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# M

COMPANIES FORM No. 395

# 395

## Particulars of a mortgage or charge

CHWP000

**A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.**

Please do not write in this margin

Pursuant to section 395 of the Companies Act 1985

*Please complete legibly, preferably in black type, or bold block lettering*

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number

15

01421481

Name of company

\* Viking UK Gas Limited

\* insert full name of Company

Date of creation of the charge

7 August 2006

Description of the instrument (if any) creating or evidencing the charge (note 2)

A second ranking debenture dated 7 August 2006 (the "Second Ranking Debenture") between, inter alia, the Charging Company and Credit Suisse (as "Second Lien Collateral Agent").

Amount secured by the mortgage or charge

Please refer to Part II of the attached Continuation Sheet.  
Please refer to Part I of the attached Continuation Sheet for definitions.

Names and addresses of the mortgagees or persons entitled to the charge

Please refer to Part III of the attached Continuation Sheet.

Presenter's name address and reference (if any) :

Shearman & Sterling (London) LLP, Broadgate West, 9 Appold Street, London, EC2A 2AP

For official Use (02/06)  
Mortgage Section



PMO  
COMPANIES HOUSE 17206

LD2  
COMPANIES HOUSE 08/08/2006

Time critical reference

Short particulars of all the property mortgaged or charged

Please refer to Part IV of the attached Continuation Sheet

Please refer to Part I of the attached Continuation Sheet for definitions.

Please do not write in this margin

*Please complete legibly, preferably in black type, or bold block lettering*

Particulars as to commission allowance or discount (note 3)

[Empty box for commission allowance or discount]

*A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)*

Signed Seaman & Sterling (London) LLP

Date 8/08/2006

On behalf of ~~company~~ [mortgagee/chargee]†

† delete as appropriate

**Notes**

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his:
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is: Companies House, Crown Way, Cardiff CF14 3UZ

## Continuation Sheets to Form 395

### Part I Definitions

**"Account Bank"** means Citibank, N.A. or institutions selected by the Borrower and acceptable to the appropriate collateral agent at which the Borrower shall establish and maintain the Accounts;

**"Accounts"** means the New York Accounts and the London Accounts;

**"Administrator"** means an administrator appointed under Schedule B1 of the Insolvency Act 1986;

**"Advance"** means an advance by a Lender to the Borrower pursuant to Article II of the Second Lien Credit Agreement;

**"Assigned Property"** means the assigned property as defined in the collateral deed dated on or about 7 August 2006;

**"Bank Balances"** means the amounts now or subsequently standing to the credit of any account (including the Charged Accounts) which the Charging Company has, or has an interest in, with any person (including interest) and the debts represented thereby excluding any amount which constitutes Carbon Credit Hedge Collateral;

**"Book Debts"** means all book and other debts and monetary claims now or subsequently due or owing to the Charging Company, the proceeds of the same and the benefit of all Investments, Liens and guarantees or other rights of any nature now or subsequently enjoyed or held by it in relation thereto (other than Bank Balances);

**"Borrower"** means GBGH, LLC, a Delaware limited liability company;

**"Carbon Credit Hedge Collateral"** means the Assigned Property as defined in the collateral deed dated on or about 7 August 2006 between RGS Energy Limited, Viking UK Gas Limited and Credit Suisse Energy, LLC;

**"Cash Equivalents"** means any of the following, to the extent owned by the Borrower or any of its Subsidiaries free and clear of all Liens other than Liens created under the Collateral Documents and having a maturity of not greater than 90 days from the date of acquisition thereof: (a) readily marketable direct obligations of the Government of the United States or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the Government of the United States, (b) insured certificates of deposit of or time deposits with any commercial bank that is a Lender or a member of the Federal Reserve System, issues (or the parent of which issues) commercial paper rated as described in clause (c) below, is organized under the laws of the United States or any State thereof and has combined capital and surplus of at least U.S.\$1,000,000,000, (c) commercial paper in an aggregate amount of no more than U.S.\$10,000,000 per issuer outstanding at any time, issued by any corporation organized under the laws of any State of the United States and rated at least "Prime-1" (or the then equivalent grade) by Moody's Investors Service, Inc. ("**Moody's**") or "A-1" (or the then equivalent grade) by Standard & Poor's, a division of The McGraw-Hill Companies, Inc., (d) readily marketable debt obligations issued or guaranteed by the Government of the United Kingdom or by an instrumentality or agency of the Government of the United Kingdom having an equivalent credit rating, maturing in one year after the relevant date of calculation and not convertible or exchangeable to any other security or (e) Investments, classified in accordance with GAAP as Current Assets of the Borrower or any of its Subsidiaries, in money market funds that are registered under the Investment Company Act of 1940, as amended, that are

administered by financial institutions that have the highest rating obtainable from either Moody's or S&P and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition.

