



**Registration of a Charge**

Company name: **ANAEROBIC ADVANTAGE LIMITED**

Company number: **09398021**



X591HBHF

Received for Electronic Filing: **13/06/2016**

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**Details of Charge**

Date of creation: **09/06/2016**

Charge code: **0939 8021 0002**

Persons entitled: **FORESIGHT FUND MANAGERS LIMITED**

Brief description: **THE LANDS SITUATE AT TULLY QUARRY, 116 MOORFIELDS ROAD, BALLYMENA, COUNTY ANTRIM, AS DESCRIBED IN AN INDENTURE OF LEASE MADE BETWEEN (1) ANAEROBIC ADVANTAGE LIMITED AND (2) BOVILLE-MCMULLAN LIMITED DATED ON OR AROUND THE DATE OF THIS DEED, BEING DESCRIBED THEREIN AS THAT PART OF THE LANDS IN FOLIO NUMBERS 8496 CO. ANTRIM, 8500 CO. ANTRIM, 27477 CO. ANTRIM, AN23824 CO. ANTRIM, AN26675 CO. ANTRIM, AN28879 CO. ANTRIM, AN29153 CO. ANTRIM, AN32714 CO. ANTRIM, AN62773 CO. ANTRIM, AN111899 CO. ANTRIM SHOWN FOR THE PURPOSE OF IDENTIFICATION ONLY EDGED RED ON THE PLAN ANNEXED THERETO.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**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 THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BIRD & BIRD LLP**



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

Company number: 9398021

Charge code: 0939 8021 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th June 2016 and created by ANAEROBIC ADVANTAGE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th June 2016 .

Given at Companies House, Cardiff on 14th June 2016

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



**Companies House**



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

DATED 9 June 2016

**ANAEROBIC ADVANTAGE LIMITED**

as Chargor

and

**FORESIGHT FUND MANAGERS LIMITED**

as security trustee for and on behalf of the Secured Parties

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**DEBENTURE**

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## LAND REGISTRY

FOLIO:

COUNTY: ANTRIM

REGISTERED OWNER: ANAEROBIC ADVANTAGE LIMITED

THIS DEED dated 9 June 2016 is made between:

### PARTIES

- (1) **ANAEROBIC ADVANTAGE LIMITED** incorporated and registered in England and Wales with registered number 09398021 whose registered office is at 10 Parcel Drive, Basingstoke, Hampshire RG24 9tf (the "**Chargor**"); and
- (2) **FORESIGHT FUND MANAGERS LIMITED**, a limited company incorporated and registered in England and Wales with registered number 03135882 whose registered office is at The Shard, 32 London Bridge Street, London SE1 9SG as security trustee for and on behalf of the Secured Parties subject to and in accordance with the Facility Agreement (the "**Security Trustee**").

### RECITALS

- (A) The Lenders have agreed pursuant to and in accordance with the Facility Agreement, to provide the Chargor with loan facilities on a secured basis.
- (B) Under this Deed, the Chargor provides security to the Security Trustee as security trustee for and on behalf of the Secured Parties for the Chargor's liabilities from time to time outstanding to the Secured Parties.

**WHEREBY IT IS AGREED** as follows:

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

The following definitions in this clause apply in this Deed.

**"Administrator"** means an administrator appointed to manage the affairs, business and property of the Chargor pursuant to clause 13.11;

**"Agent"** means Foresight Fund Managers Limited, a limited company incorporated and registered in England and Wales with registered number 03135882 whose registered office is at The Shard, 32 London Bridge Street, London SE1 9SG as agent of the other Finance Parties;

**"Book Debts"** means all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them;

**"Charged Property"** means all the assets, property and undertaking for the time being subject to the Security Interests created by, or pursuant to, this Deed;

**"Construction Rights"** means:

- (i) all rights of the Chargor relating to any covenant agreement or undertaking in relation to the construction and maintenance of all roads, pavements, and utilities for services required in connection with any of the Property of the Chargor or charges, levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect of the matters aforesaid;
- (ii) any rights, benefit or agreement made between the Chargor and the local authority or any other person pursuant to which the Chargor has been or may be granted rights of access or rights of way in relation to any Property of the Chargor; and
- (iii) all of the Chargor's rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to any Property of the Chargor or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of any property of the Chargor;

**"Conveyancing Act 1881"** means the Conveyancing and Law of Property Act 1881;

**"Conveyancing Act 1911"** means the Conveyancing Act 1911;

**"Costs"** means all costs, charges, expenses, and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on Costs;

**"Debentures"** means this Deed and the English Debenture;

**"Designated Account"** means any account of the Chargor nominated by the Security Trustee as a designated account for the purposes of this Deed;

**"Developer"** means Stream Bioenergy Limited a limited liability company registered in Ireland with registered number 0477694 whose registered address is at 40 Main Street, Blackrock, Co. Dublin;

**"Digestate Contract"** means the contract entered into between the Chargor and Glenmore Estate Farms Limited on or around the date of this Deed in relation to the offtake of digestate from the Project;

**"Direct Agreements"** has the meaning given to that expression in the Facility Agreement;

**"DNO"** means Northern Ireland Electricity Networks Limited or any party or body authorised to distribute electricity in Northern Ireland pursuant to Article 10 of the Electricity (Northern Ireland) Order 1992;

**"English Debenture"** means the debenture governed by English law dated on or about the date of the this Deed and made between the Chargor and Security Trustee for and on behalf of the Secured Parties;

**"Environment"** means the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media;

**"Environmental Law"** means all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment including but without limitation the Health and Safety at Work (Northern Ireland) Order 1978, the Pollution Control and Local Government (Northern Ireland) Order 1978, the Control of Pollution Act 1974, the Planning (Northern Ireland) Order 1991, the Clean Air (Northern Ireland) Order 1981, the Water Act (Northern Ireland) 1972, the Water and Sewage Services (Northern Ireland) Order 1973 (as amended), the Public Health (Ireland) Act 1878, the Radioactive Substances Act 1993, the Industrial Pollution Control (Northern Ireland) Order 1997, the Waste and Contaminated Land (Northern Ireland) Order 1997, the Water (Northern Ireland) Order 1999, the Environmental (Northern Ireland) Order 2002, the Control of Asbestos at Work Regulations (Northern Ireland) 2003 and any European Community legislation regulating the same);

**"EPC Contract"** means the engineering, procurement and construction contract to be entered into by the Chargor and the EPC Contractor on or around the date of this Deed in relation to the construction of an anaerobic digestion plant at the Site;

**"EPC Contractor"** means Xergi Limited, a company incorporated and registered in England and Wales with registered number 03993558 whose registered office is at 823 Salisbury House, 29 Finsbury Circus, London EC2M 5QQ;

**"Equipment"** means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Chargor, including but not limited to any part of it and all spare parts, replacements, modifications and additions;

**"Event of Default"** has the meaning given to that expression in the Facility Agreement;

**"Excluded Relevant Agreements"** means any Relevant Agreement held by the Chargor under an agreement that either precludes absolutely, or requires consent of a third party to, the creation of a Security Interest over the Chargor's interest in that agreement;

**"Facility Agreement"** means the facility agreement between the Chargor, as borrower, the Lenders as lenders, the Agent as agent and the Security Trustee as security trustee;

**"Financial Collateral"** shall have the meaning given to that expression in the Financial Collateral Regulations;

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*);

**"Finance Documents"** means each Facility Agreement, each of the Direct Agreements, each Security Document, the Subscription and Shareholder Agreement and any other document designated as such by the Agent and the Chargor;

**"Finance Parties"** has the meaning given to that expression in the Facility Agreement;

**"FMSA"** means the financial management services agreement between Foresight and the Chargor dated on or about the date of this Deed;

