



**Registration of a Charge**

Company name: **ENRC Finance Limited**

Company number: **06050675**

Received for Electronic Filing: **20/05/2016**



X57DJUKQ

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**Details of Charge**

Date of creation: **11/05/2016**

Charge code: **0605 0675 0004**

Persons entitled: **JSC VTB BANK**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **CLIFFORD CHANCE LLP**



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

Company number: 6050675

Charge code: 0605 0675 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th May 2016 and created by ENRC Finance Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th May 2016 .

Given at Companies House, Cardiff on 23rd May 2016

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



**Companies House**



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

DATED 11 May 2016

ENRC FINANCE LIMITED  
AS THE CHARGOR

IN FAVOUR OF

JSC VTB BANK  
AS THE SECURITY AGENT

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SECURITY OVER SHARES AGREEMENT

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**THIS AGREEMENT** is made by way of deed on 11 May 2016

**BY**

- (1) **ENRC FINANCE LIMITED** registered in England and Wales with company number 06050675 (the "**Chargor**"); in favour of
- (2) **JSC VTB BANK** in its capacity as security agent for and on behalf of itself and in the name and on behalf of each of the other Finance Parties (as defined below) in accordance with the provisions of the Finance Documents (the "**Security Agent**" which expression shall include any person for the time being appointed as trustee, or as an additional trustee, for the purposes of the Finance Documents).

**IT IS AGREED** as follows:

## 1. **DEFINITIONS AND INTERPRETATION**

### 1.1 **Definitions**

In this Agreement:

**"Charged Portfolio"** means the Shares and all dividends, interest and other monies at any time payable in respect of the Shares and all other rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, Security, guarantees, indemnities, covenants for title, proceeds of sale and other monies and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion, compensation or otherwise) held by, to the order of, or on behalf of the Chargor at any time.

**"Collateral Rights"** means subject always to the provisions of Clause 6 in relation to the exercise of voting rights all rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law.

**"Discharge Date"** means the time at which the Security Agent, with the approval of the Majority Lenders, determines that:

- (a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents.

**"Enforcement Event"** means:

- (a) an Event of Default which is continuing in respect of which a notice has been given pursuant to clause 21.26 (*Acceleration*) of the Facility Agreement to exercise, or direct the Security Agent to exercise, any or all of its rights, remedies, powers or discretions under any Finance Document and the Chargor has been notified of the same; or

- (b) a request from the Chargor to the Security Agent that it exercise any of its powers under this Agreement.

**"Facility Agreement"** means the facility agreement dated 15 February 2016 between, among others, Joint-stock company "Transnational Company "Kazchrome", Joint-stock company "Eurasian energy corporation", Joint-stock company "Shubarkol komir" and Eurasian Resources Group B.V. each as an Original Borrower, Eurasian Resources Group as the Parent, ENRC N.V. as the Obligors' Agent, JSC VTB Bank as Arranger, Agent and Security Agent and the Lenders referred to therein.

**"Finance Party"** means the Agent, the Arranger, the Security Agent or a Lender.

**"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.

**"Secured Obligations"** means all present and future obligations and liabilities at any time due, owing or incurred by any Obligor to any Secured Party under the Finance Documents, whether actual or contingent and whether incurred solely or jointly and as principal or surety or in any other capacity, including the obligations set out in Clause 26.2 (*Parallel Debt (Covenant to pay the Security Agent)*) of the Facility Agreement.

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

**"Shares"** means all of the shares from time to time in the capital of ENRC Africa 1 Limited (registered in England and Wales with number 07019631) from time to time held by, to the order or on behalf of the Chargor .

## 1.2 Terms defined in other Finance Documents

Unless defined in this Agreement or the context otherwise requires, a term defined in the Facility 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 1.3 (*Currency Symbols and definitions*) of the Facility 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 Facility 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.

#### 1.4 **Incorporation of provisions from Facility Agreement**

The provisions of clauses 1.6 (*Third party rights*), 11 (*Tax gross up and indemnities*), 13 (*Other indemnities*), 33.1 (*Accounts*), 33.2 (*Certificates and determinations*), 36 (*Amendments and waivers*) of the Facility Agreement are incorporated into this Agreement as if expressly set out in full in this Agreement, but so that references in those clauses to the Facility Agreement are references to this Agreement.

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

A reference in this Agreement to any Shares or other asset includes, unless the contrary intention appears, present and future Shares and other assets.

### 2. **COVENANT TO PAY**

#### 2.1 **Covenant to pay**

The 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.