**"Charged Accounts"** means any Collection Account and any other account which the Charging Company has, or has any interest in, with any person and includes any replacement substitute or additional account from time to time;

**"Charged Assets"** means the assets from time to time the subject of any Liens created or purported to be created by or pursuant to the Second Ranking Debenture and, where the context permits, the proceeds of sale of such assets;

**"Charged Investments"** means the Investments forming part of the Charged Assets;

**"Charged Property"** means all freehold and leasehold property forming part of the Charged Assets;

**"Charges"** means Liens from time to time created by or pursuant to the Second Ranking Debenture;

**"Charging Company"** means UK Energy Systems Limited;

**"Collateral Documents"** means the security agreement dated on or about 7 August 2006, the Second Ranking Debenture, the second ranking share charge dated on or around 7 August 2006, the Marathon pledge agreement dated on or around 7 August 2006, the USE Overseas pledge agreement dated on or around 7 August 2006, the account control agreement dated on or around 7 August 2006, each of the collateral documents, instruments and agreements delivered pursuant to Section 5.01(j) of the Second Lien Credit Agreement, and each other agreement that creates or purports to create a Lien in favor of the Second Lien Collateral Agent for the benefit of the Second Lien Secured Parties;

**"Collection Account(s)"** means the London Accounts and any other account maintained by the Charging Company with the First Lien Collateral Agent or another bank specified by the First Lien Collateral Agent or after the Senior Discharge Date the Second Lien Collateral Agent, which the First Lien Collateral Agent shall specify as an account into which moneys are to be paid pursuant to Clause 5.3(a) (*Book Debts*) of the Second Ranking Debenture;

**"Current Assets"** of any Person means all assets of such Person that would, in accordance with GAAP, be classified as current assets of a company conducting a business the same as or similar to that of such Person, after deducting adequate reserves in each case in which a reserve is proper in accordance with GAAP;

**"Delegate"** means a delegate or sub-delegate appointed, directly or indirectly, pursuant to Clause 9.3 (*Delegation*) of the Second Ranking Debenture;

**"Equity Support Agreement"** means an equity support agreement duly executed by the Borrower, USEY, the First Lien Collateral Agent and the Second Lien Collateral Agent;

**"Event of Default"** shall have the meaning given to it in the Second Lien Credit Agreement;

**"Fee Letter"** means the fee letter dated 7 August 2006 between the Borrower and the Second Lien Administrative Agent;

**"First Lien Administrative Agent"** means Credit Suisse, Cayman Islands Branch as first lien administrative agent;

**"First Lien Collateral Agent"** means Credit Suisse, Cayman Islands Branch as first lien collateral agent;

**"First Lien Credit Agreement"** means the first lien credit agreement dated on or about 7 August 2006;

**"First Lien Loan Documents"** shall mean the First Lien Credit Agreement, the other Loan Documents and each of the other agreements, documents and instruments providing for or evidencing any other First Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any First Lien Obligations, including any intercreditor or joinder agreement among holders of First Lien Obligations, to the extent such are effective at the relevant time, in each case as each may be amended, restated, supplemented, modified, renewed, extended or Refinanced from time to time in accordance with the provisions of the Intercreditor Agreement.

**"First Lien Obligations"** means (a) all Obligations outstanding under the Loan Documents, including, without limitation, the First Lien Credit Agreement and (b) all interest accrued or accruing in respect of the Obligations described in clause (a) (or which would, absent the commencement of any insolvency or liquidation proceeding, accrue) before and after commencement of any insolvency or liquidation proceeding, in accordance with the rate specified in the relevant Loan Documents, whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding;

**"First Lien Secured Parties"** means, at any relevant time, the holders of First Lien Obligations at that time, including the First Lien Lenders, the First Lien Collateral Agent and the First Lien Administrative Agent;

**"Fixtures"** means trade and other fixtures and fittings and fixed plant, machinery and other apparatus;

**"GAAP"** means UK GAAP or US GAAP, as applicable, based upon the jurisdiction of organisation or incorporation, as the case may be, of the relevant Person;

**"Guarantors"** means the Subsidiaries of the Borrower listed on Schedule II to the Second Lien Credit Agreement;

**"Guaranty"** means a guaranty in the form of Exhibit E to the Second Lien Credit Agreement executed by each Guarantor;

**"Initial Lenders"** means the banks, financial institutions and other institutional lenders listed on the signature pages to the Second Lien Credit Agreement as the Initial Lenders;

**"Intercreditor Agreement"** means the intercreditor agreement dated on or about 7 August 2006;

**"Investments"** means any debenture, bond, share, stock, certificate of deposit or other security or investment now or in the future owned at law or in equity by the Charging Company and all dividends, interest and other moneys paid or payable in respect thereof and all rights, moneys and assets related to or accruing or offered or arising thereon from time to time, whether by way of redemption, conversion, exercise of option rights, substitution, exchange, preference, bonus or otherwise;

**"Lenders"** means the Initial Lenders and each Person that shall become a Lender hereunder pursuant to Section 8.07 of the Second Lien Credit Agreement for so long as such Initial Lender or Person, as the case may be, shall be a party to the Second Lien Credit Agreement;

**"Licences"** means each licence more fully described in Schedule 9 of the Second Ranking Debenture;

**"Lien"** means any lien, security interest or other charge or encumbrance of any kind, or any other type of preferential arrangement, including, without limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property;

**"Loan Documents"** means (a) the Second Lien Credit Agreement, (b) the Notes, (c) the Guaranty, (d) the Intercreditor Agreement, (e) the Equity Support Agreement, (f) the Collateral Documents and (g) the Fee Letter, in each case as amended;