**"Grid Connection Agreement"** means the Grid Connection Offer and the agreement to provide auxiliary supply for the Project between the DNO and Ballymena Bioenergy Limited as each are assigned pursuant to the Grid Connection Assignment Agreement as the same may be accepted and satisfied in accordance with its terms;

**"Grid Connection Assignment Agreement"** means the agreement between the Borrower and Ballymena Bioenergy Limited dated on or about the date of this Deed transferring the benefit of the Grid Connection Agreement to the Chargor;

**"Grid Connection Offer"** means the offer to provide a connection for the Project to the local distribution network, entered into by Ballymena Bioenergy Limited and the DNO dated 14 September 2015;

**"Insurance Policies"** has the meaning given to that expression in the Facility Agreement;

**"Intellectual Properties"** means the Chargor's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights;

**"Investments"** means all present and future stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Chargor, including all rights accruing or incidental to those investments from time to time;

**"Invest NI"** means Invest Northern Ireland, a public body in Northern Ireland whose registered address is a Bedford Square, Bedford Street, Belfast, Co. Antrim, BT2 7ES;

**"Landlord"** means Boville-McMullan Limited, a company incorporated and registered in Northern Ireland with company number NI006450 whose registered address is at Ladyhill House, 130-134 High Street, Hollywood, Co Down, Northern Ireland BT18 9IIW;

**"Lease"** means the lease between the Landlord and the Chargor dated on or about the date of this Deed;

**"Lenders"** means any Original Lender and any other party which has become a Lender in accordance with Clause 15 (Assignment and transfer) of the Facility Agreement which in each case has not ceased to be a Lender in



accordance with the terms of the Facility Agreement;

**"Majority Lenders"** has the meaning given to that expression in the Facility Agreement;

**"Maintenance Contract"** means the operations and maintenance agreement entered into between the Chargor and the EPC Contractor on or about the date of this Deed;

**"MSA Contract"** means the general management services agreement entered into between the Chargor and the Developer on or about the date of this Deed;

**"Original Lenders"** means Invest NI and RAW;

**"Permitted Security"** means any Security Interest arising under:

- (a) the Debentures;
- (b) the Senior Loan Documents;
- (b) any liens arising by operation of law and in the ordinary course of the Chargor's business and not as a result of any default or omission by the Chargor; and
- (c) any other Security Interest approved by the Agent in writing acting on the instructions of the Majority Lenders;

**"Plant"** means the 3 MWe (gross) chicken litter anaerobic digestion facility to be located on the Site;

**"PPA"** means the power purchase agreement entered into in accordance with the terms of the Facility Agreement;

**"Project"** means the supply, installation, repair and maintenance of the Plant;

**"Properties"** means all freehold and leasehold properties (whether registered or unregistered), now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest (including, but not limited to, the properties (if any) which are briefly described in Schedule 1) and **"Property"** means any of them;

**"RAW"** means The Recycling and Waste LP, a limited partnership registered in England and Wales with registered number LP016461 whose registered office is at The Shard, 32 London Bridge Street, London SE1 9SG, acting through its investment manager and agent Foresight Group LLP, a limited liability partnership registered in England and Wales with registered number OC300878 and having its registered address at The Shard, 32 London Bridge Street, London SE1 9SG;

**"Receiver"** means a receiver, receiver and manager or administrative receiver of any or all of the Charged Property appointed by the Security Trustee under clause 16;

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

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims contracts warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) all monies and proceeds paid or payable in respect of that asset,

both present and future (including all rights against any trustee, nominee, fiduciary or clearing system);

**"Relevant Agreement"** means each agreement specified in Schedule 2, and any other agreement designated as such by the Security Trustee and the Chargor;

**"Secured Liabilities"** means all present and future monies, obligations and liabilities owed by the Chargor to the Secured Parties, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Finance Documents, together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities;

**"Secured Parties"** means, each Finance Party from time to time party to the Facility Agreement and any Receiver or Delegate;

**"Security Documents"** means each of this Deed and any other document evidencing or creating security over any asset to secure any obligation of the Chargor to the Finance Parties under the Finance Documents and each other document so designated in writing by the Chargor and the Security Trustee and the Agent;

**"Security Financial Collateral Arrangement"** means shall have the meaning given to that expression in the Financial Collateral Regulations;

**"Security Interest"** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect;

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

**"Senior Lender"** means any bank or financial institution approved by the Majority Lenders in writing such approval not to be unreasonably withheld or delayed;

**"Senior Loan Documents"** means any loan agreement between the Chargor and a Senior Lender for the purposes of refinancing the whole or any part of the Loan on terms that are more favourable to the Chargor than those set out in the Facility Agreement together with any Security granted under or

in connection with such loan agreement, in each case in a form and substance satisfactory to the Majority Lenders;

**"Shareholders"** means Invest NI, RAW, the EPC Contractor, Ballymena Bioenergy Limited and Foresight Group LLP for itself and as manager of the Investors (as defined in the Subscription and Shareholders' Agreement);

**"Subscription and Shareholder Agreement"** means a subscription and shareholder agreement between the Chargor and the Shareholders dated on or around the date of this Deed;

**"Supply Agreement"** means the agreement for the supply of feedstock to the Project entered into between the Chargor and Glenmore Estate Farms Limited on or about the date of this Deed; and

## 1.2 **"Interpretation"**

Unless the context otherwise requires, in this Deed:

- 1.2.1 unless otherwise defined in this Deed, capitalised terms used in this Deed shall have the same meaning given to them in the Facility Agreement;
- 1.2.2 any reference to any statute, or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision which it consolidated or re-enacted before the date of this Deed;
- 1.2.3 a reference to one gender includes a reference to the other genders;
- 1.2.4 words in the singular include the plural and in the plural include the singular;
- 1.2.5 a reference to a clause or Schedule is to a clause, or Schedule of or to, this Deed;
- 1.2.6 a reference to **"continuing"** in relation to an Event of Default means an Event of Default which has not been remedied or waived;
- 1.2.7 a reference to **"this Deed"** or a **"Finance Document"** or any other agreement or instrument (or any specified provision therein) or any other document shall be construed as a reference to this Deed, that provision, that Finance Document or that document as amended, varied, novated, supplemented, extended or restated;
- 1.2.8 a reference to a **"person"** shall be construed as including a reference to an individual, firm, corporation, unincorporated body of persons or any state or any agency of a person;
- 1.2.9 a reference to an **"amendment"** includes a supplement, variation, novation, or re-enactment (and **"amended"** shall be construed accordingly);

- 1.2.10 a reference to "**assets**" includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.11 a reference to an "**authorisation**" includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.12 a reference to a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.13 a reference to the "**Chargor**" or the "**Security Trustee**" or any other person shall be construed to include its successors in title, permitted transferees and permitted assigns to, or of its rights and/or obligations under this Deed and, if in the case of the Security Trustee, any person for the time being appointed as Security Trustee or Security Trustee in accordance with the Finance Documents; and
- 1.2.14 clause and schedule headings shall not affect the interpretation of this Deed.

### 1.3 **Clawback**

If the Security Trustee considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

### 1.4 **Nature of security over real property**

A reference in this Deed to a charge or mortgage of or over any Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) which are at any time situated on that Property;
- 1.4.2 the proceeds of the sale of any part of that Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

### 1.5 **The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005**

For the purposes of section A8 of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005, the terms of the Finance Documents and of any side letters between any parties in relation to the Finance Documents are incorporated into this Deed.

**1.6 Insolvency (Northern Ireland) Order 1989**

Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 applies to the floating charge created by this Deed.

