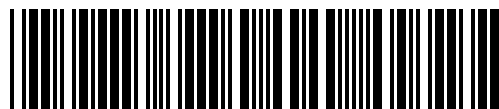




**Registration of a Charge**

Company Name: **UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED**

Company Number: **SC420704**



Received for filing in Electronic Format on the: **10/07/2023**

XC7HJWD7

**Details of Charge**

Date of creation: **27/06/2023**

Charge code: **SC42 0704 0003**

Persons entitled: **GLAS TRUST CORPORATION LIMITED (AS SECURITY AGENT)**

Brief description:

**Contains fixed charge(s).**

**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: **BRODIES LLP**



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

Company number: 420704

Charge code: SC42 0704 0003

The Registrar of Companies for Scotland hereby certifies that a charge dated 27th June 2023 and created by UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th July 2023 .

Given at Companies House, Edinburgh on 11th July 2023

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

Redacted & Certified  
Certified a true copy save for  
the material redacted pursuant to  
s859G of the Companies Act 2006

EXECUTION VERSION



.....  
Brodies LLP  
Solicitors

DATED 27 JUNE 2023

Date: 07.07.2023  
Ref: BIO3071.1

UK WASTE RESOURCES AND ENERGY INVESTMENTS  
GENERAL PARTNER L.P.  
ACTING BY ITS GENERAL PARTNER  
UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED

AND

UK WASTE RESOURCES AND ENERGY INVESTMENTS L.P.  
ACTING BY ITS GENERAL PARTNER UK WASTE RESOURCES AND ENERGY  
INVESTMENTS GENERAL PARTNER LP  
ACTING BY ITS GENERAL PARTNER  
UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED

AS CHARGORS

IN FAVOUR OF

GLAS TRUST CORPORATION LIMITED

AS SECURITY AGENT

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SECURITY OVER SHARES AND LOANS

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## CONTENTS

Clause	Page
1. Definitions and Interpretation .....	1
2. Covenant to Pay.....	5
3. Common Provisions .....	5
4. Fixed Security.....	5
5. Floating Security Interest .....	6
6. Provisions as to Security and Perfection .....	7
7. Further Assurance.....	8
8. Shares .....	9
9. Contracts.....	12
10. Information and Access.....	13
11. Turnover .....	13
12. Enforcement of Security.....	13
13. Extension of Powers and Right of Appropriation .....	14
14. Appointment of Receiver .....	15
15. Powers of Receivers .....	16
16. Application of Proceeds .....	17
17. Protection of Purchasers.....	17
18. Power of Attorney .....	17
19. Effectiveness of Security.....	18
20. Prior Security Interests .....	21
21. Subsequent Security Interests.....	21
22. Suspense Accounts .....	22
23. Release of Security.....	22
24. Set-Off.....	22
25. Changes to the Parties .....	23
26. Notices.....	23
27. Expenses, Stamp Taxes and Indemnity .....	24
28. Discretion and Delegation.....	25
29. Calculations and Certificates.....	26
30. Governing Law.....	26
31. Jurisdiction .....	26
Schedule 1 Form of Notice of Assignment of Contract.....	27

**THIS AGREEMENT** is made by way of deed on 27 June 2023

**BY:**

- (1) **UK WASTE RESOURCES AND ENERGY INVESTMENTS GENERAL PARTNER L.P.** (a limited partnership established under the laws of Scotland with registration number SL010480) ("**UKWREI GP**") acting by its general partner **UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED** (a limited company incorporated in Scotland, with company number SC420704) ("**UKWREI GP LIMITED**");
- (2) **UK WASTE RESOURCES AND ENERGY INVESTMENTS L.P.** (registered as a limited partnership in England and Wales under the Limited Partnerships Act 1907 with registration number LP014971) ("**UKWREI**") acting by its general partner **UKWREI GP**, acting by its general partner **UKWREI GP LIMITED** (together with **UKWREI GP**, the "**Chargors**" and each separately, the "**Chargor**"); and
- (3) **GLAS TRUST CORPORATION LIMITED** as trustee for each of the Secured Parties on the terms and conditions set out in the Intercreditor Agreement (the "**Security Agent**").

**RECITALS:**

- (A) Further to the Facilities Agreement the Original Lenders (as defined therein) have agreed to make facilities available to the Company, as original borrower (together, the "**Facilities**").
- (B) It is a condition precedent to the Facilities being made available under the Facilities Agreement that the Chargors enter into this Agreement.
- (C) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand.
- (D) The Security Agent is acting under and holds the benefit of the rights conferred upon it in this Agreement on trust for the Secured Parties.

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Agreement:

**"Administration Event"** means:

- (a) the presentation of an application to the court for the making of an administration order in relation to any Chargor; or
- (b) the giving of written notice by any person (who is entitled to do so) of its intention to appoint an administrator of any Chargor or the filing of such a notice with the court.

**"Assigned Property"** means the rights and property expressed to be assigned in Clause 4.3 (*Assignment of Contracts*).

