



**Registration of a Charge**

Company name: **CAIRNGORM ACQUISITIONS III MIDCO LIMITED**

Company number: **10887323**

Received for Electronic Filing: **22/11/2017**



X6JPTR7F

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**Details of Charge**

Date of creation: **07/11/2017**

Charge code: **1088 7323 0004**

Persons entitled: **PNC BUSINESS CREDIT, A TRADING STYLE OF PNC FINANCIAL SERVICES UK LTD**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SQUIRE PATTON BOGGS (UK) LLP**



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

Company number: 10887323

Charge code: 1088 7323 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th November 2017 and created by CAIRNGORM ACQUISITIONS III MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd November 2017 .

Given at Companies House, Cardiff on 24th November 2017

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

SHARE PLEDGE

by

CAIRNGORM ACQUISITIONS III  
MIDCO LIMITED

in favour of

PNC BUSINESS CREDIT  
a trading style of  
PNC FINANCIAL SERVICES UK LTD

2017

**MORTON FRASER**   
LAWYERS

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This Share Pledge is given

by

- Sgt 7
- (1) **CAIRNGORM ACQUISITION** ~~SH~~ **MIDCO LIMITED**, a company registered in England and Wales with Company Number 10887323 and having its registered office at 22 Cross Keys Close, Marylebone, London, United Kingdom, W1U 2DW (the "**Chargor**");

in favour of:

- (2) **PNC BUSINESS CREDIT**, a trading style of PNC FINANCIAL SERVICES UK LIMITED, a company registered in England and Wales with Company Number 07341483 and having its registered office at 34-36 Perrymount Road, Haywards Heath, West Sussex, RH16 3DN ("**PNC**").

WHEREAS:

- (A) PNC has agreed to make available certain asset-based lending facilities available to the Company pursuant to the Master Facilities Agreement.
- (B) It is a condition of those facilities that the Chargor grants, inter alia, a security in favour of PNC in the form of this Pledge.

## OPERATIVE PROVISIONS

### 1 Definitions and Interpretation

#### 1.1 Definitions

In this Pledge:

1.1.1 terms defined in, or construed for the purposes of, the Master Facilities Agreement have the same meanings when used in this Pledge (unless the same are otherwise defined in this Pledge); and

1.1.2 the following terms have the following meanings:

"**Company**" means Thornbridge Sawmills Limited, a company incorporated in Scotland with company number SC188920 and having its registered office at Thornbridge Yard, Laurieston Road, Grangemouth, Stirlingshire, FK3 8XX;

"**Delegate**" means any person appointed by PNC pursuant to clause 18, and any person appointed as attorney of PNC or any Delegate;

"**Master Facilities Agreement**" means the master facilities agreement, dated on or around the date of this Pledge and made between (1) PNC; (2) the Company and (3) the companies named therein as Security Obligors and pursuant to which PNC has agreed to make asset-based lending facilities up to £9,525,000 available to the Company;

"**Nominee**" means a nominee company acting for PNC (if any), as notified by PNC to the Chargor from time to time;

"**Original Shares**" means the shares in the capital of the Company described in the Schedule;

"**Pledge**" means this Pledge and the security and other rights and obligations created by it;

**"Schedule"** means the schedule annexed to and forming part of this Pledge;

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of any member of the Group to PNC under or pursuant to any Finance Document (including all monies covenanted to be paid under this Pledge), provided that no obligation or liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, this Pledge (or any part of it) would constitute unlawful financial assistance within the meaning of sections 678 and 679 of the Companies Act 2006;

**"Security"** means the Security Interests created by or pursuant to this Pledge;

**"Security Assets"** has the meaning given to it in Clause 4.1;

**"Security Period"** means the period beginning on the date of this Pledge and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full;
- (b) the A/R Facility has been terminated according to its terms; and
- (c) PNC has no further commitment, obligation or liability under or pursuant to the Finance Documents;

**"Shares"** means the Original Shares together with all other shares in the capital of the Company held from time to time by or for the Chargor;

**"Value Added Tax"** includes any form of sales or turnover tax.

## 1.2 Interpretation

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

- 1.2.1.1 the **"Chargor"** or **"PNC"** shall be construed so as to include its successors in title, permitted assignees and permitted transferees;
- 1.2.1.2 **"this Pledge"**, the **"Master Facilities Agreement"**, any other **"Finance Document"** or any other agreement or instrument shall be construed as a reference to this Pledge, the Master Facilities Agreement, such other Finance Document or such other agreement or instrument as varied, amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any member of the Group or provides for further advances);
- 1.2.1.3 **"assets"** includes any present and future properties, revenues and rights of every description and includes uncalled capital;
- 1.2.1.4 an Event of Default that is **"continuing"** shall be construed as meaning an Event of Default that has not been waived in writing by PNC, to the satisfaction of PNC and any waiver given by PNC shall only apply to