**2. COVENANT TO PAY**

The Chargor shall, on demand, pay to the Secured Parties and discharge the Secured Liabilities when they become due.

**3. GRANT OF SECURITY**

**3.1 Charging clause**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor as beneficial owner (within the meaning of Section 7 (Covenants for title to be implied) of the Conveyancing Act 1881:

3.1.1 grants and demises to the Security Trustee (as security trustee for and on behalf of the Secured Parties):

3.1.1.1 all the Properties which are listed in Schedule 1 which are unregistered to HOLD (i) as to so much thereof as is freehold unto the Security Trustee for the term of 10,000 years from the date hereof and (ii) as to so much thereof as is leasehold unto the Security Trustee for the residue or residues of the term or respective terms of years for which the same are held less the last 3 days of such term or of each such terms; and

3.1.1.2 charges by way of first fixed charge all the Properties listed in Schedule 1 as are registered in the Land Registry or are required to be registered AND ASSENTS to registration of the charge hereby created as a burden thereon;

3.1.2 charges to the Security Trustee (as security trustee for and on behalf of the Secured Parties) by way of first fixed charge:

3.1.2.1 all Properties (other than those subject to an effective Security Interest under Clause 3.1.1 above);

3.1.2.2 all present and future interests of the Chargor not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;

3.1.2.3 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;

3.1.2.4 all easements, licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business or the use of any Charged Property, and all rights in connection with them;

3.1.2.5 all its present and future goodwill;

- 3.1.2.6 all its uncalled capital;
- 3.1.2.7 all the Equipment;
- 3.1.2.8 all the Intellectual Property;
- 3.1.2.9 all the Book Debts;
- 3.1.2.10 all the Investments
- 3.1.2.11 **all the Construction Rights;**
- 3.1.2.12 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account); and
- 3.1.2.13 all Related Rights in respect of the above;
- 3.1.3 assigns to the Security Trustee (as security trustee for and on behalf of the Secured Parties) absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:
  - 3.1.3.1 all its rights in each Insurance Policies, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policies; and
  - 3.1.3.2 the benefit of each Relevant Agreement and the benefit of any guarantee or security for the performance of a Relevant Agreement;
- 3.1.4 charges and assigns to the Security Trustee (as security trustee for and on behalf of the Secured Parties) by way of fixed charge all the right, title and interest of the Chargor to and in any proceeds of any present or future insurances or compensation due under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 as amended; and
- 3.1.5 charges to the Security Trustee (as security trustee for and on behalf of the Secured Parties), by way of first floating charge, all the undertaking, property, assets and rights of the Chargor at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1.1 to clause 4 inclusive.

### 3.2 **Relevant Agreement security restrictions**

- 3.2.1 Subject to clause 3.2.2 to clause 3.2.4, the security created by clause 3.1 shall not apply to an Excluded Relevant Agreement until the Chargor obtains any relevant consent, or waiver of prohibition, to the creation of security over that Excluded Relevant Agreement.
- 3.2.2 In relation to each Excluded Relevant Agreement, the Chargor undertakes to:
  - 3.2.2.1 apply for the relevant consent or waiver of prohibition within five Business Days of the date of this Deed, and to

- use its best endeavours to obtain that consent or waiver of prohibition as soon as possible;
  - 3.2.2.2 keep the Security Trustee informed of its progress in obtaining that consent or waiver; and
  - 3.2.2.3 immediately on receipt of the consent or waiver, provide the Security Trustee with a copy of that consent or waiver.
- 3.2.3 Immediately on receipt by the Chargor of the relevant consent or waiver, that Excluded Relevant Agreement shall become the subject of a mortgage or charge (as appropriate) pursuant to clause 3.1.
- 3.2.4 If required by the Security Trustee at any time following receipt of that consent or waiver, the Chargor shall, at its own cost, prepare and execute any further documents and take any further action as the Security Trustee may require, in its absolute discretion, for perfecting its security over that Excluded Relevant Agreement.

### **3.3 Automatic conversion of floating charge**

The floating charge created by clause 3.1.4 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if:

- 3.3.1 the Chargor:
  - 3.3.1.1 creates, or attempts to create over all or any part of the Charged Property a Security Interest, without the prior written consent of the Security Trustee, or any trust in favour of another person; or
  - 3.3.1.2 disposes, or attempts to dispose of all or any part of the Charged Property (other than the property that is subject only to the floating charge while it remains uncrystallised which property may be disposed of in the ordinary course of business);
- 3.3.2 a receiver is appointed over all or any of the Charged Property that is subject to the floating charge;
- 3.3.3 the Security Trustee receives notice of an intention to appoint a receiver;
- 3.3.4 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Charged Property;
- 3.3.5 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor;
- 3.3.6 the Chargor ceases to carry on all or any material part of its business without the prior consent in writing of the Security Trustee; or

3.3.7 a petition is presented, any resolution is proposed (whether or not passed) or any order is made for, in each case the liquidation or winding up of the Chargor.

#### **3.4 Conversion of floating charge by notice**

The Security Trustee may, in its sole discretion, at any time and by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards any part of the Charged Property specified by the Security Trustee in that notice.

#### **3.5 Assets acquired after any floating charge crystallisation**

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Security Trustee confirms in writing to the contrary) be charged to the Security Trustee by way of first fixed charge.

### **4. LIABILITY OF THE CHARGOR**

#### **4.1 Liability not discharged**

The Chargor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

4.1.1 any security, guarantee, indemnity, remedy or other right held by or available to the Security Trustee being or becoming, wholly or partially illegal, void or unenforceable on any ground;

4.1.2 any Secured Party renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

4.1.3 any other act or omission which but for this clause 4.1, might have discharged or otherwise prejudiced or affected the liability of the Chargor.

#### **4.2 Immediate recourse**

The Chargor waives any right it may have of requiring the Security Trustee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Chargor.

### **5. REPRESENTATIONS AND WARRANTIES**

#### **5.1 Representations and warranties**

The Chargor makes the representations and warranties set out in this clause 5 to the Security Trustee.

#### **5.2 Ownership of Charged Property**



The Chargor is the legal and beneficial owner of the Charged Property free from any Security Interest other than Permitted Security and the Security Interests created by this Deed.

**5.3 No adverse claims**

The Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Property or any interest in it.

**5.4 No adverse covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Charged Property.

**5.5 No breach of laws**

There is no breach of any law or regulation which materially and adversely affects the Charged Property.

**5.6 No interference in enjoyment**

No facility necessary for the enjoyment and use of the Charged Property is subject to terms entitling any person to terminate or curtail its use.

**5.7 No overriding interests**

Nothing has arisen or has been created or is subsisting which would be an overriding interest in any Property.

**5.8 Avoidance of security**

No Security Interest expressed to be created by this Deed is liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

**5.9 Environmental compliance**

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law.

**5.10 Times for making representations and warranties**

The representations and warranties set out in clause 5.2 to clause 5.9 are made by the Chargor on the date of this Deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**5.11 No breach**

The entry into this Deed by the Chargor does not and will not constitute a breach of any agreement binding on the Chargor or its assets.

**6. GENERAL COVENANTS**

**6.1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, except with the prior written consent of the Security Trustee:

- 6.1.1 create, purport to create or permit to subsist any Security Interest on, or in relation to, any Charged Property other than any Permitted Security;
- 6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Charged Property, except for the disposal in the ordinary course of business of any of the Charged Property subject to the floating charge created under this Deed; or
- 6.1.3 create or grant (or purport to create or grant) any interest in the Charged Property in favour of a third party.

## **6.2 Trading and preservation of Charged Property**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall:

- 6.2.1 carry on its trade and business in accordance with the standards of good management from time to time current in such trade or business on those parts (if any) of the Properties as are, or may be, used for the purposes of trade or business; and
- 6.2.2 not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Security Trustee or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this Deed.