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

**"Company"** means Evero Energy Holdings Limited, a private limited company registered in England and Wales with company registration number 09642938.

**"Contracts"** means:

- (a) each agreement evidencing any loan made by any Chargor to Widnes or other indebtedness incurred by Widnes to any Chargor; and
- (b) each Acquisition Document with respect to the Widnes Transaction Acquisitions to which a Chargor is a party.

**"Declared Default"** means an Event of Default which has resulted in a notice being served by the Facility Agent pursuant to Clause 25.16 (*Acceleration*) of the Facilities Agreement.

**"Event of Default"** has the meaning given to that term in the Facilities Agreement.

**"Facilities Agreement"** means the facilities agreement dated 12 May 2023 and made between, among others, the Parent, the Original Borrower, Ince, the Facility Agent, the Security Agent and the Original Lenders (each as defined therein).

**"Fixed Security"** means any mortgage, fixed charge or assignment expressed to be created by or pursuant to Clause 4 (*Fixed Security*) of this Agreement.

**"Widnes"** means Mersey Bioenergy Holdings Limited, a private limited company registered in England and Wales with company registration number 09209582.

**"Intercreditor Agreement"** means the intercreditor agreement dated 12 May 2023 and made between, among others, the Parent, the Borrower, Ince, the Facility Agent, the Security Agent and the Original Lenders (each as defined therein).

**"Notice of Assignment"** means a notice of assignment in substantially the form set out in Schedule 1 (*Form of Notice of Assignment of Contract*) or in such form as may be specified by the Security Agent.

**"Receiver"** means a receiver, receiver and manager or, where permitted by law, an administrative receiver and that term will include any appointee made under a joint or several appointment.

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

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;

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

"**Secured Assets**" means all of the assets and undertaking of any Chargor which from time to time are the subject of any Security created or expressed to be created by it in favour of the Security Agent by or pursuant to this Agreement.

"**Secured Obligations**" has the meaning given to that term in the Intercreditor Agreement.

"**Secured Parties**" has the meaning given to that term in the Intercreditor Agreement.

"**Security Period**" means the period beginning on the date of this Agreement and ending on the Senior Discharge Date.

"**Senior Discharge Date**" has the meaning given to that term in the Intercreditor Agreement.

"**Shares**" means all of the shares from time to time in the capital of Widnes held by, to the order, or on behalf, of any Chargor.

## 1.2 Terms defined in other Finance Documents

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

## 1.3 Construction

In this Agreement:

- (a) the rules of interpretation contained in Clauses 1.2 (*Construction*) and 1.5 (*Currency symbols and definitions*) of the Facilities Agreement shall apply to the construction of this Agreement, or in any notice given under or in connection with this Agreement;
- (b) any reference to the "**Security Agent**", the "**Secured Parties**", the "**Finance Parties**", the "**Chargor**" or any "**Obligor**" shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Intercreditor Agreement;
- (c) any reference to "**including**" and "**include**" shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and

- (d) references in this Agreement to any Clause or Schedule shall be to a Clause or Schedule contained in this Agreement unless specified otherwise.

#### **1.4 Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

#### **1.5 Present and future assets**

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

#### **1.6 Separate Security**

Clauses 4.1 (*Fixed charge over Shares*) and 4.3 (*Assignment of Contracts*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets defined in this Agreement and the failure to create an effective mortgage, fixed charge or assignment (whether arising out of this Agreement or any act or omission by any party) over any one asset shall not affect the nature or validity of the mortgage, fixed charge or assignment imposed on any other asset whether within that same class of assets or not.

#### **1.7 Security Agent assumes no obligation**

The Security Agent shall not be under any obligation in relation to the Secured Assets as a consequence of this Agreement and each Chargor shall at all times remain liable to perform all obligations in respect of the Secured Assets.

#### **1.8 Review of the Finance Documents**

Each Chargor acknowledges that it has had access to and reviewed the Finance Documents, including the Facilities Agreement.



## **2. COVENANT TO PAY**

### **2.1 Covenant to pay**

Each Chargor covenants with the Security Agent that it shall, on demand of the Security Agent pay, discharge and satisfy the Secured Obligations in accordance with their respective terms, **provided that** the liability of each Chargor shall be limited to the proceeds of enforcement of the Secured Assets from time to time.

## **3. COMMON PROVISIONS**

### **3.1 Common provisions as to all Security**

All the Security created by or pursuant to this Agreement is:

- (a) created with full title guarantee;
- (b) created in favour of the Security Agent as trustee for the Secured Parties and the Security Agent shall hold the benefit of this Agreement and the Security created by or pursuant to it on trust for the Secured Parties; and
- (c) continuing security for the payment and discharge of all the Secured Obligations.

### **3.2 Consent for Fixed Security**

Each Chargor creates the Fixed Security subject to obtaining any necessary consent to such Fixed Security from any relevant third party.

## **4. FIXED SECURITY**

### **4.1 Fixed charge over Shares**

Each Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Shares and all dividends, interest and other monies payable in respect of those Shares and all Related Rights (whether derived by way of redemption, bonus, preference, options, substitution, conversion, compensation or otherwise).

### **4.2 Fixed charge over Contracts**

Each Chargor charges (to the extent not validly and effectively assigned pursuant to Clause 4.3 (*Assignment of Contracts*)), by way of first fixed charge, all of its rights, title and interest from time to time in and to each Contract and all Related Rights.

### **4.3 Assignment of Contracts**

Each Chargor assigns and agrees to assign by way of security, all of its rights, claims, title and interest from time to time in and to each Contract and all Related Rights.

## **5. FLOATING SECURITY INTEREST**

### **5.1 Floating interest**

The Security Agent and each Chargor acknowledge that each Chargor has granted an assignment pursuant to Clause 4.3 (*Assignment of Contracts*). Notwithstanding this, during the Security Period, the Security Agent may permit such assignment created pursuant to Clause 4.3 (*Assignment of Contracts*) to take effect as a floating security interest, at which time, the Security Agent will notify the relevant Chargor accordingly and the provisions in Clause 5.2 (*Crystallisation: by notice*) and Clause 5.3 (*Crystallisation: automatic*) will apply.

### **5.2 Crystallisation: by notice**

The Security Agent may at any time by notice in writing to the relevant Chargor convert (i) any security interest created pursuant to Clause 4.3 (*Assignment of Contracts*) which takes effect, or is recharacterised as a floating charge or (ii) any floating security interest effected pursuant to Clause 5.1 (*Floating interest*), with immediate effect into a fixed security interest if:

- (a) a Declared Default has occurred;
- (b) the Security Agent considers that any of the Assigned Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process;
- (c) the Security Agent considers that it is desirable in order to protect the priority of the Security; or
- (d) any Chargor requests the Security Agent to exercise any of its powers under this Agreement.

### **5.3 Crystallisation: automatic**

Notwithstanding Clause 5.2 (*Crystallisation: by notice*) and without prejudice to any law which may have a similar effect, (i) any security interest created pursuant to Clause 4.3 (*Assignment of Contracts*) which takes effect, or is recharacterised as a floating charge, or (ii) any floating security interest effected pursuant to Clause 5.1 (*Floating interest*) will automatically be converted (without notice) with immediate effect into a fixed security interest if:

- (a) any Chargor creates or attempts to create any Security (other than any Security permitted under the terms of the Facilities Agreement and/or the Intercreditor Agreement), over any of the Assigned Property;
- (b) any person levies or attempts to levy any distress, execution or other process against any of the Assigned Property;
- (c) an Administration Event occurs;

any Chargor institutes or has instituted against it any proceedings seeking a judgment or decree of insolvency or bankruptcy or any other relief under any

bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up, sequestration or liquidation;

- (d) a Receiver is appointed over all or any of the Assigned Property;
- (e) a meeting is convened for the passing of a resolution for the voluntary winding-up or sequestration of any Chargor;
- (f) a petition is presented for the compulsory winding-up of any Chargor;
- (g) a provisional liquidator or judicial factor is appointed to any Chargor; or
- (h) a resolution is passed or an order is made for the dissolution or reorganisation or sequestration of any Chargor,

or any analogous procedure or step is taken in any jurisdiction

## **6. PROVISIONS AS TO SECURITY AND PERFECTION**

### **6.1 Negative pledge and restriction on dealings**

Except as permitted under the Facilities Agreement and/or the Intercreditor Agreement, no Chargor shall at any time during the Security Period create or permit to subsist any Security over all or any part of the Secured Assets or dispose of or otherwise deal with any part of the Secured Assets.

### **6.2 Implied covenants for title**

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clauses 4 (*Fixed Security*) or 5 (*Floating Security Interest*).
- (b) It shall be implied in respect of Clauses 4 (*Fixed Security*) and 5 (*Floating Security Interest*) that each Chargor is disposing of the Secured Assets free from all charges and incumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

### **6.3 Notice of Assignment**

Each Chargor shall, on the date of this Agreement (or, with respect to any Contract entered into after the date of this Agreement, on the date of such Contract), deliver to the relevant contract counterparty (with a copy to the Security Agent) (or procure the delivery of) a Notice of Assignment duly executed by, or on behalf of, that Chargor in respect of each Contract and that Chargor shall use reasonable endeavours to procure from the relevant contract counterparty an acknowledgement in the form set out in such Notice of Assignment.

#### **6.4 Deposit of share certificates**

Each Chargor shall:

- (a) on the date of this Agreement (or promptly upon its coming into possession thereof at any time) deposit with the Security Agent (or procure the deposit of) all certificates or other documents of title to the Shares, and stock transfer forms (executed in blank by it or on its behalf) in respect of the Shares; and
- (b) promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Shares (or upon acquiring any interest therein), notify the Security Agent of that occurrence and deposit with the Security Agent (or procure the deposit of) (i) all certificates or other documents of title representing such assets and (ii) such stock transfer forms or other instruments of transfer (executed in blank by it or on its behalf) in respect thereof as the Security Agent may request.

#### **6.5 Further advances**

Subject to the terms of the Facilities Agreement and any Finance Document, each of the Lenders under those documents are under an obligation to make further advances to the Borrowers under those documents and that obligation will be deemed to be incorporated in this Agreement as if set out in this Agreement.

#### **6.6 Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to all or any part of the Secured Assets as the Security Agent may determine and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any such person or be bound to supervise the proceedings or acts of any such person.

### **7. FURTHER ASSURANCE**

#### **7.1 Extension of implied covenant**

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 7.2 (*Further assurance*) below.

#### **7.2 Further assurance**

Each Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices, instructions or any other security over all of the assets which are, or are intended to be, the subject of this Agreement) as the Security Agent may reasonably specify having regard to the rights and restrictions contained in the Finance Documents (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

- (i) to perfect the Security created or intended to be created under or evidenced by this Agreement (which may include the execution of a

mortgage, pledge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Agreement) or for the exercise of the Collateral Rights;

- (ii) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of the Chargors located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Agreement; and/or
- (iii) to facilitate the realisation of the Secured Assets.

### **7.3 Consents**

- (a) Each Chargor shall, as soon as reasonably practicable, use all reasonable endeavours to obtain any consents necessary or to remove any restriction on the creation of Security (in each case in form and substance satisfactory to the Security Agent, acting reasonably) to enable the assets of that Chargor to be the subject of the relevant Fixed Security pursuant to this Agreement.
- (b) Immediately upon obtaining any such consent or removing any such restriction, the asset concerned will become subject to that Fixed Security and each relevant Chargor shall promptly deliver a copy of such consent or evidence of such removal to the Security Agent.

## **8. SHARES**

### **8.1 Dividends prior to a Declared Default**

Prior to the occurrence of a Declared Default, each Chargor shall be entitled to receive all dividends, interest and other monies or distributions of an income nature arising from the Shares subject to the terms of the Facilities Agreement and the Intercreditor Agreement.

### **8.2 Dividends after a Declared Default**

- (a) Upon the occurrence of a Declared Default, the Security Agent may, at its discretion, in the name of each relevant Chargor or otherwise and without any further consent or authority from the relevant Chargor, apply all dividends, interest and other monies arising from the Shares as though they were the proceeds of sale in accordance with Clause 16 (*Application of Proceeds*).
- (b) Upon the occurrence of a Declared Default, if any Chargor receives any dividends, interest and other monies arising from the Shares it shall hold that dividends, interest or monies to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 16 (*Application of Proceeds*).

### 8.3 Voting rights prior to Security Agent Notice

Prior to the giving of notice pursuant to Clause 8.4 (*Voting rights after Security Agent Notice*), each Chargor shall be entitled to exercise all voting rights in relation to the Shares.

### 8.4 Voting rights after Security Agent Notice

(a) Subject to paragraph (b) of this Clause 8.4, upon the occurrence of a Declared Default, the Security Agent may (but without having any obligation to do so) give notice to any relevant Chargor (with a copy to the Agent) that this Clause 8.4 will apply. With effect from the giving of that notice the Security Agent may, at its discretion, in the name of each relevant Chargor or otherwise and without any further consent or authority from that Chargor:

- (i) exercise (or refrain from exercising) any voting rights in respect of the Shares; and
- (ii) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Shares including the right, in relation to any company whose shares or other securities are included in the Shares, to concur or participate in:
  - (A) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
  - (B) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
  - (C) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Security Agent thinks fit, and the proceeds of any such action shall form part of the Shares.

(b) The Security Agent shall not be entitled to exercise any voting rights or any other powers or rights under paragraph (a) of this Clause 8.4 if and to the extent that:

- (i) a notifiable acquisition would, as a consequence, take place under section 6 of the National Security and Investment Act 2021 (the "NSIA") and any regulations made under the NSIA; and
- (i) either:
  - (A) the Secretary of State has not approved that notifiable acquisition in accordance with the NSIA; or
  - (B) the Secretary of State has approved that notifiable acquisition in accordance with the NSIA but there would, as a consequence, be

a breach of the provisions of a final order made in relation to that notifiable acquisition under the NSIA.

#### **8.5 National Security and Investment Act 2021 – notifications**

Where paragraph (b) of Clause 8.4 (*Voting rights after Security Agent Notice*) applies, the Security Agent may give a mandatory notice to the Secretary of State in accordance with the NSIA notifying of the proposed acquisition of voting rights by the Security Agent.

#### **8.6 Waiver of voting rights by Security Agent**

- (a) The Security Agent may, in its absolute discretion and without any consent or authority from the other Secured Parties or any relevant Chargor, at any time, by notice to any relevant Chargor (which notice shall be irrevocable), with a copy to the Agent, elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Shares conferred or to be conferred on the Security Agent pursuant to Clause 8.4 (*Voting rights after Security Agent Notice*) and the other Secured Parties unconditionally waive any rights they may otherwise have to require the Security Agent not to make such election or to require the Security Agent to indemnify, compensate or otherwise make good for any losses, costs or liabilities incurred by any of them in relation to or as a consequence of the Security Agent making such election.
- (b) Once a notice has been issued by the Security Agent under paragraph (a) of this Clause 8.6, on and from the date of such notice the Security Agent shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Shares conferred or to be conferred on it pursuant to Clause 8.4 (*Voting rights after Security Agent Notice*) or any other provision of this Agreement and all such rights will be exercisable by the relevant Chargor. Each relevant Chargor shall be entitled, on and from the date of such notice, to exercise all voting rights and powers in relation to the Shares.

#### **8.7 Shares: Voting rights**

No Chargor shall exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights in relation to the Shares in any manner, or otherwise permit or agree to or concur or participate in any:

- (a) variation of the rights attaching to or conferred by all or any part of the Shares;
- (b) increase in the issued share capital of any company whose shares are charged pursuant to this Agreement;
- (c) exercise, renunciation or assignment of any right to subscribe for any shares or securities; or
- (d) reconstruction, amalgamation, sale or other disposal of any company or any of the assets or undertaking of any company (including the exchange, conversion or reissue of any shares or securities as a consequence thereof) whose shares are charged pursuant to this Agreement,

which would have an adverse effect on the value of the Shares or the ability of the Security Agent to realise the Security created pursuant to this Agreement **provided that** the proceeds of any such action shall form part of the Shares.

#### **8.8 Shares: Payment of calls**

Each Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Shares, and in any case of default by it in such payment, the Security Agent may, if it thinks fit, make such payment on its behalf in which case any sums paid by the Security Agent shall be reimbursed by each relevant Chargor to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed, such interest to be calculated in accordance with Clause 11.3 (*Default interest*) of the Facilities Agreement.

#### **8.9 Shares: Exercise of rights**

No Chargor shall exercise any of its rights and powers in relation to any of the Shares in any manner which would prejudice the value of, or the ability of the Security Agent to realise, the Security created pursuant to this Agreement.

### **9. CONTRACTS**

#### **9.1 Contracts: Undertakings**

(a) Each Chargor shall comply with its obligations under the Contracts where failure to do so would materially and adversely affect, or would be reasonably likely to materially and adversely affect, the validity and enforceability of the Security created pursuant to this Agreement and, except as permitted under the Facilities Agreement and/or the Intercreditor Agreement:

- (i) shall not vary, rescind or amend any Contract except with the prior written consent of the Security Agent; and
- (ii) shall not take or omit to take any action which might result in (i) the alteration or impairment of any rights in the Assigned Property; (ii) any default of any of its obligations under any Contract; (iii) any right to terminate any Contract becoming exercisable by the debtor(s) under any Contract; or (iv) any counterclaims or rights of set-off arising under any Contract,

where any such action would materially and adversely affect, or would be reasonably likely to materially and adversely affect, the validity and enforceability of the Security created pursuant to this Agreement.

(b) During the Security Period, to the extent any Contract is not governed by English law, each Chargor within 20 Business Days of entering into such Contract shall do all acts or execute all documents to confer on the Finance Parties the equivalent of any Security, rights and remedies in the jurisdiction of the governing law of such Contract as those which the Finance Parties would have if the Contract was governed by English law.



## **9.2 Contracts: Representations**

Each Chargor represents and warrants to the Security Agent that as at the date of this Agreement each Contract to which the Chargor is a party is in full force and effect, enforceable in accordance with its terms and has not been amended, varied, superseded or supplemented, no provisions of the Contracts to which the Chargor is a party have been waived and each Chargor is not in breach of any term or condition of any Contract to which it is a party.

## **9.3 Contracts before Declared Default**

Prior to the occurrence of a Declared Default, each Chargor, subject to the terms of the Facilities Agreement and the Intercreditor Agreement, shall be entitled to:

- (a) exercise all rights, powers and discretions; and
- (b) receive all relevant notices and payments (as applicable),

in each case, under the Contracts to which it is a party.

## **10. INFORMATION AND ACCESS**

Each Chargor shall from time to time on request of the Security Agent, furnish the Security Agent with such information as the Security Agent may reasonably require about the Secured Assets and its compliance with the terms of this Agreement and, following the occurrence of a Declared Default, each Chargor shall permit the Security Agent, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice to (a) to inspect and take copies and extracts from the books, accounts and records of that Chargor relating to the Secured Assets and (b) view the Secured Assets (without becoming liable as mortgagee in possession).

## **11. TURNOVER**

If, in breach of any payment instructions in the Notice of Assignment after the occurrence of a Declared Default, relevant Chargor receives any payment under any Contract, it shall hold that payment on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct.

## **12. ENFORCEMENT OF SECURITY**

### **12.1 Enforcement**

Any time after the occurrence of:

- (a) a Declared Default;
- (b) an Administration Event; or
- (c) a request from any Chargor to the Security Agent that it exercise any of its powers under this Agreement,

the Security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to any Chargor or prior authorisation from any court, in its absolute discretion:

- (i) secure and perfect its title to all or any part of the Secured Assets;
- (ii) enforce all or any part of that Security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Secured Assets (and any assets of the relevant Chargor which, when got in, would be part of the Secured Assets) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration); and
- (iii) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on mortgagees and by this Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

## **12.2 Effect of moratorium**

Other than in respect of any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986, the Security Agent shall not be entitled to exercise its rights under Clause 12.1 (*Enforcement*), Clause 14.1 (*Appointment and removal*) or Clause 5.2 (*Crystallisation: by notice*) where the right arises as a result of a Declared Default occurring solely due to any person obtaining, or taking steps to obtain, a moratorium pursuant to Part A1 of the Insolvency Act 1986.

## **13. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION**

### **13.1 Extension of power of sale**

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

### **13.2 Restrictions**

The restrictions contained in sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Security Agent without notice to any Chargor on or at any time after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 10 (*Enforcement of Security*).

### **13.3 Right of appropriation**

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 12.1 (*Enforcement*) to the extent that the provisions of the

Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "**Regulations**") apply to a Secured Asset, the Security Agent shall have the right to appropriate all or any part of that Secured Asset in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the relevant Chargor. For this purpose, the parties agree that the value of that Secured Asset shall be:

- (a) in the case of any Assigned Property so appropriated, the amount standing to the credit of any account (at the time the right of appropriation is exercised) which represents any sums paid to relevant Chargor pursuant to the Contract; and
- (b) in the case of any Shares, the market value of such Shares determined by the Security Agent by reference to a public index or independent valuation, or by such other process as the Security Agent may select.

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

#### **13.4 Statutory powers**

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

### **14. APPOINTMENT OF RECEIVER**

#### **14.1 Appointment and removal**

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 12.1 (*Enforcement*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent), without prior notice to any Chargor:

- (i) appoint one or more persons to be a Receiver of the whole or any part of the Secured Assets;
- (ii) appoint two or more Receivers of separate parts of the Secured Assets;
- (iii) remove (so far as it is lawfully able) any Receiver so appointed; and
- (iv) appoint another person(s) as an additional or replacement Receiver(s).

## **14.2 Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 14.1 (*Appointment and removal*) shall be:

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

## **14.3 Statutory powers of appointment**

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

## **15. POWERS OF RECEIVERS**

Every Receiver shall (subject to any restrictions in the Receiver's instrument of appointment but notwithstanding any winding-up or dissolution of any Chargor) have and be entitled to exercise, in relation to the Secured Assets (and any assets of any Chargor which, when got in, would be Secured Assets) in respect of which the Receiver was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of any Chargor or in the Receiver's own name and, in each case, at the cost of that Chargor):

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

- (iii) bringing to the Receiver's hands any assets of any Chargor forming part of, or which when got in would be, Secured Assets.

## **16. APPLICATION OF PROCEEDS**

All monies received or recovered and any non-cash recoveries made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment or other discharge of the costs, charges and expenses incurred and payments made by the Receiver, the payment or other discharge of the Receiver's remuneration and of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of the Receiver's powers, and thereafter shall be applied by the Security Agent (notwithstanding any purported appropriation by any Chargor) in accordance with the terms of the Intercreditor Agreement.

## **17. PROTECTION OF PURCHASERS**

### **17.1 Consideration**

The receipt of consideration by the Security Agent or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Secured Assets or making any acquisition, the Security Agent or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

### **17.2 Protection of purchasers**

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

## **18. POWER OF ATTORNEY**

### **18.1 Appointment and powers**

Each Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on any Chargor by this Agreement or any other agreement binding on such Chargor to which the Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Secured Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Secured Assets); and
- (b) enabling the Security Agent and any Receiver to exercise (subject to Clause 8.6 (*Waiver of voting rights by Security Agent*)), or delegate the exercise of, any of

the Collateral Rights (including, after the occurrence of a Declared Default, the exercise of any right of a legal or beneficial owner of the Secured Assets).

## **18.2 Ratification**

Each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of the attorney's powers.

## **19. EFFECTIVENESS OF SECURITY**

### **19.1 Continuing security**

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

### **19.2 Cumulative rights**

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

### **19.3 No prejudice**

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

### **19.4 Remedies and waivers**

No failure on the part of the Security Agent to exercise, nor any delay on its part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

### **19.5 No liability**

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

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

except in the case of gross negligence or wilful misconduct upon its part.

### **19.6 Partial invalidity**

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

### **19.7 Waiver of defences**

The obligations assumed, and the Security created, by each Chargor under this Agreement, and the Collateral Rights, will not be affected by any act, omission, matter or thing which, but for this Clause 19.7, would reduce, release or prejudice any of its obligations under, or the Security created by, this Agreement (without limitation and whether or not known to that Chargor or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, any Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (in each case, however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security or of the Secured Obligations including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or Security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security or of the Secured Obligations; and
- (g) any insolvency or similar proceedings.

#### **19.8 Chargor intent**

Without prejudice to the generality of Clause 19.7 (*Waiver of Defences*), each Chargor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### **19.9 Immediate recourse**

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

#### **19.10 Deferral of rights**

Until the end of the Security Period, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by an Obligor or in respect of any other person;
- (b) to claim any contribution from any guarantor or any other person in respect of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor or other person to make any payment, or perform any obligation, in respect of which any Obligor or other person has given a guarantee, undertaking or indemnity under any Finance Document;
- (e) to exercise any right of set-off against any Obligor or other person; and/or



- (f) to claim or prove as a creditor of any Obligor or other person in competition with any Secured Party.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 16 (*Application of Proceeds*).

#### **19.11 Additional Security**

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

### **20. PRIOR SECURITY INTERESTS**

#### **20.1 Redemption or transfer**

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

#### **20.2 Accounts**

The Security Agent may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be conclusive and binding on each Chargor.

#### **20.3 Costs of redemption or transfer**

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by each Chargor to the Security Agent on demand together with accrued interest thereon calculated in accordance with Clause 11.3 (*Default interest*) of the Facilities Agreement.

### **21. SUBSEQUENT SECURITY INTERESTS**

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

## **22. SUSPENSE ACCOUNTS**

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

## **23. RELEASE OF SECURITY**

### **23.1 Release of Security**

Upon the expiry of the Security Period, the Security Agent shall, at the request and cost of each Chargor, promptly;

- (a) release and cancel the Security created by this Agreement and procure the reassignment to the relevant Chargor of the Assigned Property, in each case subject to Clause 23.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees; and
- (b) return all documents of title, transfer documents and other documentation relating to the Secured Assets which it holds (or which are being held to its order).

### **23.2 Clawback**

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

## **24. SET-OFF**

Each Chargor authorises the Security Agent (but the Security Agent shall not be obliged to exercise such right), after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 12.1 (*Enforcement*), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Security Agent to any Chargor and apply any credit balance to which that Chargor is entitled on any account with the Security Agent in accordance with Clause 16 (*Application of Proceeds*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

## **25. CHANGES TO THE PARTIES**

### **25.1 No assignments or transfers by Chargor**

No Chargor may assign any of its rights or transfer any of its rights or obligations under this Agreement.

### **25.2 Assignments by the Security Agent**

The Security Agent may assign all or any of its rights under this Agreement to its successor Security Agent in accordance with Clause 18.13 (*Resignation of the Security Agent*) of the Intercreditor Agreement. The Security Agent shall be entitled to disclose such information concerning any Chargor and this Agreement as the Security Agent considers appropriate to any actual or proposed assignee or to any person to whom information may be required to be disclosed by any applicable law.

### **25.3 Successors**

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

## **26. NOTICES**

### **26.1 Communications in Writing**

Any communication to be made under or in connection with this Agreement shall be made in accordance with Clause 36 (*Notices*) of the Facilities Agreements.

### **26.2 Addresses**

The address and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Agreement is that identified in accordance with Clause 36 (*Notices*) of the Facilities Agreements.

### **26.3 English language**

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
  - (i) in English; or

- (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **27. EXPENSES, STAMP TAXES AND INDEMNITY**

### **27.1 Expenses**

To the extent not already reimbursed under any other Finance Document, each Chargor shall within five (5) Business Days of demand (each such demand to be accompanied by reasonable supporting evidence (including, to the extent possible, invoices)) pay the Security Agent:

- (a) the amount of all pre-agreed costs and expenses (including legal fees which shall be subject to a cap agreed between the relevant legal counsel and relevant Chargor from time to time) reasonably incurred by the Security Agent (including by any Receiver or Delegate) in connection with the negotiation, preparation, execution and perfection of this Agreement and any other documents referred to in this Agreement; and
- (b) the amount of all costs and expenses (including legal fees) incurred by the Security Agent (including by any Receiver or Delegate) in connection with the exercise, enforcement and/or the preservation of any rights under this Agreement (including the Collateral Rights) and any other documents referred to in this Agreement or any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Security or of enforcing these rights.

### **27.2 Stamp Taxes**

Each Chargor shall pay all stamp, registration, notarial and other taxes and fees to which this Agreement, the Security contemplated in this Agreement or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Security Agent within five (5) Business Days of demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

### **27.3 Indemnity**

Each Chargor shall, notwithstanding any release or discharge of all or any part of the Security created by or pursuant to this Agreement, indemnify the Security Agent, its agents, attorneys and any Receiver against any losses, liabilities and costs incurred by it or them as a consequence of any breach by any Chargor of the provisions of this Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Agreement or otherwise relating to the Secured Assets.

### **27.4 Payments Free of Deduction**

All payments to be made to the Security Agent under this Agreement shall be made free and clear of and without deduction for or on account of tax unless the relevant Chargor is required to make such payment subject to the deduction or withholding of

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

## **27.5 Currency Indemnity**

(a) If any sum due from the relevant Chargor under this Agreement (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against that Chargor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
- (iii) applying the Sum in satisfaction of any Secured Obligations,

that Chargor shall as an independent obligation, within three (3) Business Days of demand, indemnify the Security Agent and each other Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (a) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

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

## **28. DISCRETION AND DELEGATION**

### **28.1 Discretion**

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

### **28.2 Delegation**

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

## **29. CALCULATIONS AND CERTIFICATES**

### **29.1 Accounts**

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

### **29.2 Certificates and determinations**

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

## **30. GOVERNING LAW**

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

## **31. JURISDICTION**

### **31.1 English Courts**

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Agreement) (a "**Dispute**").

### **31.2 Convenient forum**

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that neither party will argue to the contrary and neither party will waive objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Agreement.

### **31.3 Exclusive jurisdiction**

Notwithstanding Clause 31.1 (*English Courts*), the Security Agent may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Security Agent may take concurrent proceedings in any number of jurisdictions.

**THIS AGREEMENT** has been signed by the Security Agent and executed as a deed by each Chargor and is delivered by them as a deed on the date stated at the beginning of this Agreement.

**SCHEDULE 1**  
**FORM OF NOTICE OF ASSIGNMENT OF CONTRACT**

To:     [    ]

Date:   [    ]

We give you notice that, by an Agreement dated [    ] (the "**Agreement**"), we have assigned to [•] (the "**Security Agent**") as trustee for the Secured Parties all our right, title and interest in and to [*details of contract*] (the "**Contract**") including all monies which may be payable in respect of the Contract.

We will remain liable to perform all our obligations under the Contract and the Security Agent is under no obligation of any kind whatsoever under the Contract nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Contract.

With effect from the date of your receipt of this notice, we remain entitled to exercise all our rights, powers and discretions under the Contract, and you should continue to give notices and make payments (as applicable) under the Contract to us, unless and until you receive notice from the Security Agent to the contrary stating that the security under the Agreement has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made (as applicable) to, the Security Agent or as it directs.

These instructions may not be revoked without the prior written consent of the Security Agent.

This letter and all non-contractual obligations arising out of or in connection with it are governed by and will be construed in accordance with the laws of England and Wales.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Agent at [    ] marked for the attention of [    ].

.....

for and on behalf of  
[    ] acting by its general partner [    ]

**Form of Acknowledgement of  
Assignment of Contract**

To: [•] as trustee for the Secured Parties (the "**Security Agent**")

Date:

We acknowledge receipt of a notice dated [ ] of security created by [ ] (acting by [ ]) (the "**Chargor**") in favour of the Security Agent over all the Chargor's rights, title and interest in and to the Contract (as specified in that notice).

We confirm that:

- (a) we will comply with the terms of that notice;
- (b) we have not received notice of any prior security over, or the interest of any third party in, the Contract; and
- (c) the Chargor will remain liable to perform all its obligations under the Contract and the Security Agent is under no obligation of any kind whatsoever under the Contract nor under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Contract.

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

This letter and all non-contractual obligations arising out of or in connection with it are governed by and will be construed in accordance with the laws of England and Wales.

.....  
for and on behalf of

[ ]

cc. [ ]

[ ]



## EXECUTION PAGE TO AGREEMENT

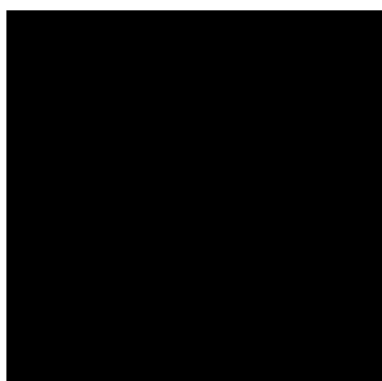
### The Chargors

**EXECUTED AS A DEED** )

for and on behalf of **UK WASTE RESOURCES AND ENERGY** )  
**INVESTMENTS GENERAL PARTNER L.P.**

by **UK WASTE RESOURCES AND ENERGY INVESTMENTS** )  
**(GP) LIMITED** acting as its general partner )

)



.....

Signature of director

.....

Name of director

.....

Signature of director

.....

Name of director

**EXECUTED AS A DEED** )

for and on behalf of **UK WASTE RESOURCES AND ENERGY INVESTMENTS L.P.** )

by **UK WASTE RESOURCES AND ENERGY INVESTMENTS GENERAL PARTNER LP** acting as its general partner )

by **UK WASTE RESOURCES AND ENERGY INVESTMENTS (GP) LIMITED** acting as its general partner )

[Redacted signature area]

.....

Signature of director

.....

Name of director

[Redacted signature area]

.....

Signature of director

.....

Name of director

**The Security Agent**

For and on behalf of

**GLAS TRUST CORPORATION LIMITED**

By:

Name:

Title:

