Event of Default which is continuing, to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Common Security Agent to

the Assignor and apply any credit balance to which the Assignor is entitled on any account with the Common Security Agent in accordance with Clause 11 (*Application of Proceeds*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account). In the event that the Common Security Agent seeks to exercise any right of set-off under this Clause against the Assignor it shall notify the Assignor promptly after the Common Security Agent has exercised the set-off.

20. ASSIGNMENT

20.1 No assignments or transfers by Assignor

The Assignor may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

20.2 Assignments by the Common Security Agent

The Common Security Agent may assign all or any of its rights under this Agreement. The Common Security Agent shall be entitled to disclose such information concerning the Assignor and this Agreement as the Common Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed under or in connection with any Debt Document or by any applicable law.

20.3 Successors

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Common Security Agent. References to the Common Security Agent shall include (i) any assignee or successor in title of the Common Security Agent, (ii) any entity into which the Common Security Agent is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Common Security Agent is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Common Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Common Security Agent for all purposes under the Debt Documents).

21. NOTICES

21.1 Communications in writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, 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 Agreement is:

- (a) in the case of the Assignor:

Metinvest Capital UK Limited
3rd Floor, 11-12 St. James's Square, London SW1Y 4LB, United Kingdom

Attention:

Fax:

Email:

- (b) in the case of the Common Security Agent:

Madison Pacific Trust Limited

Suite 1720

17/F, Tower 1

Admiralty Centre

18 Harcourt Road

Admiralty

Hong Kong

Attention:

Fax:

Email:

or any substitute address, fax number or department or officer as the Assignor may notify to the Common Security Agent (or the Common Security Agent may notify to the Assignor, if a change is made by the Common Security Agent) by not less than five Business Days' notice.

21.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement 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 Common Security Agent will be effective only when actually received by the Common Security Agent and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Common Security Agent 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 Electronic communication

- (a) Any communication to be made between the Assignor and the Common Security Agent under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above may only be made in that way to the extent that the Assignor and the Common Security Agent agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Assignor to the Common Security Agent only if it is addressed in such manner as the Common Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the addressee of the relevant communication has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 21.4.

21.5 English language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Common Security Agent, 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. EXPENSES, STAMP TAXES, INDEMNITY

22.1 Transaction expenses

The Assignor shall, promptly on demand, pay the Common Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Common Security Agent and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution and perfection of this Agreement and any other documents referred to in this Agreement.

22.2 Amendment costs

If the Assignor requests an amendment, waiver or consent, in respect of this Agreement the Assignor shall, within three Business Days of demand, reimburse the Common Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Common Security Agent (and by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

22.3 Enforcement and preservation costs

The Assignor shall, within three Business Days of demand, pay to the Common Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under this Agreement, the Collateral Rights or the Security contemplated by this Agreement and any proceedings instituted by or against the Common Security Agent as a consequence of taking or holding the Security or of enforcing the Collateral Rights.

22.4 Stamp taxes

The Assignor shall pay and, within three Business Days of demand, indemnify the Common Security Agent against any cost, loss or liability the Common Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this Agreement.

22.5 Indemnity

The Assignor shall, notwithstanding any release or discharge of all or any part of the Security created by or pursuant to this Agreement, indemnify the Common Security Agent, its agents, attorneys, any Receiver and any Delegate against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Assignor of the provisions of this Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Agreement or otherwise relating to the Assigned Property (otherwise, in each case, than by reason of the indemnified party's gross negligence or wilful misconduct).

22.6 Payments free of deduction

To the extent any payment is to be made by the Assignor to the Common Security Agent under this Agreement, such payment shall be made free and clear of and without deduction for or on account of tax unless the Assignor is required to make such payment subject to the deduction or withholding of tax, in which case, to the fullest extent not prohibited by applicable law, the sum payable by the Assignor in

respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

23. CURRENCY CONVERSION

- (a) For the purpose of discharging, or pending the discharge of, any of the Secured Obligations the Common Security Agent may:
 - (i) convert any moneys received or recovered by the Common Security Agent (including, without limitation, any cash proceeds) from one currency to another, at the Conversion Rate; and
 - (ii) notionally convert the valuation provided in any opinion or valuation from one currency to another, at the Conversion Rate.
- (b) The obligations of the Assignor to pay in the due currency shall only be satisfied:
 - (i) in the case of paragraph (a)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and
 - (ii) in the case of paragraph (a)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