## **6.3 Compliance with laws and regulations**

- 6.3.1 The Chargor shall not, without the Security Trustee's prior written consent, use or permit the Charged Property to be used in any way contrary to law.
- 6.3.2 Except to the extent of the terms as set out in the Finance Documents, the Chargor shall:
  - 6.3.2.1 comply with the requirements of any law and regulation relating to or affecting the Charged Property or the use of it or any part of it;
  - 6.3.2.2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property; and
  - 6.3.2.3 promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Property.

#### **6.4 Enforcement of rights**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall use its best endeavours to:

- 6.4.1 procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each counterparty in respect of a Relevant Agreement and each insurer in respect of an Insurance Policies); and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property which the Security Trustee may require from time to time.

#### **6.5 Notice of misrepresentation and breaches**

The Chargor shall promptly on becoming aware of any of the same, give the Security Trustee notice in writing of:

- 6.5.1 any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.5.2 any breach of any covenant set out in this Deed.

#### **6.6 Title documents**

The Chargor shall, on the execution of this Deed (or, if later, the date of acquisition of the relevant Charged Property), deposit with the Security Trustee and the Security Trustee shall during the continuance of this Deed be entitled to hold all deeds and documents of title relating to the Charged Property that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title).

#### **6.7 Insurance**

- 6.7.1 Except to the extent of the terms as set out in the Finance Documents, the Chargor shall insure and keep insured at all times during the Security Period (or where, in the case of any property, insurance is the responsibility of the Project Contractor under the terms of the relevant Project Document, either procure that the relevant Project Contractor insures and keeps insured or, if and to the extent that the relevant Project Contractor does not do so, itself insure and keep insured the Charged Property against:

- 6.7.1.1 loss or damage by fire or terrorist acts;
- 6.7.1.2 other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Chargor, including without limitation all insurances required to be maintained in accordance with the terms of the Facility Agreement; and

- 6.7.1.3 any other risk, perils and contingencies as the Security Trustee may reasonably require.

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Security Trustee, and must be for not less than the replacement value of the Charged Property.

- 6.7.2 The Chargor shall, if requested by the Security Trustee, produce to the Security Trustee the policy, certificate or cover note relating to the insurance required by clause 6.7.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Chargor is entitled to obtain from the landlord under the terms of the relevant lease).
- 6.7.3 The Chargor shall procure that a note of the Security Trustee's interest is endorsed upon each insurance policy maintained by it or any person on its behalf in accordance with clause 6.7.1 and that the terms of each insurance policy require the insurer not to invalidate the policy as against the Security Trustee by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Security Trustee.

## **6.8 Insurance premiums**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall:

- 6.8.1 promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6.7.1 and do all other things necessary to keep that policy in full force and effect; and
- 6.8.2 (if the Security Trustee so requires) produce to, or deposit with, the Security Trustee the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6.7.1.

## **6.9 No invalidation of insurance**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6.7.1.

## **6.10 Proceeds of insurance policies**

Except to the extent of the terms as set out in the Finance Documents, all monies received or receivable by the Chargor under any insurance policy maintained by it in accordance with clause 6.7.1 (including all monies received or receivable by it under any Insurance Policies) at any time (whether or not an Event of Default has occurred) shall:

- 6.10.1 immediately be paid to the Security Trustee;

6.10.2 if they are not paid directly to the Security Trustee by the insurers, be held by the Chargor as trustee of the same for the benefit of the Security Trustee (and the Chargor shall account for them to the Security Trustee); and

6.10.3 be applied in accordance with the terms of the Facility Agreement.

**6.11 Notices to be given by the Chargor**

The Chargor shall immediately on the execution of this Deed (or, if later, the date of acquisition of the relevant Charged Property):

6.11.1 give notice to each insurer that it has assigned its rights and interest in and under each Insurance Policies under clause 3.1.3.1 and procure that each addressee of any such notice promptly provides to the Security Trustee an acknowledgement of the notice of the Security Trustee's interest;

6.11.2 give notice to each counterparty to a Relevant Agreement that it has assigned its rights and interest in and under that Relevant Agreement under clause 3.1.3.2 and procure that each addressee of any such notice promptly provides to the Security Trustee an acknowledgement of the notice of the Security Trustee's interest; and

6.11.3 give notice to any bank, financial institution or other person (excluding the Security Trustee) with whom it has an account that it has charged to the Security Trustee its rights and interests under that account under clause 3.1.2.11 and procure that each addressee of any such notice promptly provides to the Security Trustee an acknowledgement of the notice of the Security Trustee's interest and the Security Trustee agrees that it shall not give any written notice or instructions relating to the accounts or the sums standing to the credit of any account until the earlier of:

6.11.3.1 the occurrence of an Event of Default; and

6.11.3.2 the conversion of the floating charge created by this Deed into a fixed charge in accordance with clause 3.3 or clause 3.3.6.

The Chargor shall obtain the Security Trustee's prior approval of the form of any notice or acknowledgement to be used under this clause 6.11.

**6.12 Information**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall:

6.12.1 give the Security Trustee such information concerning the location, condition, use and operation of the Charged Property as the Security Trustee may require;

6.12.2 permit any persons designated by the Security Trustee and any Receiver to enter on its premises and inspect and examine any Charged Property, and the records relating to that Charged Property, at all reasonable times and on reasonable prior notice; and

- 6.12.3 promptly notify the Security Trustee in writing of any action, claim or demand made by or against it in connection with any Charged Property or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand and anything which could have a material adverse effect on the rights and interests of the Chargor to and in any of the Charged Property, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Security Trustee's prior approval, implement those proposals at its own expense.

**6.13 Payment of outgoings**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Charged Property and, on demand, produce evidence of payment to the Security Trustee.

**6.14 Chargor's waiver of set-off**

The Chargor waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Chargor under this Deed).

**7. PROPERTY COVENANTS**

**7.1 Maintenance**

The Chargor shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

**7.2 Preservation of Property, fixtures and Equipment**

The Chargor shall not, without the prior written consent of the Security Trustee or in accordance with the terms of the EPC Contract:

- 7.2.1 pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;
- 7.2.2 make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures;
- 7.2.3 remove or make any material alterations to any of the Equipment belonging to, or in use by, the Chargor on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes);
- 7.2.4 do or permit to be done anything or allow any circumstances to arise whereby any of its interest in the Properties could be determined or any right of re-entry or forfeiture could arise; or

7.2.5 enter into any negotiations regarding, or consent to, the compulsory acquisition of any Property except where it is required by law to do so and with the Security Trustee's consent. If the Security Trustee so requests, the relevant Chargor shall permit the Security Trustee or its representatives to conduct negotiations and/or give consent on its behalf.

### **7.3 Conduct of business on Properties**

The Chargor shall carry on its trade and business on those parts (if any) of the Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

### **7.4 Planning information**

The Chargor shall:

- 7.4.1 comply with all planning legislation and give full particulars to the Security Trustee of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority ("**Planning Notice**") that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice; and
- 7.4.2 (if the Security Trustee so requires) immediately, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Security Trustee in making, any objections or representations in respect of that Planning Notice that the Security Trustee may desire.

### **7.5 Compliance with covenants and payment of rent**

The Chargor shall:

- 7.5.1 observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Security Trustee so requires) produce evidence sufficient to satisfy the Security Trustee that those covenants, stipulations and conditions have been observed and performed;
- 7.5.2 diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive release or vary any of the same; and
- 7.5.3 (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions.

### **7.6 Payment of rent and outgoings**

The Chargor shall:

- 7.6.1 where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 7.6.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier.