- the specific occurrence of the specific event referred to in such waiver;
- 1.2.1.5 "including" or "includes" means including or includes without limitation;
- 1.2.1.6 "Secured Obligations" includes obligations and liabilities which would be treated as such but for the liquidation or dissolution of or similar event affecting any member of the Group;
- 1.2.1.7 a provision of law is a reference to that provision as amended or re-enacted; and
- 1.2.1.8 the singular includes the plural and vice versa.
- 1.2.2 Where in connection with any legal jurisdiction outside Scotland a word or phrase in this Pledge has no precise counterpart, then this Pledge shall be interpreted as if that word or phrase referred to the closest equivalent in the jurisdiction concerned.
- 1.2.3 References to clauses, paragraphs and schedules are to be construed, unless otherwise stated, as references to clauses, paragraphs and schedules of and to this Pledge and references to this Pledge include its schedules.
- 1.2.4 Clause and schedule headings are for convenience only and shall not affect the construction of this Pledge.
- 1.2.5 Each undertaking of the Chargor contained in this Pledge must be complied with at all times during the Security Period.
- 1.2.6 If PNC reasonably considers that an amount paid by the Chargor to PNC under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Pledge.
- 1.2.7 This Pledge is subject to the terms of the Intercreditor Deed dated on or around the date of this Pledge among *inter alia* the Chargor and PNC.
- 1.2.8 This Pledge is a Finance Document.

## 2 **Covenant to Pay**

### 2.1 **Covenant to pay**

The Chargor, as principal obligor and not merely as surety, covenants in favour of PNC that it will pay and discharge the Secured Obligations from time to time when they fall due under and in the manner provided for in the Finance Documents.

### 2.2 **Default interest**

- 2.2.1 Any amount which is not paid under this Pledge when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate and in the manner agreed in the Finance Documents under which such



amount is payable and, in the absence of such agreement, at the Default Rate from time to time.

- 2.2.2 Default interest will accrue from day to day and will be compounded at such intervals as PNC determines from time to time.

### 3 Nature of security

All Security Interests created or made by or pursuant to this Pledge are created or made:

- 3.1.1 in favour of PNC;
- 3.1.2 with an absolute warranty as to the Chargor's title to the relevant asset; and
- 3.1.3 as continuing security for payment of the Secured Obligations.

### 4 Grant of Security

- 4.1 As a continuing security for the full payment and discharge of the Secured Obligations, the Chargor pledges, charges and assigns to PNC:

- 4.1.1 its entire right, title and interest (present and future) in and to the Shares;
- 4.1.2 all rights, money or property of a capital nature at any time accruing on, or payable or receivable in respect of, any of the Shares, whether by way of bonus, consolidation, conversion, exchange, option, preference, return of capital or otherwise;
- 4.1.3 all rights, money or property of an income nature accruing on, or payable or receivable in respect of, any of the Shares whether by way of dividend, distribution, interest, or otherwise;

(together the "**Security Assets**").

- 4.2 The Chargor will not without the prior written consent of PNC:

- 4.2.1 create or attempt to create or permit to subsist (except in favour of PNC) any right in security, mortgage, charge, lien, encumbrance, right of set-off or any trust agreement, declaration of trust, or trust arising by operation of law in respect of all or any of the Security Assets; or
- 4.2.2 sell, transfer, assign or otherwise dispose of all or any of the Security Assets.

- 4.3 No obligation shall be assumed by PNC in respect of the Security Assets as a result of the execution and delivery of this Pledge and (in particular but without limitation to such generality) no liability will be incurred by PNC as a result of any failure by the Chargor to comply with all or any of its obligations in relation to the Security Assets.

- 4.4 PNC hereby acknowledges that notwithstanding any transfer or delivery to it *ex facie* absolutely of all or any of the Security Assets and any registration of all or any of the Security Assets in the name of PNC (or, at PNC's option, the Nominee) or the custody thereof by or for PNC (or, at PNC's option, the Nominee) the Security Assets are and shall be held by it in security for the payment or discharge of the Secured Obligations on the terms and conditions of this Pledge.

## 5 Continuing Security

### 5.1 Continuing security

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Pledge shall remain in full force and effect as a continuing security for the duration of the Security Period.

### 5.2 Additional and separate security

This Pledge and the Security created under it is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which PNC may at any time hold for the Secured Obligations.

### 5.3 Right to enforce

This Pledge may be enforced, at any time after it has become enforceable, against the Chargor without PNC first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it.

