



Registration of a Charge

Company name: **INCH CAPE OFFSHORE LIMITED**

Company number: **SC373173**



X8CFZ1M2

Received for Electronic Filing: **23/08/2019**

Details of Charge

Date of creation: **15/08/2019**

Charge code: **SC37 3173 0005**

Persons entitled: **BANK OF CHINA (UK) LIMITED**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **BRODIES LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 373173

Charge code: SC37 3173 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 15th August 2019 and created by INCH CAPE OFFSHORE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd August 2019 .

Given at Companies House, Edinburgh on 27th August 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**

DATED 15 AUGUST 2019

CASH COLLATERAL DEED

between

INCH CAPE OFFSHORE LIMITED

(as the Chargor)

and

BANK OF CHINA (UK) LIMITED

(as the Bank)

CERTIFIED A TRUE
COPY SAVE FOR THE
MATERIAL REDACTED
PURSUANT TO S859G
OF THE COMPANIES
ACT 2006


BRODIES LLP
Solicitors

23/08/2019

Ref: BAN111.7

THIS DEED is dated 15 August 2019

PARTIES

- (1) **INCH CAPE OFFSHORE LIMITED**, a company registered in Scotland with company number SC373173 and whose registered office is at 5th Floor, 40 Princes Street, Edinburgh EH2 2BY, United Kingdom (the "**Chargor**"); and
- (2) **BANK OF CHINA (UK) LIMITED**, a company registered in England and Wales with company number 06193060 and whose registered office is at 1 Lothbury, London EC2R 7DB, United Kingdom (the "**Bank**")

BACKGROUND

- (A) The Bank has agreed to provide the Chargor with banking facilities on the terms set out in the Facility Agreement.
- (B) The Chargor has agreed to enter into this Deed for the purpose of providing security to the Bank for the Chargor's obligations under and in relation to the Facility Agreement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

"**Account**" means the Pound Sterling blocked account in the Chargor's name with the Bank with account number [REDACTED] as that account may be renumbered or redesignated from time to time.

"**Business Day**" a day (other than a Saturday or Sunday) on which banks are open for general business in London.

"Deposit" means all monies from time to time standing to the credit of the Account together with all other rights and benefits accruing to or arising in connection with the Account including if any, accrued interest.

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

"Facility Agreement" means the Uncommitted Line of Credit Facility Letter dated 12/08/2019 between the Chargor and the Bank as amended or varied from time to time.

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

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

"Receiver" means a receiver appointed under this Deed.

"Secured Liabilities" means all present and future obligations and liabilities whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, of the Chargor to the Bank from time to time under or in connection with the Facility Agreement or this Deed.

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Security Period" means the period starting on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid in full and no further Secured Liabilities are capable of being outstanding. If the Bank considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.2 Interpretation

Unless the context otherwise requires, in this Deed:

- (a) a reference to a statute or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision which it consolidated or re-enacted before the date of this Deed;
- (b) a reference to one gender includes a reference to the other genders;
- (c) words in the singular include the plural and in the plural include the singular;

- (d) a reference to **this Deed** (or any specified provision of it) or any other document shall be construed as a reference to this Deed, that provision or that document as in force for the time being and as amended or novated from time to time;
- (e) a reference to a **person** shall include a reference to an individual, firm, corporation, unincorporated body of persons, or any state or any agency of a person;
- (f) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (g) a reference to an **authorisation** includes an authorisation, consent, licence, approval, resolution, exemption, filing, registration and notarisation;
- (h) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- (i) clause and paragraph headings shall not affect the interpretation of this Deed.

2. COVENANT TO PAY

The Chargor shall, on demand, pay to the Bank and discharge in full the Secured Liabilities when they become due, without any counterclaim, deduction or withholding of any kind.

3. CHARGE

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Bank, by way of first fixed charge, the Deposit.

4. THE DEPOSIT

- 4.1 The provisions of this Clause 4 are without prejudice to the fixed charge over the Deposit in Clause 3,
- 4.2 The Chargor shall procure that, throughout the Security Period and provided any part of the Secured Liabilities is outstanding, there is deposited and maintained in the Account, an aggregate credit balance (free of all liens and encumbrances other than in favour of the Bank) equal to the Secured Liabilities together with such additional amount as the

Bank may from time to time notify the Chargor to be held in accordance with the terms of this Deed.