24. CURRENCY INDEMNITY

- (a) If any sum due from the Assignor under this Agreement (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 Assignor;
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
 - (iii) applying the Sum in satisfaction of any Secured Obligations,

the Assignor shall as an independent obligation, within 5 Business Days of demand, indemnify the Common Security Agent and each other Secured Party to whom that Sum is due 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 the Common Security Agent at the time of its receipt of that Sum.

- (b) The Assignor waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

25. COUNTERPARTS

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

26. DISCRETION AND DELEGATION

26.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Common Security Agent or any Receiver may, subject to the terms and conditions of the Intercreditor Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

26.2 Delegation

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

27. CALCULATIONS AND CERTIFICATES

27.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by a Secured Party are *prima facie* evidence of the matters to which they relate.

27.2 Certificates and determinations

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

28. COMMON SECURITY AGENT

- (a) The Assignor acknowledges and agrees that the Common Security Agent is party to this Agreement solely for the better enforcement and preservation of its rights as Common Security Agent and of the security granted in its favour pursuant to this Agreement.
- (b) The Assignor acknowledges and agrees that the Common Security Agent has been appointed as Common Security Agent pursuant to the Intercreditor Agreement and (i) will act on instructions in accordance with the Intercreditor

Agreement and (ii) has the benefit of the protective provisions set out in the Intercreditor Agreement as if set out in full herein.

29. **GOVERNING LAW**

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

30. **ARBITRATION**

30.1 **Arbitration**

Subject to Clause 30.5 (*Common Security Agent's Option*) any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of in connection with this Agreement) (a "**Dispute**") shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration ("**LCIA Rules**").

30.2 **Formation of arbitral tribunal, seat and language of arbitration**

- (a) The arbitral tribunal shall consist of three arbitrators. The claimant(s), irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator, and a third arbitrator (who shall act as Chairman) shall be nominated by agreement of the two party-nominated arbitrators within 15 days of the appointment of the second arbitrator or, in the absence of agreement, shall be appointed by the LCIA Court as soon as possible.
- (b) If all the parties to an arbitration so agree, there shall be a sole arbitrator nominated by the LCIA Court as soon as possible.
- (c) The seat of arbitration shall be London, England.
- (d) The language of the arbitration shall be English.

30.3 **Recourse to courts**

For the purposes of arbitration pursuant to this Clause 30, the Parties waive any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 and 69 of the Arbitration Act 1996.

30.4 **Consolidation of disputes**

- (a) Subject to paragraph (c) below, if a Dispute has been referred to arbitration under this Agreement or another Intercreditor Document (an "**Existing Shared Recourse Dispute**"), a PXF Document (an "**Existing PXF Dispute**") or a Notes Document (an "**Existing Notes Dispute**" and also, together with an Existing Shared Recourse Dispute or an Existing PXF Dispute, an "**Existing Dispute**") and there arises another dispute relating to this Agreement or another Intercreditor Document (a "**New Shared Recourse Dispute**"), a PXF Document (a "**New PXF Dispute**") or a Notes Document (a "**New Notes**

Dispute" and also, together with a New Shared Recourse Dispute or a New PXF Dispute, a "**New Dispute**"), which is referred to arbitration after the Existing Dispute was referred to arbitration, and that New Dispute raises issues which are substantially the same as or connected with issues raised in the Existing Dispute, then the parties to the Existing Dispute and the New Dispute agree that the arbitral tribunal appointed or to be appointed in respect of the Existing Dispute may, subject to approval by the LCIA Court, be appointed to finally resolve the New Dispute and may consolidate the Existing Dispute and the New Dispute, provided that no party to the Existing Dispute or the New Dispute would be materially prejudiced as a result of such consolidation whether through undue delay or otherwise. Should the arbitral tribunal appointed or to be appointed in respect of the Existing Dispute decline appointment in respect of the New Dispute or decline consolidation, this shall not affect the rights of the parties to submit the New Dispute to separate arbitration proceedings under this Clause 30.