### **7.7 Maintenance of interests in Properties**

The Chargor shall not, without the prior written consent of the Security Trustee:

- 7.7.1 transfer, sell, lease or otherwise dispose of any interest in the Property (including any nominal reversion) or any part thereof nor attempt nor agree so to do nor part with possession of nor grant any licence or right to occupy any of the Properties or exercise the statutory powers of leasing (or agreeing to lease) or of accepting (or agreeing to accept) surrenders under Section 18 of the Conveyancing Act 1881 and Section 3 of the Conveyancing Act 1911; or
- 7.7.2 in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property.

#### **7.8 Registration restrictions**

If the title to any Property is not registered at the Land Registry, the Chargor shall procure that no person (other than itself) shall be registered under the Land Registration Act (Northern Ireland) 1970 (as amended) as registered owner of all or any part of any Property without the prior written consent of the Security Trustee. The Chargor shall be liable for the costs and expenses of the Security Trustee in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

#### **7.9 Development restrictions**

The Chargor shall not, without the prior written consent of the Security Trustee or in accordance with the terms of the EPC Contract:

- 7.9.1 make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- 7.9.2 7.9.2 breach or make any application under the Planning (NI) Order 1972 and/or the Planning (NI) Order 1991 or any statutory re-enactment, replacement or amendment thereof, including but not limited to the Planning (Amendment) (NI) Orders 1978, 1982 and 2003 and the Planning Reform (NI) Order 2006 or any laws or regulations intended to control or regulate the construction, demolition, alteration or change of use of land or buildings or to preserve or protect the environment or the national heritage and not carry out any other development of the Property.

#### **7.10 Environment**

The Chargor shall:

- 7.10.1 comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property; and
- 7.10.2 obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.



**7.11 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Security Trustee, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property.

**7.12 Proprietary rights**

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Security Trustee.

**7.13 Inspection**

The Chargor shall permit the Security Trustee, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

**7.14 Property information**

The Chargor shall inform the Security Trustee promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any freehold, leasehold or other interest in any property.

**7.15 VAT option to tax**

The Chargor shall not, without the prior written consent of the Security Trustee:

- 7.15.1 exercise any VAT option to tax in relation to any Property; or
- 7.15.2 revoke any VAT option to tax exercised, and disclosed to the Security Trustee, before the date of this Deed.

**7.16 Registration at the Land Registry**

- 7.16.1 The Chargor shall not make, or agree to make, any application to the Land Registry of Northern Ireland to make an entry on the register of title of the Property without the Security Trustee's consent, except as required under this Deed.
- 7.16.2 The Chargor hereby applies to the Registrar of Titles for the registration of the following inhibition in the above mentioned folio(s) (and against any title to any unregistered property comprised in the Secured Real Property which is or ought to be the subject of a first registration of title at the Land Registry at the date of this Deed):

"Except under an order of the Registrar no disposition or dealing is to be registered or noted without the consent of the Registered Owner for the time being of the Charge or Mortgage dated [ ]," "

- 7.17 In the event of any of the Property or any part thereof being destroyed or damaged by any circumstances giving rise to a claim for compensation,

forthwith institute a claim under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 (as amended), serve a copy of the documentation of the claim on the Security Trustee and take all steps required to obtain payment of the maximum compensation payable under the said Order and either apply all compensation paid thereunder in rebuilding or reinstating such Property making good any deficiency out of the Chargor's own moneys or if the Security Trustee so requires assign its rights under any claim any moneys payable thereunder and pay any such deficiency whereupon the Chargor's liability to make good and reinstate such Property so damaged under any covenant in this Deed shall be deemed satisfied.

## **8. INVESTMENTS COVENANTS**

### **8.1 Deposit of title documents**

8.1.1 The Chargor shall:

8.1.1.1 on the execution of this Deed, deposit with the Security Trustee all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Chargor at that time; and

8.1.1.2 on the purchase or acquisition by it of Investments after the date of this Deed, deposit with the Security Trustee all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.

8.1.2 At the same time as depositing documents with the Security Trustee in accordance with clause 8.1.1.1 or 8.1.1.2, the Chargor shall also deposit with the Security Trustee:

8.1.2.1 all stock transfers forms relating to the relevant Investments duly completed and executed by or on behalf of the Chargor, but with the name of the transferee, the consideration and the date left blank; and

8.1.2.2 any other documents or consents (in each case duly completed and executed by or on behalf of the Chargor) that the Security Trustee may request in order to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Security Trustee may, at any time after the occurrence of an Event of Default and without notice to the Chargor, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

### **8.2 Nominations**

8.2.1 The Chargor shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:

- 8.2.1.1 does not exercise any rights in respect of any Investments without the prior written approval of the Security Trustee; and
- 8.2.1.2 immediately on receipt by it, forward to the Security Trustee all communications or other information received by it in respect of any Investments for which it has been so nominated.
- 8.2.2 The Chargor shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.

### **8.3 Additional registration obligations**

The Chargor shall:

- 8.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association of any issuer that is not a public company or otherwise, for the transfer of the Investments to the Security Trustee or its nominee, or to a purchaser on enforcement of this Deed; and
- 8.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions and any discretion to refuse to register any such share transfers) of the articles of association of each issuer that is not a public company in any manner that the Security Trustee may require in order to permit such a transfer.

### **8.4 Dividends and voting rights before enforcement**

Before the occurrence of an Event of Default, the Chargor may:

- 8.4.1 to the extent permitted in the Finance Documents, retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Security Trustee or any of its nominees, the Security Trustee will hold all those dividends, interest and other monies received by it for the Chargor and, if and to the extent required by the Finance Documents, will pay them to the Chargor promptly on request; and
- 8.4.2 exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Security Trustee of any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
  - 8.4.2.1 it shall not do so in any way that would breach any provision of the Finance Documents or for any purpose inconsistent with the Finance Documents;
  - 8.4.2.2 it shall not do so in any way that would jeopardise the security constituted by this Deed;
  - 8.4.2.3 it shall not do so in any way that would vary the rights

attaching to the Instruments such that it might reasonably be expected to have an adverse effect on the security constituted by this Deed;

8.4.2.4 the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Security Trustee's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Security Trustee's security under this Deed.

8.4.3 The Chargor shall indemnify the Security Trustee against any loss or liability incurred by the Security Trustee (or its nominee) as a consequence of the Security Trustee (or its nominee) acting in respect of the Investments at the direction of the Chargor.

8.4.4 The Security Trustee shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Security Trustee considers prejudicial to, or impairing the value of, the security created by this Deed.

## **8.5 Dividends and voting rights after enforcement**

After the occurrence of an Event of Default which is continuing:

8.5.1 all dividends and other distributions paid in respect of the Investments and received by the Chargor shall be held by the Chargor on trust for the Security Trustee and immediately paid into a Designated Account or, if received by the Security Trustee, shall be retained by the Security Trustee; and

8.5.2 all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Security Trustee and the Chargor shall, and shall procure that its nominees shall, comply with any directions the Security Trustee may give, in its absolute discretion, concerning the exercise of those rights and powers.

## **8.6 Calls on Investments**

The Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments 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 issuers of the Investments and shall advise the Security Trustee promptly of any material occurrence affecting the Investments or any other part of the security granted to the Security Trustee and shall give to the Security Trustee such information as it may reasonably require relating to the Investments. The Chargor acknowledges that the Security Trustee shall not be under any liability in respect of any such calls, instalments or other payments.

## **8.7 No alteration of constitutional documents or rights attaching to Investments**

Except to the extent of the terms as set out in the Finance Documents, the Chargor shall not, without the prior written consent of the Security Trustee, amend, or agree to the amendment of:

- 8.7.1 the memorandum or articles of association, or any other constitutional documents, of any issuer that is not a public company; or
- 8.7.2 the rights or liabilities attaching to any of the Investments.