**"Loan Parties"** means the Borrower and the Guarantors;

**"London Accounts"** means the Sterling expansion account, the major maintenance account, the Sterling revenue account, the working capital account and the Sterling casualty insurance proceeds account;

**"Marathon"** means Marathon Capital Holdings (UK), LLC, a Delaware limited liability company;

**"New York Accounts"** means the debt service reserve account, the debt service during development account, the dollar revenue account, the dollar expansion account, the sponsor funding account, the dollar casualty insurance proceeds account and the additional debt service reserve account;

**"Notes"** means a promissory note of the Borrower payable to the order of any Lender, in substantially the form of Exhibit A to the Second Lien Credit Agreement, evidencing the aggregate indebtedness of the Borrower to such Lender resulting from the Advances made by such Lender;

**"Obligation"** means, with respect to any Person, any payment, performance or other obligation of such Person of any kind, including, without limitation, any liability of such Person on any claim, whether or not the right of any creditor to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding referred to in Section 6.01(f). Without limiting the generality of the foregoing, the Obligations of any Loan Party under the Loan Documents include (a) the obligation to pay principal, interest, charges, expenses, fees, attorneys' fees and disbursements, indemnities and other amounts payable by such Loan Party under any Loan Document and (b) the obligation of such Loan Party to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party;

**"Person"** means an individual, firm, company, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, any association, joint venture or other entity, or a government or any political subdivision or agency thereof (in each case whether or not having a separate legal personality);

**"Personal Chattels"** means plant, machinery, equipment, goods and other personal chattels (including all spare parts, replacements, modifications and additions) but not Fixtures on Property charged under Clause 3.2 (*Property*) of the Second Ranking Debenture or stock in trade or work in progress;

**"Property"** means freehold and leasehold property in England or Wales and other real estate anywhere in the world, and any reference to any charges over Property or any estate or interest therein includes a charge over:

- (a) the benefit of any covenant for title given or entered into by any predecessor in title of the Charging Company in respect of that Property and any moneys paid or payable in respect of those covenants;

- (b) all rights, easements and privileges from time to time attached or appurtenant to the Property;
- (c) all buildings and Fixtures on the Property; and
- (d) the proceeds of sale of all or any part thereof,

(the assets referred to in paragraphs (a), (b), (c) and (d) being "**Related Property Rights**");

**"Receiver"** means an administrative receiver, receiver and manager or other receiver appointed in respect of the Charged Assets by the Second Lien Collateral Agent pursuant to the Second Ranking Debenture or otherwise;

**"Refinance"** shall mean, in respect of any Obligations outstanding under the First Lien Credit Agreement or the Second Lien Credit Agreement, as applicable, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such Obligations in whole or in part, whether with the same or different lenders, arrangers and/or agents. **"Refinanced"** and **"Refinancing"** shall have correlative meanings;

**"Related Documents"** means the First Lien Loan Documents, the material project agreements and the unsecured hedge agreements;

**"Relevant Agreements"** means the documents specified in Schedule 8 to the Second Ranking Debenture;

**"Scheduled Property"** means the Property described in Schedule 2 to the Second Ranking Debenture and all Related Property Rights;

**"Scheduled Personal Chattels"** means the Personal Chattels described in Schedule 4 to the Second Ranking Debenture;

**"Second Lien Administrative Agent"** means Credit Suisse, Cayman Islands Branch as second lien administrative agent;

**"Second Lien Collateral Agent"** means Credit Suisse, Cayman Islands Branch as second lien collateral agent;

**"Second Lien Credit Agreement"** means the second lien credit agreement dated on or about 7 August 2006;

**"Second Lien Guaranty"** means the second lien guaranty dated on or around 7 August 2006 given by each Guarantor as defined therein in favour of the Second Lien Collateral Agent;

**"Second Lien Loan Documents"** shall mean the Second Lien Credit Agreement, the other Loan Documents (as defined in the Second Lien Credit Agreement) and each of the other agreements, documents and instruments providing for or evidencing any other Second Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any Second Lien Obligations, including any intercreditor or joinder agreement among holders of Second Lien Obligations to the extent such are effective at the relevant time, in each case as each may be amended, restated, supplemented, modified, renewed or extended from time to time in accordance with the provisions of the Intercreditor Agreement.

**"Second Lien Obligations"** means (a) all Obligations outstanding under the Loan Documents, including, without limitation, the Second Lien Credit Agreement and (b) all interest accrued or accruing in respect of the Obligations described in clause (a) (or which would, absent the

commencement of any insolvency or liquidation proceeding, accrue) before and after commencement of any insolvency or liquidation proceeding, in accordance with the rate specified in the relevant Loan Documents, whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding;

**"Second Lien Secured Parties"** means, at any relevant time, the holders of Second Lien Obligations at that time, including the Second Lien Lenders, the Second Lien Collateral Agent and the Second Lien Administrative Agent;

**"Second Ranking Debenture"** means the debenture entered into between Madison Energy Management Limited, RGS Energy Limited, UK Energy Systems Limited, Viking Petroleum UK Limited, Viking UK Gas Limited as the charging companies and Credit Suisse as Second Lien Collateral Agent dated on or about 7 August 2006;

