



**Registration of a Charge**

Company name: **DISPATER RESERVE POWER LTD**

Company number: **09379623**

Received for Electronic Filing: **13/11/2017**



X6J3RBBD

---

**Details of Charge**

Date of creation: **10/11/2017**

Charge code: **0937 9623 0002**

Persons entitled: **BANK OF LONDON AND THE MIDDLE EAST PLC**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

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

Certified by: **ANNA MIDDLEBROOK**



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

Company number: 9379623

Charge code: 0937 9623 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th November 2017 and created by DISPATER RESERVE POWER LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th November 2017 .

Given at Companies House, Cardiff on 15th November 2017

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 10 November 2017

(1) APUS ENERGY LIMITED AND DISPARTER RESERVE POWER LTD  
as Chargors

- and -

(2) BANK OF LONDON AND THE MIDDLE EAST PLC  
as Chargee

### CHARGE OVER SHARES



I CERTIFY THAT, SAVE FOR MATERIAL REDACTED  
PURSUANT TO s859G OF THE COMPANIES ACT 2006,  
THIS IS A TRUE, COMPLETE AND CORRECT COPY  
OF THE ORIGINAL INSTRUMENT

DATE 13/11/2017

SIGNED   
DLA PIPER UK LLP

## CONTENTS

1.	DEFINITIONS AND INTERPRETATION .....	1
2.	COVENANT TO PAY .....	4
3.	GRANT OF SECURITY .....	4
4.	CONTINUING SECURITY .....	5
5.	LIABILITY OF THE CHARGORS RELATING TO SECURITY ASSETS .....	5
6.	CHARGORS.....	5
7.	REPRESENTATIONS .....	6
8.	UNDERTAKINGS BY THE CHARGORS .....	7
9.	RIGHTS AND OBLIGATIONS IN RESPECT OF CHARGED INVESTMENTS .....	9
10.	POWER TO REMEDY .....	9
11.	WHEN SECURITY BECOMES ENFORCEABLE.....	10
12.	ENFORCEMENT OF SECURITY .....	10
13.	RECEIVER.....	12
14.	POWERS OF RECEIVER.....	13
15.	APPLICATION OF PROCEEDS.....	14
16.	SET-OFF.....	14
17.	DELEGATION.....	15
18.	FURTHER ASSURANCES .....	15
19.	POWER OF ATTORNEY .....	15
20.	PAYMENTS.....	15
21.	STAMP DUTY .....	16
22.	COSTS AND EXPENSES.....	16
23.	CURRENCIES.....	17
24.	INDEMNITY.....	17
25.	MISCELLANEOUS .....	17
26.	NOTICES.....	19
27.	PARTIAL INVALIDITY .....	19
28.	RELEASE.....	20
29.	COUNTERPARTS .....	20
30.	GOVERNING LAW.....	20
	SCHEDULE: THE INITIAL CHARGED SECURITIES .....	21

---

THIS CHARGE OVER SHARES is made on

10 November

2017

**BETWEEN:**

- (1) **APUS ENERGY LIMITED**, a company incorporated and registered under the laws of England and Wales with number 09153837 with its registered office at First Floor, 18 Park Place, Cardiff, CF10 3DQ and **DISPATER RESERVE POWER LTD**, a company incorporated and registered under the laws of England and Wales with number 09379623 with its registered office at 6th Floor, 33 Holborn, London, England, EC1N 2HT (each a "Chargor" and together, the "Chargors"); and
- (2) **BANK OF LONDON AND THE MIDDLE EAST PLC**, a public limited company incorporated and registered under the laws of England and Wales with number 05897786 with its registered office at Cannon Place, 78 Cannon Street, London, United Kingdom, EC4N 6HL as chargee (the "Chargee").