## **8.8 Preservation of Investments**

The Chargor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer that is not a public company shall not:

- 8.8.1 consolidate or subdivide any of its Investments, or reduce or re-organise its share capital in any way;
- 8.8.2 issue any new shares or stock; or
- 8.8.3 refuse to register any transfer of any of its Investments that may be lodged for registration by, or on behalf of, the Security Trustee or the Chargor in accordance with this Deed.

## **8.9 Investments information**

The Chargor shall, promptly following receipt, send to the Security Trustee copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

## **9. EQUIPMENT COVENANTS**

### **9.1 Maintenance of Equipment**

The Chargor shall:

- 9.1.1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- 9.1.2 at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- 9.1.3 not permit any Equipment to be:
  - 9.1.3.1 used or handled other than by properly qualified and trained persons; or
  - 9.1.3.2 overloaded or used for any purpose for which it is not designed or reasonably suitable.

### **9.2 Payment of Equipment taxes**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Security Trustee.

### **9.3 Notice of charge**

The Chargor:

- 9.3.1 shall, if so requested by the Security Trustee, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This [DESCRIBE ITEM] and all additions to it [and ancillary equipment] are subject to a fixed charge dated [●] 2016 in favour of Foresight Fund Managers Limited (as security trustee for and on behalf of the Secured Parties)."

- 9.3.2 shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 9.3.1.

## **10. BOOK DEBTS COVENANTS**

### **10.1 Realising Book Debts**

The Chargor shall:

- 10.1.1 as an agent for the Security Trustee, collect in and realise all Book Debts, pay the proceeds into a Designated Account immediately on receipt and, pending that payment, hold those proceeds in trust for the Security Trustee;
- 10.1.2 not, following the occurrence of an Event of Default and without the prior written consent of the Security Trustee, withdraw any amounts standing to the credit of any Designated Account other than in accordance with the terms of the Facility Agreement; and
- 10.1.3 if called on to do so by the Security Trustee, execute a legal assignment of the Book Debts to the Security Trustee on such terms as the Security Trustee may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

### **10.2 Preservation of Book Debts**

The Chargor shall not (except as provided by clause 10.1 or with the prior written consent of the Security Trustee) release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

## **11. RELEVANT AGREEMENTS COVENANTS**

### **11.1 Proceeds arising from Relevant Agreements**

All Compensation Payments received or receivable by the Chargor under or in connection with a Relevant Agreement and/or the Project at any time (whether or not an Event of Default has occurred) shall:

- 11.1.1 immediately be paid to the Security Trustee;
- 11.1.2 if they are not paid directly to the Security Trustee be held by the Chargor as trustee of the same for the benefit of the Security Trustee (and the Chargor shall account for them to the Security Trustee); and
- 11.1.3 be applied in accordance with the terms of the Facility Agreement.

## **12. INTELLECTUAL PROPERTY COVENANTS**

### **12.1 Preservation of rights**

The Chargor shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

### **12.2 Registration of Intellectual Property**

The Chargor shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Security Trustee informed of all matters relating to each such registration.

### **12.3 Maintenance of Intellectual Property**

The Chargor shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

## **13. POWERS OF THE SECURITY TRUSTEE**

### **13.1 Power to remedy**

- 13.1.1 The Security Trustee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Deed.
- 13.1.2 The Chargor irrevocably authorises the Security Trustee and its agents to do all things that are necessary or desirable for that purpose.
- 13.1.3 Any monies expended by the Security Trustee or its agents in remedying a breach by the Chargor of its obligations contained in this Deed shall be reimbursed by the Chargor to the Security Trustee on a full indemnity basis and shall carry interest in accordance with clause 20.1.

### **13.2 Exercise of rights**

The rights of the Security Trustee under clause 13.1 are without prejudice to any other rights of the Security Trustee under this Deed. The exercise of any

rights of the Security Trustee under this Deed shall not make the Security Trustee liable to account as a mortgagee in possession.

**13.3 Power to dispose of chattels**

13.3.1 At any time after the occurrence of an Event of Default which is continuing, the Security Trustee or any Receiver may, as agent for the Chargor, dispose of any chattels or produce found on any Property.

13.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 13.3.1, the Chargor shall indemnify the Security Trustee and any Receiver against any liability arising from any disposal made under clause 13.3.1.

**13.4 Security Trustee has Receiver's powers**

The Security Trustee (without becoming a mortgagee in possession) shall have the power to exercise:

13.5 all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency (Northern Ireland) Order 1989 whether or not the Security Trustee and/or any Receiver is an administrative receiver); and

13.6 to the extent permitted by law, any right, power or discretion conferred by this Deed on a Receiver may, after the occurrence of an Event of Default which is continuing in relation to any of the Charged Property whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

**13.7 Conversion of currency**

13.7.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Security Trustee may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 13.7) from their existing currencies of denomination into any other currencies of denomination that the Security Trustee may think fit.

13.7.2 Any such conversion shall be effected at Barclays Bank plc's then prevailing spot selling rate of exchange for such other currency against the existing currency.

13.7.3 Each reference in this clause 13.7 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

**13.8 New accounts**

13.8.1 If the Security Trustee receives, or is deemed to have received, notice of any subsequent Security Interest, or other interest, affecting all or part of the Charged Property, the Security Trustee may open a new account for each and the Chargor in the Security Trustee's books. Without prejudice to the Security Trustee's right to combine accounts, no money paid to the credit of the Chargor in any such new



account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

- 13.8.2 If the Security Trustee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 13.8.1, then, unless the Security Trustee gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Security Trustee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Security Trustee.

### **13.9 Security Trustee's set-off rights**

If the Security Trustee has more than one account for the Chargor in its books, the Security Trustee may at any time after:

- 13.9.1 the occurrence of an Event of Default which is continuing; or
- 13.9.2 the Security Trustee has received, or is deemed to have received, notice of any subsequent Security Interest or other interest affecting all or any part of the Charged Property,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account that may be in debit. After making any such transfer, the Security Trustee shall notify the Chargor of that transfer.

### **13.10 Indulgence**

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

### **13.11 Appointment of an Administrator**

- 13.11.1 The Security Trustee may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 15 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989 if the security constituted by this Deed becomes enforceable.
- 13.11.2 Any appointment under this clause 13.11 shall:
- 13.11.2.1 be in writing signed by a duly authorised signatory of the Security Trustee; and
- 13.11.2.2 take effect, in accordance with paragraph 20 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989.
- 13.11.3 The Security Trustee may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 13.11 appoint a replacement for any

Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

**14. WHEN SECURITY BECOMES ENFORCEABLE**

**14.1 Enforcement events**

The security constituted by this Deed shall be immediately enforceable if an Event of Default occurs and is continuing. After the occurrence of an Event of Default which is continuing the powers of sale under the Conveyancing Act 1881 and the Conveyancing Act 1911 shall immediately be exercisable and the Security Trustee may in its absolute discretion enforce all or any part of the security created by this Deed as it sees fit.

**15. ENFORCEMENT OF SECURITY**

**15.1 Enforcement powers**

15.1.1 The power of sale and other powers conferred by section 19 of the Conveyancing Act 1881 and section 4 of the Conveyancing Act 1911 (as varied or extended by this Deed) shall arise on and be exercisable at any time after the execution of this Deed, but the Security Trustee shall not exercise such power of sale or other powers until the occurrence of an Event of Default which is continuing under clause 14.1.

15.1.2 Sections 17 & 20 of the Conveyancing Act 1881 do not apply to the security constituted by this Deed.

**15.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the Conveyancing Act 1881 and the Conveyancing Act 1911 and by any other statute are extended so as to authorise the Security Trustee and any Receiver, at any time after the occurrence of an Event of Default which is continuing, whether in its own name or in that of the Chargor, to:

15.2.1 grant a lease or agreement to lease;

15.2.2 accept surrenders of leases; or

15.2.3 grant any option of the whole or any part of the Charged Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Security Trustee or Receiver thinks fit without the need to comply with any of the restrictions imposed by section 18 Conveyancing Act 1881 and section 3 of the Conveyancing Act 1911.

**15.3 Access on enforcement**

15.3.1 At any time after the Security Trustee has demanded payment of the Secured Liabilities or if the Chargor or any Obligor defaults in the performance of its obligations under the Finance Documents, the Chargor will allow the Security Trustee or its Receiver, without

further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Charged Property and for that purpose to enter on any premises where a Charged Property is situated (or where the Security Trustee or a Receiver reasonably believes a Charged Property to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.

- 15.3.2 At all times, the Chargor must use its best endeavours to allow the Security Trustee or its Receiver access to any premises for the purpose of clause 15.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

#### **15.4 Prior Security Interests**

At any time after the occurrence of an Event of Default which is continuing, or after any powers conferred by any Security Interest having priority to this Deed shall have become exercisable, the Security Trustee may:

- 15.4.1 redeem that or any other prior Security Interest;
- 15.4.2 procure the transfer of that Security Interest to it; and
- 15.4.3 settle and pass any account of the holder of any prior Security Interest.

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

#### **15.5 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Security Trustee or any Receiver shall be concerned to enquire:

- 15.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 15.5.2 whether any power the Security Trustee or Receiver is purporting to exercise has become exercisable or is properly exercisable; or
- 15.5.3 how any money paid to the Security Trustee or any Receiver is to be applied.

#### **15.6 Privileges**

Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Conveyancing Act 1881 and the Conveyancing Act 1911 on mortgagees and receivers.

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

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

#### **15.8 Conclusive discharge to purchasers**

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

#### **15.9 Right of appropriation**

To the extent that the Charged Property constitute Financial Collateral and this Deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement, the Security Trustee shall have the right, at any time after the occurrence of an Event of Default which is continuing, to appropriate all or any of those Charged Property in or towards the payment and/or discharge of the Secured Liabilities in such order as the Security Trustee in its absolute discretion may from time to time determine. The value of any Charged Property appropriated in accordance with this clause shall be the price of those Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by any other method that the Security Trustee may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

### **16. RECEIVER**

#### **16.1 Appointment**

At any time after the occurrence of an Event of Default which is continuing, or at the request of the Chargor, the Security Trustee may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Property.

#### **16.2 Removal**

The Security Trustee may, without further notice (subject to section Article 55 of the Insolvency (Northern Ireland) Order 1989), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

#### **16.3 Remuneration**

The Security Trustee may fix the remuneration of any Receiver appointed by it, and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately on its being paid by the Security Trustee.

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

The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Security Trustee under the Insolvency (Northern Ireland) Order 1989, the Conveyancing Act 1881 and the Conveyancing Act 1911 or otherwise, and shall be exercisable without the restrictions contained in sections 17 and 20 of the Conveyancing Act 1881 or otherwise.

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

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

**16.6 Agent of the Chargor**

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

**17. POWERS OF RECEIVER**

**17.1 General**

17.1.1 Any Receiver appointed by the Security Trustee under this Deed shall, in addition to the powers conferred on him by statute (including the powers conferred on an administrative receiver by schedule 1 to the Insolvency (Northern Ireland) Order 1989, whether or not the Receiver is an administrative receiver), have the powers set out in clause 17.2 to clause 17.25.

17.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

17.1.3 Any exercise by a Receiver of any of the powers given by clause 17 may be on behalf of the Chargor, the directors of the Chargor (in the case of the power contained in clause 17.16) or himself.

**17.2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

**17.3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

**17.4 Employ personnel and advisors**

A Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

**17.5 Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

**17.6 Remuneration**

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

**17.7 Realise Charged Property**

A Receiver may collect and get in the Charged Property or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Charged Property with like rights.

**17.8 Manage or reconstruct the Chargor's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor.

**17.9 Dispose of Charged Property**

A Receiver may sell, exchange, convert into money and realise all or any of the Charged Property in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be sold.

**17.10 Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Chargor.

**17.11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit.

**17.12 Valid receipts**

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

**17.13 Make settlements**

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

**17.14 Bring proceedings**

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

**17.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

**17.16 Make calls on the Chargor's members**

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Chargor on its directors in respect of calls authorised to be made by them.

**17.17 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 20, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this Deed.

**17.18 Powers under the Conveyancing Acts**

A Receiver may exercise all powers provided for in the Conveyancing Act 1881 and Conveyancing Act 1911 in the same way as if he had been duly appointed under the Conveyancing Act 1881 and Conveyancing Act 1911, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency (Northern Ireland) Order 1989.

**17.19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 17, raise money by borrowing from the Security Trustee (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on any terms that he thinks fit (including, if the Security Trustee consents, terms under which that security ranks in priority to this Deed).

**17.20 Redeem prior Security Interests**

A Receiver may redeem any prior Security Interest and settle and pass the accounts to which the Security Interest relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**17.21 Delegation**

A Receiver may delegate his powers in accordance with this Deed.

**17.22 Absolute beneficial owner**

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

**17.23 Formation of companies**

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Property and to arrange for such companies to trade or cease to trade in all cases.

**17.24 Acquisition of property**

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

**17.25 Incidental powers**

A Receiver may do any other acts and things:

- 17.25.1 that he may consider desirable or necessary for realising any of the Charged Property;
- 17.25.2 that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; and
- 17.25.3 that he lawfully may or can do as agent for the Chargor.

**18. DELEGATION**

**18.1 Delegation**

The Security Trustee or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under clause 22.1).

**18.2 Terms**

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



**19. APPLICATION OF PROCEEDS**

**19.1 Order of application of proceeds**

All monies received by the Security Trustee, or a Receiver pursuant to this Deed, after the occurrence of an Event of Default which is continuing, shall (subject to the claims of any person having prior rights) be applied in accordance with the terms of the Facility Agreement.

**19.2 Appropriation**

Neither the Security Trustee nor any Receiver shall be bound (whether by virtue of section 20(8) of the Conveyancing Act 1881, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

**19.3 Suspense account**

All monies received by the Security Trustee or a Receiver under this Deed:

19.3.1 may, at the discretion of the Security Trustee or Receiver, be credited to any suspense or securities realised account;

19.3.2 shall bear interest, if any, at the rate agreed in writing between the Security Trustee and the Chargor; and

19.3.3 may be held in that account for so long as the Security Trustee or Receiver thinks fit.

**20. COSTS AND INDEMNITY**

**20.1 Costs**

The Chargor shall pay to or reimburse the Security Trustee and any Receiver on demand, on a full indemnity basis, all Costs incurred by the Security Trustee, and/or any Receiver in relation to:

20.1.1 protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Security Trustee's, or a Receiver's rights under this Deed;

20.1.2 suing for, or recovering, any of the Secured Liabilities,

(including, without limitation, the Costs of any proceedings in relation to this Deed or the Secured Liabilities) together with, in the case of clause 20.1.1 and clause 20.1.2 interest on the amount due at the default rate of interest specified in the Facility Agreement.

**20.2 Indemnity**

The Chargor shall indemnify the Security Trustee and any Receiver, and their respective employees and agents shall be indemnified on a full indemnity basis out of the Charged Property in respect of all actions, liabilities and Costs incurred or suffered as a result of:

- 20.2.1 the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Deed;
- 20.2.2 any matter or thing done or omitted to be done in relation to the Charged Property under those powers; or
- 20.2.3 any default or delay by the Chargor in performing any of its obligations under this Deed.

## **21. FURTHER ASSURANCE**

### **21.1 Further assurance**

The Chargor shall, at its own expense, take whatever action the Security Trustee or any Receiver may reasonably require for:

- 21.1.1 creating, perfecting or protecting the security intended to be created by this Deed;
- 21.1.2 facilitating the realisation of any Charged Property; or
- 21.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Security Trustee or any Receiver in respect of any Charged Property,

including, without limitation (if the Security Trustee or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Property (whether to the Security Trustee or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **22. POWER OF ATTORNEY**

### **22.1 Appointment of attorneys**

By way of security, the Chargor irrevocably appoints the Security Trustee and every Receiver separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed to execute any documents and do any acts and things that:

- 22.1.1 the Chargor is required to execute and do under this Deed; or
- 22.1.2 any attorney, acting reasonably, deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Security Trustee or any Receiver.

**22.2 Ratification of acts of attorneys**

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 22.1.

**23. RELEASE**

Subject to clause 25.3, on the expiry of the Security Period (but not otherwise), the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.

**24. ASSIGNMENT AND TRANSFER**

**24.1 No Assignment**

Neither the Chargor nor the Security Trustee may assign any of its rights, or transfer any of its obligations, under this Deed, or enter into any transaction that would result in any of those rights or obligations passing to another person.

**25. FURTHER PROVISIONS**

**25.1 Independent security**

This Deed shall be in addition to and independent of any other security or guarantee which the Security Trustee may at any time hold for any of the Secured Liabilities and no prior security held by the Security Trustee over the whole or any part of the Charged Property shall merge in the security created by this Deed.

**25.2 Continuing security**

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

**25.3 Discharge conditional**

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

- 25.3.1 the Security Trustee or its nominee shall be at liberty to retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Property, for such period as the Security Trustee shall deem necessary to provide the Security Trustee with security against any such avoidance, reduction or order for refund; and

25.3.2 the Security Trustee shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.

**25.4 Certificates**

A certificate or determination by the Security Trustee as to any amount for the time being due to it from the Chargor shall (in the absence of any manifest error) be conclusive evidence of the amount due.

**25.5 Rights cumulative**

The rights and remedies of the Security Trustee conferred by this Deed are cumulative, may be exercised as often as the Security Trustee considers appropriate, and are in addition to its rights and remedies under the general law.

**25.6 Waivers**

Any waiver or variation of any right or remedy by the Security Trustee (whether arising under this Deed or under the general law) shall only be effective if it is in writing and signed by the Security Trustee and applies only in the circumstances for which it was given and shall not prevent the party giving it from subsequently relying on the relevant provision.

**25.7 Further exercise of rights**

No act or course of conduct or negotiation by, or on behalf of, the Security Trustee shall in any way preclude the Security Trustee from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.

**25.8 Delay**

No delay or failure to exercise any right or power under this Deed shall operate as a waiver of that right or remedy.

**25.9 Single or partial exercise**

No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that right or remedy, or any other such right.

**25.10 Consolidation**

The restriction on the right of consolidation contained in Section 17 of the Conveyancing Act 1881 shall not apply to this Deed.

**25.11 Partial invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

## 25.12 Counterparts

This Deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

## 25.13 Third party rights

A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this Deed.

## 25.14 Perpetuity period

If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 80 years.

## 26. NOTICES

### 26.1 Service

Each notice or other communication required to be given under, or in connection with, this Deed shall be:

26.1.1 in writing, delivered personally or sent by pre-paid first-class letter or fax; and

26.1.2 sent to:

26.1.2.1 the Chargor at:

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Fax: \_\_\_\_\_

26.1.2.2 the Security Trustee at:

The Shard  
32 London Bridge Street  
London  
SE1 9SG  
Attention: [Philip Kent]

Fax: [+44 (0)20 3667 8100],

or to any other address or fax number as is notified in writing by one party to the other from time to time.

### 26.2 Email invalid

Notice given under this Deed shall not be validly served if sent by e-mail.

### **26.3 Receipt**

Any notice or other communication that the Security Trustee gives shall be deemed to have been received:

- 26.3.1 if sent by fax, when received in legible form;
- 26.3.2 if given by hand, at the time of actual delivery; and
- 26.3.3 if posted, on the second Business Day after the day it was sent by pre-paid first-class post.

A notice or other communication given as described in clause 26.3.1 or clause 26.3.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

### **26.4 Receipt by Security Trustee**

Any notice or other communication given to the Security Trustee shall be deemed to have been received only on actual receipt.

## **27. SECURITY TRUSTEE**

### **27.1 Action**

In acting hereunder, the Security Trustee does so subject to and in accordance with the detailed provisions of the Facility Agreement.

### **27.2 Acknowledgement**

The parties to this Deed acknowledge and agree that notwithstanding anything to the contrary in this Deed or any Finance Document (as defined in the Facility Agreement), the Security Trustee has agreed to become a party to this Deed for the better preservation and enforcement of its rights and, except as expressly provided in this Deed, shall not assume any liabilities or obligations hereunder, including for the avoidance of doubt, by virtue of being a party or a Finance Party.

## **28. GOVERNING LAW AND JURISDICTION**

### **28.1 Governing law**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed according to the law of Northern Ireland.

### **28.2 Jurisdiction**

The parties to this Deed irrevocably agree that, subject as provided below, the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this Deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Security Trustee to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude

the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of that other jurisdiction.

**28.3 Other service**

The Chargor irrevocably consents to any process in any proceedings being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

**AS WITNESS** the hands of the parties hereto or their duly authorised agents the day and year first above written.

## **SCHEDULE 1**

### **Property**

The lands situate at Tully Quarry, 116 Moorfields Road, Ballymena, County Antrim, as described in an Indenture of Lease made between (1) Anaerobic Advantage Limited and (2) Boville-McMullan Limited dated on or around the date of this Deed, being described therein as that part of the lands in Folio numbers 8496 Co. Antrim, 8500 Co. Antrim, 27477 Co. Antrim, AN23824 Co. Antrim, AN26675 Co. Antrim, AN28879 Co. Antrim, AN29153 Co. Antrim, AN32714 Co. Antrim, AN62773 Co. Antrim, AN111899 Co. Antrim shown for the purpose of identification only edged red on the plan annexed thereto.



## **SCHEDULE 2**

### **Relevant Agreements**

- (1) Digestate Contract
- (2) EPC Contract
- (3) Grid Connection Agreement
- (4) MSA Contract
- (5) PPA
- (6) Supply Agreement
- (7) Maintenance Contract
- (8) FMSA

**CHARGOR**

EXECUTED as a deed by  
ANAEROBIC ADVANTAGE  
LIMITED acting by JAMES REID  
a director, in the presence of:

.....James Reid.....  
Director

.....  
Signature of Witness

Levan Gursoy

Name of Witness: Levan Gursoy

Address of Witness: 73 Strawberry Vale  
Twickenham

Occupation of Witness: Solicitor

**SECURITY TRUSTEE**

EXECUTED as a deed by  
FORESIGHT FUND  
MANAGERS LIMITED acting by  
D.M. HUGHES a director, in the  
presence of:

.....D.M. Hughes.....  
Director

.....Lily Gill.....  
Signature of Witness

Name of Witness: LILY GILL

Address of Witness: 22 PARK ROAD  
EAST GRINSTEAD  
RH19 1DP

Occupation of Witness: PORTFOLIO ADMINISTRATOR