- (b) Where consolidation has been ordered in accordance with the above provisions, the arbitral tribunal may order that the whole or part of the matters at issue shall be heard together upon such terms or conditions as the arbitral tribunal thinks fit.
- (c) There shall be no consolidation of (i) an Existing Notes Dispute with a New PXF Dispute or (ii) an Existing PXF Dispute with a New Notes Dispute. This shall not affect the rights of the parties to submit any Dispute to separate arbitration proceedings under this Clause 30.
- (d) For the purposes of arbitration pursuant to this Clause 30, LCIA Rule 22.1(x) shall not apply.

30.5 Common Security Agent's Option

- (a) Before the Common Security Agent has filed a Request for Arbitration or Response as defined in the LCIA Rules (as the case may be), the Common Security Agent may by notice in writing to the Assignor require that all Disputes or a specific Dispute be heard by a court of law. If the Common Security Agent gives such notice, the Dispute to which such notice refers shall be determined in accordance with Clause 31 (*Jurisdiction of English Courts*).
- (b) If notice is given after service of any Request for Arbitration in respect of any Dispute(s) the Common Security Agent must also promptly give notice to the registrar and to any arbitrator already appointed in relation to each such Dispute that such Dispute will be settled by the courts. Upon receipt of such notice by the registrar, the arbitration and any appointment of any arbitrator in relation to each such Dispute will immediately terminate. Any such arbitrator will be deemed to be *functus officio*. The termination is without prejudice to:
 - (i) the validity of any act done or order made by that arbitrator or by the court in support of that arbitration before his appointment is terminated;

- (ii) the entitlement of any arbitrator to be paid his proper fees and disbursements; and
- (iii) the date when any claim or defence was raised for the purpose of applying any limitation bar or any similar rule or provision.

31. JURISDICTION OF ENGLISH COURTS

31.1 Jurisdiction

- (a) If the Common Security Agent issues a notice pursuant to Clause 30.5 (*Common Security Agent's Option*), the provisions of this Clause 31 shall apply.
- (b) The courts of England have exclusive jurisdiction to settle any Dispute.
- (c) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly no Party will argue to the contrary.
- (d) This Clause 31 is for the benefit of the Common Security Agent only. As a result, the Common Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Common Security Agent may take concurrent proceedings in any number of jurisdictions.

31.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Assignor:
 - (i) irrevocably appoints Law Debenture Corporate Services Limited, Fifth Floor, 100 Wood Street, London EC2V 7EX, telephone: +44 (0)20 7606 5451, fax: +44 (0)20 7606 0643 as its agent for service of process in relation to any proceedings before the English courts or the LCIA Court in connection with this Agreement; and
 - (ii) agrees that failure by a process agent to notify the Assignor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Assignor must immediately (and in any event within 5 days of such event taking place) appoint another agent on terms acceptable to the Common Security Agent. Failing this, the Common Security Agent may appoint another agent for this purpose.

THIS AGREEMENT has been signed by the Common Security Agent and executed as a deed by the Assignor and is delivered by it as a deed on the date stated at the beginning of this Agreement.

**SCHEDULE
FORM OF NOTICE OF ASSIGNMENT**

To: [•]

Date: [•]