**IT IS AGREED:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

- (a) terms defined in, or construed for the purposes of, the Master Murabaha Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed); and
- (b) the following terms have the following meanings:

"Act" means the Law of Property Act 1925;

"Charged Investments" means the Charged Securities and all present and future Related Rights accruing to all or any of the Charged Securities;

"Charged Securities" means:

- (a) the securities specified in the schedule (*The Initial Charged Securities*);
- (b) any other stocks, shares, debentures, bonds or other securities of the Company now or in future owned (legally or beneficially) by the Chargors, held by any nominee, trustee, fiduciary or clearance system on its behalf or in which any Chargor has an interest at any time; and
- (c) any Related Rights which are constituted by any stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "investments" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by the Chargors, held by any nominee, trustee, fiduciary or clearance system on its behalf or in which any Chargor has an interest at any time;

**"Company"** means Larigan Power Limited, a company registered under the laws of England and Wales with number 09130849 with its registered office at 6th Floor, 33 Holborn, London, EC1N 2HT;

**"Event of Default"** has the meaning given to such term in the Master Murabaha Agreement;

**"Late Payment Amount"** has the meaning given to such term in the Master Murabaha Agreement;

**"Finance Documents"** means each **"Finance Document"** as that term is defined in the Master Murabaha Agreement;

**"Master Murabaha Agreement"** means the master murabaha agreement dated on or about the date of this Deed and made between (1) the Company and (2) the Chargee pursuant to which the Chargee agreed to make certain facilities available to the Company;

**"Party"** means a party to this Deed;

**"Receiver"** means any receiver, receiver and manager or administrative receiver appointed by the Chargee under this Deed;

**"Related Rights"** means, in relation to any Charged Security:

- (a) all dividends, distributions and other income paid or payable on the relevant Charged Security or on any asset referred to in paragraph (b) of this definition; and
- (b) all rights, monies or property accruing or offered at any time in relation to such Charged Security whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Company to the Chargee, due, owing or incurred in whatsoever manner (including under the Finance Documents) and all monies covenanted to be paid under this Deed;

**"Security Assets"** means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed;

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) the Chargee has no further commitment, obligation or liability under or pursuant to the Master Murabaha Agreement.

## 1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
  - (i) any **"Chargor"** or the **"Chargee"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- (ii) **"this Deed"**, the **"Master Murabaha Agreement"**, any other **"Finance Document"** or any other agreement or instrument shall be construed as a reference to this Deed, the Master Murabaha Agreement, such other Finance Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of the Company or any Chargor or provides for further advances);
  - (iii) **"assets"** includes any present and future properties, revenues and rights of every description and includes uncalled capital;
  - (iv) **"including"** or **"includes"** means including or includes without limitation;
  - (v) **"Secured Obligations"** includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Company or any of the Chargors;
  - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vii) the singular includes the plural and vice versa.
- (b) References to clauses and the schedule are to be construed, unless otherwise stated, as references to clauses and the schedule of this Deed and references to this Deed include its schedule.
  - (c) Clause and schedule headings are for convenience only and shall not affect the construction of this Deed.
  - (d) Each undertaking of each of the Chargors (other than a payment obligation) contained in this Deed must be complied with at all times during the Security Period.
  - (e) If the Chargee reasonably considers that an amount paid by the Company or any Chargor to the Chargee under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the Company or any of the Chargors, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
  - (f) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.
  - (g) A Default (other than an Event of Default) is **"continuing"** if it has not been remedied or waived and an Event of Default is **"continuing"** if it has not been waived.

### 1.3 Third party rights

A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

## 2. COVENANT TO PAY

Subject always to clause 3.4 (*Limited Recourse*), each Chargor covenants in favour of the Chargee that it will pay and discharge the Secured Obligations from time to time when they fall due.

## 3. GRANT OF SECURITY

### 3.1 Nature of security

All Security and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Chargee;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Obligations.

### 3.2 Charged Investments

Subject to clause 3.4 (*Limited Recourse*), each Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by any Chargor, or in which it from time to time has an interest:

- (a) by way of first fixed charge the Charged Securities referred to in the schedule (*The Initial Charged Securities*); and
- (b) by way of first fixed charge all other Charged Securities (not charged by clause 3.2(a)),

in each case, together with (A) all Related Rights from time to time accruing to those Charged Securities and (B) all rights which each Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Investments.

### 3.3 Late Payment Amount

If any sum due and payable by any Chargor under the terms of this Deed is not paid on the due date, the Late Payment Amount (calculated in accordance with the terms of clause 10 (*Late Payment Amount*) of the Master Murabaha Agreement) shall be applied to any such sum.

### 3.4 Limited Recourse

Notwithstanding any other term of this Deed:

- (a) the liability of each Chargor to the Chargee shall be:
  - (i) limited in aggregate to an amount equal to that recovered by the Chargee as a result of the enforcement of this Deed with respect to the Security Assets; and
  - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Security Assets pursuant to this Deed; and



- (b) the Chargee shall not have any recourse to any assets of the Chargors other than the Security Assets.

#### **4. CONTINUING SECURITY**

##### **4.1 Continuing security**

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

##### **4.2 Additional and separate security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Chargee may at any time hold for any Secured Obligation.

##### **4.3 Right to enforce**

This Deed may be enforced against any Chargor without the Chargee first having recourse to any other right, remedy, guarantee or Security held by or available to it.

#### **5. LIABILITY OF THE CHARGORS RELATING TO SECURITY ASSETS**

Notwithstanding anything contained in this Deed or implied to the contrary, each Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Chargee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of such condition or obligation.

#### **6. CHARGORS**

##### **6.1 Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by an act, omission, matter or thing which would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to them or the Chargee) including:

- (a) any time, waiver or consent granted to, or composition with, the Company or other person;
- (b) the release of the Company or any other person under the terms of any composition or arrangement with any creditor of the Company;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other

document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;

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

## **6.2 Chargor intent**

Without prejudice to the generality of clause 5.1 but subject always to clause 3.4, each Chargor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) 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.

## **6.3 Immediate recourse**

Each Chargor waives any right it may have of first requiring the Chargee (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

## **7. REPRESENTATIONS**

### **7.1 General**

Each Chargor makes the representations and warranties set out in this clause 7 to the Chargee.

### **7.2 No Security**

No Security (other than that created by this Deed or as permitted by the Master Murabaha Agreement) exists over any Security Asset.

### **7.3 No avoidance**

This Deed creates the Security which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of any Chargor or otherwise.

### **7.4 No proceedings pending or threatened**

- (a) As at the date of this Deed, no litigation, arbitration or administrative proceeding has currently been started or threatened in relation to any Security Asset.
- (b) No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined might reasonably be expected to have a Material Adverse Effect has (to the best of each Chargor's knowledge and belief)

currently been started or threatened in writing against any Chargor in relation to any Security Asset.

**7.5 Charged Securities fully paid**

The Charged Securities are fully paid.

**7.6 Entire share capital**

The Charged Securities constitute the entire share capital owned by the Chargors in the Company and each Chargor is the sole legal and beneficial owner of the Charged Securities as specified in the schedule (*The Initial Charged Securities*).

**7.7 Consents**

Each Chargor has obtained all approvals and/or consents required to enter into this Deed.

**7.8 Time when representations made**

- (a) All the representations and warranties in this clause 7 are made by each Chargor on the date of this Deed and, save for the representation and warranty at clause 7.4(a), on the dates when the Repeating Representations are made under the Master Murabaha Agreement.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

**8. UNDERTAKINGS BY THE CHARGORS**

**8.1 Restrictions on dealing**

Each Chargor shall not do or agree to do any of the following without the prior written consent of the Chargee:

- (a) create or permit to subsist any Security on any Security Asset (except as created by this Deed or as permitted by the Master Murabaha Agreement);
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Security Asset, save as permitted by the Master Murabaha Agreement; or
- (c) take or permit the taking of any action which may result in:
  - (i) the rights attaching to any Security Asset being altered where to do so would have an adverse effect on the value of the Security constituted by this Deed; or
  - (ii) further securities in the Company being issued.
- (d) nominate another person to enjoy or exercise all or any of its specified rights in relation to any Security Asset, as contemplated by section 145 of the Companies Act 2006 or otherwise.

## **8.2 Deposit of documents of title**

Each Chargor shall, immediately upon execution of this Deed by way of security for the Secured Obligations:

- (a) deposit with the Chargee (or as the Chargee may direct) all certificates and other documents of title or evidence of ownership to the Charged Securities and their Related Rights; and
- (b) execute and deliver to the Chargee:
  - (i) instruments of transfer in respect of the Charged Securities (executed in blank and left undated); and/or
  - (ii) such other documents as the Chargee shall reasonably require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to the Charged Securities and their Related Rights (or to pass legal title to any purchaser).

## **8.3 Notification**

Each Chargor shall:

- (a) notify the Chargee within 14 days of receipt of every notice received by it in relation to the Security Assets; and
- (b) (if required by the Chargee) shall promptly provide it with a copy of that notice and either (A) comply with such notice or (B) make such objections to it as the Chargee may require or approve.

## **8.4 Calls**

Each Chargor shall promptly pay all calls or other payments which may become due in respect of the Security Assets and all other outgoings in respect of the Security Assets.

## **8.5 Compliance with laws**

Each Chargor shall comply in all material respects with all obligations in relation to the Security Assets under any present or future law, regulation, order or instrument or under by-laws, regulations or requirements of any competent authority or other approvals, licences and consents.

## **8.6 Information**

- (a) Each Chargor shall provide the Chargee with all information which it may reasonably request in relation to the Security Assets.
- (b) Without limiting its obligations under clause 8.6(a), each Chargor shall comply with all requests for information relating to a Security Asset which is within its knowledge and which are made under section 793 of the Companies Act 2006 or which could be made under section 793 if the Company were a public limited company or under any similar provision contained in the articles of association or other constitutional documents of the Company the relating to the Security Assets and, if it fails to do so, the Chargee may provide such information as it may have on behalf of each Chargor.

## **8.7 Not prejudice**

No Chargor shall do, cause or permit to be done anything which may in the reasonable opinion of the Chargee in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

## **9. RIGHTS AND OBLIGATIONS IN RESPECT OF CHARGED INVESTMENTS**

### **9.1 Before an Event of Default**

Until an Event of Default occurs and is continuing, each Chargor shall be entitled to:

- (a) receive and retain all dividends, distributions and other monies paid on or derived from the Charged Securities; and
- (b) exercise all voting and other rights and powers attaching to the Charged Securities, provided that it must not do so in a manner which:
  - (i) has the effect of changing the terms of the Charged Securities (or any class of them) or of any Related Rights; or
  - (ii) is prejudicial to the interests of the Chargee.

### **9.2 Rights in respect of Charged Investments following an Event of Default**

At any time following the occurrence of an Event of Default which is continuing, the Chargee may complete the instrument(s) of transfer for all or any Charged Securities on behalf of each Chargor in favour of itself or such other person as it may select.

### **9.3 Exoneration of the Chargee**

At any time when any Charged Security is registered in the name of the Chargee or its nominee, the Chargee shall be under no duty to:

- (a) ensure that any dividends, distributions or other monies payable in respect of such Charged Security are duly and promptly paid or received by it or its nominee; or
- (b) verify that the correct amounts are paid or received; or
- (c) take any action in connection with the taking up of any (or any offer of any) Related Rights in respect of or in substitution for such Charged Security.

## **10. POWER TO REMEDY**

### **10.1 Power to remedy**

If at any time any Chargor does not comply with any of its obligations under this Deed, the Chargee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. Each Chargor irrevocably authorises the Chargee and its employees and agents by way of security to do all things which are necessary or desirable to rectify that default.

## **10.2 Mortgagee in possession**

The exercise of the powers of the Chargee under this clause 10 shall not render it liable as a mortgagee in possession.

## **10.3 Monies expended**

Each Chargor shall pay to the Chargee on demand any monies which are expended by the Chargee in exercising its powers under this clause 10 together with any additional Late Payment Amount payable from the date on which those monies were expended by the Bank (both before and after judgment) and otherwise in accordance with clause 3.3 (*Late Payment Amount*).

## **11. WHEN SECURITY BECOMES ENFORCEABLE**

### **11.1 When enforceable**

This Security shall become immediately enforceable upon the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

### **11.2 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default and for so long as such Event of Default is continuing.

### **11.3 Enforcement**

After this Security has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Security in such manner as it sees fit.

## **12. ENFORCEMENT OF SECURITY**

### **12.1 General**

For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Security.

### **12.2 Powers of Chargee**

At any time after the Security becomes enforceable, the Chargee may without further notice (unless required by law):

- (a) (or if so requested by any Chargor by written notice at any time may) appoint any person or persons to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as administrator of each Chargor; and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this

Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or

- (d) exercise (in the name of any Chargor and without any further consent or authority of the relevant Chargor) any voting rights and any powers or rights which may be exercised by the person(s) in whose name the Security Assets are registered or who is the holder of any of them.

### 12.3 Redemption of prior mortgages

At any time after the Security has become enforceable, the Chargee may:

- (a) redeem any prior Security against any Security Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security and any accounts so settled and passed shall be conclusive and binding on each Chargor.

All principal, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by any Chargor to the Chargee on demand.

### 12.4 Privileges

- (a) Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the obligations of each Chargor under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Chargee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (c) For the purpose of clause 12.4(b), the value of the financial collateral appropriated shall be such amount as the Receiver or Chargee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

### 12.5 No liability

- (a) Neither the Chargee nor any Receiver shall be liable (A) in respect of all or any part of the Security Assets or (B) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 12.5(a), neither the Chargee nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

## **12.6 Protection of third parties**

No person (including a purchaser) dealing with the Chargee or any Receiver, delegate or sub-delegate or any of its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable; or
- (b) whether any power which the Chargee or the Receiver is purporting to exercise has become exercisable; or
- (c) whether any money remains due under any Finance Document; or
- (d) how any money paid to the Chargee or to the Receiver is to be applied.

## **13. RECEIVER**

### **13.1 Removal and replacement**

The Chargee may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **13.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

### **13.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee (or, failing such agreement, to be fixed by the Chargee).

### **13.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Chargee in relation to the Secured Obligations shall be capable of being applied by the Chargee in discharge of the Secured Obligations.

### **13.5 Agent of Chargors**

Any Receiver shall be the agent of each Chargor. Each Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Chargee shall incur no liability (either to the Chargors or to any other person) by reason of the appointment of a Receiver or for any other reason.



## 14. POWERS OF RECEIVER

### 14.1 General powers

Any Receiver shall have:

- (a) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (b) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (c) all powers which are conferred by any other law conferring power on receivers.

### 14.2 Additional powers

In addition to the powers referred to in clause 14.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Security Assets as he thinks fit;
- (c) to redeem any security and to raise finance or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party). Any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to carry out any sale or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of each Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, each Chargor;
- (f) to take any such proceedings (in the name of each Chargor or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Chargee shall direct);

- (i) to appoint and employ such managers and officers and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- (j) to:
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (iii) use the name of any Chargor for any of the above purposes.

## 15. APPLICATION OF PROCEEDS

### 15.1 Application

All monies received by the Chargee or any Receiver under or in connection with this Deed or the Security Assets after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied in the following order:

- (a) *first*, in satisfaction of, or provision for, all costs, charges and expenses incurred and payments made by the Chargee or any Receiver and of all remuneration due to the Receiver in connection with this Deed or the Security Assets;
- (b) *secondly*, in or towards the satisfaction of the remaining Secured Obligations; and
- (c) *thirdly*, in payment of any surplus to each Chargor or other person entitled to it.

### 15.2 Contingencies

If the Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), the Chargee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

## 16. SET-OFF

### 16.1 Set-off

- (a) The Chargee may (but shall not be obliged to) at any time set off any obligation which is due and payable by each Chargor under the Finance Documents and unpaid against any obligation (whether or not matured) owed by the Chargee to any Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (b) At any time after the Security has become enforceable (and in addition to its rights under clause 16.1(a)), the Chargee may (but shall not be obliged to) set-off any contingent liability owed by any Chargor under any Finance Document against any obligation (whether or not matured) owed by the Chargee to any Chargor, regardless of the place of payment, booking branch or currency of either obligation.

## **16.2 Currency**

If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off.

## **16.3 Amount**

If either obligation is unliquidated or unascertained, the Chargee may set off in an amount estimated by it in good faith to be the amount of that obligation.

## **17. DELEGATION**

The Chargee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Chargee nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## **18. FURTHER ASSURANCES**

Each Chargor shall, at its own expense, promptly take whatever action the Chargee or a Receiver may require for:

- (a) creating, perfecting or protecting the Security intended to be created by this Deed; and
- (b) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable by the Chargee or any Receiver or any of its or their delegates or sub-delegates in respect of any Security Asset,

including the execution of any transfer, conveyance, assignment or assurance of any property whether to the Chargee or to its nominees, the giving of any notice, order or direction and the making of any registration which, in any such case, the Chargee may think expedient.

## **19. POWER OF ATTORNEY**

Each Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any of its or their delegates or sub-delegates to be its attorney to take any action which each Chargor is obliged to take under this Deed, including under clause 18 (*Further assurances*). Each Chargor ratifies and confirms whatever attorney does or purports to do pursuant to its appointment under this clause.

## **20. PAYMENTS**

### **20.1 Payments**

Subject to clause 20.2 (*Gross-up*), all payments to be made by any Chargor in respect of this Deed shall be made:

- (a) in immediately available funds to the credit of such account as the Chargee may designate; and

- (b) without (and free and clear of, and without any deduction for or on account of):
  - (i) any set-off or counterclaim; or
  - (ii) except to the extent compelled by law, any deduction or withholding for or on account of Tax.

## **20.2 Gross-up**

If any Chargor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Chargee, the sum so payable by any Chargor shall be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable under this Deed.

## **21. STAMP DUTY**

Each Chargor shall:

- (a) pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith; and
- (b) indemnify the Chargee and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges.

## **22. COSTS AND EXPENSES**

### **22.1 Transaction and amendment expenses**

Each Chargor shall procure that the Company shall promptly on demand pay to the Chargee the amount of all reasonable costs, charges and expenses (including, without limitation, legal fees, valuation, accountancy and consultancy fees (and any VAT or similar Tax thereon)) incurred by the Chargee in connection with:

- (a) the negotiation, preparation, printing, execution, registration, perfection and completion of this Deed, the Security or any document referred to in this Deed; or
- (b) any actual or proposed amendment or extension of, or any waiver or consent under, this Deed.

### **22.2 Enforcement and preservation costs**

Each Chargor shall promptly on demand pay to the Chargee and any Receiver the amount of all costs, charges and expenses (including, without limitation, legal fees (and any VAT or similar Tax thereon)) incurred by it in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed or any document referred to in this Deed or the Security (including all remuneration of the Receiver).

## 23. CURRENCIES

### 23.1 Conversion

All monies received or held by the Chargee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Chargee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Spot Rate of Exchange. Each Chargor shall indemnify the Chargee against all costs, charges and expenses incurred in relation to such conversion. Neither the Chargee nor any Receiver shall have any liability to any Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

### 23.2 Currency indemnity

No payment to the Chargee (whether under any judgment or court order or in the liquidation, administration or dissolution of any Chargor or otherwise) shall discharge the obligation or liability of any Chargor in respect of which it was made, unless and until the Chargee shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action against each Chargor and shall be entitled to enforce the Security to recover the amount of the shortfall.

## 24. INDEMNITY

Each Chargor shall indemnify the Chargee, any Receiver and any attorney, agent or other person appointed by the Chargee under this Deed and the Chargee's officers and employees (each an "Indemnified Party") on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed;
- (b) the Security Assets or the use or holding of them by any person; or
- (c) any breach by any Chargor of any of its obligations under this Deed.

## 25. MISCELLANEOUS

### 25.1 Appropriation and suspense account

- (a) The Chargee may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it thinks fit. Any such appropriation shall override any appropriation by any Chargor.
- (b) All monies received, recovered or realised by the Chargee under, or in connection with, this Deed may at the discretion of the Chargee be credited to a separate suspense account for so long as the Chargee determines without the Chargee having any obligation to apply such monies or any part thereof in or towards the discharge of any of the Secured Obligations.

## **25.2 New accounts**

If the Chargee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security (other than as permitted by the Master Murabaha Agreement) affecting any Security Asset and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for each Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to the Chargee will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

## **25.3 Changes to Parties**

- (a) No Chargor may assign any of its rights under this Deed.
- (b) The Chargee may assign or transfer or grant participations in all or any part of its rights under this Deed in accordance with the Master Murabaha Agreement. Each Chargor shall, immediately upon being requested to do so by the Chargee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

## **25.4 Tacking**

- (a) The Chargee shall perform its obligations under the Master Murabaha Agreement (including any obligation to make available further advances).
- (b) This Deed secures advances already made and further advances to be made.