## 6 Perfection

### 6.1 The Chargor undertakes that it shall on the date of this Pledge immediately deliver to PNC:

6.1.1 a valid executed stock transfer form (or other instrument of transfer) in respect of the Original Shares in favour of PNC (or, at the option of PNC, the Nominee);

6.1.2 all share (or stock) certificates and other documents of title and evidence of ownership in respect of the Original Shares;

6.1.3 evidence satisfactory to PNC that the transfer(s) of the Original Shares to PNC (or, at the option of PNC, the Nominee) have been approved by the board of directors of the Company in accordance with the articles of association of the Company;

6.1.4 a copy (certified a true copy by a director of the Chargor) of the articles of association of the Company in force at the date of this Pledge; and

6.1.5 all other documents requested by PNC in respect of the Original Shares.

### 6.2 The Chargor undertakes to PNC that it will, upon being issued or otherwise acquiring any Shares after the date of this Pledge, immediately deliver to PNC:

6.2.1 a valid executed stock transfer form (or other instrument of transfer) in respect of the Shares so issued or otherwise acquired in favour of PNC (or, at the option of PNC, the Nominee);

6.2.2 all share (or stock) certificates and other documents of title and evidence of ownership in respect of the Shares so issued or otherwise acquired;

6.2.3 evidence satisfactory to PNC that the transfer(s) of the Shares so issued or otherwise acquired to PNC (or, at the option of PNC, the Nominee) have been approved by the board of directors of the

Company in accordance with the articles of association of the Company;

6.2.4 a copy (certified a true copy by a director of the Chargor) of the articles of association of the Company in force at the relevant time; and

6.2.5 all other documents reasonably requested by PNC in respect of the Shares so issued or otherwise acquired.

6.3 PNC shall be entitled, at any time, to date and deliver any stock transfer form or other instrument of transfer referred to above and whenever PNC dates and delivers that instrument of transfer to the secretary of the Company, the Chargor will immediately procure that:

6.3.1 PNC (or, at PNC's option, the Nominee) shall be entered into and registered in the register of transfers and register of members of the Company as the transferee and registered holder of the Shares respectively;

6.3.2 the issue to PNC or the Nominee, as appropriate, of all share certificates and other documents of title and evidence of ownership of the Shares in the name of PNC or the Nominee, as appropriate; and

6.3.3 procure the delivery to PNC or the Nominee, as appropriate, of certified copy extracts from the register of transfers and register of members of the Company showing PNC or the Nominee, as appropriate, as the transferee and registered holder of the Shares respectively.

6.4 Following PNC being entered into and registered in the register of transfers and register of members of the Company as the transferee and registered holder of the Shares respectively pursuant to clause 6.3, PNC shall:

6.4.1 deliver to the Chargor all notices, documents and other correspondence addressed to it (or the Nominee) solely in its capacity as a registered holder of the Shares; and

6.4.2 take such steps and sign such documents (or procure that the Nominee will do so) as are (subject to compliance with applicable laws and receipt of adequate notice) requested by the Chargor in order to give effect to the terms of this Pledge.

## **7 Voting rights and dividends**

7.1 Except while the Security is enforceable, the Chargor may exercise all voting and other rights and powers in respect of the Shares or, if any of the same are exercisable by PNC or the Nominee, to direct in writing the exercise of those voting and other rights and powers provided that:

7.1.1 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; and

7.1.2 the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in PNC's reasonable judgment, have a Material Adverse Effect nor affect the value of the Security Assets.

7.2 The Chargor shall indemnify PNC against any loss or liability incurred by PNC (or its Nominee) as a consequence of PNC (or its Nominee) acting in respect of the Security Assets at the direction of the Chargor.

- 7.3 PNC 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 Security Assets which PNC considers prejudicial to, or impairing the value of, the security created by this Pledge.
- 7.4 While the Security is enforceable, all voting rights in respect of the Shares and all other rights attached to the Shares may be exercised (without any obligation to do so) by PNC (or the Nominee) in such a manner as it shall (in its absolute discretion) see fit.
- 7.5 If the Chargor shall at any time become entitled to subscribe for further shares or other securities in the capital of the Company (whether by reason of its interest in the Shares or otherwise) then the Chargor hereby irrevocably and unconditionally undertakes to PNC that it shall do all such acts and things as are required in order to pledge, charge and assign in favour of PNC all of such further shares or other securities in the capital of the Company in order to create a perfected first ranking fixed security interest over such shares or securities.

## **8 Calls and other obligations**

- 8.1 The Chargor will promptly pay all calls, instalments and/or other payments, and will discharge all obligations, which may become due in respect of the Shares. If the Chargor fails to make payment of any call, instalment or other sum that may be or become payable in respect of the Shares, then PNC may (but shall not be obliged to) pay any such call or other sum and the Chargor hereby irrevocably and unconditionally undertakes to repay to PNC all such amounts so paid by PNC together with interest from the date of such payment at the Default Rate. All amounts incurred by PNC in accordance with the terms of this clause 8.1 (and any interest thereon) shall form part of the Secured Obligations in terms of this Pledge. The Chargor acknowledges that PNC shall not be under any liability in respect of any such calls, instalments or other payments.
- 8.2 The Chargor shall comply with, and shall remain liable to perform, all of the other conditions and obligations assumed by it in respect of all or any part of the Secured Assets.