Dear Sirs,

1. We hereby give you notice that we have assigned to Madison Pacific Trust Limited (the "**Common Security Agent**") pursuant to an assignment entered into by us in favour of the Common Security Agent dated [•] 2017 all our right, title and interest in and to [details of contract] (the "**Contract**") including all monies which may be payable in respect of the Contract.
2. We shall continue to be solely responsible for the performance of our obligations under or in connection with the Contract. For the avoidance of doubt, the Common Security Agent and any delegate shall not at any time be under any obligation or liability to you under or in respect of the Contract.
3. Unless and until you receive written notification from the Common Security Agent to the contrary (the "**Instruction**"), you should continue making all payments under or arising from the Contract (the "**Payments**"), and discharging all of your other obligations and liabilities under or in connection with the Contract, to us in accordance with the terms and conditions of the Contract.
4. With effect from the date of your receipt of the Instruction:
 - (a) all Payments by you to us shall be paid to, or at the direction of, the Common Security Agent, as it may specify in writing from time to time (at the date of your receipt of this notice, the directions you should follow in relation to all Payments are those given by Madison Pacific Trust Limited in its capacity as Common Security Agent);
 - (b) all remedies provided for in the Contract or available at law or in equity shall be exercisable by, or at the direction of, the Common Security Agent;
 - (c) all rights to compel performance of the Contract shall be exercisable by, or at the direction of, the Common Security Agent; and
 - (d) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contract shall belong to the Common Security Agent.
5. You are authorised and instructed, without requiring further approval from us, to provide the Common Security Agent with such information relating to the Contract as it may from time to time request and to send copies of all notices issued by you under the Contract to the Common Security Agent as well as to us.
6. These instructions may not be revoked, nor may the terms of the Contract be amended, varied, waived or terminated, without the prior written consent of the Common Security Agent.

7. Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Common Security Agent at [●] marked for the attention of [●].
8. This notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....
For and on behalf of
Metinvest Capital UK Limited

Acknowledgement

On copy only:

To: Metinvest Capital UK Limited

Madison Pacific Trust Limited

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, interests and benefits in and to the Contract and that we will comply with the terms of the notice from the Assignor.

We further confirm that:

- (a) we have not claimed or exercised and have no outstanding right to claim or exercise any right of set-off, counterclaim or other right relating to the Payments;
- (b) no amendment, waiver or release of any rights, interests and benefits in and to the Contract shall be effective without your prior written consent;
- (c) no termination of those rights, interests or benefits shall be effective unless we have given you thirty days written notice of the proposed termination, specifying the action necessary to avoid such termination; and
- (d) no breach or default on the part of *[Metinvest Capital UK Limited]* of any of the terms of the Contract shall be deemed to have occurred unless we have given you notice of such breach specifying how to make good such breach.

We shall, at our own cost, carry out any actions, and prepare and submit to the relevant servicing bank, the National Bank of Ukraine or any other relevant authority (as the case may be) any and all documents required:

- (i) under applicable Ukrainian law, to effect the registration of any amendments to the Contract with the National Bank of Ukraine or any other relevant authority to enable us to make any and all voluntary payments under the Contract in favour of the Common Security Agent in accordance with its instructions; and/or
- (ii) to ensure that we can make any and all payments in favour of the Common Security Agent pursuant to the assignment dated [●] 2017; and/or
- (iii) to enable the Common Security Agent otherwise to enforce the Security.

We acknowledge receipt of instructions from you in connection with the assignment of the Contract and confirm that we shall act in accordance with them until we receive written notification from you to the contrary.

For and on behalf of *[relevant counterparty]*

By:.....

Dated:.....

EXECUTION PAGE

The Assignor

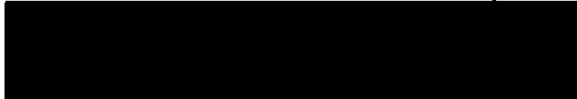
SIGNED as a DEED on behalf of)
METINVEST CAPITAL UK LIMITED)
by persons who in accordance with the laws)
of England and Wales are acting under)
the authority of the Assignor)
)
)



In the presence of:



Sulvia Lemaitre



Name: *Aleksandr Lyubarev*
Title: *Authorized Signatory*

.....
~~Name: /~~
~~Title: /~~

The Common Security Agent

SIGNED as a DEED by)
MADISON PACIFIC TRUST LIMITED)
acting by)

Signature

Print Name

EXECUTION PAGE

The Assignor

SIGNED as a **DEED** on behalf of)
METINVEST CAPITAL UK LIMITED)
by persons who in accordance with the laws)
of England and Wales are acting under)
the authority of the Assignor)
)
)

.....
Name:
Title:

.....
Name:
Title:

The Common Security Agent

SIGNED as a **DEED** by)
MADISON PACIFIC TRUST LIMITED)
acting by)



Signature/


David Jacob Samuel Naphtali

Print Name