**"Second Secured Liabilities"** means all present and future obligations and other liabilities of any nature of the Charging Company due, owing or incurred under or in connection with the Second Lien Guaranty and the other Second Lien Documents to the Second Lien Collateral Agent and/or the Second Lien Secured Parties and/or any Receiver (including, without limitation, under any amendments, supplements or restatements of any of the Second Lien Documents or in relation to any new or increased advances or utilisations thereunder), and whether indebtedness or liabilities originally owed to all or any of the Second Lien Secured Parties and/or any Receiver or any other person or persons actual or contingent, matured or not matured, liquidated or unliquidated, whether incurred solely or jointly and/or severally or in any other capacity whatsoever and whether as principal or surety, in any currency or currencies, including all interest accruing thereon (calculated in accordance with Clause 2.4 (Interest) of the Second Ranking Debenture), after as well as before judgement, and all costs, charges and expenses (to the extent payable by the Charging Company pursuant to the terms of the Second Lien Documents) incurred in connection therewith, except for any liabilities which, if they did constitute part of the Second Secured Liabilities would result in the Second Ranking Debenture contravening section 151 of the Companies Act 1985 and **"Secured Liability"** shall be construed accordingly;

**"Senior Debenture"** means the senior debenture entered into between Madison Energy Management Limited, RGS Energy Limited, UK Energy Systems Limited, Viking Petroleum UK Limited, Viking UK Gas Limited as the charging companies and Credit Suisse as First Lien Collateral Agent dated on or about 7 August 2006;

**"Senior Discharge Date"** means the date on which the First Lien Administrative Agent advises the First Lien Collateral Agent the discharge of First Lien Obligations has occurred;

**"Subsidiary"** of any Person means any firm, company, corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency), (b) the right or power to direct, in the case of any entity of which such Person or any of its Subsidiaries is a general partner, or both the beneficial ownership of and the right or power to direct, in any other case, such limited liability company, partnership or joint venture or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

**"Transaction Documents"** means, collectively, the Loan Documents and the Related Documents;

**"USE Overseas"** means US Energy Overseas Investments LLC, a Delaware limited liability company;



"USEY" means US Energy Systems, Inc., a Delaware corporation.

## **Part II**

### **Amount to be secured by the mortgage or charge**

All present and future obligations and other liabilities of any nature of the Charging Company due, owing or incurred under or in connection with the Second Lien Guaranty and the other Second Lien Loan Documents to the Second Lien Collateral Agent and/or any Receiver (including, without limitation, under any amendments, supplements or restatements of any of the Second Lien Loan Documents or in relation to any new or increased advances or utilisations thereunder), and whether indebtedness or liabilities originally owed to all or any of the Second Lien Secured Parties and/or any Receiver or any other person or persons actual or contingent, matured or not matured, liquidated or unliquidated, whether incurred solely or jointly and/or severally or in any other capacity whatsoever and whether as principal or surety, in any currency or currencies, including all interest accruing thereon (calculated in accordance with Clause 2.4 (Interest) of the Second Ranking Debenture), after as well as before judgement, and all costs, charges and expenses (to the extent payable by the Charging Company pursuant to the terms of the Second Lien Loan Documents) incurred in connection therewith, except for any liabilities which, if they did constitute part of the Second Secured Liabilities would result in the Second Ranking Debenture contravening section 151 of the Companies Act 1985.

## **Part III**

### **Name and address of the mortgagees or persons entitled to the charge**

Credit Suisse, Cayman Islands Branch, 11 Madison Avenue, New York, New York 10010.

## **Part IV**

### **Short particulars of all the property mortgaged or charged**

1. Property: The Charging Company has charged:

- (a) by way of second legal mortgage, the Scheduled Property and all other Property in England or Wales now belonging to it; and
- (b) by way of second fixed charge, all estates or interests now or subsequently belonging to it in, or in relation to, any Property in England and Wales (except that charged by paragraph (a) above).

2. Investments: The Charging Company has charged:

(a) by way of second legal mortgage all shares in any Subsidiary (other than itself) owned by it or held by the Second Lien Collateral Agent or any nominee on its behalf; and

(b) (to the extent that they are not mortgaged pursuant to paragraph (a) above) by way of second fixed charge all of its Investments now or subsequently belonging to it or held by any nominee on its behalf.

3. Book Debts: The Charging Company has charged by way of second fixed charge, all rights which it may have now or subsequently in respect of any Book Debts.

4. Bank Balances: The Charging Company has charged by way of second fixed charge all of its Bank Balances.

5. Insurance: The Charging Company has charged by way of first fixed charge all of its residual rights and from the Senior Discharge Date assigns absolutely subject to a proviso for re-assignment on redemption all benefits, rights and interest of the Charging Company under or in respect of any present or future contract or policy of insurance and any claim or return of premium or proceeds paid or payable in relation thereto (to the extent that the same are not otherwise subject to an effective fixed charge or assignment pursuant to Clause 3 of the Second Ranking Debenture).

6. Plant and Machinery: The Charging Company has charged by way of second fixed charge all of its Scheduled Personal Chattels and all other Personal Chattels now or subsequently belonging to the Charging Company and its interest in any such Personal Chattels in its possession.