## **9 Dividends**

- 9.1 Except while the Security is enforceable, the Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Shares and, if any are paid or payable to PNC or the Nominee, PNC will hold all those dividends, interest and other monies received by it for the Chargor and will pay them to the Chargor promptly on request.
- 9.2 While the Security is enforceable, all dividends and other distributions paid in respect of the Shares and received by the Chargor shall be held by the Chargor in trust for PNC and immediately paid or made to PNC or, if received by PNC, shall be retained by PNC and may be applied by PNC in accordance with the provisions (if any) of the Finance Documents providing for the application of monies received or receivable by PNC.
- 9.3 PNC shall have no duty to ensure that any dividends, interest or other money and assets or rights receivable in respect of the Shares are duly and punctually paid, received or collected or exercised when they become due and payable or exercisable, or to ensure that the correct amounts (if any) are paid or received in respect of the Shares, or to ensure the taking up of any (or any offer of any) stocks, shares, rights, money or other property paid, accruing or offered at any time by way of redemption, bonds, bonus, rights, preference or otherwise in respect of the Shares.

## 10 Nominations

- 10.1 The Chargor shall not, during the Security Period, exercise any rights (if any) to nominate any person in respect of any of the Security Assets.
- 10.2 The Chargor shall immediately terminate all nominations it may have made in respect of any of the Security Assets and, pending such termination, procure that any person so nominated:
  - 10.2.1 does not exercise any rights in respect of any of the Security Assets without the prior written approval of PNC; and
  - 10.2.2 immediately upon receipt by it, forward to PNC all communications and other information received by it in respect of any of the Security Assets for which it has been so nominated.

## 11 Undertakings

- 11.1 The Chargor undertakes that it will not, except as permitted under the Finance Documents:
  - 11.1.1 dispose of the Security Assets or any part thereof or interest therein or in any way encumber the same or render the same subject to any lien or third party interest;
  - 11.1.2 permit any person to be registered as the holder of all or any of the Shares (other than PNC or the Nominee);
  - 11.1.3 take or allow the taking of any action which may result in any shares in the capital of the Company being issued after the date of this Pledge (other than to the Chargor) nor grant any right (whether exercisable now or in the future and whether contingent or not) to any person to call for the issue, sale, transfer, redemption or repayment of any Share of the Company under any option or other agreement or otherwise howsoever;
  - 11.1.4 commence or otherwise subject the Company to any insolvency, liquidation, administration, receivership or similar proceedings during the Security Period;
  - 11.1.5 take any action whereby the rights attaching to, or the Security Interest over, the Security Assets are altered, diluted or otherwise adversely affected except with the prior written consent of PNC; or
  - 11.1.6 cause or permit to be done anything, or omit to take any action, which may in any way depreciate, jeopardise or otherwise prejudice the Security and/or the value or marketability of any of the Security Assets.
- 11.2 The Chargor undertakes that it will at all times:
  - 11.2.1 comply with the terms of this Pledge and the covenants and undertakings in the Finance Documents;
  - 11.2.2 if and when required by PNC, grant in its favour (or as PNC shall direct) such additional fixed or specific security or charge or assignation over all or any of the Security Assets as PNC may require;
  - 11.2.3 comply in all respects with the terms of the memorandum and articles of association of the Company in relation to the Security Assets;

- 11.2.4 promptly notify PNC of the allotment or issue of any shares in the capital of the Company to any person after the date of this Pledge;
- 11.2.5 promptly upon request by PNC deposit with PNC all deeds, certificates and documents of title relating to the Security Assets or any part thereof;
- 11.3 The Chargor shall:
  - 11.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer, for the transfer of the Security Assets to PNC or its Nominee, or to a purchaser on enforcement of this Pledge; and
  - 11.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer in any manner that PNC may reasonably require in order to permit the transfer of the Security Assets to PNC or its Nominee, or to a purchaser on enforcement of this Pledge.
- 11.4 The Chargor shall not, except to the extent required to comply with Clause 11.3 or with the prior written consent of PNC or except to the extent expressly permitted under the Finance Documents, amend, or agree to the amendment of:
  - 11.4.1 the memorandum or articles of association, or any other constitutional documents, of the Company or any issuer that is not a public company if that amendment may in PNC's opinion prejudice the Security; or
  - 11.4.2 the rights or liabilities attaching to any of the Security Assets.
- 11.5 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 refuse to register any transfer of any of the Security Assets that may be lodged for registration by, or on behalf of, PNC or the Chargor in accordance with this Pledge.

## 12 Representations and Warranties

- 12.1 The Chargor represents and warrants to PNC that:
  - 12.1.1 the Security Assets are within the Chargor's disposition and control and the terms of each of the Security Assets, if applicable, and of the memorandum and articles of association or other constitutional documents of each issuer of the Security Assets do not restrict or otherwise limit its ability to transfer, mortgage, charge, pledge or otherwise grant security in respect of any of the Security Assets;
  - 12.1.2 all authorisations required for the entry into, performance, validity and enforceability of this Pledge by the Chargor and for the conduct of its business have been obtained and are in full force and effect;
  - 12.1.3 it is the sole absolute and beneficial owner of all the Security Assets free (except in favour of PNC) from any Security Interest save for any Security Interest that is permitted in terms of the Master Facilities Agreement;
  - 12.1.4 each of the Shares is fully paid and no amount is payable on or in respect of any of them;

12.1.5 it has not sold, transferred, assigned, pledged, charged or otherwise disposed of or encumbered or agreed to sell, transfer, assign, pledge, charge or dispose of or otherwise encumber, including by way of trust agreement, declaration of trust or trust arising by operation of law, all or any of its right, title and interest in and to all or any part of the Security Assets to anyone other than PNC;

12.1.6 the Original Shares represent all of the equity share capital of the Company in issue (or agreed to be issued) at the date of this Pledge and no person has any option, warrant or other similar right to subscribe for any shares of the Company.

**12.2 Time when representations made**

12.2.1 All the representations and warranties in this clause 12 are made by the Chargor on the date of this Pledge and are also deemed to be made by the Chargor and on the date of each Notification.

12.2.2 Each representation or warranty deemed to be made after the date of this Pledge shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

**13 PNC Protection**

13.1 The obligations of the Chargor under this Pledge will not be affected by any act, omission, circumstance, matter or thing which but for this provision might operate to release or otherwise exonerate it from any of its obligations hereunder in whole or in part, including (without limitation):

13.1.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which PNC may have now or in the future from or against the Chargor or any other person in respect of the Secured Obligations;

13.1.2 any act or omission by PNC or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Chargor or any other person or the invalidity or unenforceability of any such security or guarantee;

13.1.3 any amendment, variation, restatement or supplement of or to, or novation, transfer or termination (in whole or in part) of, any document relating to the Secured Obligations or any exercise by PNC (in its absolute discretion) of its rights to refuse, grant, continue, vary, review, determine or increase any credit or facilities to the Chargor or any other person;

13.1.4 any grant of time, indulgence, waiver or concession to the Chargor or any other person;

13.1.5 any arrangement or compromise entered into between PNC and the Chargor or any other person;

13.1.6 the administration, insolvency, bankruptcy, sequestration, liquidation, winding-up, receivership, dissolution, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name and style of, the Chargor or any other person;

- 13.1.7 the invalidity, illegality, unenforceability, irregularity or frustration of the Secured Obligations or any of the obligations of the Chargor or any other person;
- 13.1.8 any postponement, discharge, reduction, non-provability, inability to claim or other similar circumstance affecting any obligation of any other person resulting from any administration, insolvency, bankruptcy, sequestration, liquidation, winding-up, receivership or dissolution proceedings or from any law, regulation or order.
- 13.2 PNC shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Pledge or by law to:
  - 13.2.1 take any action or obtain judgment or decree in any court against the Chargor;
  - 13.2.2 make or file any claim to rank in a winding-up or a liquidation of or other proceedings relating to the Chargor; or
  - 13.2.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to PNC, in respect of the Secured Obligations.
- 13.3 Any settlement or discharge between the Chargor and PNC shall be conditional upon no security or payment granted or made to PNC by the Chargor or any other person being avoided or reduced by virtue of any provision or enactment relating to administration, insolvency, bankruptcy, sequestration, liquidation, winding-up, receivership or dissolution (or any other equivalent or similar legal process) for the time being in force and accordingly (but without prejudice to any other rights of PNC) PNC shall be entitled to recover from the Chargor the value or amount of such security or payment from the Chargor as if such settlement or discharge had not occurred.
- 13.4 PNC shall be entitled in its absolute discretion to retain the security created by this Pledge or any other security held by PNC in security of the Secured Obligations for a period of one month plus such statutory period within which any security or payment given or made pursuant to this Pledge may be avoided or invalidated after the Secured Obligations shall have been paid or discharged in full, notwithstanding any release, settlement, discharge or arrangement given or made by PNC on or as a consequence of such termination or liability.

#### **14 When Security becomes enforceable**

This Pledge shall become immediately enforceable upon the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

#### **15 Enforcement**

##### **15.1 Enforcement**

- 15.1.1 At any time after the Security has become enforceable, PNC shall be and is entitled (but not obliged) in its absolute discretion to:
  - 15.1.1.1 enforce all or any part of the Security and exercise any of the rights conferred on it by this Pledge or by law at such times and in such manner as it thinks fit, and take possession of and hold or dispose of (by any means) all or any part of the Security Assets; and/or
  - 15.1.1.2 exercise in the names of the Chargor or otherwise, without any further consent or authority on the part of



the Chargor, any powers or rights which may be exercisable by the absolute owner thereof, including:

- 15.1.1.2.1 power to sell, call in, collect, convert into money or otherwise dispose of all or any of the Security Assets with full power on giving notice to the Chargor to such effect to sell any of the same either together or in parcels and either by public auction or private contract and for such consideration (whether in cash, securities or other assets and whether deferred or not) as PNC may think fit and with full power to buy in or rescind or vary any contract of sale of all or any of the Security Assets and to resell the same without being responsible for any loss which may be occasioned thereby and for the purposes aforesaid or any of them to execute and do all such assurances and things as it shall think fit;
- 15.1.1.2.2 power to receive all or any money payable in respect of or in connection with all or any of the Security Assets;
- 15.1.1.2.3 power to negotiate, compromise and/or agree any dispute arising out of all or any of the Security Assets.

15.1.2 At any time after the Security has become enforceable, PNC shall have the right to appropriate all or any part of the Security Assets in or towards the payment or discharge of the Secured Obligations. The value of any of the Security Assets appropriated in accordance with this clause 15.1.2 shall be the price of the Security Assets at the time the right of appropriation is exercised as listed on any recognised market index, or as determined by such other method as PNC may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this clause 15.1.2 are commercially reasonable.

15.1.3 PNC may exercise all or any of the powers referred to in this Pledge in such manner and to such extent as PNC considers appropriate (in its sole discretion) and in particular (but without limitation to the generality of the foregoing) shall not be under any duty to maximise the proceeds arising from the Security Assets.

15.1.4 Neither PNC nor the Nominee shall be liable to account to the Chargor except in respect of the actual receipts of PNC or the Nominee and shall not be liable to the Chargor for any loss or damage arising from the exercise by PNC or the Nominee of all or any of the powers conferred by this Pledge.

## 15.2 Redemption of prior mortgages

At any time after the Security has become enforceable, PNC may:

- 15.2.1 redeem any prior Security Interest against any Security Asset; and/or
- 15.2.2 procure the transfer of that Security Interest to itself; and/or
- 15.2.3 settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to PNC on demand.

### 15.3 No liability

- 15.3.1 Neither PNC nor any Delegate shall be liable (i) in respect of all or any part of the Security Assets or (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his fraud, gross negligence or wilful misconduct).
- 15.3.2 Without prejudice to the generality of clause, neither PNC nor any Delegate shall be liable, to account as mortgagee or security holder in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### 15.4 Protection of third parties

No person (including a purchaser) dealing with PNC or any Delegate or its agents will be concerned to enquire:

- 15.4.1 whether the Secured Obligations have become payable; or
  - 15.4.2 whether any power which PNC or the Delegate is purporting to exercise has become exercisable; or
  - 15.4.3 whether any money remains due under any Finance Document; or
- how any money paid to PNC or to the Delegate is to be applied.

## 16 Application of Proceeds

### 16.1 Application

All monies received by PNC or any Delegate after the Security has become enforceable shall be applied in the following order:

- 16.1.1 **first**, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by PNC or any Delegate;
- 16.1.2 **secondly**, in or towards satisfaction of the remaining Secured Obligations; and
- 16.1.3 **thirdly**, in payment of any surplus to the Chargor or other person entitled to it.

### 16.2 Contingencies

If the Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), PNC or a Delegate

may pay the proceeds of any recoveries effected by it into a blocked suspense account.

## 17 **Set-off**

### 17.1 **Set-off**

17.1.1 PNC may (but shall not be obliged to) set off any obligation (contingent or otherwise under the Finance Documents or which has been assigned to PNC) against any obligation (whether or not matured) owed by PNC to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.

17.1.2 If the obligations are in different currencies, PNC may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

17.1.3 If either obligation is unliquidated or unascertained, PNC may set off in an amount estimated by it in good faith to be the amount of that obligation.

### 17.2 **Time deposits**

Without prejudice to clause 17.1, if any time deposit matures on any account which the Chargor has with PNC at a time when:

17.2.1 this Security has become enforceable; and

17.2.2 no Secured Obligation is due and payable,

such time deposit shall automatically be renewed for such further maturity as PNC in its absolute discretion considers appropriate unless PNC otherwise agrees in writing.

## 18 **Delegation**

PNC may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by it under this Pledge upon any terms (including power to sub-delegate) which it may think fit. PNC shall not be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## 19 **Further Assurances**

### 19.1 **Further action**

The Chargor shall, at its own expense, promptly take whatever action PNC or a Delegate may reasonably require for:

19.1.1 creating, perfecting or protecting the Security Interests intended to be created by this Pledge; and

19.1.2 facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable by PNC or any Delegate in respect of any Security Asset,

including the execution of any transfer, conveyance, assignation or assurance of any property whether to PNC or to its Nominee, the giving of any notice, order or

direction and the making of any registration which in any such case PNC may think expedient.

#### 19.2 Specific security

Without prejudice to the generality of clause 19.1, the Chargor shall forthwith at the request of PNC execute a legal mortgage, charge, assignment, assignation or other security over any Security Asset which is subject to or intended to be subject to the security created by this Pledge in favour of PNC in such form as PNC may require.

### 20 Power of Attorney

The Chargor, by way of security, irrevocably and severally appoints PNC and any Delegate acting jointly or severally and acting in their respective own interests to be its attorney to take any action which the Chargor is obliged to take under this Pledge, including under clause 19. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 20. The appointment effected under this clause 20 shall take effect immediately, but the powers conferred shall only become exercisable upon the occurrence of an Event of Default which is continuing or if the Chargor does not fulfil any of its obligations under clause 19 within 5 days of notice from PNC to do so.

### 21 Payments

#### 21.1 Payments

Subject to clause 21.2, all payments to be made by the Chargor in respect of this Pledge shall be made:

21.1.1 in immediately available funds to the credit of such account as PNC may designate; and

21.1.2 without (and free and clear of, and without any deduction for or on account of):

21.1.2.1 any set-off or counterclaim; or

21.1.2.2 except to the extent compelled by law, any deduction or withholding for or on account of Tax.

#### 21.2 Gross-up

If the Chargor is compelled by law to make any deduction or withholding from any sum payable under this Pledge to PNC, the sum so payable by the Chargor shall be increased so as to result in the receipt by PNC of a net amount equal to the full amount expressed to be payable under this Pledge. If PNC assigns and/or transfers all or any of its rights under this Pledge and, as a result of circumstances existing at the date of the assignment or transfer, the Chargor is obliged to make a payment under this clause 21.2, then it shall only be obliged to do so to the same extent that it would have had to make such payment to PNC had such assignment or transfer not occurred.

### 21.3 Master Facilities Agreement

Without prejudice to the Chargor's obligations in accordance with this Pledge, PNC may at any time discharge the Chargor's obligation to make payment of any sums due by the Chargor to PNC by debiting such sum to any account held by PNC in relation to the Chargor.

## 22 Stamp Duty

The Chargor shall:

- 22.1 pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Pledge or any judgment or decree given in connection therewith; and
- 22.2 indemnify PNC and any Delegate on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges.

## 23 Costs and Expenses

### 23.1 Transaction and amendment expenses

The Chargor shall promptly on demand pay to PNC the amount of all reasonable costs, charges and expenses (including, without limitation, reasonable legal fees, valuation, accountancy and consultancy fees (and any Value Added Tax or similar Tax thereon)) incurred by PNC in connection with:

- 23.1.1 the negotiation, preparation, printing, execution, registration, perfection and completion of this Pledge, the Security or any document referred to in this Pledge; or
- 23.1.2 any actual or proposed amendment or extension of, or any waiver or consent under, this Pledge.

### 23.2 Enforcement and preservation costs

The Chargor shall promptly on demand pay to PNC the amount of all costs, charges and expenses (including (without limitation) legal fees (and any Value Added Tax or similar Tax thereon)) incurred by any of them in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their rights under this Pledge or any document referred to in this Pledge or the Security.

## 24 Currencies

### 24.1 Conversion

All monies received or held by PNC or any Delegate under this Pledge may be converted from their existing currency into such other currency as PNC considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Spot Rate of Exchange. The Chargor shall indemnify PNC against all costs, charges and expenses incurred in relation to such conversion. Neither PNC nor any Delegate shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

#### 24.2 Currency indemnity

No payment to PNC (whether under any judgment or court order or in the liquidation, administration or dissolution of the Chargor or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made, unless and until PNC shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, PNC shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security to recover the amount of the shortfall.

### 25 Indemnity

The Chargor shall indemnify PNC, any Delegate and PNC's officers and employees (each an "Indemnified Party") on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- 25.1 anything done or omitted in the exercise or purported exercise of the powers contained in this Pledge;
- 25.2 the Security Assets or the use or occupation of them by any person (including any Environmental Claim); or
- 25.3 any breach by the Chargor of any of its obligations under this Pledge.

### 26 Miscellaneous

#### 26.1 Appropriation and suspense account

- 26.1.1 PNC may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it thinks fit. Any such appropriation shall override any appropriation by the Chargor.
- 26.1.2 All monies received, recovered or realised by PNC under, or in connection with, this Pledge may at the discretion of PNC be credited to a separate interest bearing suspense account for so long as PNC determines (with interest accruing thereon at such rate, if any, as PNC may determine for the account of the Chargor) without PNC having any obligation to apply such monies and interest or any part thereof in or towards the discharge of any of the Secured Obligations.