- 4.3 Regardless of the terms on which moneys are credited to the Account, the Deposit shall be due and payable only on the date on which the Security Period ends. Until that time the Chargor shall not request, demand or claim to be entitled to withdraw any part of the Deposit except as the Bank may, in its absolute discretion, from time to time permit.
- 4.4 The Bank's certificate stating the amount at any time of the Secured Liabilities shall (in the absence of any manifest error) be conclusive evidence of that amount.
- 4.5 The Bank may at any time without notice to the Chargor take all or any of the following steps:
- (a) open a new account in the name of the Chargor and debit that account or debit an existing account of the Chargor with an amount of up to the Secured Liabilities; and/or
 - (b) combine or consolidate (regardless of currency and of the terms on which moneys are credited to any of those accounts) all or any of the accounts with the Bank in the name of the Chargor or to which the Chargor is beneficially entitled at any of the Bank's branches in any country or territory.
- 4.6 The rights conferred by Clause 4.5 shall be exercisable and enforceable at any time and shall be enforceable notwithstanding that:
- (a) all or part of the Deposit may have been deposited for a fixed or minimum period or be subject to a period of notice; and
 - (b) any such fixed or minimum period or period of notice may or may not have been given.
- 4.7 The Chargor irrevocably authorises the Bank at any time after the security constituted by this charge has become enforceable to break or determine the Deposit in whole or in part and/or to renew all or any of the Deposit for such fixed periods as the Bank may, in its absolute discretion, from time to time think fit.

5. LIABILITY OF THE CHARGOR

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

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Bank that is or becomes wholly or partially illegal, void or unenforceable on any ground; or
- (b) the Bank renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission, which but for this Clause 5 might have discharged or otherwise prejudiced or affected, the liability of the Chargor.

5.2 The Chargor waives any right it may have to require the Bank to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Chargor.

6. REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this Clause 6 to the Bank. The representations and warranties so set are made on the date of this Deed and are deemed to be made by the Chargor throughout the Security Period with reference to the facts and circumstances then existing:

- (a) The Chargor is a limited liability company duly incorporated and validly existing under the laws of Scotland and it has the power to own its assets and carry on its business as it is being conducted;
- (b) The Chargor is the sole, lawful and beneficial owner of the Deposit free from any Encumbrances, except pursuant to this Deed;
- (c) The Chargor has and will at all times have the necessary power to enable it to enter into and perform the obligations expressed to be assumed by it under this Deed;
- (d) There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which adversely affect the Deposit;
- (e) This Deed constitutes the Chargor's legal, valid, binding and enforceable obligations and is an effective and enforceable security over the Deposit;
- (f) No Encumbrance expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise; and

- (g) The entry into of this Deed by the Chargor does not and will not constitute a breach of any law, regulation, agreement or instrument binding on the Chargor or its assets.

7. ENFORCEMENT OF SECURITY

- 7.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- 7.2 The Bank shall be entitled (but not obliged) at any time to apply all or any part of the Deposit to discharge in whole or in part, the Secured Liabilities if any part of the Secured Liabilities shall not be paid or discharged when the same ought to be paid or discharged by the Chargor whether on demand or otherwise.
- 7.3 To the extent that the Deposit constitutes Financial Collateral and this Deed and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, the Bank shall have the right, at any time after this Deed has become enforceable, to appropriate all or any of that part of the Deposit in or towards the payment and/or discharged of the Secured Liabilities in such order as the Bank in its absolute discretion may from time to time determine. The value of the Deposit appropriated in accordance with this clause shall be, in the case of cash, the amount of cash appropriated. The Chargor agrees that the method of valuation provided for in this clause is commercially reasonable for the purposes of the Financial Collateral Regulations.

8. PRESERVATION OF DEPOSIT

- 8.1 The Chargor shall not at any time, except with the prior written consent of the Bank:
- (a) create, purport to create or permit to subsist any Encumbrance on, or in relation to, the Deposit other than this Deed; or
 - (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Deposit; or
 - (c) create or grant (or purport to create or grant) any interest in the Deposit in favour of a third party.
- 8.2 The Chargor shall not:
- (a) withdraw or transfer all or any part of the Deposit until after the Security Period has expired; or

- (b) do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by the Bank or materially diminish the value of the Deposit or the effectiveness of the security created by this charge (including, without limitation, closing the Account).

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

9. BANK'S SET-OFF RIGHTS

If the Bank has more than one account for the Chargor in its books, the Bank may at any time after the security constituted by this Deed has become enforceable or the Bank has received notice of any subsequent Encumbrance or other interest affecting all or any part of the Deposit transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit (but the Bank shall notify the Chargor of the transfer once made).

10. CURRENCY

The Bank may convert any monies received, recovered or realised by the Bank under this Deed from their existing currencies of denomination into such other currencies of denomination as the Bank may think fit. Any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange for such other currency against the existing currency. Each reference in this Clause 10 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

11. EFFECTIVENESS OF SECURITY

11.1 The security constituted by this Deed shall be in addition to, and independent of, every other security or guarantee which the Bank may hold for any of the Secured Liabilities at any time. No prior security held by the Bank over the whole or any part of the Deposit shall merge in the security created by this Deed.