7. Contracts: The Charging Company has charged by way of second fixed charge all its rights (including, without limitation, the right to receive any compensation) now or subsequently of the Charging Company in respect of:

(a) the Transaction Documents and any joint venture, partnership, distributorship, building or development or similar agreement to which it is a party;

(b) any warranty, bond, guarantee, indemnity, Lien or letter of credit issued in its favour; and

(c) any bill of exchange or any other negotiable instrument held by it,

(to the extent that the same are not otherwise subject to an effective second charge pursuant to Clauses 3.1 to 3.7 inclusive or Clauses 3.9 or 3.11 of the Second Ranking Debenture or to an effective security assignment under Clause 3.12 (Assignment by way of Security) of the Second Ranking Debenture).

8. Pension Fund: The Charging Company has charged by way of second fixed charge any interest, claim or right which it has now or subsequently in respect of any pension fund or plan.

9. Other Charges: The Charging Company has charged by way of second fixed charge:

(a) all its uncalled capital;

(b) all its goodwill; and

(c) any authorisation, licence or consent in relation to any Charged Assets (including the right to receive compensation in respect thereof) but excluding any Carbon Credit Hedge Collateral which is deemed to be a licence, authorisation or consent

#### 10. Assignment by way of Security:

(a) The Charging Company has charged by way of first fixed charge all of its residual rights and from the Senior Discharge Date assigns absolutely (subject to the right to reassignment on redemption pursuant to Clause 16.7 (Redemption) of the Second Ranking Debenture) to the Second Lien Collateral Agent all rights and interest present or future of the Charging Company in respect of the Relevant Agreements listed in Part 1 of Schedule 8 to the Second Ranking Debenture together with the benefit of all its rights, claims and remedies in respect of such Relevant Agreements.

(b) Until the Charges shall have become enforceable, the Charging Company shall be entitled to exercise all its rights in the Relevant Agreements, subject to the provisions of the Second Lien Credit Agreement and the other provisions of the Second Ranking Debenture.

#### 11. Floating Charge:

(a) The Charging Company has charged by way of second floating charge, its undertaking and all its assets both present and future not otherwise effectively mortgaged, charged or assigned by the Second Ranking Debenture, provided that the Carbon Credit Hedge Collateral shall be excluded from the floating charge created by the Second Ranking Debenture. The floating charge created by the Charging Company shall,

(i) except as otherwise agreed in writing by the Second Lien Collateral Agent, rank in priority to any other Liens which shall subsequently be created or permitted to arise by the Charging Company or any Lien created by a Receiver appointed under the Second Ranking Debenture; and

(ii) to be a qualifying floating charge for the purposes of paragraph 14 of Schedule B1 to the Insolvency Act 1986;

(b) Save as provided in paragraph (c) below, the Second Lien Collateral Agent may by notice to the Charging Company convert the floating charge created by the Charging Company into a fixed charge as regards such assets as may be specified (whether generally or specifically) in such notice if:

(i) an Event of Default is outstanding; or

(ii) the Second Lien Collateral Agent reasonably considers those assets to be in jeopardy (whether due to a risk of being seized or sold pursuant to any distress, attachment, execution, sequestration or other legal process or otherwise).

(c) Notwithstanding any other provision of the Second Ranking Debenture (and without prejudice to the circumstances in which the floating charge created under Clause 3 of the Second Ranking Debenture will crystallise under general law) but subject to paragraph (d) below:

(i) if any person presents or makes an application for a writ of execution, writ of fieri facias, garnishee order or charging order or otherwise levies or attempts to levy any distress, execution, attachment, expropriation, sequestration or other legal process against any of the assets which are charged by way of the second floating charge of the Charging Company; or the Charging Company creates or attempts to create any Lien or trust over any of the Charged

Assets secured by the floating charge created by Clause 3 of the Second Ranking Debenture;  
or

(ii) the Charging Company creates or attempts any Lien or trust over any of the Charged Assets secured by the floating charge created by Clause 3 of the Second Ranking Debenture;  
or

(iii) the Charging Company breaches Clause 5.1(a) (General Restrictions and Obligations) of the Second Ranking Debenture; or

(iv) a resolution is passed or a petition is presented for the winding up or administration in relation to the Charging Company which is not discharged within 14 days (in the case of a winding up petition) or 5 days (in the case of a petition for an administration order) or in any event before such petition is heard or a resolution is passed for a creditors' voluntary winding-up or a creditors' voluntary winding-up is commenced, or

(v) an Administrator or Receiver is appointed in respect of the Charging Company or the Second Lien Collateral Agent receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of the Charging Company.

then with immediate effect and without notice the floating charge shall automatically convert into a fixed charge as regards the Charged Assets secured by such floating charge.

(d) No floating charge created by Clause 3 of the Second Ranking Debenture may be converted into a fixed charge or otherwise crystallise solely by reason of:

(i) the obtaining of a moratorium by the Charging Company;

(ii) anything done with a view to obtaining a moratorium;

under section 1A and Schedule A1 of the Insolvency Act 1986, as inserted by the Insolvency Act 2000, section 1, schedule 1, paragraphs 1, 2 and 4.

(e) Any charge which has crystallised under paragraphs (b) or (c) above may be reconverted into a floating charge by notice given at any time by the Second Lien Collateral Agent to the Charging Company concerned in relation to the assets specified in such notice.

