



Registration of a Charge

Company name: **THE ENERGY SAVING TRUST LIMITED**

Company number: **02622374**



X34YWKGP

Received for Electronic Filing: **02/04/2014**

Details of Charge

Date of creation: **01/04/2014**

Charge code: **0262 2374 0004**

Persons entitled: **HSBC BANK PLC**

Brief description: **FIXED CHARGE OVER INTELLECTUAL PROPERTY (ANY INTELLECTUAL PROPERTY ACQUIRED AFTER THE DATE OF THIS DEED WHICH IS DESIGNATED AS INTELLECTUAL PROPERTY BY THE CHARGOR AND THE CHARGEES AT OR ABOUT THE TIME OF ITS ACQUISITION; AND COPYRIGHTS (INCLUDING RIGHTS IN COMPUTER SOFTWARE), PATENTS, TRADE MARKS, TRADE NAMES, SERVICE MARKS, BUSINESS NAMES (INCLUDING INTERNET DOMAIN NAMES), DESIGN RIGHTS, DATABASE RIGHTS, SEMI-CONDUCTOR TOPOGRAPHY RIGHTS AND ALL OTHER INTELLECTUAL PROPERTY OR SIMILAR PROPRIETARY RIGHTS (WHETHER REGISTERED OR NOT AND INCLUDING APPLICATIONS TO REGISTER OR RIGHTS TO APPLY FOR REGISTRATION) WHICH, IN EACH CASE, ARE A TYPE WHICH ARE NOT DISPOSED OF IN THE ORDINARY COURSE OF TRADING).**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Notification of addition to or amendment of charge.

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: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2622374

Charge code: 0262 2374 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st April 2014 and created by THE ENERGY SAVING TRUST LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd April 2014 .

Given at Companies House, Cardiff on 2nd April 2014



Companies House



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

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Norton Rose Fulbright LLP

Sign & Dated 2 April 2014

Execution Version

Confidential

Dated 1 April 2014

The Energy Saving Trust Limited
as Chargor

HSBC Bank plc
as Chargee

DEBENTURE

 NORTON ROSE FULBRIGHT

Deed dated 1 April 2014

PARTIES

Chargor The Energy Saving Trust Limited

Chargee HSBC Bank plc

SUMMARY

Chargor The Energy Saving Trust Limited, a company incorporated in England and Wales with company number 02622374

Chargee HSBC Bank plc

Charged Assets all assets of the Chargor from time to time

Secured Obligations all liabilities owed by the Chargor to the Chargee from time to time

Type of security fixed and floating charges

Law English law

IT IS AGREED as follows:

Interpretation

1 Definitions and interpretation

Definitions

1.1 In this Deed:

Administrative Receiver means one or more administrative receivers appointed, or to be appointed, under this Deed

Administrator means one or more administrators appointed, or to be appointed, under this Deed

Charged Assets means the Fixed Charge Assets and the Floating Charge Assets

Chargee Security means the Security created by this Deed and any other existing or future Security granted by the Chargor to the Chargee to secure the payment or discharge of Secured Obligations

Chargee Security Document means a document creating or evidencing Chargee Security

Debt means a monetary claim of any kind (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including Security) connected with it

Disposal means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Security

Enforcement Time means any time at which:

- (a) any amount owing by the Chargor to the Chargee is payable but has not been paid; or
- (b) any step is being taken by any person to put the Chargor into administration

Equipment means plant, machinery, vehicles and other equipment used in a business, except equipment of a type which is disposed of in the ordinary course of trading and all warranties and other Rights relating to them

Excluded Account means any account used for the purpose of (i) depositing restricted cash funds held by the Chargor in accordance with its obligations under administered loan schemes and government funded grant offer letters or (ii) depositing restricted cash funds held by the Chargor on trust or similar arrangements for any third party.

Facility Agreement means the guarantee facility agreement dated at about the same date as this Deed between the Chargor and the Chargee

Finance Documents means:

- (a) the Facility Agreement;
- (b) this Deed and any other Chargee Security Document;
- (c) any other document designated as such by the Chargor and the Chargee at any time

Fixed Charge Assets means those assets which are from time to time the subject of clauses 3.2 and 3.4

Floating Charge Assets means those assets which are from time to time the subject of clause 3.3

Insolvency Event, in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, administration, administrative receivership or receivership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than England; or
- (c) any other form of procedure relating to insolvency, reorganisation or dissolution in any jurisdiction

Insolvency Legislation means:

- (a) the Insolvency Act 1986 and secondary legislation made under it; and
- (b) any other primary or secondary legislation in England from time to time relating to insolvency or reorganisation

Intellectual Property means:

- (a) any intellectual property acquired after the date of this Deed which is designated as Intellectual Property by the Chargor and the Chargee at or about the time of its acquisition; and
- (b) copyright (including rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register

or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading

Key Account means any account (other than an Excluded Account):

- (a) described in Schedule 3 (*Key Accounts*);
- (b) that replaces an account described in Schedule 3 (*Key Accounts*);
- (c) established after the date of this Deed which is designated as a Key Account by the Chargor and the Chargee at or about the time of its establishment; and
- (d) with a bank or financial institution which cannot be drawn on by the account holder in the ordinary course of its trading without the consent of the Chargee

Key Contract means:

- (a) a contract described in Schedule 2 (*Key Contracts*);
- (b) any contract that amends or replaces a contract described in Schedule 2 (*Key Contracts*); and
- (c) any contract entered into after the date of this Deed which is designated as a Key Contract by the Chargor and the Chargee at or about the time it was entered into

Obligations, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future or contingent;
- (d) joint or several;
- (e) incurred as a principal or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else

Officer, in relation to a person, means any officer, employee or agent of that person

Permitted Security means any Security permitted pursuant to the terms of the Facility Agreement

Receiver means an Administrative Receiver or a Specific Receiver

Right means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary

Secured Obligations means the Obligations undertaken to be paid or discharged in clause 2 (*Payment of Secured Obligations*)

Security means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any proprietary interest over an asset, or any contractual arrangement in relation to an asset, in each case created in relation to financial indebtedness and which has the same commercial effect as if security had been created over it; and
- (c) any right of set-off created by agreement

Specific Receiver means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999

VAT means value added tax.

Interpretation

1.2 In this Deed:

- (a) the table of contents, the summary and the headings are inserted for convenience only and do not affect the interpretation of this Deed;
- (b) references to clauses and schedules are to clauses of, and schedules to, this Deed;
- (c) references to the Facility Agreement, any Finance Document or any other document are to that document as from time to time amended, restated, novated or replaced, however fundamentally;
- (d) references to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity;
- (e) references to a person include its successors in title, permitted assignees and permitted transferees;

- (f) words importing the plural include the singular and vice versa; and
 - (g) references to any enactment include that enactment as amended or re-enacted; and, if an enactment is amended, any provision of this Deed which refers to that enactment will be amended in such manner as the Chargee, after consultation with the Chargor, determines to be necessary in order to preserve the intended effect of this Deed.
- 1.3 Where this Deed imposes an obligation on the Chargor to do something if required or requested by the Chargee, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.4 It is intended that this document takes effect as a deed even though the Chargee may only execute it under hand.
- 1.5 This Deed may be executed in counterparts.
- 1.6 The provisions of any other Finance Document relating to:
- (a) any disposition of an interest in land; or
 - (b) any obligation of the Chargee to make further advances,
- are deemed to be incorporated in this Deed.
- 1.7 Where a definition of a type of asset in clause 1.1 contains a number of categories, each category will be construed as separate from each other category.

Parties and third parties

- 1.8 The Chargee is a party to this Deed.
- 1.9 Each Receiver and each Officer of the Chargee or a Receiver are not parties to this Deed. However, the Rights conferred on them under this Deed are enforceable by each of them under the Third Parties Act.
- 1.10 No other term of this Deed is enforceable under the Third Parties Act by anyone who is not a party to this Deed.
- 1.11 The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they must obtain consent if the termination or variation adversely affects the Rights of a Receiver or of an Officer of the Chargee or a Receiver under this Deed, but only to the extent that it has notified the Chargee that it intends to enforce that clause at the time of the termination or variation.

Security

2 Payment of Secured Obligations

The Chargor will pay or otherwise discharge all Obligations from time to time owing by it to the Chargee when they become due for payment or discharge and all Obligations incurred by it to any person under or in connection with the Finance Documents.

3 Charges

3.1 The charges contained in this clause 3:

- (a) are given to the Chargee;
- (b) secure the payment and discharge of the Secured Obligations; and
- (c) are given with full title guarantee.

3.2 The Chargor charges, by way of first fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in:

- (a) Equipment;
- (b) Key Contracts;
- (c) Key Accounts;
- (d) Intellectual Property;
- (e) Debts; and
- (f) goodwill and uncalled capital,

and in any Rights accruing to, derived from or otherwise connected with them (including insurances and proceeds of Disposal and of insurances).

3.3 The Chargor charges, by way of first floating charge, its undertaking and all its present and future assets other than those effectively charged under clause 3.2.

3.4 The Chargee may convert all or part of the floating charge created by the Chargor under clause 3.3 into a fixed charge by giving notice to that effect to the Chargor and specifying the identity of the assets concerned. This may be done on one or more occasion, but only (a) during an Enforcement Time or (b) if the Chargee reasonably considers that its security over the assets concerned is in jeopardy and that it is necessary to do so to protect or preserve its security.

4 Set-off

- 4.1 The Chargee may set off any matured Secured Obligation due from the Chargor (to the extent beneficially owned by the Chargee) against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- 4.2 If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of trading for the purpose of the set-off.
- 4.3 These Rights are in addition to the security conferred on the Chargee under this Deed.

5 Restrictions

- 5.1 The Chargor will ensure that the restrictions contained in this clause 5 are complied with unless the Chargee agrees to the contrary.
- 5.2 No Security will exist over, or in relation to, any Charged Asset other than Permitted Security.
- 5.3 There will be no Disposal of any Fixed Charge Asset.
- 5.4 There will be no Disposal of any Floating Charge Asset otherwise than for market value in the ordinary course of trading of the Chargor.

6 Perfection

General action

- 6.1 The Chargor will, at its own expense, create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, an asset registry or otherwise), deposit all such documents and do all such other things as the Chargee may require from time to time in order to:
 - (a) ensure that it has an effective first-ranking fixed charge over the Fixed Charge Assets, subject only to such Permitted Security as the Chargee has agreed should rank in priority;
 - (b) ensure that it has an effective first-ranking floating charge over the Floating Charge Assets , subject only to such Permitted Security as the Chargee has agreed should rank in priority; and
 - (c) facilitate the enforcement of the Chargee Security, the realisation of the Charged Assets or the exercise of any Rights held by the Chargee or any Receiver or Administrator under or in connection with the Chargee Security.

- 6.2 The scope of clause 6.1 is not limited by the specific provisions of the rest of this clause 6 or by any other provision of the Chargee Security Documents.

Notification

- 6.3 If, after the date of this Deed, the Chargor acquires Rights in any material asset, it will notify the Chargee as soon as reasonably practicable and will provide it with such information about the acquisition as the Chargee may reasonably require.

Equipment

- 6.4 If required to do so by the Chargee, the Chargor will create a first legal mortgage over any Equipment owned by it at that time, in any form which the Chargee may reasonably require.

Key Accounts and Key Contracts

- 6.5 If, at any time, the Chargor has a Right in respect of a Key Account or a Key Contract, it will, on the date of this Deed upon the request of the Bank (or, if it acquires the Right later, as soon as practicable after it does so):

- (a) deliver a notice of this Deed to the other parties to the relevant Key Account or Key Contract substantially in the form set out in the applicable part of Schedule 4 (*Notices of charge*); and
- (b) use its reasonable endeavours to procure that those parties deliver an acknowledgement of the notice to the Chargee substantially in the form set out in that part of that Schedule as soon as reasonably practicable.

Subsequent security

- 6.6 If the Chargee receives notice that any Security has been created over Charged Assets which the Finance Documents do not permit to rank in priority to the Chargee Security, the Chargee will be treated as if it had immediately opened a new account for the Chargor, and all payments received by the Chargee from the Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the Chargor to the Chargee.

Enforcement

7 Enforcement

Time for enforcement

- 7.1 The Chargee may enforce the Chargee Security at any time which is an Enforcement Time or if the Chargor requests it to do so.

Methods of enforcement

- 7.2 The Chargee may enforce the Chargee Security by:
- (a) appointing an Administrator of the Chargor;
 - (b) if permitted to do so by the Insolvency Legislation, appointing an Administrative Receiver of the Chargor;
 - (c) appointing a Specific Receiver of assets of the Chargor;
 - (d) going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide; or
 - (e) taking any other action it may decide in any jurisdiction other than England.
- 7.3 To the extent that the Chargee Security arises under a security financial collateral arrangement, the Chargee may also enforce it by giving written notice to the Chargor that it is appropriating those Charged Assets which consist of financial collateral. On receipt of that notice by the Chargor, the Chargee will automatically become the absolute owner of that financial collateral, and the Chargor will have no further interest in it. The value of the financial collateral will, as soon as practicable after it has been established, be applied in discharge of the equivalent amount of the Secured Obligations in accordance with clause 8 (*Application of proceeds*). For this purpose, the Chargee will value the financial collateral as follows:
- (a) in the case of cash, by reference to its face value received by the Chargee;
 - (b) in the case of credit claims, by reference to the amount actually recovered by the Chargee; and
 - (c) in the case of financial instruments, by reference to such public indices, valuations or other matters as the Chargee may reasonably decide.

Expressions defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 will have the same meanings in this clause.

- 7.4 An Administrator must be appointed in accordance with the Insolvency Legislation.
- 7.5 A Receiver must be appointed by an instrument in writing, and otherwise in accordance with the Insolvency Legislation.
- 7.6 The appointment of a Receiver may be made subject to such limitations as are specified by the Chargee in the appointment.
- 7.7 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Chargee may specify to the contrary in the appointment.
- 7.8 Subject to the Insolvency Legislation, the Chargee may remove or replace any Receiver.
- 7.9 If required by the Insolvency Legislation, an Administrator or Receiver must be a person qualified to act as such under it.

Powers on enforcement

- 7.10 An Administrator will have the powers given to him by the Insolvency Legislation.
- 7.11 An Administrative Receiver will have:
- (a) the powers given to him by the Insolvency Legislation;
 - (b) the powers given to a mortgagee or a receiver by the Law of Property Act 1925, but without the restrictions contained in section 103 of that Act; and
 - (c) the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor were not in insolvency proceedings.
- 7.12 A Specific Receiver will have the same powers as an Administrative Receiver in respect of the assets over which he is appointed.
- 7.13 The Chargee will, if it enforces the Chargee Security itself, have the same powers as an Administrative Receiver in respect of the assets which are the subject of the enforcement.
- 7.14 Except to the extent provided by law, none of the powers described in this clause 7 will be affected by an Insolvency Event in relation to the Chargor.

Status and remuneration of Receiver

- 7.15 A Receiver will be the agent of the Chargor until the Chargor goes into liquidation. He will have no authority to act as agent for the Chargee, even in the liquidation of the Chargor.

- 7.16 The Chargee may from time to time determine the remuneration of any Receiver.

Third parties

- 7.17 A person dealing with the Chargee or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:

- (a) those persons have the power to do those things which they are purporting to do; and
- (b) they are exercising their powers properly.

8 Application of proceeds

All money received by the Chargee or a Receiver under or in connection with the Finance Documents (whether during, or before, enforcement of the Chargee Security) will, subject to the rights of any persons having priority, be applied in the following order of priority:

- (a) first, in or towards payment of all amounts payable to the Chargee, any Receiver or their Officers under clause 14 (*Expenses, liability and indemnity*) and all remuneration due to any Receiver under or in connection with the Chargee Security;
- (b) secondly, in or towards payment of the Secured Obligations in such order as the Chargee may determine (and, if any of the Secured Obligations are not then payable, by payment into a suspense account until they become payable); and
- (c) thirdly, in payment of any surplus to the Chargor or other person entitled to it.

Undertakings

9 Key Contracts, Key Accounts and Debts

- 9.1 The Chargor will:
- (a) comply with all of its obligations under each Key Contract; and
 - (b) use its best endeavours to ensure that the Chargee receives the full benefit of each Key Contract.
- 9.2 The Chargor will not:
- (a) agree to alter the terms of, or terminate, any Key Contract or Key Account; or
 - (b) waive its rights under a Key Contract or Key Account,
- without the consent of the Chargee.
- 9.3 The Chargee will give its consent under clause 9.2 if, in its reasonable opinion, any such alteration or waiver will not materially affect the effectiveness or value of its security over the Key Contract or Key Account concerned.
- 9.4 The Chargor will not make any withdrawal from any Key Account without the consent of the Chargee.
- 9.5 The Chargee will give its consent under clause 9.4 if the withdrawal is permitted under the Facility Agreement.
- 9.6 The Chargor will promptly collect all Debts as agent for the Chargee and pay all their proceeds into such accounts as the Chargee may from time to time specify.

10 Intellectual Property

- 10.1 The Chargor will promptly notify the Chargee of its acquisition of, or agreement to acquire, material Intellectual Property and any action taken to register the Intellectual Property.
- 10.2 The Chargor will:
- (a) take all necessary action to safeguard and maintain its Rights in connection with Intellectual Property, including obtaining all necessary registrations and paying all applicable renewal fees and licence fees;
 - (b) not allow any Intellectual Property to be abandoned or cancelled or to lapse; and

- (c) protect its Intellectual Property against theft, loss, destruction, unauthorised access, copying or use by third parties and, immediately on becoming aware of any material infringement of, or challenge to, any of its Intellectual Property, inform the Chargee and take any steps at the cost of the Chargor as the Chargee may from time to time reasonably specify in relation to the infringement or challenge.

11 Insurance

- 11.1 During an Enforcement Time (and also once the Chargee Security has been enforced), all payments in respect of any contract of insurance will be paid to the Chargee for application in accordance with clause 8 (*Application of proceeds*). Otherwise, all such payments will be applied in reinstatement of the assets concerned.

12 General undertakings

- 12.1 The Chargor will take all steps as are necessary to preserve the value and marketability of its Charged Assets.
- 12.2 The Chargor will notify the Chargee as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of the Chargee under the Chargee Security. Those matters include a breach or purported breach of a Key Contract by any party to it and a claim by any person to an interest in a Charged Asset.
- 12.3 The Chargor will provide to the Chargee:
 - (a) such information about the Charged Assets;
 - (b) such information about the extent to which it has complied with its obligations under this Deed; and
 - (c) copies of such documents which create, evidence or relate to its Charged Assets,as the Chargee may from time to time reasonably request.
- 12.4 If the Chargor does not comply with its obligations under this Deed, the Chargee may do so on the Chargor's behalf on such basis as the Chargee may reasonably decide. The Chargor will indemnify the Chargee on demand against the amount certified by the Chargee to be the cost, loss or liability suffered by it as a result of doing so.

Miscellaneous

13 Duration of the security

- 13.1 The Obligations of the Chargor under the Finance Documents and the security created by the Chargee Security will continue until the Secured Obligations have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.
- 13.2 If any payment by the Chargor or any other security provider or any release given by the Chargee (whether in respect of the Secured Obligations or any security for them or otherwise) is avoided or reduced as a result of insolvency or any similar event:
- (a) the liability of the Chargor under this Deed will continue as if the payment, release, avoidance or reduction had not occurred; and
 - (b) the Chargee will be entitled to recover the value or amount of that security or payment from the Chargor, as if the payment, release, avoidance or reduction had not occurred.
- 13.3 Section 93 of the Law of Property Act 1925 will not apply to the Chargee Security.

14 Expenses, liability and indemnity

- 14.1 The Chargor will, on demand, pay all legal and other costs and expenses (including any stamp duty, registration or other similar taxes) incurred by the Chargee or by any Receiver in connection with the Chargee Security. This includes any costs and expenses relating to the enforcement or preservation of the Chargee Security or the Charged Assets and to any amendment, waiver, consent or release required in connection with the Chargee Security.
- 14.2 Neither the Chargee nor a Receiver nor any of their Officers will be in any way liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or the Chargee Security, except to the extent caused by its own negligence or wilful misconduct.
- 14.3 The Chargor will, on demand, indemnify each of the Chargee, a Receiver and their Officers in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:
- (a) anything done or omitted in the exercise of the powers conferred on it under the Chargee Security, unless it was caused by its negligence or wilful misconduct;

- (b) a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the Chargee Security had not been granted and which was not caused by its negligence or wilful misconduct; or
- (c) any breach by the Chargor of the Finance Documents.

15 Payments

- 15.1 All payments by the Chargor under the Chargee Security Documents will be made in full, without any set-off or other deduction.
- 15.2 If any tax or other sum must be deducted from any amount payable by the Chargor under the Chargee Security Documents, the Chargor will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.
- 15.3 All amounts payable by the Chargor under the Chargee Security Documents are exclusive of VAT. The Chargor will, in addition, pay any applicable VAT on those amounts.
- 15.4 If the Chargor fails to make a payment to a person under the Chargee Security Documents, it will pay interest to that person on the amount concerned at a rate of interest to be determined by the Chargee from the date it should have made the payment until the date of payment (after, as well as before, judgment).
- 15.5 No payment by the Chargor (whether under a court order or otherwise) will discharge the Obligation of the Chargor unless and until the Chargee has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Chargee will have a separate cause of action against the Chargor for the shortfall.
- 15.6 Any certification or determination by the Chargee of an amount payable by the Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

16 Remedies

- 16.1 The Rights created by this Deed are in addition to any other Rights of the Chargee against the Chargor or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.
- 16.2 No failure by the Chargee to exercise any Right under this Deed will operate as a waiver of that Right. Nor will a single or partial exercise of a Right by the Chargee preclude its further exercise.

- 16.3 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.

17 Power of attorney

The Chargor, by way of security, irrevocably appoints each of the Chargee and any Receiver severally to be its attorney to do anything:

- (a) which the Chargor is obliged to do under the Chargee Security Documents; and
- (b) which the attorney may require to exercise any of the Rights conferred on it by the Chargee Security Documents or by law.

18 Notices

- 18.1 Any notice or other communication to a party to this Deed must be in writing. It must be addressed for the attention of such person, and sent to such address as that party may from time to time notify to the other parties.
- 18.2 It will be deemed to have been received by the relevant party on receipt at that address.
- 18.3 The initial administrative details of the parties are contained in Schedule 1 (*Initial administrative details of the parties*) but a party may amend its own details at any time by notice to the other party.
- 18.4 Any notice to the Chargor may alternatively be sent to its registered office or to any of its places of business or to any of its directors or its company secretary; and it will be deemed to have been received when delivered to any such places or persons.

19 Law and jurisdiction

- 19.1 This Deed and any non-contractual obligations connected with it are governed by English law.
- 19.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).
- 19.3 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that they will not argue to the contrary.
- 19.4 Clause 19.2 is for the benefit of the Chargee only. As a result, the Chargee will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To

the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed.

Schedule 1
Initial administrative details of the parties

Party	Address	Attention
Chargor	21 Dartmouth Street, London, SW1H 9BP	The Directors
Chargee	1st Floor, 70 Pall Mall, London, SW1Y 5EZ	Nick Baker

Schedule 2
Key Contracts

None at the date of this Deed.

Schedule 3
Key Accounts

None at the date of this Deed

Schedule 4
Notice and acknowledgment of charge

Part A - Key Contracts

To: [Counterparty]

Date: •

Dear Sirs

Notice of Charge

- 1 We give you notice that, under a debenture dated • entered into by us (and others) in favour of HSBC Bank plc (the **Chargee**), we have charged to the Chargee by way of first fixed charge all of our rights in [*insert details of agreement concerned*] (the **Agreement**).
- 2 We will remain liable for our obligations under the Agreement. The Chargee has no obligations under it.
- 3 We have agreed with the Chargee not to terminate or amend the Agreement or to waive any of its terms without the consent of the Chargee.
- 4 We instruct you to:
 - (a) make all payments due to us under the Agreement to the Chargee [*insert an account number if required*] (whose receipt will be a good discharge to you for such payments); and
 - (b) disclose to the Chargee, without further approval from us, such information regarding the Agreement as the Chargee may from time to time request and to send it copies of all notices issued by you under the Agreement.
- 5 This instruction cannot be varied or terminated without the consent of the Chargee.
- 6 Please sign the enclosed acknowledgement and return it to the Chargee at [*address*] marked for the attention of •.

.....

for and on behalf of

The Energy Saving Trust Limited

Acknowledgement of Charge

To: HSBC Bank plc (the **Chargee**)

- 1 We acknowledge receipt of the notice [described above]:
- 2 We have not received notice that any other person has an interest in the Agreement.
- 3 We will comply with the instructions in the notice.
- 4 We agree that no amendment or termination of the Agreement, nor any waiver of its terms, will be effective unless it is approved by the Chargee.
- 5 We will not exercise any right of set-off against payments owing by us under the Agreement unless they arise out of the Agreement itself.

Executed as a)

deed by)

[Counterparty]) Director

acting by:)

Director/Secretary

Date: •

SIGNATORIES

The Chargor

Executed as a deed by

THE ENERGY SAVING TRUST LIMITED

acting by:

Director

PUC SELLWOOD.

Name of witness: **ROGER BRIAN PONTING**

Address:

The Chargee

HSBC BANK PLC

by:

.....
Authorised signatory

SIGNATORIES

The Chargor

Executed as a deed by

THE ENERGY SAVING TRUST LIMITED

acting by:

Director

in the presence of:

.....

Name of witness:

Address:

The Chargee

HSBC BANK PLC

by: NICK BAKER.

A large black rectangular redaction box covering the signature of Nick Baker.

Authorised signatory