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

11.3 Any release, discharge or settlement between the Chargor and the Bank shall be deemed conditional on no payment or security received by the Bank in respect of the

Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Bank or its nominee may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Deposit, for such period as the Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and
- (b) the Bank may recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.

12. NOTICE OF SECOND CHARGE

- 12.1 If the Bank receives notice of any subsequent Encumbrance, or other interest, affecting all or part of the Deposit, the Bank may open a new account for the Chargor in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 12.2 If the Bank does not open a new account immediately on receipt of notice under Clause 12.1 unless the Bank gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Bank shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Bank.

13. SUSPENSE ACCOUNT

All monies received, recovered or realised by the Bank under this Deed may, at the discretion of the Bank, be credited to any suspense or impersonal account and may be held in such account so long as the Bank thinks fit pending the application from time of time of such monies in or towards the discharge of the Secured Liabilities.

14. COSTS AND INDEMNITY

The Chargor shall pay to, or reimburse, the Bank on demand, on a full indemnity basis, all costs and expenses incurred by the Bank in relation to:

- (a) this Deed or the Deposit;
- (b) protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's or the Receiver's rights under this Deed; and
- (c) suing for, or recovering, any of the Secured Liabilities.

15. CONSOLIDATION

The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this Deed.

16. ASSIGNMENT AND TRANSFER

- 16.1 At any time, without the consent of the Chargor, the Bank may assign or transfer the whole or any part of the Bank's rights and/or obligations under this Deed to any person.
- 16.2 The Chargor shall not assign any of its rights, or transfer any of its obligations, under this Deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

17. RIGHTS CUMULATIVE

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

18. GENERAL

- 18.1 Any waiver or variation of any right by the Bank (whether arising under this Deed or under the general law) shall only be effective if it is in writing and signed by the Bank and applies only in the circumstances for which it was given, and shall not prevent the Bank from subsequently relying on the relevant provision.
- 18.2 No act or course of conduct or negotiation by or on behalf of the Bank shall, in any way, preclude the Bank from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.

- 18.3 No delay or failure to exercise any right or power under this Deed shall operate as a waiver. No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.
- 18.4 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

19. NOTICE

Any notice or other communication given under this Deed shall be in writing and shall be served by delivering it personally or by sending it by first-class post to the address of the relevant party as set out in this Deed or such other address as may be notified in writing from time to time by the relevant party to the other party.

20. RELEASE

Subject to Clause 11.3, after 10 working days from the expiry of the Security Period (but not otherwise), the Bank shall, at the request and cost of the Chargor, take whatever action is necessary to release the Deposit from the security constituted by this Deed.

21. CONFLICTS WITH ACCOUNT DOCUMENTS

For the avoidance of doubt, if the provisions of this Deed are inconsistent with the provisions contained in any other document which relates to the Account, the provisions of this Deed shall prevail.

22. THIRD PARTY RIGHTS

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

23. GOVERNING LAW AND JURISDICTION

23.1 This Deed is governed by English law.

23.2 The parties to this Deed irrevocably agree that, subject as provided in Clause 23.3, the courts of England and Wales shall have exclusive jurisdiction to settle any disputes in connection with this Deed.

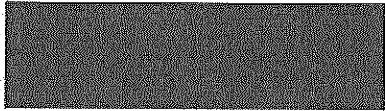
23.3 Nothing in this clause shall limit the right of the Bank to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by

INCH CAPE OFFSHORE LIMITED

acting by

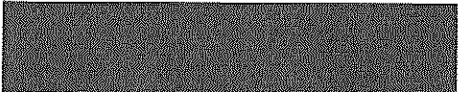


Authorised Signatories

Name: *Li Xiaolu*

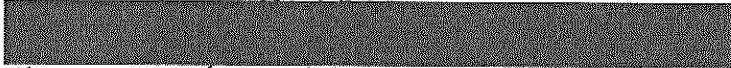
Guy Madgeniak

in the presence of:



Name: *Ina Grimson H.*

Address:



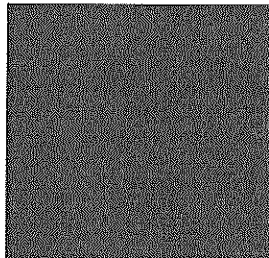
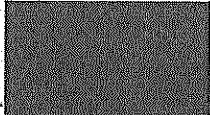
Occupation:

Accountant

Executed as a deed by

BANK OF CHINA (UK) LIMITED

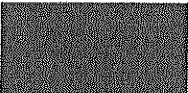
acting by



Authorised Signatories

Name:

in the presence of:



Name: *JIANPING ZHANG*

Address:



Occupation:

SME Business officer