12. Fixed and Floating Security: If for any reason any Lien in respect of any asset created or purported to be created pursuant to Clause 3 of the Second Ranking Debenture as a fixed charge or assignment, does not, or ceases to, take effect as a fixed charge or assignment, then it shall take effect as a second floating charge in respect of such asset. However it is the intent of the parties that the Liens over other Charged Assets shall remain unaffected.

13. Excluded Assets: If the rights of the Charging Company under any instrument or agreement cannot be the subject of any Charges which the Second Ranking Debenture purports to create under Clause 3.7 (Plant and Machinery), 3.8 (Contracts), 3.9 (Pension Fund) or 3.11(c) (Other Charges) of the Second Ranking Debenture without the consent of another party:

(a) the Charging Company shall notify the Second Lien Collateral Agent promptly;

(b) the Second Ranking Debenture will charge all amounts which the Charging Company may receive, or has received, under that document; and

(c) the Charging Company will use all reasonable endeavours to promptly obtain the consent of the relevant third party for such rights to be charged under the Second Ranking Debenture and shall, if such consent is obtained, promptly provide a copy of such consent to the Second Lien Collateral Agent and, until such consent is obtained, such rights will be excluded from the Charges.

The Charging Company will use reasonable endeavours to ensure that instruments and agreements which it enters into after the date of the Second Ranking Debenture do not contain restrictions which would cause them to be excluded from the charges pursuant to paragraph (c) above.

14. Leasing and Other Undertakings The Charging Company shall (whether in exercise of any statutory power or otherwise):

(a) not grant, or agree to grant, any lease or tenancy of all or any part of any Charged Property or confer or agree to confer upon any person any contractual licence or right to occupy or use the any Charged Property save as expressly permitted under the Second Lien Loan Documents;

(b) nor determine or extend or renew on substantially different terms or accept any surrender of any lease, tenancy, licence or right to occupy comprised in the Charged Property or agree to do any of these things;

(c) comply with the provisions of Schedule 6 of the Second Ranking Debenture;

(d) comply with all laws or material regulations, directives, consents, authorisations, covenants or planning permissions relating to or affecting any Charged Property;

(e) comply with all material obligations imposed on it and enforce the performance of all material obligations owed to it by any person under any lease, licence or other agreement comprised in the Charged Property and shall not do anything or permit anything to be done which could result in the termination of any such lease, licence or other agreement;

(f) promptly deliver a copy of any material communication received by it which has been given with respect to any Charged Property and take such steps as the Second Lien Collateral Agent shall reasonably require in relation thereto; and

(g) permit the Second Lien Collateral Agent and any person nominated by it at all reasonable times with reasonable prior notice to enter any of its Charged Property to view its condition.

15. Registered Land:

(a) Promptly following the date of the Second Ranking Debenture the Charging Company shall apply to the Land Registry for a restriction in the following terms to be entered on the registers of the title of such of the Charged Property as is now or hereafter registered at the Land Registry under the Land Registration Act 2002:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 7 August 2006 in favour of Credit Suisse referred to in the Charges Register or if appropriate signed on such proprietor's behalf by its authorised signatory."

(b) The Charging Company hereby certifies, in respect of any part of its Charged Property title to which is registered at the Land Registry, that the Charges created by the Second Ranking Debenture do not contravene any of the provisions of the Memorandum or Articles of Association of the Charging Company.

(c) In relation to such Charged Property as is not required to be registered at the Land Registry, the Charging Company will within the relevant period under the Land Charges Act 1972, apply to register a Class C Land Charge in respect of the Second Ranking Debenture at the Land Charges Registry if the title deeds and documents to that Charged Property are not deposited with the Second Lien Collateral Agent.

16. Right to Remedy: If the Charging Company fails to perform any obligation affecting its Charged Property, that Charging Company must allow the Second Lien Collateral Agent or its agents and contractors:

(a) to enter any part of its Charged Property and carry out any repairs or other works which the Charging Company has failed to do; and

(b) to comply with or object to any notice served on that Charging Company in respect of its Charged Property.

17. Property Searches and Registration Undertaking:

(a) The Charging Company shall on the date required in accordance with the Second Lien Credit Agreement procure official priority searches relating to the Charged Property in England and Wales with title registered at HM Land Registry listed in Schedule 2 to the Second Ranking Debenture in favour of the Second Lien Collateral Agent in respect of such registered titles giving a sufficient period of priority (of at least 15 days following the date of the Second Ranking Debenture) and official priority searches relating to the Charged Property which is unregistered in England and Wales listed in Schedule 2 to the Second Ranking Debenture of the land charges register maintained by the Land Charges Department of H. M. Land Registry against the current estate owners for the current year giving a sufficient period of priority (of at least 12 days following the date of the Second Ranking Debenture); and

(b) The Charging Company shall during the priority period allowed by the searches referred to in Clause 4.7(a) of the Second Ranking Debenture or (in the case of unregistered land where first registration is triggered by the Second Ranking Debenture) such longer period as may be permitted by H.M. Land Registry for registration, lodge at HM Land Registry applications for the registration of the Second Lien Collateral Agent's legal charge over the Charged Property as are registered or capable of registration and as are situate in England and Wales; and

(c) The Charging Company shall, as soon as reasonably practicable following completion of the Second Ranking Debenture in respect of such Charged Property where title is leasehold serve notice of charge on all landlords paying all registration fees prescribed by the relevant lease and shall use all reasonable endeavours to procure that the acknowledgement contained in the duplicate notice is countersigned and returned by the relevant landlords.