## **25.5 Amendments and waivers**

Any provision of this Deed may be amended only if the Chargee and each Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Chargee so agrees in writing. A waiver given or consent granted by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## **25.6 Calculations and certificates**

A certificate of the Chargee specifying the amount of any Secured Obligation due from any Chargor (including details of any relevant calculation thereof) shall be prima facie evidence of such amount against any Chargor in the absence of manifest error.

## **25.7 Waiver, rights and remedies**

No failure to exercise, nor any delay in exercising, on the part of the Chargee any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## **25.8 Waiver of Judgment Interest**

The Parties recognise that the receipt and payment of interest is not permitted under Sharia'a and accordingly agree that if any claims for amounts due under this Deed are made in a court

of law and that court, by applying the laws and regulations of its legal system, imposes an obligation to pay interest on the amounts being claimed, the Parties hereby irrevocably and unconditionally expressly waive and reject any entitlement to recover such interest.

## **26. NOTICES**

### **26.1 Communications in writing**

Any communication to be made under, or in connection with, this Deed shall be made in writing and, unless otherwise stated, may be made by letter or email.

### **26.2 Addresses**

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of each Chargor, that identified with its name below; and
- (b) in the case of the Chargee, that identified with its name below,

or any substitute address, email address or department or officer as each Chargor or the Chargee may notify to the other Parties by not less than five Business Days' notice.

### **26.3 Delivery**

- (a) Subject to clause 26.3(b), any communication or document made or delivered by one Party to another under, or in connection with, this Deed will only be effective:
  - (i) 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; or
  - (ii) if by way of email, when sent by email on the Business Day when sent ("sent") meaning that the message is in legible form and no message is received by the sender indicating that such message has not been received by or delivered to the intended recipient) or upon the next Business Day if sent on a day other than a Business Day,

and, if a particular department or officer is specified as part of its address details provided under clause 26.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Chargee will be effective only when actually received by the Chargee and then only if it is expressly marked for the attention of the department or officer identified with the signature of the Chargee below (or any substitute department or officer as the Chargee shall specify for this purpose).

## **27. PARTIAL INVALIDITY**

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining

provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**28. RELEASE**

**28.1 Release**

Upon the expiry of the Security Period (but not otherwise) the Chargee shall, at the request and cost of each Chargor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security.

**28.2 Reinstatement**

Where any discharge (whether in respect of the obligations of each Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of each Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Chargee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

**29. COUNTERPARTS**

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

**30. GOVERNING LAW**

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

**IN WITNESS** of which this Deed has been duly executed by each Chargor as a deed and duly executed by the Chargee and has been delivered on the first date specified on page 1 of this Deed.



**SCHEDULE: THE INITIAL CHARGED SECURITIES**

<b>Name of company in which shares are held</b>	<b>Class of shares held</b>	<b>Number of shares held</b>
APUS ENERGY LIMITED	DEFERRED	10
DISPATER RESERVE POWER LTD	ORDINARY	90

EXECUTION PAGES

THE CHARGORS

Executed as a deed, but not delivered until the )  
first date specified on page 1, by APUS )  
ENERGY LIMITED acting by: )

Director

Witness signature

Witness name:

Witness address:

SYLVIA SCOTT  
INVESTMENT ADMIN  
33 HOLBORN  
LONDON EC1N 2HT

Address: First Floor  
18 Park Place  
Cardiff  
CF10 3DQ

Email: matthew.tucker@welshpower.com

Attention: Matthew Tucker

Executed as a deed, but not delivered until the )  
first date specified on page 1, by DISPATER )  
RESERVE POWER LTD acting by: )

Director

Witness signature

Witness name:

Witness address:

SYLVIA SCOTT  
INVESTMENT ADMIN  
33 HOLBORN  
LONDON EC1N 2HT


**Address:** 6th Floor  
33 Holborn  
London  
England  
EC1N 2HT

**Email:** kmclure@octopusinvestments.com

**Attention:** Kate McClure

**THE CHARGE**

Signed by  for )  
and on behalf of BANK OF LONDON AND )  
THE MIDDLE EAST PLC: )

Signature 

**Address:** Cannon Place  
78 Cannon Street  
London  
United Kingdom  
EC4N 6HL

**Email:** operations@blme.com

**Attention:** Head of Operations