#### 26.2 New accounts

If PNC receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Security Asset and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to PNC will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

### 26.3 Changes to the Parties

PNC may assign or transfer all or any part of its rights under this Pledge. The Chargor shall, promptly upon being requested to do so by PNC, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

### 26.4 Memorandum and articles

The Chargor certifies that the Security does not contravene any of the provisions of the memorandum or articles of association of the Chargor or the Company.

### 26.5 Tacking

26.5.1 PNC shall perform its obligations under the Master Facilities Agreement (including any obligation to make available further advances).

26.5.2 This Pledge secures advances already made and further advances to be made.

### 26.6 Amendments and waivers

Any provision of this Pledge may be amended only if PNC and the Chargor so agree in writing and any breach of this Pledge may be waived before or after it occurs only if PNC so agrees in writing. A waiver given or consent granted by PNC under this Pledge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

### 26.7 Calculations and certificates

A certificate of PNC specifying the amount of the Secured Obligations due from the Chargor (including details of any relevant calculation thereof) shall be prima facie evidence of such amount against the Chargor in the absence of manifest error.

### 26.8 Waiver, rights and remedies

No failure to exercise, nor any delay in exercising, on the part of PNC, any right or remedy under this Pledge shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## 27 Notices

### 27.1 Communications in writing

27.1.1 The provisions of paragraphs 24(a) to 24(c) inclusive of schedule 1 (Common Terms) to the Master Facilities Agreement shall apply to this Pledge as if the same were set out in this Pledge, provided that:

27.1.1.1 reference to "each Party" shall be deemed to be references to each party to this Pledge; and

27.1.1.2 references to the "Obligor" shall be deemed to be references to the Chargor.

### 27.2 Electronic communications

No communication to be made under this Pledge shall be made electronically.

**28 Partial Invalidity**

All the provisions of this Pledge are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**29 Release**

Upon the expiry of the Security Period (but not otherwise) PNC shall:

- 29.1 at the request and cost of the Chargor, take whatever action is necessary to release or re-assign and re-transfer (without recourse or warranty) the Security Assets from the Security; and
- 29.2 at the request and cost of the Chargor release any third party from all obligations assumed by it to PNC in respect of the obligations of the Chargor.

**30 Restriction on Liability**

- 30.1 Except to the extent that any such exclusion is prohibited or rendered invalid by law, neither PNC nor its respective employees and agents shall:
  - 30.1.1 be under any duty of care or other obligation of whatsoever description to the Chargor in relation to or in connection with the exercise of any right conferred upon PNC; or
  - 30.1.2 be under any liability to the Chargor as a result of, or in consequence of, the exercise, or attempted or purported exercise, or failure to exercise, any of their respective rights hereunder.
- 30.2 The Chargor is not relying on any statement made, or any information given, to the Chargor by PNC.

**31 Consent to Registration**

The Chargor consents to registration of this Pledge and any certificate referred to in it for preservation and execution.

**32 Governing Law**

This Floating Charge and any non-contractual obligations arising out or in connection with it shall be governed by and construed in accordance with Scots law.

**33 Jurisdiction of Scottish Courts**

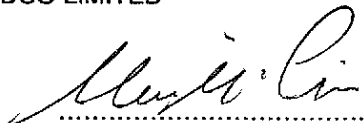
- 33.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Pledge and any Finance Document (including a dispute regarding the existence, validity or termination of this Pledge) (a "**Dispute**").
- 33.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.



- 33.3 This clause 33 is for the benefit of PNC only. As a result, PNC shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, PNC may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF this Share Pledge consisting of this and the preceding 19 pages together with the Schedule has been executed as follows:

SUBSCRIBED for and on behalf CAIRNGORM ACQUISITIONS III MIDCO LIMITED  
by NEIL MCGILL  
at EDINBURGH  
on 7 NOVEMBER 2017  
in the presence of:

  
Director

Witness 

Full Name GRAHAM PETER SMART

Address .....

Date of delivery: 7 NOVEMBER 2017

ADDLESHAW GODDARD LLP  
EXCHANGE TOWER  
19 CANNING STREET  
EDINBURGH  
EH3 8EH  
DX ED27

**This is the schedule referred to in the foregoing Share Pledge granted by Cairngorm Acquisition III Midco Limited in favour of PNC Business Credit a trading style of PNC Financial Services UK Limited**

**The Original Shares**

<b>Name of Company</b>	<b>Number of Shares</b>	<b>Class of Shares</b>	<b>Nominal value of Shares</b>
Thornbridge Sawmills Limited	88452	Ordinary	£1