18. General Restrictions and Obligations:

(a) Subject to Clause 5.3 (Book Debts) of the Second Ranking Debenture, except with the consent of the Second Lien Collateral Agent, the Charging Company shall not:

(i) create or permit to be outstanding any Liens over any Charged Asset save as expressly permitted under the Second Lien Loan Documents;

(ii) unless required to do so by law, sell, lease, transfer, assign, hire out, grant, lend or otherwise dispose of any of the Charged Assets or the equity of redemption therein or permit any person to do any such thing.

(b) The Charging Company undertakes that it shall keep all buildings on the Charged Property in good and substantial repair and shall keep all Fixtures and other Personal Chattels from time to time on or in any Charged Property belonging to it or any of its Subsidiaries and all other Personal Chattels belonging to it in good and substantial repair and good working order.

(d) Calls:

(i) The Charging Company shall promptly pay all calls or other payments which may at any time become due in respect of any of its Charged Investments.

(ii) If the Charging Company fails to comply with paragraph (i) above the Second Lien Collateral Agent may pay the calls or other payments on behalf of the Charging Company concerned. The Charging Company must promptly on request from the Second Lien Collateral Agent reimburse the Second Lien Collateral Agent for any such payment.

19. Book Debts:

(a) The Charging Company shall not release, sell, transfer, assign, factor, discount or otherwise deal in any way with any of the Book Debts or vary or agree to any variation in their terms except as required by Clause 5.3(b) of the Second Ranking Debenture.

(b) The Charging Company shall collect on behalf of the Second Lien Collateral Agent all its Book Debts and all Cash Equivalents or other securities held by way of temporary investment when the same mature promptly in the ordinary course of its business and, until payment into an account as provided below, shall hold the proceeds of such collection on trust for the Second Lien Collateral Agent.

(c) The Charging Company shall immediately pay all moneys received by it from any source whatsoever into the Collection Account(s) from time to time nominated by the First Lien Collateral Agent and after the Senior Discharge Date, the Second Lien Collateral Agent (it being agreed that the Second Lien Collateral Agent may nominate different accounts for different monies).

(d) The Charging Company shall, upon the Charges becoming enforceable, give notice to the debtors of any of its Book Debts or other Charged Assets referred to in Clause 5.3(b) of the Second Ranking Debenture of the Liens created by the Second Ranking Debenture in such form as the Second Lien Collateral Agent may require.

20. Bank Balances and Collection Account(s):

(a) The Charging Company shall maintain all its accounts in the manner set out in the Intercreditor Agreement.

(b) The Charging Company shall:

(i) promptly deliver to the Second Lien Collateral Agent a duly completed notice and acknowledgement in respect of each such account in the form set out in Schedule 5 to the Second Ranking Debenture;

(ii) use reasonable endeavours to procure the prompt delivery to the Second Lien Collateral Agent of a duly completed acknowledgement in respect of such account in the form set out in Schedule 5 to the Second Ranking Debenture.

(c) The Charging Company which maintains an account which is not in compliance with paragraph (a) above will transfer the account to an Account Bank which complies with paragraph (a) promptly after the date of the Second Ranking Debenture.

(d) Except with the prior written consent of the First Lien Collateral Agent as set forth in the Intercreditor Agreement or, after the Senior Discharge Date, the Second Lien Collateral Agent, the Charging Company shall not withdraw any monies standing to the credit of the Charged Accounts.

(e) Save as provided in Clause 5.4 of the Second Ranking Debenture, the Charging Company shall not release, sell, transfer, assign, factor, discount or otherwise deal in any way with any of the Bank Balances other than in a manner which is not prohibited by the Second Lien Loan Documents.

## 21. Fixtures and Personal Chattels

(a) The Charging Company undertakes that, it shall, except as expressly permitted under the Second Lien Loan Documents:

(i) not dispose of any of its Personal Chattels without the Second Lien Collateral Agent's consent;

(ii) use, operate, maintain and control each Fixture and Personal Chattel subject to a fixed charge created pursuant to the Second Ranking Debenture in accordance with all licences, agreements, manufacturer's recommendations (as originally drafted or as amended from time to time), statutes, laws, ordinance, and regulations relating to the use, operation, maintenance and control thereof and neither use nor knowingly permit any such items to be used for any unlawful purpose and maintain such Personal Chattels in good repair and working order and when necessary replace any items which have become obsolete and ensure that any replacement or substitute parts are in good repair and working order and free from any Lien whatsoever and are owned by the Charging Company;

(iii) keep each Personal Chattel subject to a fixed charge pursuant to the Second Ranking Debenture (and the Second Lien Collateral Agent permits it to keep) at the location or locations (if any) specified for such item in Schedule 4 to the Second Ranking Debenture or such other location or locations from time to time approved in writing by the Second Lien Collateral Agent and not remove any such item or items from its location without the prior written consent of the Second Lien Collateral Agent, except for the purpose of maintenance or repair;

(iv) not do or omit to do anything which could reasonably be expected to result in any Fixture or Personal Chattel subject to a fixed charge pursuant to the Second Ranking Debenture or any part thereof being confiscated, seized, requisitioned, taken in execution, impounded or otherwise taken out of the Charging Company's control;