### 3. **CHARGE**

The Chargor charges, with full title guarantee and by way of first fixed charge in favour of the Security Agent as trustee for the Secured Parties, as continuing security for the payment and discharge of all of the Secured Obligations, all of its rights, title and interest from time to time in and to the Charged Portfolio.

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

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

Except for the Transaction Security the Chargor shall not at any time during the Security Period create or permit to subsist any Security over all or any part of the Charged Portfolio or dispose of or otherwise deal with any part of the Charged Portfolio without the prior written consent of the Security Agent (acting on the instructions of the Majority Lenders).

#### 4.2 **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 Clause 3 (*Charge*).

- (b) It shall be implied in respect of Clause 3 (*Charge*) that the Chargor is disposing of the Charged Portfolio free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

#### **4.3 Deposit of share certificates**

The Chargor shall, on the date of this Agreement (and upon its coming into possession thereof at any time) deposit with the Security Agent (or procure the deposit of) all certificates and 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.

#### **4.4 Deposit of related assets**

The Chargor shall, promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Charged Portfolio (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 and 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 require.

#### **4.5 Further advances**

Subject to the terms of the Finance Documents, each Lender is under an obligation to make further advances to the Chargor and that obligation will be deemed to be incorporated in this Agreement as if set out in this Agreement.

#### **4.6 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 Charged Portfolio 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.

### **5. FURTHER ASSURANCE**

#### **5.1 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 5.2 below.

#### **5.2 Further assurance**

The Chargor shall promptly, at its own cost, take all such action (including making all filings, registrations and notarisations) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s):



- (a) to create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Charged Portfolio (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Portfolio) or for the exercise of the Collateral Rights; and/or
- (b) following an Enforcement Event, to facilitate the realisation of the Charged Portfolio.

## **6. VOTING RIGHTS AND DIVIDENDS**

### **6.1 Voting rights and dividends prior to an Enforcement Event**

Prior to the occurrence of an Enforcement Event, the Chargor shall:

- (a) be entitled to receive all dividends, interest and other monies or distributions of an income nature arising from the Charged Portfolio; and
- (b) be entitled to exercise all voting rights in relation to the Charged Portfolio.

### **6.2 Voting rights and dividends after an Enforcement Event**

Upon the occurrence of an Enforcement Event, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) instruct the Chargor to:

- (a) exercise (or refrain from exercising) any voting rights in respect of the Charged Portfolio;
- (b) apply all dividends, interest and other monies arising from the Charged Portfolio as though they were the proceeds of sale under this Agreement;
- (c) transfer the Charged Portfolio into the name of the Security Agent or such nominee(s) of the Security Agent as it shall require; and
- (d) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Portfolio including the right, in relation to any company whose shares or other securities are included in the Charged Portfolio, to concur or participate in:
  - (i) 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);
  - (ii) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
  - (iii) 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 Charged Portfolio.

### 6.3 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 the Chargor, at any time, by notice to the 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 Charged Portfolio conferred or to be conferred on the Security Agent pursuant to Clause 6.2 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 them 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 6.3, 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 Charged Portfolio conferred or to be conferred on it pursuant to Clause 6.2 or any other provision of this Agreement and all such rights will be exercisable by the Chargor. The Chargor shall be entitled on and from the date of such notice, to exercise all voting rights and powers in relation to the Charged Portfolio.

### 6.4 Voting rights generally

The Chargor shall not exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Charged Portfolio 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 Charged Portfolio;
- (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 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, in the reasonable opinion of the Security Agent would prejudice the value of, or the ability of the Security Agent to realise, the Security created by this Agreement **provided that** the proceeds of any such action shall form part of the Charged Portfolio.

## 7. CHARGOR'S REPRESENTATIONS AND UNDERTAKINGS

### 7.1 Representations

The Chargor makes the representations and warranties set out in this Clause 7 to the Security Agent on the date of this Agreement.

#### (a) *The Shares*

The Shares are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of the company which has issued the Shares or any other document or arrangement do not and could not restrict or inhibit any transfer of the Shares on creation or on enforcement of the Security created pursuant to this Agreement.

#### (b) *Pensions*

- (i) Neither it nor any of its Holding Companies or Subsidiaries is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993);
- (ii) Neither it nor any of its Holding Companies or Subsidiaries is or has at any time been "connected" with or an "associate" or (as those terms are used in sections 38 and 43 of the Pensions Act 2004) such an employer; and
- (iii) Neither it nor any of its Holding Companies or Subsidiaries has at any time been served with a Pensions Notice and is not aware of any action having been taken by the Pensions Regulator that is preparatory to the issue of a Pensions Notice to it or any member of the Group.

### 7.2 Undertakings

#### (a) *Payment of calls*

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any part of the Charged Portfolio, and in any case of default by it in such payment, the Security Agent may, if it thinks fit, make such payment on behalf of the Chargor. Any sums so paid by the Security Agent shall be reimbursed by the 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 8.3 (*Default interest*) of the Facility Agreement.

#### (b) *Pensions*

- (i) The Chargor shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group and/or any of its employees are fully funded based on the statutory funding objective under sections 221 and 222 of the Pensions Act 2004 and that no

action or omission is taken by any member of the Group in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including the termination or commencement of winding-up proceedings of any such pension scheme or any member of the Group ceasing to employ any member of such a pension scheme).

- (ii) The Chargor shall ensure that no member of the Group is or has been at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or "connected" with or an "associate" of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.

(c) ***Preservation of assets***

The Chargor shall not do or permit to be done any act or thing which might jeopardise the rights of the Security Agent in the Charged Portfolio or which would be reasonably likely to adversely affect or diminish the value of the Charged Portfolio.

(d) ***Information and access***

The Chargor shall, and shall ensure that each member of the Group whose shares constitute all or any part of the Charged Portfolio shall, on request of the Security Agent, provide the Security Agent with any information as the Security Agent may reasonably require about the Charged Portfolio and the Chargor's compliance with the terms of this Agreement. The Chargor shall permit the Security Agent, its representatives, delegates, professional advisers and contractors, free access at all reasonable times and on reasonable notice at the Chargor's cost to inspect and take copies and extracts from the books, accounts and records of that company and to view the Charged Portfolio (without becoming liable as mortgagee in possession).

## 8. ENFORCEMENT OF SECURITY

Any time after the occurrence of an Enforcement Event, the Security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- (i) secure and perfect its title to all or any part of the Charged Portfolio (including transferring the Charged Portfolio into the name of the Security Agent or its nominees);
- (ii) enforce all or any part of the 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 Charged Portfolio (and any assets of the Chargor which, when got in, would be part of the Charged Portfolio) 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.

## 9. EXERCISE OF POWERS UNDER THE POWER OF ATTORNEY

Without prejudice to the rights of any other person dealing with the Security Agent or any Receiver and without limiting any provision of Clause 14 (*Protection of purchasers*) or Clause 15 (*Power of Attorney*), the Security Agent agrees with the Chargor that it shall not exercise its rights under the power of attorney referred to in Clause 15 (*Power of Attorney*) unless:

- (a) the Chargor has failed to comply with any of its obligations under Clause 5.2 (*Further assurance*) within 5 Business Days of the request of the Security Agent; or
- (b) the Security has become enforceable pursuant to Clause 7 (*Enforcement of Security*).

## 10. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION

### 10.1 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.

### 10.2 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 the Chargor on or at any time after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8 (*Enforcement of Security*).

### 10.3 Right of Appropriation

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

value of the Charged Portfolio 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, including independent valuation. 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.

#### 10.4 **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 Charged Portfolio. 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.

### 11. **APPOINTMENT OF RECEIVER**

#### 11.1 **Appointment and removal**

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8 (*Enforcement of Security*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent) without prior notice to the Chargor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Portfolio;
- (b) appoint two or more Receivers of separate parts of the Charged Portfolio;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

#### 11.2 **Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 11.1 (*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 the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Security Agent; and
- (c) entitled to remuneration for his services 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).

### **11.3 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 Charged Portfolio.

## **12. POWERS OF RECEIVERS**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Portfolio (and any assets of the Chargor which, when got in, would be part of the Charged Portfolio) in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the 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 the 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 the Chargor) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Portfolio); or
  - (iii) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Portfolio.

## **13. 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 his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Security Agent

(notwithstanding any purported appropriation by the Chargor) in accordance with the terms of the Facility Agreement.

## 14. PROTECTION OF PURCHASERS

### 14.1 Consideration

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Portfolio 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.

### 14.2 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.

## 15. POWER OF ATTORNEY

### 15.1 Appointment and powers

The 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 the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is a party (including the execution and delivery of any deeds, charges, assignments or other Security and any transfers of the Charged Portfolio and perfecting and/or releasing the Security created or intended to be created in respect of the Charged Portfolio); and
- (b) enabling the Security Agent and any Receiver to exercise (subject to Clause 6.3 (*Waiver of voting rights by Security Agent*)), or delegate the exercise of, any of the Collateral Rights (including, after the occurrence of an Enforcement Event, the exercise of any right of a legal or beneficial owner of the Charged Portfolio).

### 15.2 Ratification

The 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 his powers.



## 16. **EFFECTIVENESS OF SECURITY**

### 16.1 **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.

### 16.2 **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 Charged Portfolio shall merge into the Security created by this Agreement.

### 16.3 **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 the Chargor or any other person by 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.

### 16.4 **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.

### 16.5 **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 Charged Portfolio or taking possession of or realising all or any part of the Charged Portfolio,

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

#### **16.6 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.

#### **16.7 Chargor intent**

The 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.

#### **16.8 Immediate recourse**

The Chargor waives any right it may have of first requiring the 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 the 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.

#### **16.9 Additional Security**

The Security created by the 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.

### **17. PRIOR SECURITY INTERESTS**

#### **17.1 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 part of the Charged

Portfolio 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.

## **17.2 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 the Chargor.

## **17.3 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 the Chargor to the Security Agent on demand.

## **18. 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 Charged Portfolio which is prohibited by the terms of this Agreement, all payments thereafter made by or on behalf of the 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 the Chargor) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations at the time that notice was received.

## **19. 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.

## **20. RELEASE OF SECURITY**

### **20.1 Release**

The Security Agent shall, at the request and cost of the Chargor, release and cancel the Security created by this Agreement:

- (a) upon the Discharge Date; or
- (b) if the Security Agent is otherwise required to release the Security created by this Agreement (or a part thereof) in order to effect a transaction which is permitted under the Finance Documents,

in each case, provided that no Default is continuing and subject to Clause 20.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.

## **20.2 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 the Chargor under this Agreement and the Security created by this Agreement shall continue and that amount will not be considered to have been irrevocably paid or credited.

## **21. ASSIGNMENT**

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

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

### **21.2 Assignments by the Security Agent**

The Security Agent may assign all or any of its rights under this Agreement. The Security Agent shall be entitled to disclose such information concerning the Chargor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

### **21.3 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 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).

## **22. NOTICES**

### **22.1 Communications in Writing**

Each communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

## 22.2 Addresses

The address and fax number (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:

- (a) in the case of the Chargor, ENRC Finance Limited, 5<sup>th</sup> Floor, 6 St Andrew Street, London EC4A 3AE (*fax number* +44(0) 1582 439200) marked for the attention of Vivienne McLean; and
- (b) in the case of the Security Agent, 12 Presnenskaya Embankment, 123100 Moscow (*fax number* +7 (495) 956 71 48) marked for the attention of Bondarenko Oksana and Loan Admin,

or any substitute address, fax number, or department or officer as the Party may notify to the Agent pursuant to clause 32 (*Notices*) of the Facility Agreement by not less than five Business Days' notice.

## 22.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 22.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with paragraphs (a) and (b) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

## 22.4 Electronic communication

- (a) Any communication to be made between the Chargor and the Security Agent under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above may only be made in that way to the extent that the Chargor and the Security Agent agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Chargor to the Security Agent only if it is addressed in such manner as the Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the addressee of the relevant communication has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 22.4.

## **22.5 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.

## **23. DISCRETION AND DELEGATION**

### **23.1 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 Facility Agreement be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

## 23.2 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.

## 24. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

## 25. ENFORCEMENT

### 25.1 Jurisdiction

- (a) 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**").
- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) Notwithstanding paragraph (a) of this Clause 25.1 (*Jurisdiction*), 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.

## 26. GOVERNING LAW

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

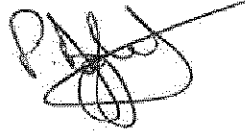
**THIS AGREEMENT** has been signed by the Security Agent and executed as a deed by the Chargor and is delivered by it as a deed on the date stated at the beginning of this Agreement.

**EXECUTION PAGE**

**The Chargor**

**EXECUTED AS A DEED by  
ENRC FINANCE LIMITED**

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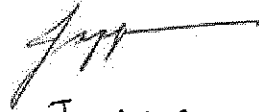


Director

Name: *Paul Aggleton*

in the presence of

Signature of witness



Name of witness

*J VAN DER MERWE*

Address of witness

C/O PIET HEINKADE 55,  
AMSTERDAM, 1019 GM  
THE NETHERLANDS



Signature page to pledge agreement  
with SARC Finance Ltd.

**The Security Agent**


For and on behalf of

**JSC VTB BANK**

By:

Name:

Title:



Yuri Soloviev  
First Deputy Chairman