



Registration of a Charge

Company name: **ORBITAL MARINE POWER LIMITED**

Company number: **SC235066**



X8G4FAZL

Received for Electronic Filing: **15/10/2019**

Details of Charge

Date of creation: **14/10/2019**

Charge code: **SC23 5066 0006**

Persons entitled: **MATTHEW J.R. MCGRATH**

Brief description:

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SHEPHERD AND WEDDERBURN LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 235066

Charge code: SC23 5066 0006

The Registrar of Companies for Scotland hereby certifies that a charge dated 14th October 2019 and created by ORBITAL MARINE POWER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th October 2019 .

Given at Companies House, Edinburgh on 16th October 2019

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**

ORBITAL MARINE POWER LIMITED
as Chargor

in favour of

MATTHEW J.R. MCGRATH
as Noteholder

BOND AND FLOATING CHARGE

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BOND AND FLOATING CHARGE

by

- (1) **ORBITAL MARINE POWER LIMITED**, a company incorporated under the Companies Acts with registered number SC235066 and having its registered office at Innovation Centre – Orkney Hatston Pier Road, Crowness Business Park, Kirkwall, Orkney KW15 1ZL (the “Chargor”)

in favour of

- (2) **MATTHEW J.R. MCGRATH**, residing at 207 West 79th Street, Apt 2B, New York City, NY10024, United States of America (the “Noteholder”)

CONSIDERING THAT:

- (A) the Noteholder has agreed or will agree to subscribe to the Notes (as defined in the Loan Note Instrument, defined below);
- (B) one of the conditions precedent to the Noteholder subscribing to the Notes is that the Chargor grants to the Noteholder this bond and floating charge.

NOW IT IS HEREBY AGREED AND DECLARED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Instrument:

“**Administrator**” means any administrator appointed pursuant to this Instrument;

“**Event of Default**” has the meaning given to it in the Loan Note Instrument;

“**Encumbrance**” has the meaning given to it in the Subscription Agreement;

“**Existing Shares**” means all shares in the capital of Orbital Marine Power (Orkney) plc held by the Chargor at the date of this Instrument;

“**Finance Documents**” means this Instrument, the Notes the Loan Note Instrument and the Subscription Agreement;

“**Further Shares**” means any shares (or other securities derived from any shares) in the capital of Orbital Marine Power (Orkney) plc (other than the Existing Shares) in which the Chargor has any interest from time to time;

“Insurances” means the Chargor’s interest in all contracts and policies of insurance which are from time to time taken out or effected by or on behalf of the Chargor in connection with the Secured Assets;

“Notes” means the £3,500,000 secured convertible loan notes 2021 constituted by the Loan Note Instrument or, as the case may be, the principal amount from time to time issued and paid up and outstanding, and principal amount shall be construed accordingly;

“Loan Note Instrument” means the loan note instrument by the Chargor dated on or around the date of delivery of this Instrument whereby the Chargor issues the Notes to the Noteholder;

“Ranking Agreement” means the ranking agreement dated on or around the date of delivery of this Instrument between Scottish Enterprise, the Noteholder and the Chargor;

“Receiver” means any receiver or administrative receiver appointed in respect of the Secured Assets (whether pursuant to this Instrument, pursuant to any statute, by a court or otherwise) and includes joint receivers;

“Related Rights” means all rights derived from the Existing Shares and Further Shares including rights to dividends and other distributions paid or payable on all or any of the Existing Shares and Further Shares and all rights to stocks, shares or other securities (and dividends, interest and other distributions thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise to or in respect of all or any of the Existing Shares and Further Shares or in substitution or exchange for all or any of the Existing Shares and Further Shares;

“Permitted Security” means:

- (a) any lien arising by operation of law;
- (b) any Encumbrance arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Chargor;
- (c) any contractual payment set-off rights arising in the ordinary course of trading;
- (d) any Encumbrance or retention rights (including, for the avoidance of doubt, any netting or set-off right) in favour of any account holding bank and granted as part of that financial institution's standard terms and conditions;
- (e) any Encumbrance over documents of title and goods as part of a documentary credit transaction entered into in the ordinary course of business;
- (f) any cash cover relating to any letter of credit, bank guarantee, performance bond or similar guarantee;

(g) any Encumbrance entered into in the ordinary course of business in favour of a landlord securing the obligations of the Chargor in relation to a land lease or rental agreement;

(h) any Encumbrance granted to Scottish Enterprise on equivalent terms to this Instrument in security over the Chargor's obligations to Scottish Enterprise under the Loan Note Instrument; and

(i) the share pledge granted by the Chargor in favour of Abundance Security Trustee Ltd, executed on 12 and 16 October 2018.

"Secured Assets" means the whole of the property (including uncalled capital) which is or may be from time to time while this Instrument is in force comprised in the property and undertaking of the Chargor with the exception of all Existing Shares, Further Shares and Related Rights;

"Secured Liabilities" means all present and future payment obligations and liabilities of the Chargor due, owing or incurred to the Noteholder under the Finance Documents; and

"Subscription Agreement" means the subscription agreement between the Chargor, the Noteholder and Scottish Enterprise dated on or around the date of this Instrument.

1.2 Construction

1.2.1 Capitalised terms defined in the Loan Note Instrument have, unless expressly defined in this Instrument, the same meaning in this Instrument.

1.2.2 Reference to any document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that document, including any amendment providing for any increase in the amount of a facility or any additional facility.

1.2.3 The term this **"Security"** means any security created by this Instrument.

1.2.4 A reference to any asset, unless the context otherwise requires, includes any present and future asset.

1.2.5 If the Noteholder considers that an amount paid to it or a Receiver is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Instrument.

1.2.6 Unless the context otherwise requires, a reference to a Secured Asset includes the proceeds of sale of that Secured Asset.

1.2.7 This Instrument is subject to the terms of the Ranking Agreement.

1.2.8 An Event of Default is “continuing” if it has not been remedied or waived.

2 BOND

- 2.1 The Chargor undertakes to the Noteholder that it will pay or discharge to the Noteholder all the Secured Liabilities on demand in writing when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).

3 FLOATING CHARGE

The Chargor as security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Noteholder a floating charge over the Secured Assets.

4 NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE

- 4.1 The Chargor agrees that it shall be prohibited from granting or creating subsequent to the date of execution of this Instrument any fixed security or any other floating charge over the Secured Assets or any part or parts of them, other than in respect of Permitted Security or in favour of the Noteholder or in favour of another person and with the prior written consent of the Noteholder or as otherwise permitted under the Ranking Agreement.
- 4.2 Any fixed security granted by the Chargor in favour of the Noteholder (whether before or after the date of execution of this Instrument) shall rank in priority to this Security, subject to the terms of the Ranking Agreement.
- 4.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 or with the consent of the Noteholder under Clause 4.1 but with no written agreement of the Noteholder as to the ranking of them, this Instrument shall rank in priority to that fixed security or floating charge.

5 UNDERTAKINGS

- 5.1 The Chargor hereby undertakes to the Noteholder that it shall carry on and conduct its business and affairs in a proper and efficient manner and, unless otherwise specifically permitted in the Loan Note Instrument, it shall:
- 5.1.1 not, without the prior written consent of the Noteholder, become cautioner, guarantor or surety for any person, firm or company other than in the ordinary course of business;
- 5.1.2 insure and keep insured such of the Secured Assets as comprise heritable and real, moveable and personal property and effects of every description with underwriters, insurance companies or other insurers against loss or damage by fire and such other contingencies and risks as may be required by the Noteholder in their full reinstatement value or for such insured value as the Noteholder may agree from time to time in writing for the time being in the name of the Chargor with the interest of

the Noteholder endorsed on the policy or policies or noted as the Noteholder may require;

- 5.1.3 duly pay all premiums and sums payable for the purposes of any Insurances and produce the receipts therefor or other evidence of payment to the Noteholder within fourteen days of being requested by the Noteholder so to do, and not do anything or omit to do anything in or upon or relating to the Secured Assets or any part thereof which may render any Insurances void or voidable;
 - 5.1.4 not, without the prior written consent of the Noteholder, sell, transfer, lease, hire out, lend, discount, factor, charge or otherwise dispose of, deal in or remove all or any of the Secured Assets (other than in the ordinary course of the Chargor's business);
 - 5.1.5 notify the Noteholder of any freehold or leasehold property of the Chargor the title to which is registered at H.M. Land Registry (England and Wales) and of any application which may be made to record or register at H.M. Land Registry or any other land registry (other than the Register of Sasines and the Land Register of Scotland) the title to any freehold or leasehold or other property owned by it and to produce to the Noteholder the relevant official copy of the title;
 - 5.1.6 notify the Noteholder of any trade marks of the Chargor registered or applied to be registered in the register maintained under Section 63 of the Trade Marks Act 1994 at any time prior to or after the date of this Instrument in the United Kingdom and deliver to the Noteholder along with such notification Form TM 24 (or such other form as may be prescribed by the Registrar of Trade Marks for the registration of the prescribed particulars of the grant of a security interest (whether fixed or floating) under Section 25 of the Trade Marks Act 1994), duly completed and ready to be signed and despatched by the Noteholder to the Comptroller General of Patents Designs and Trade Marks; and
 - 5.1.7 maintain its centre of main interests (COMI) for the purposes of the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast), in the United Kingdom.
- 5.2 Except as the Noteholder may from time to time otherwise agree in writing the Chargor shall promptly get in and realise in the ordinary course of its trade or business all its book debts (but this shall not permit the selling, assigning, factoring or discounting of all or any of such book debts) apart from balances standing to the credit of any account with any bank or financial institution.
- 5.3 The Chargor will notify the Noteholder promptly in the event of any creditor exercising diligence against it or any of the Secured Assets wherever situated or taking any steps which might be expected to lead thereto.

5.4 The Chargor will notify the Noteholder promptly of the acquisition by it of any heritable, freehold or leasehold property.

5.5 The Chargor will, if the Noteholder so requires, deposit with the Noteholder all certificates, deeds and other documents of title or evidence of ownership in relation to all or any of the Secured Assets.

6 **ENFORCEMENT**

6.1 In addition to any statutory provisions concerning enforceability or attachment this Security shall become enforceable upon and the Noteholder's powers of appointment and other rights and powers shall become exercisable at any time after:

6.1.1 the occurrence of an Event of Default; or

6.1.2 the receipt of any request from the board of directors of the Chargor; or

6.1.3 the taking (or purported taking) by any person of any step towards the winding up or dissolution of the Chargor or towards the appointment of any administrator, trustee, administrative receiver, receiver, liquidator or the like to the Chargor or the whole or any part of its property

and the Noteholder may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 6.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Noteholder shall be entitled so to appoint another person as Receiver in his place.

6.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights incidental to ownership of the Secured Assets, including (as regards shares and other securities) any voting rights or rights of enforcing the same together with power to:

6.2.1 implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Secured Assets;

6.2.2 make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;

- 6.2.3 promote or procure the formation of any new company or corporation;
- 6.2.4 subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;
- 6.2.5 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Secured Assets or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in the name of the Chargor and on its behalf and/or in the name(s) of any nominee(s) or trustee(s) for it, any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;
- 6.2.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 6.2.7 convene an extraordinary general meeting of the Chargor;
- 6.2.8 acquire any property on behalf of the Chargor;
- 6.2.9 do all such other acts and things as he may consider necessary or desirable for protecting or realising the Secured Assets, or any part thereof, or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Instrument and exercise in relation to the Secured Assets, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid;

subject always to the rights of the Noteholder as holder of this Security.

- 6.3 To the extent that any of the Secured Assets constitutes **“financial collateral”** and this Instrument and the obligations of the Chargor hereunder constitute a **“security financial collateral arrangement”** (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the “Regulations”) the Noteholder shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the relevant accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of any shares, stocks, debentures, bonds or other securities or investments, the market price of such shares, stocks, debentures, bonds or other securities or investments determined by the Noteholder by reference to a public index or by such other process as the Noteholder may select, including

independent valuation. In each case, the parties agree that the method of valuation provided for in this Instrument shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

7 OFFICE OF RECEIVER

7.1 Any Receiver appointed under Clause 6 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Noteholder shall not incur any liability for those (either to the Chargor or any other person) by reason of the Noteholder making his appointment as such Receiver or for any other reason whatsoever.

7.2 Any Receiver appointed under Clause 6 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Noteholder (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Instrument.

8 APPLICATION OF ENFORCEMENT PROCEEDS

8.1 All monies received by the Noteholder or any Receiver under or by virtue of this Instrument following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the terms of the Ranking Agreement and to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Noteholder under this Instrument, in the following order:

8.1.1 first, in or towards payment of all costs, charges and expenses of or incidental to the appointment of the Receiver and the exercise of all or any of his powers, including his remuneration and all outgoings paid by and liabilities incurred by him as a result of such exercise;

8.1.2 secondly, in or towards satisfaction of the Secured Liabilities in such order as the Noteholder shall in its absolute discretion decide; and

8.1.3 thirdly, any surplus shall be paid to the Chargor or any other person entitled thereto.

8.2 Nothing contained in this Instrument shall limit the right of the Receiver or the Noteholder (and the Chargor acknowledges that the Receiver and the Noteholder are so entitled) if and for so long as the Receiver or the Noteholder, in their discretion, shall consider it appropriate,

to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Instrument into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

9 PROTECTION OF SECURITY

- 9.1 The security created by and any security interest constituted pursuant to this Instrument shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.
- 9.2 The security created by and any security interest constituted pursuant to this Instrument shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Noteholder may now or at any time hereafter hold for all or any part of the Secured Liabilities.
- 9.3 No failure on the part of the Noteholder to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Instrument or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Instrument and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 9.4 Each of the provisions in this Instrument shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Instrument shall not in any way be affected or impaired by that occurrence.
- 9.5 If the Noteholder or any other Noteholder receives or is deemed to be affected by notice, whether actual or constructive, of any subsequent security or other interest affecting any part of the Secured Assets and/or the proceeds of sale(s) thereof, the Noteholder and each other Noteholder may open a new account or accounts in the name of the Chargor. If the Noteholder or such other Noteholder does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives or was deemed to have received notice and as and from that time all payments made by the Chargor to the Noteholder (whether in its capacity as trustee or otherwise) or to another Noteholder shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this Instrument is security.

9.6 Neither the security created by, nor any security interest constituted pursuant to, this Instrument nor the rights, powers, discretions and remedies conferred upon the Noteholder by this Instrument or by law shall be discharged, impaired or otherwise affected by reason of:

9.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Noteholder being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Noteholder from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or

9.6.2 the Noteholder compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or

9.6.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Liabilities; or

9.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.

9.7 The Noteholder shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Instrument or by law, to:

9.7.1 take any action or obtain judgement or decree in any court against the Chargor; or

9.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or

9.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to the Noteholder, in respect of any of the Chargor's obligations under the Loan Note Instrument.

10 FURTHER ASSURANCE

The Chargor shall execute and do all such assurances, acts and things as the Noteholder may require for perfecting or protecting the security created by or pursuant to this Instrument over the Secured Assets or for facilitating the realisation of such assets and the exercise of all powers, authorities and discretions conferred on the Noteholder or on any Receiver by this Instrument and shall in particular (but without limitation) promptly after being requested to do so by the Noteholder or any Receiver, execute all assignments and transfers (in favour of the Noteholder or any Receiver or to such nominee as either shall direct) of the Secured Assets which come into existence after the date of this Instrument and give all notices orders and

directions which the Noteholder or any Receiver may think expedient for the purposes specified in this Clause 10.

11 MANDATE AND ATTORNEY

11.1 Subject to Clause 11.3, the Chargor hereby irrevocably appoints the Noteholder and any Receiver to be its mandatary and attorney for it and on its behalf and in its name or otherwise and as such to create or constitute any deed, or to make any alteration or addition or deletion in or to, any documents which the Noteholder or the Receiver may require for perfecting or protecting the title of the Noteholder or the Receiver to the Secured Assets or for vesting any of the Secured Assets in the Noteholder or the Receiver or its nominees or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignation, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Noteholder or the Receiver on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Noteholder or the Receiver of all or any of the Secured Assets.

11.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such mandatary or attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 11.

11.3 The rights under this Clause 11 shall only be exercisable after the occurrence of an Event of Default and for so long as such Event of Default is continuing.

12 EXPENSES AND INDEMNITY

The Chargor shall be responsible for its own and the Noteholder's legal fees and expenses in connection with this Instrument.

13 NOTICES

All notices, requests, demands and other communications to be given under this Instrument shall be given and/or be deemed to be given in the same manner as notices to be given under the Ranking Agreement and the terms of clause 5 of the Subscription Agreement shall apply *mutatis mutandis* to this Instrument as though that clause were set out in full in this Instrument.

14 RELEASE OF SECURITY

14.1 Once the Secured Liabilities have been paid or discharged in full, the Noteholder shall, at the request and reasonable cost of the Chargor, take any action which is necessary to release the security created (or expressed to be created) by this Instrument and execute and deliver such further deeds and documents as the Chargor may reasonably require to give effect to this clause.

15 COUNTERPART

15.1 This Instrument may be executed in any number of counterparts and by each of the parties on separate counterparts.

15.2 Where executed in counterparts:

15.2.1 this Instrument will not take effect until each of the counterparts has been delivered;

15.2.2 where any counterpart is being held as undelivered, delivery will take place only when the date of delivery is agreed between the parties after execution of this Instrument.

16 GOVERNING LAW AND JURISDICTION

This Instrument shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Noteholder, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish courts but without prejudice to the ability of the Noteholder to proceed against the Chargor in any other appropriate jurisdiction.

CONSENT TO REGISTRATION

A certificate signed by the Noteholder shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment. The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation: IN WITNESS WHEREOF these presents consisting of this and the preceding 12 pages are executed as follows and DELIVERED on 14th ~~March~~ 2019:

THE CHARGOR

SUBSCRIBED for and on behalf of the said ORBITAL MARINE POWER LIMITED

at Edinburgh

on 10 / 10 / 19

by

Andrew Scott
Print Full name

[Redacted Signature]
Director

before this witness:

Carm Dunstone
Print Full Name

[Redacted Signature]
Witness

Address:

Brodies LLP
15 Atholl Crescent
Edinburgh
EH3 8HA

THE NOTEHOLDER

SUBSCRIBED for and on behalf of the said MATTHEW J.R. MCGRATH

at

on

Print Full name

Signatory

before this witness:

Print Full Name

Witness

Address:

ORBITAL MARINE POWER LIMITED
as Chargor

in favour of

MATTHEW J.R. MCGRATH
as Noteholder

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by

- (1) **ORBITAL MARINE POWER LIMITED**, a company incorporated under the Companies Acts with registered number SC235066 and having its registered office at Innovation Centre – Orkney Hatston Pier Road, Crowness Business Park, Kirkwall, Orkney KW15 1ZL (the “**Chargor**”)

in favour of

- (2) **MATTHEW J.R. MCGRATH**, residing at 207 West 79th Street, Apt 2B, New York City, NY10024, United States of America (the “**Noteholder**”)

CONSIDERING THAT:

- (A) the Noteholder has agreed or will agree to subscribe to the Notes (as defined in the Loan Note Instrument, defined below);
- (B) one of the conditions precedent to the Noteholder subscribing to the Notes is that the Chargor grants to the Noteholder this bond and floating charge.

NOW IT IS HEREBY AGREED AND DECLARED as follows:

1 DEFINITIONS AND INTERPRETATION

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“**Administrator**” means any administrator appointed pursuant to this Instrument;

“**Event of Default**” has the meaning given to it in the Loan Note Instrument;

“**Encumbrance**” has the meaning given to it in the Subscription Agreement;

“**Existing Shares**” means all shares in the capital of Orbital Marine Power (Orkney) plc held by the Chargor at the date of this Instrument;

“**Finance Documents**” means this Instrument, the Notes the Loan Note Instrument and the Subscription Agreement;

“**Further Shares**” means any shares (or other securities derived from any shares) in the capital of Orbital Marine Power (Orkney) plc (other than the Existing Shares) in which the Chargor has any interest from time to time;

“Insurances” means the Chargor’s interest in all contracts and policies of insurance which are from time to time taken out or effected by or on behalf of the Chargor in connection with the Secured Assets;

“Notes” means the £3,500,000 secured convertible loan notes 2021 constituted by the Loan Note Instrument or, as the case may be, the principal amount from time to time issued and paid up and outstanding, and principal amount shall be construed accordingly;

“Loan Note Instrument” means the loan note instrument by the Chargor dated on or around the date of delivery of this Instrument whereby the Chargor issues the Notes to the Noteholder;

“Ranking Agreement” means the ranking agreement dated on or around the date of delivery of this Instrument between Scottish Enterprise, the Noteholder and the Chargor;

“Receiver” means any receiver or administrative receiver appointed in respect of the Secured Assets (whether pursuant to this Instrument, pursuant to any statute, by a court or otherwise) and includes joint receivers;

“Related Rights” means all rights derived from the Existing Shares and Further Shares including rights to dividends and other distributions paid or payable on all or any of the Existing Shares and Further Shares and all rights to stocks, shares or other securities (and dividends, interest and other distributions thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise to or in respect of all or any of the Existing Shares and Further Shares or in substitution or exchange for all or any of the Existing Shares and Further Shares;

“Permitted Security” means:

- (a) any lien arising by operation of law;
- (b) any Encumbrance arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Chargor;
- (c) any contractual payment set-off rights arising in the ordinary course of trading;
- (d) any Encumbrance or retention rights (including, for the avoidance of doubt, any netting or set-off right) in favour of any account holding bank and granted as part of that financial institution's standard terms and conditions;
- (e) any Encumbrance over documents of title and goods as part of a documentary credit transaction entered into in the ordinary course of business;
- (f) any cash cover relating to any letter of credit, bank guarantee, performance bond or similar guarantee;

(g) any Encumbrance entered into in the ordinary course of business in favour of a landlord securing the obligations of the Chargor in relation to a land lease or rental agreement;

(h) any Encumbrance granted to Scottish Enterprise on equivalent terms to this Instrument in security over the Chargor's obligations to Scottish Enterprise under the Loan Note Instrument; and

(i) the share pledge granted by the Chargor in favour of Abundance Security Trustee Ltd, executed on 12 and 16 October 2018.

"Secured Assets" means the whole of the property (including uncalled capital) which is or may be from time to time while this Instrument is in force comprised in the property and undertaking of the Chargor with the exception of all Existing Shares, Further Shares and Related Rights;

"Secured Liabilities" means all present and future payment obligations and liabilities of the Chargor due, owing or incurred to the Noteholder under the Finance Documents; and

"Subscription Agreement" means the subscription agreement between the Chargor, the Noteholder and Scottish Enterprise dated on or around the date of this Instrument.

1.2 Construction

1.2.1 Capitalised terms defined in the Loan Note Instrument have, unless expressly defined in this Instrument, the same meaning in this Instrument.

1.2.2 Reference to any document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that document, including any amendment providing for any increase in the amount of a facility or any additional facility.

1.2.3 The term this **"Security"** means any security created by this Instrument.

1.2.4 A reference to any asset, unless the context otherwise requires, includes any present and future asset.

1.2.5 If the Noteholder considers that an amount paid to it or a Receiver is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Instrument.

1.2.6 Unless the context otherwise requires, a reference to a Secured Asset includes the proceeds of sale of that Secured Asset.

1.2.7 This Instrument is subject to the terms of the Ranking Agreement.

1.2.8 An Event of Default is “continuing” if it has not been remedied or waived.

2 BOND

- 2.1 The Chargor undertakes to the Noteholder that it will pay or discharge to the Noteholder all the Secured Liabilities on demand in writing when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).

3 FLOATING CHARGE

The Chargor as security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Noteholder a floating charge over the Secured Assets.

4 NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE

- 4.1 The Chargor agrees that it shall be prohibited from granting or creating subsequent to the date of execution of this Instrument any fixed security or any other floating charge over the Secured Assets or any part or parts of them, other than in respect of Permitted Security or in favour of the Noteholder or in favour of another person and with the prior written consent of the Noteholder or as otherwise permitted under the Ranking Agreement.
- 4.2 Any fixed security granted by the Chargor in favour of the Noteholder (whether before or after the date of execution of this Instrument) shall rank in priority to this Security, subject to the terms of the Ranking Agreement.
- 4.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 or with the consent of the Noteholder under Clause 4.1 but with no written agreement of the Noteholder as to the ranking of them, this Instrument shall rank in priority to that fixed security or floating charge.

5 UNDERTAKINGS

- 5.1 The Chargor hereby undertakes to the Noteholder that it shall carry on and conduct its business and affairs in a proper and efficient manner and, unless otherwise specifically permitted in the Loan Note Instrument, it shall:
- 5.1.1 not, without the prior written consent of the Noteholder, become cautioner, guarantor or surety for any person, firm or company other than in the ordinary course of business;
 - 5.1.2 insure and keep insured such of the Secured Assets as comprise heritable and real, moveable and personal property and effects of every description with underwriters, insurance companies or other insurers against loss or damage by fire and such other contingencies and risks as may be required by the Noteholder in their full reinstatement value or for such insured value as the Noteholder may agree from time to time in writing for the time being in the name of the Chargor with the interest of

the Noteholder endorsed on the policy or policies or noted as the Noteholder may require;

- 5.1.3 duly pay all premiums and sums payable for the purposes of any Insurances and produce the receipts therefor or other evidence of payment to the Noteholder within fourteen days of being requested by the Noteholder so to do, and not do anything or omit to do anything in or upon or relating to the Secured Assets or any part thereof which may render any Insurances void or voidable;
 - 5.1.4 not, without the prior written consent of the Noteholder, sell, transfer, lease, hire out, lend, discount, factor, charge or otherwise dispose of, deal in or remove all or any of the Secured Assets (other than in the ordinary course of the Chargor's business);
 - 5.1.5 notify the Noteholder of any freehold or leasehold property of the Chargor the title to which is registered at H.M. Land Registry (England and Wales) and of any application which may be made to record or register at H.M. Land Registry or any other land registry (other than the Register of Sasines and the Land Register of Scotland) the title to any freehold or leasehold or other property owned by it and to produce to the Noteholder the relevant official copy of the title;
 - 5.1.6 notify the Noteholder of any trade marks of the Chargor registered or applied to be registered in the register maintained under Section 63 of the Trade Marks Act 1994 at any time prior to or after the date of this Instrument in the United Kingdom and deliver to the Noteholder along with such notification Form TM 24 (or such other form as may be prescribed by the Registrar of Trade Marks for the registration of the prescribed particulars of the grant of a security interest (whether fixed or floating) under Section 25 of the Trade Marks Act 1994), duly completed and ready to be signed and despatched by the Noteholder to the Comptroller General of Patents Designs and Trade Marks; and
 - 5.1.7 maintain its centre of main interests (COMI) for the purposes of the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast), in the United Kingdom.
- 5.2 Except as the Noteholder may from time to time otherwise agree in writing the Chargor shall promptly get in and realise in the ordinary course of its trade or business all its book debts (but this shall not permit the selling, assigning, factoring or discounting of all or any of such book debts) apart from balances standing to the credit of any account with any bank or financial institution.
- 5.3 The Chargor will notify the Noteholder promptly in the event of any creditor exercising diligence against it or any of the Secured Assets wherever situated or taking any steps which might be expected to lead thereto.

- 5.4 The Chargor will notify the Noteholder promptly of the acquisition by it of any heritable, freehold or leasehold property.
- 5.5 The Chargor will, if the Noteholder so requires, deposit with the Noteholder all certificates, deeds and other documents of title or evidence of ownership in relation to all or any of the Secured Assets.

6 ENFORCEMENT

- 6.1 In addition to any statutory provisions concerning enforceability or attachment this Security shall become enforceable upon and the Noteholder's powers of appointment and other rights and powers shall become exercisable at any time after:

- 6.1.1 the occurrence of an Event of Default; or
- 6.1.2 the receipt of any request from the board of directors of the Chargor; or
- 6.1.3 the taking (or purported taking) by any person of any step towards the winding up or dissolution of the Chargor or towards the appointment of any administrator, trustee, administrative receiver, receiver, liquidator or the like to the Chargor or the whole or any part of its property

and the Noteholder may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 6.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Noteholder shall be entitled so to appoint another person as Receiver in his place.

- 6.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights incidental to ownership of the Secured Assets, including (as regards shares and other securities) any voting rights or rights of enforcing the same together with power to:

- 6.2.1 implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Secured Assets;
- 6.2.2 make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;

- 6.2.3 promote or procure the formation of any new company or corporation;
- 6.2.4 subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;
- 6.2.5 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Secured Assets or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in the name of the Chargor and on its behalf and/or in the name(s) of any nominee(s) or trustee(s) for it, any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;
- 6.2.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 6.2.7 convene an extraordinary general meeting of the Chargor;
- 6.2.8 acquire any property on behalf of the Chargor;
- 6.2.9 do all such other acts and things as he may consider necessary or desirable for protecting or realising the Secured Assets, or any part thereof, or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Instrument and exercise in relation to the Secured Assets, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid;

subject always to the rights of the Noteholder as holder of this Security.

- 6.3 To the extent that any of the Secured Assets constitutes **“financial collateral”** and this Instrument and the obligations of the Chargor hereunder constitute a **“security financial collateral arrangement”** (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the “Regulations”) the Noteholder shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the relevant accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of any shares, stocks, debentures, bonds or other securities or investments, the market price of such shares, stocks, debentures, bonds or other securities or investments determined by the Noteholder by reference to a public index or by such other process as the Noteholder may select, including

independent valuation. In each case, the parties agree that the method of valuation provided for in this Instrument shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

7 OFFICE OF RECEIVER

7.1 Any Receiver appointed under Clause 6 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Noteholder shall not incur any liability for those (either to the Chargor or any other person) by reason of the Noteholder making his appointment as such Receiver or for any other reason whatsoever.

7.2 Any Receiver appointed under Clause 6 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Noteholder (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Instrument.

8 APPLICATION OF ENFORCEMENT PROCEEDS

8.1 All monies received by the Noteholder or any Receiver under or by virtue of this Instrument following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the terms of the Ranking Agreement and to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Noteholder under this Instrument, in the following order:

8.1.1 first, in or towards payment of all costs, charges and expenses of or incidental to the appointment of the Receiver and the exercise of all or any of his powers, including his remuneration and all outgoings paid by and liabilities incurred by him as a result of such exercise;

8.1.2 secondly, in or towards satisfaction of the Secured Liabilities in such order as the Noteholder shall in its absolute discretion decide; and

8.1.3 thirdly, any surplus shall be paid to the Chargor or any other person entitled thereto.

8.2 Nothing contained in this Instrument shall limit the right of the Receiver or the Noteholder (and the Chargor acknowledges that the Receiver and the Noteholder are so entitled) if and for so long as the Receiver or the Noteholder, in their discretion, shall consider it appropriate,

to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Instrument into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

9 PROTECTION OF SECURITY

- 9.1 The security created by and any security interest constituted pursuant to this Instrument shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.
- 9.2 The security created by and any security interest constituted pursuant to this Instrument shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Noteholder may now or at any time hereafter hold for all or any part of the Secured Liabilities.
- 9.3 No failure on the part of the Noteholder to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Instrument or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Instrument and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 9.4 Each of the provisions in this Instrument shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Instrument shall not in any way be affected or impaired by that occurrence.
- 9.5 If the Noteholder or any other Noteholder receives or is deemed to be affected by notice, whether actual or constructive, of any subsequent security or other interest affecting any part of the Secured Assets and/or the proceeds of sale(s) thereof, the Noteholder and each other Noteholder may open a new account or accounts in the name of the Chargor. If the Noteholder or such other Noteholder does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives or was deemed to have received notice and as and from that time all payments made by the Chargor to the Noteholder (whether in its capacity as trustee or otherwise) or to another Noteholder shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this Instrument is security.

9.6 Neither the security created by, nor any security interest constituted pursuant to, this Instrument nor the rights, powers, discretions and remedies conferred upon the Noteholder by this Instrument or by law shall be discharged, impaired or otherwise affected by reason of:

9.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Noteholder being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Noteholder from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or

9.6.2 the Noteholder compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or

9.6.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Liabilities; or

9.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.

9.7 The Noteholder shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Instrument or by law, to:

9.7.1 take any action or obtain judgement or decree in any court against the Chargor; or

9.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or

9.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to the Noteholder, in respect of any of the Chargor's obligations under the Loan Note Instrument.

10 FURTHER ASSURANCE

The Chargor shall execute and do all such assurances, acts and things as the Noteholder may require for perfecting or protecting the security created by or pursuant to this Instrument over the Secured Assets or for facilitating the realisation of such assets and the exercise of all powers, authorities and discretions conferred on the Noteholder or on any Receiver by this Instrument and shall in particular (but without limitation) promptly after being requested to do so by the Noteholder or any Receiver, execute all assignments and transfers (in favour of the Noteholder or any Receiver or to such nominee as either shall direct) of the Secured Assets which come into existence after the date of this Instrument and give all notices orders and

directions which the Noteholder or any Receiver may think expedient for the purposes specified in this Clause 10.

11 MANDATE AND ATTORNEY

- 11.1 Subject to Clause 11.3, the Chargor hereby irrevocably appoints the Noteholder and any Receiver to be its mandatary and attorney for it and on its behalf and in its name or otherwise and as such to create or constitute any deed, or to make any alteration or addition or deletion in or to, any documents which the Noteholder or the Receiver may require for perfecting or protecting the title of the Noteholder or the Receiver to the Secured Assets or for vesting any of the Secured Assets in the Noteholder or the Receiver or its nominees or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignation, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Noteholder or the Receiver on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Noteholder or the Receiver of all or any of the Secured Assets.
- 11.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such mandatary or attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 11.
- 11.3 The rights under this Clause 11 shall only be exercisable after the occurrence of an Event of Default and for so long as such Event of Default is continuing.

12 EXPENSES AND INDEMNITY

The Chargor shall be responsible for its own and the Noteholder's legal fees and expenses in connection with this Instrument.

13 NOTICES

All notices, requests, demands and other communications to be given under this Instrument shall be given and/or be deemed to be given in the same manner as notices to be given under the Ranking Agreement and the terms of clause 5 of the Subscription Agreement shall apply *mutatis mutandis* to this Instrument as though that clause were set out in full in this Instrument.

14 RELEASE OF SECURITY

- 14.1 Once the Secured Liabilities have been paid or discharged in full, the Noteholder shall, at the request and reasonable cost of the Chargor, take any action which is necessary to release the security created (or expressed to be created) by this Instrument and execute and deliver such further deeds and documents as the Chargor may reasonably require to give effect to this clause.

15 COUNTERPART

15.1 This Instrument may be executed in any number of counterparts and by each of the parties on separate counterparts.

15.2 Where executed in counterparts:

15.2.1 this Instrument will not take effect until each of the counterparts has been delivered;

15.2.2 where any counterpart is being held as undelivered, delivery will take place only when the date of delivery is agreed between the parties after execution of this Instrument.

16 GOVERNING LAW AND JURISDICTION

This Instrument shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Noteholder, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish courts but without prejudice to the ability of the Noteholder to proceed against the Chargor in any other appropriate jurisdiction.

17 **CONSENT TO REGISTRATION**

A certificate signed by the Noteholder shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment. The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation: IN WITNESS WHEREOF these presents consisting of this and the preceding 12 pages are executed as follows and DELIVERED on 14
OCTOBER 2019:

THE CHARGOR

SUBSCRIBED for and on behalf of the said ORBITAL MARINE POWER LIMITED

at

on

by

Print Full name

Director

before this witness:

Print Full Name

Witness

Address:

THE NOTEHOLDER

SUBSCRIBED for and on behalf of the said MATTHEW J.R. MCGRATH

at NEW YORK CITY

on OCT 10, 2019

MATTHEW J R MCGRATH

Print Full name

before this witness:

FRANTISEK KUNERT

Print Full Name

Address:



Signatory



Witness