(v) if it has not already done so and if so requested by the Second Lien Collateral Agent, in the case of any Fixture or Personal Chattel subject to a fixed charge pursuant to the Second Ranking Debenture located on leasehold premises, obtain evidence in writing from any lessor of any such premises that it waives absolutely all and any rights it may have now or at any time in the future over any such Fixture or Personal Chattel;



(vi) not affix any Personal Chattels that were not affixed prior to the date hereof to any property other than freehold property which is a Charged Asset unless any relevant landlord or mortgagee has granted a waiver of his rights to the Personal Chattels in a form satisfactory to the Second Lien Collateral Agent; and

(vii) if so requested by the Second Lien Collateral Agent, place and maintain on each Scheduled Personal Chattel and each other Personal Chattel subject to a fixed charge pursuant to the Second Ranking Debenture with a market value in excess of £5,000, in a conspicuous place, an identification marking as appears below (amended as necessary after the Senior Discharge Date) and not conceal, alter or remove such marking or permit it to be concealed, altered or removed.

## 22. FURTHER ASSURANCE

The Charging Company shall, at its own expense, promptly do all such acts and things as the Second Lien Collateral Agent may require for:

(a) creating, registering, perfecting, maintaining or protecting the Charges or any of the Charged Assets;

(b) creating a second fixed charge over Book Debts or, at any time after the occurrence of an Event of Default or the Charges shall have otherwise become enforceable, a legal assignment of Book Debts; or

(c) facilitating the realisation of any Charge after the Charge has become enforceable or the exercise of any right, power or discretion in relation to any Charged Asset or Charge vested in the Second Lien Collateral Agent, any Receiver or any Delegate,

including, without limitation, the execution (including by sealing) of any transfer, assignment, mortgage, charge or Lien or any document required to enable the Second Lien Collateral Agent or its nominee to obtain legal title to any Charged Assets in circumstances in which it is entitled to obtain such legal title under the Second Ranking Debenture or the giving of any notice, order or direction.

## 23. POWER OF ATTORNEY

23.1 Appointment: The Charging Company by way of security irrevocably appoints the Second Lien Collateral Agent, every Receiver and every Delegate severally to be its attorney:

(a) to do all acts and things which the Charging Company is obliged to do under the Second Ranking Debenture but has failed to do, including, without limitation, to fill in the name of the transferee and to date and complete any instrument of transfer in respect of any Charged Investments which has been executed in blank by the Charging Company and, in the case of registered Charged Investments, to procure the registration of the transferee as the holder of the relevant Charged Investments in circumstances in which the Charged Investments are to be transferred under the terms of the Second Ranking Debenture;

(b) to transfer any interest in any Charged Assets in the circumstances in which such transfer may be required under the Second Ranking Debenture including on an enforcement of the Charges over such Charged Assets;

(c) in its name and on its behalf to exercise any right conferred on the Second Lien Collateral Agent, any Receiver or any Delegate in relation to the Charged Assets or under the Second Ranking Debenture or by law after such right has become exercisable; and

(d) to register or renew registration of the existence of the Charges or the restrictions on dealing with the Charged Assets in any register in which the Charging Company is obliged (but has failed) to effect or maintain registration under the terms of the Second Ranking Debenture.

23.2 Ratification: The Charging Company agrees to ratify and confirm whatever any such attorney shall do or purport to do in the exercise or purported exercise of the power of attorney granted by Clause 12.1 (Appointment) of the Second Ranking Debenture. All moneys expended by any such attorney shall be deemed to be expenses incurred by the Second Lien Collateral Agent under the Second Ranking Debenture.

## 24 SET-OFF

24.1 Set-Off: After an Event of Default has occurred and for so long as it is continuing the Second Lien Collateral Agent and each other Second Lien Secured Party may (without notice to the Charging Company) set off or otherwise apply any deposits at any time held and any other indebtedness matured or unmatured, owing by it to or for the account of the Charging Company against any indebtedness, matured or unmatured, owing to the Second Lien Collateral Agent or such other Second Lien Secured Party by that Charging Company under the Second Lien Loan Documents, matured or unmatured regardless of the place of payment, booking branch or currency of either obligation or the terms of any deposit held by any Second Lien Secured Party.

24.2 Currency Conversion: A Second Lien Secured Party may exercise such rights notwithstanding that the obligations concerned may be expressed in different currencies and each Second Lien Secured Party is authorised to convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

24.3 Set-Off Rights Cumulative: Clause 19 (Set-Off) of the Second Ranking Debenture shall be in addition to and without prejudice to any rights of set-off or any other rights or remedies which a Second Lien Secured Party may have.

**FILE COPY**



**CERTIFICATE OF THE REGISTRATION  
OF A MORTGAGE OR CHARGE**

**Pursuant to section 401(2) of the Companies Act 1985**

COMPANY No. 01421481

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECOND RANKING DEBENTURE DATED THE 7th AUGUST 2006 AND CREATED BY VIKING UK GAS LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM ANY CHARGING COMPANY TO CREDIT SUISSE AND/OR ANY RECEIVER ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 17th AUGUST 2006.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 21st AUGUST 2006.

*P. H.*



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —