



GOLIAD LTD

LOAN INSTRUMENT



GOLIAD

Loan Note Instrument

Goliad Secured Holdings Limited

as Issuer

and

Paul Cobb

as Security Trustee

Constituting up to £5,000,000 Secured Loan Notes due
July 2023

GOLIAD



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THIS INSTRUMENT is made by way of Deed Poll on 19 July 2018

BY:

GOLIAD SECURED HOLDINGS LIMITED, (the “Issuer”), a company limited by shares, registered in England and Wales with registered number 10912871 and whose registered office is at 18-20 Canterbury Road, Whitstable, Kent, CT5 4EY.

WHEREAS:

- (A) The Issuer has, by resolution of its board of directors passed on or around the date hereof, resolved (i) to issue from time to time within the Availability Period the Loan Notes to be constituted by this Instrument and (ii) to enter into the Issuer Debenture to secure its obligations under this Instrument.
- (B) The Security Trustee has agreed to act as security trustee for the Noteholders on the terms set out in Schedule 5 (*Role of the Security Trustee*) and has executed this Instrument in order that it may enforce any right granted in its favour (in its capacity as Security Trustee) against either the Issuer or any Noteholder.

THE ISSUER HEREBY DECLARES as follows:

a. Definitions and interpretation

- i. In this Instrument and the Schedules to it, the following words and expressions shall have the following meanings unless the context requires otherwise:

“Adjusted Leverage” means in respect to any Relevant Period, the ratio of Total Debt on the last day of the Relevant period to EBITDA in respect of the Relevant Period;

“Asset Sale” means the disposal by the Issuer of all or substantially all of the business, assets and/or undertaking of the Issuer;

“Authorisation” means any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration and includes all Material Licences;

“Availability Period” means the period between the date of this Instrument and the date which is 60 months after the First Issue Date;

“Business Day” means any day on which leading banks are open for business in London;

“Cashflow Cover” means the ratio of Cashflow to Debt Service in respect of any Relevant Period;

“Certificate” means each certificate issued to a Noteholder in the form of Schedule 1 (*Certificate*);

“Change of Control” means Troy Teague ceases directly or indirectly to:

1. have the power whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - a. cast or control the casting of more than 50 per cent. Of the maximum number of votes that might be cast at a general meeting of the Issuer;
 - b. appoint or remove all, or a majority, of the directors or other equivalent officers of the Issuer; or
 - c. give directions with respect to the operating and financial policies of the Issuer with which the directors or other equivalent officers of the Issuer are required to comply; or
2. hold beneficially more than 50% of the issued share capital of the Issuer;

“Committed Loan Note Subscriber” means each Potential Noteholder which has signed a Subscription Letter and in respect of which all conditions precedent specified in Annex D under that Subscription Letter have been satisfied (or, at the relevant Potential Noteholder’s sole discretion, waived) as confirmed by that Committed Loan Note Subscriber to the Issuer in writing prior to the relevant Issue Date by the delivery to the Issuer of a Condition Precedent Satisfaction Confirmation Letter in the form of Annex B to the applicable Subscription Letter;

“Commitment” means, with respect to each Committed Loan Note Subscriber, the total principal amount of Loan Notes it has committed to subscribe for pursuant to the applicable Subscription Letter;

“Conditions” means the conditions set out in Schedule 2 (*Conditions*) and a reference to a “Condition” shall be to the relevant condition in that Schedule;

“Delegate” means any delegate, agent, manager, attorney, nominee, custodian, co-security trustee or other person appointed by the Security Trustee in accordance with a Loan Note Document;

“Distressed Disposal” means, after the serving of an Enforcement Notice on the Issuer by the Majority Noteholders, a disposal of any or all of the Secured Property which is effected:

- (A) pursuant to an enforcement by the Security Trustee of the Loan Note Security over that Secured Property; or
- (B) by a the Issuer at the request of the Security Trustee;

“Enforcement Notice” has the meaning given to it clause 14.1(A)(1) (*Acceleration and Enforcement*);

“Enforcement Period” has the meaning given to it clause 14.1(A)(1) (*Acceleration and Enforcement*);

“English Debenture” means the fixed and floating charge debenture dated on or about the date of this Instrument and entered into by the Issuer in favour of the Security Trustee (for the benefit of the Noteholders);

"Environment" means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (A) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (B) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (C) land (including, without limitation, land under water);

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

"Environmental Law" means any applicable law or regulation which relates to:

- (A) the pollution or protection of the Environment;
- (B) the conditions of the workplace; or
- (C) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;

"Environmental Permits" means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Issuer conducted on or from the properties owned or used by the Issuer;

"Event of Default" means each of the events listed in Schedule 7 (*Events of Default*);

"Exceptional Items" means any exceptional, one off, non-recurring or extraordinary items;

"Financial Covenant" means each of the covenants referred to in paragraph 3 (*Financial Covenants*) of Schedule 5 (*Covenants and Undertakings*);

"Financial Indebtedness" means any indebtedness in respect of (or otherwise accounted for as) borrowed money, including any amount raised pursuant to any issue of bonds, notes, debentures, loan stock or any similar instrument;

"Financial Indebtedness Resolution" means:

- (A) a resolution passed at a meeting of the Noteholders (and, where applicable, Committed Loan Note Subscribers) duly convened and held in accordance with the provisions set out in this Instrument and carried by a majority consisting of not less than 75 per cent. by value of the aggregate of the principal amount of the Notes then outstanding and any Undrawn Commitments of the Noteholders and any Committed Loan Note Subscribers in respect of the Notes; or
- (B) a resolution in writing signed by, or on behalf of, not less than 75 per cent. by value of the aggregate of the principal amount of the Notes then outstanding and any Undrawn Commitments of the Noteholders and any Committed Loan Note Subscribers in respect of the Notes and (and such a resolution in writing may be contained in one document or in several documents in like form each signed by, or on behalf of, one or more of the relevant Noteholders);

“First Issue Date” means the first date on which Loan Notes are issued pursuant to this Instrument, such date to be no later than 1 month after the date of this Instrument;

“Goliad Security Documents” means (i) the English Debenture and (ii) the US Security Agreement;

“Insolvency Event” means, if the Issuer:

- (A) is dissolved;
- (B) becomes insolvent or is unable to pay its debts or fails to pay its debts as they become due or admits in writing its inability generally to pay its debts as they become due;
- (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (D) institutes or has instituted against it by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (E) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (D) above and:
 - (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (2) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (F) has a resolution passed for its winding-up, official management or liquidation (except for the purposes of a solvent reconstruction, amalgamation, reorganisation, merger or consolidation of the Issuer whereby all or substantially all the business, undertaking and assets of the Issuer are transferred to a successor entity which assumes all the obligations of the Issuer under the Loan Notes);
- (G) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (H) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;

(I) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (A) to (H) above; or

(J) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

(A) "Interest Rate" means 12 per cent. per annum

"Instrument" means this loan note instrument;

"Issue Date" means provided it:

(A) is a Business Day within the Availability Period;

(B) is in respect of the Loan Notes issued on the First Issue Date, a Business Day within 12 months of the date of this Instrument; and

(C) has been notified to the relevant Committed Loan Note Subscribers in accordance with clause 3.5;

the issue date specified on the certificate issued in respect of any Loan Notes;

"Loan Note Documents" means this Instrument, each Loan Note, the English Debenture, each Subscription Letter and any other document which may be designated as a Loan Note Document by the Issuer and the Security Trustee in writing;

"Loan Note Security" means the Security Interests created in favour of the Security Trustee pursuant to the Loan Note Security Documents;

"Loan Note Security Documents" means the Goliad Security Documents and any other document which may be designated as a Loan Note Document by the Issuer and the Security Trustee in writing;

"Loan Notes" means the Notes issued pursuant to this Instrument;

"Majority Noteholders" means at any time Noteholders (and, where applicable in the case of paragraph (B) below, Committed Loan Note Subscribers) who hold 75 per cent. or more of the aggregate of:

(A) the principal amount outstanding under all the Loan Notes; and

(B) if applicable, the Undrawn Commitments of all the Noteholders and Committed Loan Note Subscribers,

at that time;

"Material Adverse Effect" means a material adverse effect on:

(A) the business, operation, prospects, assets or condition (financial or otherwise) of the Issuer;

(B) the ability of the Issuer to perform its payment obligations under the Loan Note Documents; or

- (C) the validity, legality or enforceability of any Loan Note Document or the rights or remedies of the Noteholders or the Security Trustee under any Loan Note Document;

“Material Event of Default” means:

- (A) a failure by the Issuer to pay any amount when due under the terms of the Loan Note Documents (taking into account the 3 Business Day grace period (if applicable) provided for in paragraph 1 of Schedule 7 (*Events of Default*));
- (D) a breach of a Financial Covenant; or
- (E) an Insolvency Event;

“Material Licences” means: Licenses to drill wells;

“Maturity Date” means the date which is 12 months after the First Issue Date;

“Noteholder Resolution” means, as applicable, an Ordinary Resolution, a Financial Indebtedness Resolution or a Super Majority Resolution;

“Noteholders” means the persons for the time being entered in the Register as the holders of the Loan Notes;

“Ordinary Resolution” means:

- (A) a resolution passed at a meeting of the Noteholders (and, where applicable, Committed Loan Note Subscribers) duly convened and held in accordance with the provisions set out in the Instrument and carried by a majority consisting of not less than 75 per cent. by value (determined in accordance with the aggregate of the principal outstanding on the relevant Loan Notes and, if applicable, the Undrawn Commitments of the Noteholders and Committed Loan Note Subscribers in attendance at the relevant meeting) of the votes cast on a poll at that meeting; or
- (B) a resolution in writing signed by, or on behalf of, the Majority Noteholders (and such a resolution in writing may be contained in one document or in several documents in like form each signed by, or on behalf of, one or more of the relevant Noteholders and, where applicable, Committed Loan Note Subscribers);

“Original Noteholder” means each Noteholder which has signed a Subscription Letter;

“Permitted Disposal” means any sale, lease, licence, transfer or other disposal:

- (A) of cash made in the ordinary course of the Issuer’s business;
- (B) of obsolete or redundant office equipment or other physical assets for cash;
- (C) made pursuant to the existence or enforcement of any Permitted Security;

“Permitted Financial Indebtedness” means Financial Indebtedness:

- (A) incurred pursuant to the issuance of any Loan Note under and in accordance with this Instrument;
- (B) arising in connection with any trade / supplier credit incurred in the ordinary course of the Issuer’s business;

“Permitted Security” means:

- (A) any Security Interest arising under any Loan Note Document;
- (B) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by the Issuer;
- (C) any Security Interest arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Issuer in the ordinary course of trading and on the supplier’s standard or usual terms and not arising as a result of any default or omission by the Issuer;

“Potential Event of Default” means an event or circumstance which, with notice or passage or lapse of time or both, would constitute an Event of Default;

“Potential Noteholder” means each person which has signed a Subscription Letter committing, subject to the conditions set out in that Subscription Letter, to become a Noteholder under this Instrument;

“Quarter” means each period of 3 months ending on a Quarter Date;

“Quarter Date” means 31 March, 30 June, 30 September and 31 December in each year;

“Receiver” means a receiver and manager or other receiver appointed in respect of all or part of any Secured Property;

“Register” means the register of Noteholders maintained by or on behalf of the Issuer in accordance with the provisions of this Instrument;

“Repayment Date” means the date occurring 12 months after the First Issue Date and every twelve months thereafter until, and including, the Maturity Date;

“Secured Creditors” means each of:

- (A) the Security Trustee;
- (B) any Receiver or Delegate appointed by the Security Trustee; and
- (C) the Noteholders;

“Secured Liabilities” means all present and future moneys, debts and liabilities due, owing or incurred by the Issuer to the Secured Creditors or any of them under or in connection with a Loan Note Document;

“Secured Property” means the undertaking, property, assets and rights of the Issuer from time to time subject, or expressed to be subject, to the Loan Note Security;

“Security Interest” means any mortgage, lien, charge, assignment, option, hypothecation or security interest or any other arrangement having a similar effect under the laws of any applicable jurisdiction;

“Series” means the series of Loan Notes issued pursuant to this Instrument;

“Specified Event” means:

- (A) a Change of Control;
- (B) a Sale; or
- (C) an Asset Sale;

“Sale” means the acquisition by any person other than Troy Teague of any interest in the shares of the Issuer;

“Subscription Letter” means each letter between the Issuer and a Potential Noteholder pursuant to which that Potential Noteholder commits, subject to the terms and conditions of that letter, to subscribe for the issuance of Loan Notes under, and in accordance with, this Instrument;

“Super Majority Resolution” means:

- (A) a resolution passed at a meeting of the Noteholders (and, where applicable, Committed Loan Note Subscribers) duly convened and held in accordance with the provisions set out in this Instrument and carried by a majority consisting of not less than 90 per cent. by value of the aggregate of the principal amount of the Loan Notes then outstanding and, if applicable, any Undrawn Commitments of the Noteholders and Committed Loan Note Subscribers; or
- (B) a resolution in writing signed by, or on behalf of, not less than 90 per cent. by value of the aggregate of the principal amount of the Loan Notes then outstanding and, if applicable, any Undrawn Commitments of the Noteholders and Committed Loan Note Subscribers (and such a resolution in writing may be contained in one document or in several documents in like form each signed by, or on behalf of, one or more of the relevant Noteholders and, where applicable, Committed Loan Note Subscribers);

“Tax” means all present and future taxes, charges, imposts, duties, levies, deductions, withholdings or amounts or charges of a similar nature, or any amount payable on account of, or as security for, any of the foregoing, including any penalties, fines, surcharges or interest payable in connection with such amounts and “Taxes” and “Taxation” shall be construed accordingly;

“Total Issue Amount” means, on any Issue Date, the total principal amount of Loan Notes to be issued by the Issuer on that Issue Date;

“Notes” means the up to £5,000,000 interest bearing senior secured loan notes due July 2023 of the Issuer constituted by this Instrument, or the amount of them for the time being outstanding, or a specific portion of them or the monies represented by them, as the case may require;

“Undrawn Commitment” means, with respect to (as the context requires) each Committed Loan Note Subscriber and/or each Noteholder on any date (and to the extent not cancelled

in accordance with this Instrument), the total principal amount of Loan Notes it has committed to subscribe for pursuant to the applicable Subscription Letter less (to the extent applicable) the total principal amount of Loan Notes it has actually subscribed for, and which have been issued to it, on that date; and

“Warranties” has the meaning given to it in clause 13 (*Warranties*).

1.2 In this Instrument, unless the context requires otherwise:

- (A) any reference to a clause, paragraph or Schedule is to the relevant clause, paragraph or Schedule of this Instrument;
- (B) headings are included for convenience only and shall not affect the construction of this Instrument;
- (C) use of the singular includes the plural and vice versa;
- (D) use of any gender includes the other genders;
- (E) any reference to “persons” or “people” includes individuals, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts, in each case whether or not having separate legal personality;
- (F) any reference to a statute, statutory provision or subordinate legislation (“legislation”) shall be construed as referring to that legislation as amended or as repealed and re-enacted from time to time;
- (G) any reference to the “original terms” of this Instrument means the terms of this Instrument on the date it was originally executed by the Issuer;
- (H) an Event of Default or a Material Event of Default is “continuing” if it has not been remedied or waived;
- (I) any reference to a time of day, is to the time in the United Kingdom;
- (J) any reference to (if applicable) any individual Noteholder includes a reference to his or her personal representatives, on whom this Instrument shall be binding; and
- (K) “£” shall mean Great British pounds sterling.

1.3 A reference herein (or in any other Loan Note Document) to the Security Trustee means Paul Cobb (in that capacity) or any successor to Paul Cobb (or his or any successor to such a) appointed pursuant to the provisions of Schedule 4 (*Role of the Security Trustee*).

1.4 A reference herein to the Noteholders or a Noteholder in respect of any meeting of the Noteholders or any vote of the Noteholders on any matter (including the passing of any Noteholder Resolution) will also include, if not yet a Noteholder because no Loan Note has yet been issued to it, each Committed Loan Note Subscriber.

1.5 The Schedules form part of this Instrument and shall have effect as though set out in full in the body of this Instrument, and any reference to this Instrument includes the Schedules.

2. **Loan Notes**

- 2.1 The principal amount of the Loan Notes is limited to an aggregate amount of up to five million pounds sterling (£5,000,000).
- 2.2 The Loan Notes may be issued by the Issuer in one a single Series (but in separate tranches having different issue dates and dates from which interest accrues on them) from time to time during the Availability Period in accordance with clause 3 (*Loan Note Subscription and Issuance*).
- 2.3 The Loan Notes shall rank *pari passu* equally and rateably without discrimination or preference between themselves, subject to applicable law.
- 2.4 The obligations of the Issuer in respect of the Loan Notes are secured pursuant to the Loan Note Security Documents.

3. **Loan Note Subscription and Issuance**

- 3.1 Each Potential Noteholder acknowledges and agrees that, upon the execution by it of the Subscription Letter relevant to it, it shall be obligated (subject only to the conditions provided for in such Subscription Letter under the heading “Conditions Precedent” and in this Instrument) to subscribe for the relevant Loan Notes up to an amount no greater than the amount subscribed for by that Potential Noteholder in its Subscription Letter on the relevant Issue Date(s) in accordance with the provisions of this clause 3, such Loan Notes to be governed by the terms of this Instrument.
- 3.2 The Issuer may issue up to, in aggregate, £5,000,000 of Notes in, subject to the remaining provisions of this clause 3, such amounts to such Committed Loan Note Subscribers as it may in its discretion select.
- 3.3 Unless otherwise agreed by the Issuer, the minimum subscription amount for each Noteholder is £10,000.
- 3.4 The Issuer may, upon no less than 10 Business Days’ notice (or such lesser or greater period of notice as a Committed Loan Note Subscriber may specify in its Subscription Letter), issue Loan Notes to Committed Loan Note Subscribers on any Business Day during the Availability Period.
- 3.5 The Issuer shall ensure that the First Issue Date occurs as soon as reasonably practicable after the date of this Instrument and in any event within 3 months of the date of this Instrument.
- 3.6 The minimum principal amount of Loan Notes to be issued by the Issuer on:
 - (A) the First Issue Date shall be in aggregate;
 - (B) each subsequent Issue Date shall be £5,000,000 in aggregate,
- 3.7 The Issuer shall on each Issue Date issue Loan Notes pro rata to the Undrawn Commitment of each Committed Loan Note Subscriber on that date.

4. **Terms of issue**

- 4.1 The Loan Notes shall be issued in minimum denominations, and integral multiples, of £10,000 (or such other minimum denominations and multiples as the Issuer shall in its sole

discretion permit, including to give effect to the provisions of clause 3 above) and shall be held subject to the terms set out in this Instrument and subject to, and with the benefit of, the Conditions.

4.2 The Conditions and such terms, and all the obligations and covenants contained in them on the part of the Issuer and the Noteholders respectively, shall be binding on the Issuer and the Noteholders respectively and all persons claiming through them respectively, and shall take effect in the same manner as if set out in the body of this Instrument.

5. **Interest on the Loan Notes**

5.1 Until the Loan Notes are repaid in accordance with the provisions of this Instrument, interest shall accrue and be paid on the principal amount of the Loan Notes which are outstanding at the applicable Interest Rate.

5.2 Interest is payable by the Issuer on each Loan Note quarterly in arrears on each Quarter Date commencing on the first Quarter Date falling after the Issue Date for that Loan Note and thereafter on each Quarter Date during which that Loan Note is outstanding, with the first interest payment to comprise the interest due from the relevant Issue Date of that Loan Note to the first Quarter Date after that Issue Date.

5.3 Interest shall accrue from day to day from the relevant Issue Date on the basis of the actual number of days elapsed.

5.4 If the Issuer fails to pay any sum payable under this Instrument on its due date (the amount due but unpaid, the "Unpaid Sum") the Issuer shall pay interest on that Unpaid Sum from the due date to the actual date of payment (after as well as before judgement) at the rate of 2 per cent. above the prevailing Interest Rate applicable to the Loan Note in respect of which the Unpaid Sum derives. Such interest shall be payable on demand and shall be compounded with the Unpaid Sum on each Quarter Date and shall itself bear interest in accordance with this clause 5.4.

6. **Scheduled Redemption**

6.1 On the Maturity Date, the Issuer shall redeem (at par) the principal amount of the Loan Notes then outstanding, together with accrued and unpaid interest on the amount of the Loan Notes to be redeemed up to (and including) the date of redemption.

7. **Voluntary Redemption and Cancellation**

7.1 The Issuer may at any time following the first anniversary of the First Issue Date, by giving the Noteholders not less than 180 Business Days' prior notice in writing (with such notice capable of being given prior to the first anniversary of the First Issue Date if it specifies a date for redemption after the first anniversary of the First Issue Date)], redeem the whole or any part of the aggregate principal amount of the Loan Notes outstanding at par (and if in part in amounts or in integral multiples of £1,000), together with:

(A) any accrued but unpaid interest on the principal amount of the Loan Notes being redeemed up to (and including) the date the Issuer makes the voluntary redemption (such date the "Voluntary Redemption Date"); and

(B) unless disapplied by a Noteholder in its Subscription Letter, any applicable Redemption Fee.

For the avoidance of doubt:

- 7.2 A notice delivered under clause 7.1 may not be revoked without the prior written consent of the Noteholders and each such notice shall state the Voluntary Redemption Date (which must be a Business Day after the first anniversary of the First Issue Date) and the total aggregate principal amount of the Loan Notes to be redeemed on that date. Such redemption shall be made by the Issuer on the date specified as the Voluntary Redemption Date in the applicable notice.
- 7.3 Any voluntary redemption of the Loan Notes must be made on a pro rata basis between each Series and each Tranche of Loan Notes outstanding on the Voluntary Redemption Date.
- 7.4 With respect to the Undrawn Commitments of any Noteholder or Committed Loan Note Subscriber, the Issuer may at any time with no less than 180 Business Days' written notice to the relevant Noteholders and, if applicable, Committed Loan Note Subscribers cancel (on a pro rata basis as between all Undrawn Commitments of the relevant Noteholders and, if applicable, Committed Loan Note Subscribers at that time) all or any part of the Undrawn Commitments at that time.

8. **Optional Redemption and Cancellation**

- 8.1 Any Noteholder at any time following the first anniversary of the First Issue Date, by giving the Noteholders not less than 30 Business Days' prior notice in writing (with such notice capable of being given prior to the first anniversary of the First Issue Date if it specifies a date for redemption after the first anniversary of the First Issue Date)], redeem the whole or any part of the aggregate principal amount of the Loan Notes outstanding at par (and if in part in amounts or in integral multiples of £1,000), together with any accrued but unpaid interest on the principal amount of the Loan Notes being redeemed up to (and including) the date the Issuer makes the voluntary redemption (each such date an "Noteholder Optional Redemption Date").
- 8.2 For the avoidance of doubt a notice delivered under clause 7.1 may not be revoked without the prior written consent of the Issuer and each such notice shall state the Noteholder Optional Redemption Date (which must be a Business Day after the first anniversary of the First Issue Date) and the total aggregate principal amount of the Loan Notes to be redeemed on that date. Such redemption shall be made by the Issuer on the date specified as the Voluntary Redemption Date in the applicable notice.

9. **Certificates**

- 9.1 The Issuer shall on each Issue Date issue a duly executed Certificate for each of the Loan Notes issued on that Issue Date. Each Certificate shall be in the form or substantially in the same form as set out in Schedule 1 (*Certificate*) and the provisions of this Instrument shall be attached to each of the Certificates.
- 9.2 Each Noteholder or the joint holders of any of the Loan Notes shall be entitled without charge to one Certificate for the total amount of Loan Notes registered in its or their names. Any Certificate in the names of joint holders of any of the Loan Notes shall be delivered to the first named of such joint holders in the Register unless all such joint holders otherwise specify in writing.
- 9.3 If any Certificate is defaced, worn out, lost or destroyed the Issuer may issue a new Certificate on such terms (if any) as the directors of the Issuer may reasonably require as to indemnity and evidence of defacement, wearing out, loss or destruction. In the case of

defacement or wearing out, the defaced or worn out Certificate shall be surrendered to the Issuer and cancelled before the new Certificate is issued. In the case of loss or destruction, the Noteholder availing itself of the provisions of this clause 9 shall pay to the Issuer (if demanded) all reasonable expenses incidental to the investigation of evidence of loss or destruction and the preparation of any form of indemnity. There shall be entered in the Register particulars of the issue of any new Certificate and any indemnity.

10. **Register**

10.1 The Register will be kept by the Issuer at the Issuer's registered office (or at such other place as the Issuer may from time to time have appointed for that purpose and have notified to the Noteholders) and there shall be entered in the Register in respect of each Series and each Tranche:

- (A) the names, addresses and email addresses of the Noteholders;
- (B) the amount of the Loan Notes held by each Noteholder;
- (C) the date on which the name of each Noteholder is entered in respect of the Loan Notes standing in (as applicable) its or their name; and
- (D) the number of the certificate issued in respect of the Loan Notes.

10.2 Any change of name, address or email address on the part of any Noteholder, which is notified to the Issuer in accordance with condition 2 in Schedule 2 shall be entered in the Register.

10.3 Any Noteholder may:

- (A) at all reasonable times during office hours inspect the Register; and
- (B) request that the Issuer deliver it a copy of the Register (in which case the Issuer shall deliver a copy within 10 Business Days of being requested to do so).

10.4 The Issuer shall be entitled to treat the registered holder of Loan Notes as the absolute owner of the Loan Notes and accordingly shall not, except as ordered by a court of competent jurisdiction or as required by law, be bound to recognise any equitable or other claim to, or interest in, such Loan Notes on the part of any other person whether or not it shall have express or other notice thereof.

11. **Meetings**

Meetings of Noteholders shall be convened and held, and any Noteholder Resolution passed, in accordance with Schedule 3 (*Provisions as to Noteholder Meetings*).

12. **Undertakings**

The Issuer undertakes to the Noteholders and, where applicable, the Security Trustee that from the date of this Instrument and whilst any amount remains outstanding under the Loan Notes or a Committed Loan Note Subscriber has any Undrawn Commitment it shall comply with the provisions of Schedule 5 (*Covenants and Undertakings*).

13. **Warranties**

13.1 The Issuer acknowledges that when:

- (A) each Potential Noteholder signs a Subscription Letter; and
- (B) in accordance with that Subscription Letter, each Noteholder subscribes for the Loan Notes allocated to it,

it does so in reliance upon the representations and warranties set out in Schedule 6 (*Representations and Warranties*) (the "Warranties").

13.2 The Issuer makes the Warranties to each Potential Noteholder on the date that Potential Noteholder signs a Subscription Letter and to the Noteholders on each Issue Date and on each Quarter Date, in each case by reference to the facts and circumstances then existing.

14. **Acceleration and Enforcement**

14.1 Upon the occurrence of an Event of Default which is continuing the Majority Noteholders may:

(A) within a period of 90 days from the date on which the occurrence of the relevant Event of Default is notified to the Security Trustee and the Noteholders (and provided that such Event of Default is then continuing) (the "Enforcement Period") by written notice to the Issuer signed by those Tranche A Noteholders constituting the Majority Noteholders (a "Enforcement Notice") declare:

- (a) that any Undrawn Commitments are cancelled with immediate effect; and /or
- (b) that the principal amount of all of the (and not for the avoidance of doubt part of) Loan Notes then outstanding be immediately due and payable (whereupon the same shall become due and payable together with accrued interest thereon and any other sums then owed by the Issuer to the Noteholders pursuant to any Loan Note Document); and

(B) having declared that the principal amount of all Loan Notes are immediately due and payable (pursuant to sub-paragraph 1(b) above), instruct the Security Trustee to enforce all or any of the Loan Note Security.

14.2 If the Majority Noteholders instruct the Security Trustee to enforce any or all of the Loan Note Security in accordance with clause 14.1 above, the Security Trustee shall enforce the Loan Note Security in such manner as it sees fit but it shall take reasonable care to obtain a fair market value having regard to the prevailing market conditions though it shall have no obligation to postpone (or request the postponement of) any Distressed Disposal in order to achieve a higher value.

14.3 The requirement in clause 14.2 above shall be satisfied (and as between the Noteholders, and the Security Trustee shall be conclusively presumed to be satisfied) if:

- (A) that Distressed Disposal is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law;
- (B) that Distressed Disposal is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of a Loan Note Obligor;
- (C) that Distressed Disposal is made pursuant to a competitive sales process or auction; or
- (D) a financial adviser appointed by the Noteholders or the Security Trustee on their behalf (at the Issuer's cost) has delivered a fairness opinion to the Noteholders in respect of that Distressed Disposal.

14.4 For the avoidance of doubt:

- (A) no Noteholder may accelerate any amount outstanding under the Loan Note Documents or otherwise enforce the Loan Note Security other than pursuant to the provisions of this clause 14;
- (B) the Security Trustee shall only enforce the Loan Note Security in accordance with instructions given in accordance with this clause 14.

15. **Transfer of Loan Notes**

15.1 Subject to clauses 15.2 and 15.3, the Loan Notes shall be transferable by any Noteholder to any other person.

15.2 A Noteholder shall only be permitted to transfer any or all of its Loan Notes to another entity which is experienced, and has expertise, in making investments that are similar to the investment in the Loan Notes by the Noteholders and which entity has been approved (in writing) as a transferee of the Loan Notes by the Issuer.

15.3 A Noteholder shall notify the Issuer with respect to any potential transfer as soon as practicable upon the relevant Noteholder desiring to transfer any or all of its Loan Notes.

15.4 Provided that clauses 15.2 and 15.3 have been complied with, any Loan Note may be transferred by a Noteholder by:

- (A) depositing at the office of the Issuer the certificate in respect thereof for registration of the transfer and an instrument of transfer in any usual or common form duly completed and executed by or on behalf of the transferor (or in any other form which may be approved by the directors of the Issuer); and
- (B) giving evidence, satisfactory to the Issuer (acting reasonably), that any stamp duty or any other taxes or duties payable on transfer of the Loan Note(s) (if any) have been paid; and
- (C) within ten Business Days of receipt of the documents referred to in clause 15.4(B) above (or such longer period as may be required to comply with, and subject to, any applicable laws or regulations) the Issuer will (or procure that another person on its behalf will):

- (1) execute and despatch to the transferee's registered address (at the risk of, but free of charge to, the transferee) a new certificate indicating the number of Loan Notes for which the transferee is entitled following the transfer;
- (2) in the event of a partial transfer of the Loan Notes evidenced by a Loan Note certificate, execute and despatch to the transferor's registered address (or its agent's address) (at the risk of, but free of charge to, the transferor) a new Loan Note certificate specifying the aggregate principal amount of Loan Notes in respect of which such certificate is issued; and
- (3) register the transfer of Loan Notes (or parts thereof) in the Register in accordance with the terms of this clause 15.4(C) and send a copy of the Register to the transferee.

15.5 Any transfer of Loan Notes under this clause 15 will be effective only on and from the date upon which the transfer is registered in the Register.

16. **Fees, Costs and Expenses**

16.1 The Issuer shall ensure that the Security Trustee is pre-funded for the costs of all registration expenses incurred in connection with the registration of the Loan Note Security.

16.2 The Issuer shall pay or reimburse the Noteholders and the Security Trustee within 10 Business Days of demand:

- (A) for all costs and expenses (including legal and any other professional adviser fees and VAT thereon) in respect of any request for an amendment, variation or supplement to, or any waiver of or consent sought or vote under, any Loan Note Document (subject to, where reasonably practicable, prior consultation with the Issuer as to the costs and expenses proposed to be incurred in connection with such proposed amendment, variation, supplement, waiver, consent or vote and on the basis that the Noteholders and Security Trustee shall, wherever practicable, use the same firm of solicitors to represent them with respect to any proposed amendment, variation, supplement, waiver, consent or vote);
- (B) following the occurrence of a Potential Event of Default or an Event of Default, for all costs and expenses (including legal fees and VAT thereon) incurred in or in connection with the preservation and/or enforcement of the Noteholders' and/or Security Trustee's rights against any Loan Note Obligor or pursuant to any Loan Note Document.

16.3 In addition to clause 16.4, the Issuer agrees with the Security Trustee that in the event of:

- (A) the occurrence of an Event of Default which is continuing; or
- (B) the Security Trustee and the Issuer agreeing that it is otherwise appropriate in the circumstances,

the Issuer shall pay the Security Trustee for the cost of the Security Trustee's management time that arises out of, or in connection with, that Event of Default for so long as it is continuing (or out of the circumstances otherwise agreed between the Issuer and the Security Trustee) and this management time will be calculated on the basis of such reasonable daily or hourly rates as the Security Trustee may notify to the Issuer and the Noteholders (on the occurrence of an Event of Default) or as otherwise agreed between the Issuer and the Parent (in any other circumstances).

17. **Role of the Security Trustee**

The role of the Security Trustee shall be governed by the terms set out in Schedule 4 and the Issuer and each Noteholder acknowledges that it shall be bound by such terms and that the Security Trustee may, in connection with any Loan Note Document, enforce such terms against (as applicable) the Issuer and each Noteholder.

18. **Alteration to this Instrument**

The provisions of this Instrument and any other Loan Note Document and the conditions on which the Loan Notes are held may only be modified, varied, amended, waived, abrogated and/or compromised with:

- (A) the consent in writing of the Issuer; and
- (B) the passing of the applicable Noteholder Resolution specified in Condition 1 (or, to the extent there is a single Noteholder, the written consent of such Noteholder),

provided that, to the extent any such modification, variation, amendment, waiver, abrogation and/or compromise may affect the rights and/or obligations of the Security Trustee, the consent of the Security Trustee shall also be required.

19. **Contracts (Rights of Third Parties) Act 1999**

19.1 Save as expressly provided in this Instrument and other than the Noteholders, a person who is not a party to this Instrument has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Instrument.

19.2 For the avoidance of doubt each Noteholder may enforce any provision of this Instrument in its favour.

20. **Law**

20.1 This Instrument and the Loan Notes and any non-contractual obligations arising out of or in connection therewith shall be governed by and construed in accordance with the laws of England and Wales.

20.2 The Issuer submits to the exclusive jurisdiction of the courts of England and Wales in any action or proceedings arising from or in connection with the Loan Notes and the Issuer irrevocably agrees that the courts of England are the most appropriate and convenient courts to settle any such disputes and accordingly will not argue to the contrary.

IN WITNESS of the above this Instrument has been executed as a deed and delivered on the date written at the beginning of this document.

SCHEDULE 1 CERTIFICATE

**Goliad secured Holdings Limited (the “Issuer”)
(registered in England & Wales with company number 10912871)
up to £ [] Secured Interest Bearing Loan Notes due []**

Certificate No

Series.....

Amount GBP £.....

Issued pursuant to a resolution of the Board of Directors of the Issuer passed on [•] 2018.

Issue Date: 20[•]

THIS IS TO CERTIFY THAT [NAME OF NOTEHOLDER] of [ADDRESS] is/are the registered holder(s) of £[AMOUNT] Series [] secured loan notes due [] the “Loan Notes”) constituted by an Instrument entered into by the Issuer on [•] 2018 (the “Instrument”) and issued with the benefit of, and subject to the provisions contained in, the Instrument.

Where the context permits, terms defined in the Instrument shall have the same meaning when used in this Certificate.

This Certificate has been executed as a deed and delivered on the date set out above.

EXECUTED as a **DEED** by)
GOLIAD SECURED HOLDINGS)
LIMITED)
acting by)
a director, in the presence of:) director

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:

Dated:

Note: The Loan Notes are transferable as provided in the Instrument but are not capable of being dealt in on any recognised investment exchange and accordingly no application will be made to any recognised investment exchange for listing or quotation of the Loan Notes

SCHEDULE 2 CONDITIONS

1. **Modification**

- (A) Subject to the other provisions of this Condition 1 and unless otherwise expressly provided elsewhere in the Instrument, the provisions of the Instrument and/or any other Loan Note Document and/or the rights of the Noteholders thereunder are subject to modification, variation, amendment, waiver, abrogation or compromise in any respect with:
- (1) the sanction of an Ordinary Resolution; and
 - (2) the prior written consent of the Issuer.
- (B) Where any proposed modification, variation, amendment, waiver, abrogation or compromise of the provisions of the Instrument and/or any other Loan Note Document and/or the rights of the Noteholders thereunder concerns, or otherwise enables, the Issuer to issue or incur additional Financial Indebtedness otherwise than pursuant to, or as expressly permitted by, the original terms of the relevant Loan Note Document(s) that modification, variation, amendment, waiver, abrogation or compromise shall require:
- (1) the sanction of a Financial Indebtedness Resolution; and
 - (2) the prior written consent of the Issuer.
- (C) Where any proposed modification, variation, amendment, waiver, abrogation or compromise of the provisions of the Instrument and/or any other Loan Note Document and/or the rights of the Noteholders thereunder concerns (1) the Interest Rate on the Notes; (2) the amount payable by the Issuer on the Maturity Date in accordance with clause 6 (*Scheduled Redemption*) of the Instrument; (3) the amount payable by the Issuer on any Voluntary Repayment Date in accordance with clause 7 (*Voluntary Redemption*) of the Instrument, (4) the amount payable by the Issuer on any Noteholder Optional Repayment Date in accordance with clause 8 (*Optional Redemption*) of the Instrument, (5) the date on which the Maturity Date falls and/or (6) the definition of Ordinary Resolution, Financial Indebtedness Resolution and/or Super Majority Resolution and/or the quorum and/or amount of votes required to pass any such Ordinary Resolution, Financial Indebtedness Resolution or Super Majority Resolution that modification, variation, amendment, waiver, abrogation or compromise shall require:
- (1) the sanction of a Super Majority Resolution; and
 - (2) the prior written consent of the Issuer.

2. **Notices and Information Delivery**

- 2.1 Each Noteholder shall at all times maintain an address within the United Kingdom and an email address at which (i) any notice may be served upon it and (ii) any information or document required under the Instrument or any other Loan Note Document to be sent to it (including any compliance certificate), may be sent to it and, if different from the address or email address shown on the Register, the Noteholder shall give notice to the Issuer of such different United Kingdom address or email address.

2.2 Any notice or other document may be given or sent to any Noteholder by sending the same by:

(A) first class post in a prepaid envelope addressed; or

(B) other than in the case of a Certificate (which must be sent by first class post to the relevant Noteholder), email,

to that Noteholder at its address in the United Kingdom or, as applicable, email address as registered in accordance with Condition 2.1 above. In the case of joint registered holders of any Loan Notes, a notice given to the Noteholder whose name stands first in the Register in respect of such Loan Notes shall be sufficient notice to all joint holders.

2.3 To the extent applicable in the event that a Noteholder is transferred to an individual, notice, information or documentation may be given to the persons entitled to any Loan Notes in consequence of the death, bankruptcy or insanity of any Noteholder by sending the same by first class post in a prepaid envelope addressed to them by name or by the title of the representative or trustee of that holder at the address (if any) in the United Kingdom supplied for the purpose by those persons or (until such an address is supplied) in the manner in which it would have been given if the death, bankruptcy or insanity had not occurred.

2.4 Any notice or document required to be given to the Issuer under the Instrument may be given either personally or by sending it by pre-paid recorded or special delivery post (or pre-paid international recorded airmail if sent internationally) to the Issuer's registered office address from time to time and/or to the email address it may specify to the Noteholders from time to time for the purposes of receiving notices and/or information or documentation under the Loan Note Documents.

2.5 Any notice given or document delivered by hand or by email before 5.30 p.m. on any Business Day shall be deemed to have been given at the time of delivery or, in the case of email, at the time it was received, and otherwise at 10.00 am on the next Business Day. Any notice or other document sent by post in accordance with the Conditions shall be deemed duly given two Business Days after posting if posted to an address within the United Kingdom from an address within the United Kingdom and ten (10) Business Days if posted to an address within the United Kingdom from an address not within the United Kingdom.

3. **Registered holder and transmission**

3.1 Except as required by law or as ordered by a court of competent jurisdiction, the Issuer will recognise the registered holder of any Loan Notes as the absolute owner of them and shall not be bound to take notice or see to the execution of any trust, whether express, implied or constructive, to which any Loan Notes may be subject.

3.2 The executors or administrators of a deceased registered holder of Loan Notes (not being one of several joint registered holders) and in the case of the death of one or more of several joint registered holders the survivor or survivors of such joint registered holders shall be the only person or persons recognised by the Issuer as having any title to such Loan Notes.

3.3 Any person becoming entitled to Loan Notes in consequence of the death, bankruptcy or insanity of a holder of Loan Notes or of any other event giving rise to the transmission of those Loan Notes by operation of law may, upon producing such evidence in respect of which he, she or it proposes to act under this Condition or of his, her or its title as the Issuer shall reasonably require, be registered as the holder of those Loan Notes.

4. **Replacement certificates**

If any Loan Note is defaced, lost or destroyed, it shall be renewed at the request of the registered holder within ten (10) Business Days of the date of such request (or, if the date of repayment falls during this period, on the date of such repayment) on such terms (if any) as to evidence and indemnity as the directors of the Issuer may reasonably require but so that, in the case of defacement, the defaced Loan Note shall be surrendered to the Issuer before the new Loan Note is issued.

5. **Payments**

5.1 All payments to be made under the Loan Note Documents shall be made in full without any deduction, set-off (subject to condition **Error! Reference source not found.** below), counterclaim and, subject to condition 5.2, withholding in immediately available cleared funds on the due date.

5.2 In the event that the Issuer is required by law to withhold with respect to any Tax that may be levied on any payment the Issuer is required to make to any Original Noteholder under the Loan Note Documents the Issuer shall increase the payment to the relevant Original Noteholder by such amount which (after making the relevant withholding) leaves an amount equal to the payment which would have been made if no withholding had been required.

5.3 Where the Issuer is required to withhold with respect to any Tax that may be levied on any payment the Issuer is required to make to any Noteholder which is not an Original Noteholder the Issuer shall have no obligation under condition 5.2 and the relevant payment shall be made net of the withholding that the Issuer is required by law to make.

5.4 Any payment which is due to be made on a day which is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the immediately preceding Business Day (if there is not).

5.5 All payments to be made by the Issuer to a Noteholder under or in connection with the Loan Note Documents shall be paid by the Issuer to the account specified for this purpose in that Noteholder's Subscription Letter or as otherwise notified to the Issuer by that Noteholder on no less than 10 Business Days' notice prior to the relevant due date for that payment.

6. **Transfers**

Transfers of the Loan Notes shall be subject to the provisions of clause 15 (*Transfer of Loan Notes*) of the Instrument.

7. **Definitions**

Words and expressions defined in the Instrument shall have the same respective meanings where used in these Conditions.

SCHEDULE 3 PROVISIONS AS TO NOTEHOLDER MEETINGS

1. The Issuer may, and shall at the request in writing of Noteholders holding not less than one tenth of the principal face value of the Loan Notes for the time being outstanding, convene a meeting of the Noteholders. Such a meeting shall be held at such place within England as the Issuer shall determine or approve.
2. Any meeting of the Noteholders shall be held for the purposes of considering and if thought fit approving any matter in connection with the Loan Notes by way of the applicable Noteholder Resolution in accordance with Condition 1.
3. At least fourteen (14) days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every meeting shall be given to the Noteholders in accordance with Condition 2. The notice shall specify the place, day and hour of meeting and the terms of the resolutions to be proposed.
4. Subject to the provisions of paragraph 5 of this Schedule 3 with regard to adjourned meetings and to paragraph 17 of this Schedule 3, at any meeting the quorum shall be a person or persons holding or representing by proxy more than 50 per cent. in amount of the Loan Notes for the time being outstanding (for the avoidance of doubt without prejudice to the thresholds required to pass a Financial Indebtedness Resolution or a Super Majority Resolution). No business shall be transacted at any meeting (other than the choosing of a Chairman) unless the requisite quorum is present at the commencement of business. For the purposes of this Schedule one person may constitute a meeting.
5. If within fifteen (15) minutes, or such longer time (not exceeding half an hour) as the Chairman may determine to wait, from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Noteholders, shall be dissolved. In any such case it shall stand adjourned to such day and time not being less than ten (10) Business Days or more than twenty one (21) days after that date and to such place in England as may be appointed by the Chairman and at the adjourned meeting any Noteholder or Noteholders present in person or by proxy whatever the amount of the Loan Notes held by them shall be a quorum (for the avoidance of doubt without prejudice to the thresholds required to pass a Financial Indebtedness Resolution or a Super Majority Resolution). At least five (5) Business Days' notice of any meeting of Noteholders adjourned through want of a quorum shall be given in the same manner *mutatis mutandis* as for an original meeting and that notice shall state that any Noteholder or Noteholders present in person or by proxy at the adjourned meeting whatever the amount of Loan Notes held by them will form a quorum. Except as provided in this paragraph, it shall not be necessary to give notice of any adjourned meeting.
6. Any person (who may, but need not, be a Noteholder) nominated in writing by the Issuer shall preside as Chairman at every meeting and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen (15) minutes after the time appointed for holding the meeting, the Noteholders present shall choose one of their number to be Chairman.
7. The Chairman may with the consent of (and shall if directed by) any meeting at which a quorum is present adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.

8. At any meeting a resolution put to the vote of the meeting shall be decided on a poll. The poll shall be taken in such manner as the Chairman may direct and the result of such a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
9. On a poll every Noteholder who is present in person or present by its duly authorised representative or by proxy shall be counted for the purposes of that poll by reference to the principal amount of Loan Notes held by that Noteholder and, where applicable, any Undrawn Commitment of that Noteholder.
10. In the case of joint registered holders of Loan Notes the vote of the senior Noteholder who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.
11. On a poll votes may be given either personally or by proxy and a Noteholder is entitled to split its vote (by reference to the principal amount of Loan Notes and, where applicable, Undrawn Commitment held by that Noteholder) in any proportion the Noteholder may determine.
12. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation either under its common seal or under the hand of a duly authorised officer or attorney.
13. A person appointed to act as a proxy need not be a Noteholder.
14. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited at such place or places as the Issuer may in the notice convening the meeting direct or if no such place is appointed then at the registered office for the time being of the Issuer not less than 48 hours before the time appointed for holding the meeting or adjourned meeting (or in the case of a poll held twenty four (24) hours or more after the time appointed for the meeting or adjourned meeting not less than twenty four (24) hours before the time appointed for the taking of the poll) at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.
15. An instrument of proxy may be in the usual common form or in such other form as the Issuer may approve. The proxy shall be deemed to include the right to demand or join in demanding a poll. An instrument of proxy shall, unless the contrary is stated on it, be valid as well for any adjournment of the meeting as for the meeting to which it relates and need not be witnessed.
16. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such revocation shall have been received at the registered office for the time being of the Issuer at least two (2) hours before the commencement of the meeting or adjourned meeting or the taking of the poll at which the proxy is used.
17. Any company or corporation which is a registered holder of any of the Loan Notes may by resolution of its directors or other governing body authorise any person to act as its representative which representative shall be entitled to exercise the same powers on behalf of the company or corporation which he represents as if he were the registered holder of the Loan Notes.

18. A Noteholder Resolution passed at a meeting of the Noteholders duly convened and held in accordance with the provisions of this Schedule and Condition 1 shall be binding upon all the Noteholders whether or not present at the meeting and each of the Noteholders shall be bound to give effect to it accordingly.
19. Minutes of all resolutions at every meeting shall be made, signed by the chairman of the meeting and duly entered in books to be from time to time provided by the Issuer and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed at them to have been duly passed.
20. A reference herein to a Noteholder also includes, in respect of any Committed Loan Note Subscriber who is not yet a Noteholder, that Committed Loan Note Subscriber.



SCHEDULE 4 ROLE OF THE SECURITY TRUSTEE

1. **Appointment**

- 1.1 The Security Trustee acknowledges that, subject to applicable law, it holds the Secured Property on trust for the Noteholders on the terms contained in this Schedule.
- 1.2 Each Noteholder authorises the Security Trustee to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Trustee under or in connection with the Loan Note Documents together with any other incidental rights, powers, authorities and discretions.
- 1.3 In the event of any inconsistency between the terms of this Schedule 4 and any other Loan Note Document, the terms of this Schedule 4 shall prevail.
- 1.4 A Noteholder's execution of the Subscription Letter relevant to it shall constitute its acceptance and acknowledgement of the terms of this Schedule 4 and the Security Trustee may rely on the provisions of this Schedule 4 in connection with each and every Loan Note Document.

2. **Instructions**

- 2.1 The Security Trustee shall:
 - (A) unless a contrary indication appears in the Instrument (including, but not limited to, pursuant to clause 15 (*Acceleration and Enforcement*) of the Instrument), exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Trustee in accordance with any instructions given to it by the Majority Noteholders; and
 - (B) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph 2.1(A) above.
- 2.2 The Security Trustee shall be entitled to request instructions, or clarification of any instruction, from the Noteholders or any group of Noteholders as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Trustee may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- 2.3 Unless a contrary indication appears in the Instrument or the Loan Notes (including, but not limited to, pursuant to clause 15 (*Acceleration and Enforcement*) of the Instrument), any instructions given to the Security Trustee by the Majority Noteholders shall override any conflicting instructions given by any other parties and will be binding on all Secured Creditors save for the Security Trustee.
- 2.4 The Security Trustee may (without liability) refrain from acting in accordance with any instructions of any Noteholder or group of Noteholders until it has received any indemnification and/or security and/or pre-funding that it may in its discretion require (which may be greater in extent than that contained in the Instrument and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- 2.5 In the absence of instructions, the Security Trustee may act (or refrain from acting) as it considers to be in the best interest of the Noteholders but is not permitted or obligated to

take any action to enforce the Loan Note Security unless it has received the requisite instructions from the requisite group of Noteholders as provided for in clause 15 (*Acceleration and Enforcement*) of the Instrument.

2.6 Where the Security Trustee has been instructed to enforce all or any part of the Loan Note Security pursuant to clause 15 (*Acceleration and Enforcement*) of the Instrument (including, for these purposes, where instructed to appoint an administrator to the Issuer) the Security Trustee is irrevocably authorised by each Noteholder (without the need to seek the further consent or permission of any Noteholder) to release all or any part of the Loan Note Security and/or all or any part of the Secured Liabilities for and on behalf of each of the Noteholders in the manner instructed by, as applicable in accordance with clause 15 (*Acceleration and Enforcement*) of the Instrument.

2.7 The Security Trustee is not authorised to act on behalf of a Noteholder (without first obtaining that Noteholder's consent) in any legal or arbitration proceedings relating to the Instrument or the Loan Notes. This paragraph 2.7 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Loan Note Security Documents or the enforcement of the Loan Note Security.

3. **Duties of the Security Trustee**

3.1 The Security Trustee's duties under the Loan Note Documents are solely mechanical and administrative in nature.

3.2 Subject to paragraph 3.3 below, the Security Trustee shall promptly forward to a Noteholder the original or a copy of any document which is delivered to the Security Trustee for that Noteholder by the Issuer or another Noteholder.

3.3 Except where a Loan Note Document specifically provides otherwise, the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another party.

3.4 If the Security Trustee receives notice from a party referring to this Instrument or the Loan Notes, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the Noteholders.

3.5 If the Security Trustee is aware of the non-payment of any principal, interest or fee payable to a Secured Creditor (other than the Security Trustee) under this Instrument or the Loan Notes, it shall promptly notify the Noteholders.

3.6 The Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Schedule.

3.7 No provision of the Instrument or any other Loan Note Document shall (a) confer on the Security Trustee any right to exercise any investment discretion in relation to the assets subject to the trust constituted by the Instrument and, to the extent permitted by law, Section 3 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by the Instrument and (b) require the Security Trustee to do anything which may cause the Security Trustee to be considered a sponsor of a covered fund under Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and any regulations promulgated thereunder.

4. **No fiduciary duties**

4.1 Nothing in the Instrument constitutes the Security Trustee as an agent, trustee or fiduciary of a Loan Note Obligor.

4.2 The Security Trustee shall not be bound to account to any Noteholder for any sum or the profit element of any sum received by it for its own account.

5. **Business with the Issuer**

The Security Trustee may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Noteholder and shall not be precluded from pursuing any other arrangement with any party to the Loan Note Documents.

6. **Rights and discretions**

6.1 The Security Trustee may:

(A) rely on any representation, communication, notice or document believed by it to be genuine and appropriately authorised;

(B) assume that:

(1) any instructions received by it from a Noteholder or any group of Noteholders are duly given in accordance with the terms of the Instrument;

(2) unless it has received notice of revocation, that those instructions have not been revoked; and

(3) if it receives any instructions to act in relation to the Loan Note Security in accordance with the terms of the Loan Note Documents, that all applicable conditions under (as applicable) the Instrument, the Loan Notes and the Loan Note Security Documents for so acting have been satisfied; and

(C) call for and rely on a certificate from any person (to be signed by two directors or authorised signatories in the case of a certificate given by any party to the Loan Note Documents):

(1) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(2) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph 6.1(C)(1) above, may assume the truth and accuracy of that certificate.

6.2 The Security Trustee may assume (unless it has received written notice to the contrary in its capacity as security trustee for the Noteholders) that:

(A) no Potential Event of Default or Event of Default has occurred (unless it has actual knowledge of an Event of Default);

(B) any right, power, authority or discretion vested in any party or any group of Noteholders has not been exercised; and

- (C) each of the relevant parties are observing and performing all their respective obligations under the Loan Note Documents.
- 6.3 The Security Trustee may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- 6.4 Without prejudice to the generality of paragraph 6.3 above or paragraph 6.5 below, the Security Trustee may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Trustee (and so separate from any lawyers instructed by the Noteholders) if the Security Trustee in its reasonable opinion deems this to be desirable.
- 6.5 The Security Trustee may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Trustee or by any other party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- 6.6 The Security Trustee may act in relation to the Instrument and the Loan Note Security through its officers, employees, delegates and agents and the Security Trustee shall not:
- (A) be liable for any error of judgement made by any such person; or
 - (B) be bound to supervise, or be in any way responsible for, any loss incurred by reason of misconduct, omission or default on the part of any such person,
- unless such error or such loss was directly caused by the Security Trustee's gross negligence, fraud or wilful misconduct.
- 6.7 Unless the Instrument or another Loan Note Document expressly provides otherwise, the Security Trustee may disclose to any other party any information it reasonably believes it has received in its capacity as security trustee for the Noteholders.
- 6.8 Notwithstanding any other provision of the Instrument or any other Loan Note Document to the contrary, the Security Trustee is not obliged to do or omit to do anything (including, but not limited to, the disclosure of any information) if it would or might constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- 6.9 Notwithstanding any provision of the Instrument or any other Loan Note Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security or pre-funding for, such risk or liability is not reasonably assured to it.
- 6.10 The Issuer shall provide to the Security Trustee a copy of all notices and information that the Issuer provides to the Noteholders or to any Noteholder.
- 6.11 The Issuer and each Secured Creditor shall supply the Security Trustee with any information that the Security Trustee may reasonably specify as being necessary or desirable to enable the Security Trustee to perform its functions as Security Trustee.
- 6.12 No provision of this Instrument or any other Loan Note Document will require the Security Trustee to do anything which may be illegal or contrary to applicable law or regulation or the requirements of any regulatory authority or the internal procedures of the Security Trustee

in relation to “know your client” or the prevention of money laundering, or prevent the Security Trustee from doing anything which is necessary or desirable to comply with any applicable law or regulation or the requirements of any regulatory authority or the internal procedures of the Security Trustee in relation to “know your client” or the prevention of money laundering.

7. **Responsibility for documentation**

7.1 The Security Trustee is not responsible or liable for:

- (A) the adequacy, accuracy, completeness, or the compliance of any other Party with the terms, of any document or information (whether oral or written) supplied by the Security Trustee, the Issuer or any other person in or in connection with any of the Loan Note Documents or the transactions contemplated in the Loan Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Loan Note Document; or
- (B) the legality, validity, effectiveness, adequacy or enforceability of any Loan Note Document or the Loan Note Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Loan Note Document or pursuant to the Loan Note Security; or
- (C) any determination as to whether any information provided or to be provided to any Noteholder is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

8. **No duty to monitor**

8.1 The Security Trustee shall be not be bound to enquire:

- (A) whether or not any Potential Event of Default or Event of Default has occurred;
- (B) as to the performance, default or any breach by any party of its obligations under the Loan Note Documents; or
- (C) whether any other event specified in the Instrument or any other Loan Note Document has occurred or is continuing.

9. **Exclusion of liability**

9.1 The Security Trustee shall not be liable to any other person for any loss arising from any performance, default or breach by any part of its obligations under the Loan Note Documents, unless directly caused by the Security Trustee’s gross negligence, fraud or wilful misconduct.

9.2 Without prejudice to any other provision of a Loan Note Document excluding or limiting the liability of the Security Trustee (including paragraph 9.1 above), the Security Trustee will not be liable for:

- (A) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with the Loan Note Documents or the Loan Note Security, unless directly caused by its gross negligence, fraud or wilful misconduct;

- (B) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with the Loan Note Documents or the Loan Note Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Loan Note Documents or the Loan Note Security;
- (C) any shortfall which arises on the enforcement or realisation of the Loan Note Security; or
- (D) without prejudice to the generality of paragraphs 9.1 and 9.2(A) to 9.2(C) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (1) any act, event or circumstance not reasonably within its control; or
 - (2) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

9.3 No person (other than the Security Trustee) may take any proceedings against any officer, employee or agent of the Security Trustee, in respect of any claim it might have against the Security Trustee or in respect of any act or omission of any kind by that officer, employee or agent in relation to the Loan Note Documents or the Loan Note Security and any officer, employee or agent of the Security Trustee may rely on this paragraph for all purposes under the Loan Note Documents.

9.4 Nothing in this Instrument shall oblige the Security Trustee to carry out:

- (A) any “know your customer” or other checks in relation to any person; or
- (B) any check on the extent to which any transaction contemplated by a Loan Note Document might be unlawful for any Noteholder,

on behalf of any Noteholder and each Noteholder confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.

9.5 Without prejudice to any provision of a Loan Note Document excluding or limiting the Security Trustee’s liability, any liability of the Security Trustee arising under or in connection with the Loan Note Documents or any Loan Note Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of, as applicable, the Security Trustee or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee at any time which increase the amount of that loss. In no event shall the Security Trustee be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not foreseeable and whether or not the Security Trustee has been advised of the possibility of such loss or damages, and

regardless of whether the claim for loss or damage is made in negligence, breach of contract, duty or otherwise.

10. **Resignation of the Security Trustee**

- 10.1 The Security Trustee may resign without assigning any reason and without liability for any loss to any person incurred by such resignation by giving at least 60 days' notice to the Noteholders and the Issuer, in which case the Noteholders may appoint a successor Security Trustee.
- 10.2 If the Noteholders have not appointed a successor Security Trustee in accordance with paragraph 10.1 above within 40 days after notice of resignation was given, the retiring Security Trustee (after consultation with the Issuer) may appoint a successor Security Trustee. The Issuer will indemnify the retiring Security Trustee for the costs incurred by it in appointing a successor Security Trustee provided the retiring Security Trustee has first notified the Issuer of those costs and consulted with it as to how those costs may be mitigated.
- 10.3 The retiring Security Trustee shall make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Loan Note Documents at the cost of the Issuer.
- 10.4 The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer of all the Loan Note Security to that successor.
- 10.5 Upon the appointment of a successor, the retiring Security Trustee shall be discharged from any further obligation in respect of the Loan Note Documents (and, to the extent applicable, any fees for the account of the retiring Security Trustee shall cease to accrue from (and shall be payable on) that date). Any successor shall have the same rights and obligations under the Loan Note Documents as they would have had if such successor had been an original party.

11. **Confidentiality**

- 11.1 In acting as security trustee for the Secured Creditors, the Security Trustee shall be regarded as (to the extent applicable) acting through its agency or, as applicable, trustee division which shall be treated as a separate entity from any other of its divisions or departments.
- 11.2 If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it.

12. **Relationship with the Noteholders**

- 12.1 The Security Trustee may treat the person shown in the Register as a Noteholder as:
- (A) entitled to or liable for any payment due under the Instrument or Loan Notes on that day; and
 - (B) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under the Instrument or Loan Notes made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Noteholder to the contrary in accordance with the terms of this Instrument.

13. **Credit appraisal by the Noteholders**

13.1 Without affecting the responsibility of the Issuer for information supplied by it or on its behalf in connection with the Loan Note Documents, each Noteholder confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with the Instrument, the Loan Notes and the Loan Note Security including but not limited to:

- (A) the financial condition, status and nature of the Issuer;
- (B) the legality, validity, effectiveness, adequacy or enforceability of each Loan Note Document and the Loan Note Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Loan Note Documents or the Loan Note Security;
- (C) whether that Noteholder has recourse, and the nature and extent of that recourse, against any party or any of its respective assets under or in connection with the Loan Note Documents, the Loan Note Security, the transactions contemplated by the Loan Note Documents or the Loan Note Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Loan Note Documents or the Loan Note Security;
- (D) the adequacy, accuracy or completeness of any information provided by the Security Trustee or by any other person under or in connection with the Loan Note Documents, the transactions contemplated by the Loan Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Loan Note Documents; and
- (E) the right or title of any person in or to, or the value or sufficiency of any part of the Loan Note Security, the priority of any of the Loan Note Security or the existence of any other security affecting the Loan Note Security.

14. **Delegation and additional Security Trustees**

14.1 The Security Trustee may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

14.2 That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Trustee may, in its discretion, think fit in the interests of the Secured Creditors.

14.3 The Security Trustee shall not be bound to supervise or, provided that the Security Trustee has exercised due care in selecting any delegate or sub-delegate, be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

14.4 The Security Trustee may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:

- (A) if it considers that appointment to be in the interests of the Secured Creditors;

- (B) for the purposes of conforming to any legal requirement, restriction or condition which the Security Trustee deems to be relevant; or
- (C) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Trustee shall give prior notice to the Issuer and the Noteholders of that appointment.

- 14.5 Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Trustee under or in connection with the Loan Note Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- 14.6 The remuneration that the Security Trustee may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of the Loan Note Documents, be treated as costs and expenses incurred by the Security Trustee.

15. **Noteholders Indemnity to the Security Trustee**

In circumstances where the Security Trustee has claimed reimbursement from a Loan Note Obligor for any cost, loss or liability incurred by it pursuant to any provision of the Loan Note Documents and has not received the reimbursement it is entitled to from the relevant Loan Note Obligor, each Noteholder shall (in proportion to its share of the amounts outstanding in respect of the Loan Notes or, if the amounts outstanding are then zero, to its share of the amounts outstanding immediately prior to their reduction to zero) indemnify the Security Trustee, within three Business Days of demand, against any cost, loss or liability incurred by the Security Trustee (otherwise than by reason of the Security Trustee's gross negligence, fraud or wilful misconduct) in acting as Security Trustee under the Loan Note Documents. This Clause 15 shall survive termination of the appointment of the Security Trustee or of this Instrument.

16. **No responsibility to perfect Security**

- 16.1 The Security Trustee shall not be liable for any failure to:
 - (A) require the deposit with it of any deed or document certifying, representing or constituting the title of a Loan Note Obligor to any of the Secured Property;
 - (B) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Loan Note Documents or the Loan Note Security;
 - (C) register, file or record or otherwise protect any of the Loan Note Security (or the priority of any of the Loan Note Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Loan Note Documents or of the Loan Note Security;
 - (D) take, or to require a Loan Note Obligor to take, any steps to perfect its title to any of the Secured Property or to render the Loan Note Security effective or to secure the creation of any ancillary Loan Note Security under the laws of any jurisdiction; or
 - (E) require any further assurance in relation to any Loan Note Security.

17. **Insurance by Security Trustee**

- 17.1 The Security Trustee shall not be obliged to insure any of the Secured Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in any Loan Note Document and the Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of, or inadequacy of, any such insurance.
- 17.2 Where the Security Trustee is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Noteholders have requested it to do so in writing and the Security Trustee fails to do so within fourteen days after receipt of that request.

18. **Custodians and nominees**

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee may determine, including for the purpose of depositing with a custodian this Instrument or any document relating to the trust created under this Instrument and, provided that the Security Trustee has exercised due care in selecting such person, the Security Trustee shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Instrument or be bound to supervise the proceedings or acts of any person.

19. **Acceptance of title**

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that a Loan Note Obligor may have to any of the Secured Property and shall not be liable for or bound to require a Loan Note Obligor to remedy any defect in its right or title.

20. **Order or application**

- 20.1 Subject to paragraphs 20.2 and 20.3 below, all amounts from time to time received or recovered by the Security Trustee pursuant to the terms of any Loan Note Document or in connection with the realisation or enforcement of all or any part of the Loan Note Security (for the purposes of this paragraph 20, the "Recoveries") shall be held by the Security Trustee on trust to apply them at any time as the Security Trustee (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this paragraph 20), in the following order of priority:
- (A) in discharging any sums owing to the Security Trustee or any Receiver or any Delegate;
 - (B) in payment or distribution (on a pro rata basis) to each Noteholder in respect of any interest, fees or expenses accrued and outstanding but not paid to that Noteholder under the Loan Note Documents;
 - (C) in payment or distribution (on a pro rata basis) to each Noteholder in respect of any principal outstanding under any Note;
 - (D) if the issuer is not under any further actual or contingent liability under any Loan Note Document, in payment or distribution to any person to whom the Security Trustee is obliged to pay or distribute in priority to the Issuer; and

(E) the balance, if any, in payment or distribution to the Issuer.

20.2 The Security Trustee may, in its discretion hold any amount of the Recoveries which is in the form of cash, and any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any non-cash consideration, in one or more interest bearing suspense or impersonal accounts in the name of the Security Trustee with such financial institution (including itself) as the Security Trustee shall think fit (the interest being credited to the relevant account) for so long as the Security Trustee shall think fit for later application under paragraph 20.1 above in respect of:

(A) any sum to the Security Trustee, any Receiver or any Delegate; and

(B) any part of the Secured Liabilities,

that the Security Trustee reasonably considers, in each case, might become due or owing at any time in the future.

20.3 The Security Trustee shall be entitled, in its discretion, (1) to set aside by way of reserve amounts required to meet and (2) to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under the Loan Note Documents, and to pay all Taxes which may be assessed against it in respect of any of the Secured Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Trustee under any of the Loan Note Documents or otherwise.

21. **Winding up of trust**

If the Security Trustee determines (having received a confirmation or instruction from each Noteholder in writing that its determination is correct) that (i) all of the obligations secured by the Loan Note Security Documents have been fully and finally discharged and (ii) no Secured Creditors are under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Loan Note Obligor pursuant to any of the Loan Note Documents the trusts set out in this Instrument shall be wound up and the Security Trustee shall (at the cost of the Issuer) release, without recourse or warranty, all of the Loan Note Security and the rights of the Security Trustee under each of the Loan Note Security Documents.

22. **General**

22.1 The rights, powers and discretions conferred upon the Security Trustee by this Instrument (and any other Loan Note Document) shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

22.2 Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Instrument (or any other Loan Note Document). Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Instrument (or any other Loan Note Document), the provisions of this Instrument (or, as applicable, other Loan Note Document) shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Instrument (or other relevant Loan Note Document) shall constitute a restriction or exclusion for the purposes of that Act.

SCHEDULE 5 COVENANTS AND UNDERTAKINGS

1. Information covenants and undertakings

- 1.1 The Issuer shall provide to each Noteholder and, where requested by the Security Trustee, the Security Trustee:
- (A) its annual audited statutory accounts within 120 days of the end of the financial year to which they relate;
 - (B) commencing with the Quarter Date ending on the first complete Quarter to occur after the First Issue Date, quarterly reports and management accounts within 30 days of the end of each Quarter Date, including balance sheet and profit and loss account with comparisons to the projections contained in the then applicable annual budget (and explanations for any variances in performance to that set out in the then applicable annual budget);
 - (C) within 30 days of the end of each Quarter Date a quarterly covenant compliance certificate with respect to the applicable Financial Covenants set out in paragraph 3 of this Schedule 5 signed by two directors of the Issuer (one of whom shall be the Issuer's financial director); (and for the avoidance of doubt that compliance certificate shall only be required to include a certification with respect to a Financial Covenant where a Loan Note Document requires that Financial Covenant to be complied with as at the relevant Quarter Date); and
 - (D) promptly upon becoming aware of the same, details of any litigation, arbitration or administrative proceeding raised or threatened against, or defended by the Issuer, which involves (or would involve if an adverse finding were made in respect thereof) a total liability (whether actual or contingent) in excess of £10,000.
- 1.2 The Issuer shall notify each Noteholder and the Security Trustee:
- (A) of any Potential Event of Default or Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence;
 - (B) of the proposed occurrence of any Specified Event as soon as that Specified Event is contractually committed to; and
 - (C) of any breach by it, its officers or employees of any applicable anti-bribery or anti-corruption legislation promptly upon becoming aware of its occurrence.
- 1.3 The Issuer undertakes that it shall, upon reasonable prior notice from a Noteholder or the Security Trustee, and at reasonable times during ordinary business hours, permit such persons as may be designated by that Noteholder or by the Security Trustee (including their respective auditors and/or any of their respective successors) to visit the sites, installations or works of the Issuer and to conduct such checks as may, in their absolute discretion, be reasonably required in order to ascertain the Issuer's compliance with the terms of the Loan Note Documents or compliance of the obligations of any Noteholder to any of its stakeholders (including any funders of that Noteholder) in connection with its subscription for Loan Notes pursuant to this Instrument.

2. **Commercial Covenants and Undertakings**

2.1 The Issuer shall:

- (A) use the net proceeds of the issue of the Loan Notes to procurement of US based Oil and Gas wells, development of Oil and Gas wells and to pay the fees, costs and expenses incurred by it in connection with the issue of the Loan Notes;
- (B) perform and observe its obligations contained in the Instrument to the intent that this Instrument shall endure for the benefit of all persons from time to time registered as Noteholders each of whom may, subject as herein provided, sue for the performance or observance of these provisions so far as his, her or its holding of Loan Notes is concerned in accordance with the terms of the Loan Note Documents;
- (C) ensure that there is no fundamental change in the nature of its business to that conducted on the date of the Instrument (i.e. the provision of small, affordable, unsecured loans to customers in the United Kingdom) and maintain its existence and carry on its activities in accordance with its constitutional documents in the form as at the date of this Instrument;
- (D) obtain and maintain in force all assets, Authorisations and insurances necessary for the conduct of its business, including the Material Licences and any licences to any intellectual property;
- (E) use its best efforts to file, prosecute, maintain, defend and enforce present and future rights in, or relating to, the Secured Property in respect of which it has granted Loan Note Security and all other intellectual property of it including (without limitation) by observing all material covenants and stipulations relating to those rights, and by paying all applicable application, registration, renewal and licence fees and other outgoings or taxes necessary to maintain that Secured Property in full force and effect, and recording its interest in that Secured Property;
- (F) not knowingly cause or permit any of the Secured Property in respect of which it has granted Loan Note Security to be abandoned, cancelled or to lapse;
- (G) not grant or permit to subsist any Security Interest over all or any of its assets other than Permitted Security;
- (H) not sell, transfer, lease, licence or in any way dispose of all or any of its assets including, in particular, the Secured Property other than pursuant to a Permitted Disposal;
- (I) not borrow, raise or incur any Financial Indebtedness other than Permitted Financial Indebtedness;
- (J) effect and maintain sufficient and appropriate policies of insurance of the business and assets of the Issuer and directors and officers liability insurance;
- (K) not incorporate or acquire any Subsidiaries or be or become a party to any joint venture.
- (L) The Company shall:
 - (1) comply with all Environmental Laws;

- (2) obtain, maintain and ensure compliance with all requisite Environmental Permits;
- (3) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

(M) The Company shall promptly upon becoming aware of the same, inform the Security Trustee and the Noteholders in writing of:

- (1) any Environmental Claim against it which is current, pending or threatened; and
- (2) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it,

where the claim, if determined against it, has or is reasonably likely to have a Material Adverse Effect.

3. **Financial Covenants**

3.1 The Issuer shall ensure that:

- (A) Adjusted Leverage for each Relevant Period commencing with the Relevant Period ending on 31 July 2018 and in respect of each Relevant Period thereafter does not exceed 0.6:1.;
- (B) Cashflow Cover for each Relevant Period commencing with the Relevant Period ending on 31 July 2018 and in respect of each Relevant Period thereafter.

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SCHEDULE 6 REPRESENTATIONS AND WARRANTIES

1. The Issuer is a company duly incorporated and validly existing under the laws of England and Wales and has the power to own its assets and carry on its business as it is being conducted on, as applicable, the date of this Instrument or the date on which this Warranty is repeated.
2. The obligations expressed to be assumed by the Issuer in each Loan Note Document to which it is party are, subject to any general principles of law limiting its obligations, legal, valid and binding obligations.
3. The entry into and performance by the Issuer of, and the transactions contemplated by, the Loan Note Documents to which it is party do not and will not conflict with:
 - (A) any law or regulation applicable to it;
 - (B) its constitutional documents; or
 - (C) any agreement or instrument binding upon it or any of its assets.
4. The Issuer has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Loan Note Documents to which it is party and the transactions contemplated by those documents.
5. All Authorisations required to enable the Issuer to lawfully enter into, exercise its rights and comply with its obligations in the Loan Note Documents to which it is party have been obtained or effected and are in full force and effect.
6. No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, could be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against the Issuer and the Issuer is not in dispute with any government agency.
7. The Issuer is conducting its business and operations in all material respects in compliance with all laws (including environmental and anti-corruption laws) and Authorisations applicable to it.
8. All Material Licences are in full force and effect.
9. Neither the Issuer nor any of its officers or directors and, so far as the Issuer is aware, none of its employees, has conducted any dealings, directly or indirectly, with any person subject to U.S., U.K. or EU or economic sanctions or any person owned or controlled by, or acting on behalf of, any person subject to such sanctions.
10. No Insolvency Event has occurred in respect of the Issuer.
11. No Security Interest exists over all or any of the present or future assets of the Issuer (including, without limitation, the Secured Property) other than as permitted pursuant to the Loan Note Documents.
12. No Financial Indebtedness of the Issuer is outstanding other than under, or as otherwise permitted by, a Loan Note Document.

13. The Issuer is the sole owner of the Secured Property the subject of the Loan Note Security granted by it.
14. The Issuer:
 - (A) has taken all formal or procedural actions required to maintain the Secured Property the subject of the Loan Note Security granted by it, including the payment of all application, registration and renewal fees in respect of that Secured Property;
 - (B) is not aware of:
 - (1) any infringement of, or any challenge to the validity of, any of the Secured Property the subject of the Loan Note Security granted by it;
 - (2) any matters which may materially adversely affect the Loan Note Security granted over the Secured Property owned by it;
 - (C) has obtained any and all consents, permissions and/or Authorisations required to grant the Loan Note Security over the Secured Property owned by it.
15. The information contained or referred to in the applicable Loan Note Security Document in relation to the Secured Property the subject of that Loan Note Security Document is true, complete, accurate and not misleading in any respect.
16. All opinions and statements of expectation of the Issuer expressed or contained in any document provided to the Noteholders or the Security Trustee pursuant to, or in connection with, any Loan Note Document were, when made, given in good faith after careful consideration, were and remain honestly and reasonably held and made and all factual information which was provided by the Issuer to a Noteholder in connection with its investment in any Loan Notes (including in the Information Memorandum) was as its date and is true and accurate in all material respects unless the Issuer has specifically disclosed to the contrary to a Noteholder in writing prior to that Noteholder signing its Subscription Letter.
17. The register of members and other statutory books of the Issuer have been properly kept and contain an accurate and complete record of the matters with which they shall deal.
18. The Issuer is not aware of any liability (for example, clean up costs or damage to a third party) for which the Issuer is responsible arising from any environmental pollutant.
19. The Issuer has complied with all of its obligations relating to taxation including without limitation income tax, PAYE, national insurance contributions, corporation tax and value added tax and there are no outstanding liabilities (including penalties or interest) relating to taxation (other than any taxes that it is contesting in good faith and by appropriate proceedings, in respect of which a reasonably adequate reserve has been established).
20. The Issuer has no liability with respect to any defined benefit pension scheme.
21. No Event of Default or Potential Event of Default has occurred and is continuing or might reasonably be expected to result from the entry into, or its performance of or any transaction contemplated by, the Loan Note Documents and no other event or circumstance is continuing which constitutes a default under any other agreement which is binding on it or to which any of its assets are subject where that default has or is reasonably likely to have a Material Adverse Effect.

22. None of the directors of the Issuer have ever been disqualified as a director or been an undischarged bankrupt or entered into or proposed any arrangement of any description with his creditors whether or not it constituted or would have constituted an Individual Voluntary Arrangement under Part VIII of the Insolvency Act 1986 or a Deed or Arrangement under the Deeds of Arrangements Act 1914 or otherwise.
23. The Issuer is in compliance with paragraphs (L) and (M) of Schedule 6 (*Covenants and Undertakings*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
24. No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against the Issuer where that claim has or is reasonably likely, if determined against the Issuer, to have a Material Adverse Effect.



SCHEDULE 7 EVENTS OF DEFAULT

The following events shall each constitute an Event of Default for the purposes of the Instrument:

1. the Issuer does not pay on the due date any amount payable pursuant to the Instrument and/or the Loan Notes at the place and in the currency in which it is expressed to be payable unless its failure to pay is caused by administrative or technical error and payment is made within 3 Business Days of its due date;
2. The Issuer breaches any provision of this Instrument and/or any other Loan Note Document (other than a failure to pay as referred to in paragraph 1 above) and, if the breach is capable of remedy, such breach is not remedied within 15 Business Days of the earlier of (1) any Noteholder giving notice to the Issuer of that breach and (2) the Issuer becoming aware of the breach;
3. any warranty, representation or statement made or deemed to be made by the Issuer in any Loan Note Document (including, but not limited to, the Warranties) or in any certificate, statement, notice, opinion or other document given, made or furnished to a Noteholder in writing pursuant to, or in connection with, any Loan Note Document is or proves to have been materially incorrect or misleading when made or deemed to be made (including where incorrect or misleading due to the deliberate omission of information);
4.
 - (A) any Financial Indebtedness of the Issuer is not paid when due or within any originally applicable grace period; or
 - (B) any Financial Indebtedness of the Issuer is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
5. an Insolvency Event occurs in respect of the Issuer;
6. any judgment or order given or made by any court or governmental agency against the Issuer which could have a Material Adverse Effect is not fully satisfied and complied with (or stayed pending appeal) within any applicable deadline thereof or if an execution, sequestration, distress or other process is levied or enforced or made upon or against any of the property or assets of the Issuer which could have a Material Adverse Effect and is not revoked or discharged within 20 Business Days;
7. all or a substantial part of the assets of the Issuer are seized, compulsorily acquired, expropriated or nationalised;
8. the Issuer ceases or threatens to cease to carry on its business or a significant part of it;
9. a Specified Event occurs;
10. the Issuer fails to maintain any Authorisation (including, without limitation any Material Licence) which is necessary for the operation of its business (or such Authorisation is otherwise revoked or not renewed or materially amended) where such failure and/or revocation and/or amendment and/or non-renewal could have a Material Adverse Effect (and for these purposes the loss, revocation or suspension of, once obtained of a Material Licence shall be deemed to have a Material Adverse Effect);

11. all or any part of any Loan Note Document becomes invalid, unlawful, unenforceable, terminated or ceases to be effective or to have full force and effect.

SCHEDULE EIGHT

Issuers Details

Issuer	GOLIAD SECURED HOLDINGS LIMITED
Issuers Address	18-20 Canterbury Road, Whitstable, Kent, CT5 4EY
Issuers Email	tteague@goliad.investments.com
Issuers Bank	Direct to: Goliad Limited (on behalf of Goliad Secured Holdings Limited) Account number: 70269271 Sort Code: 40-20-55

GOLIAD

EXECUTION PAGES

The Issuer

EXECUTED as a DEED by
GOLIAD SECURED HOLDINGS
LIMITED
acting by

a director, in the presence of:

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:

Dated:

)
)
)
)
)

Matthew David Boocock
.....
Matthew David Boocock
.....
director

.....
Matthew David Boocock
.....
Windmill House
.....
Wetherill Close, Claypole, Notts, NG235BF
.....
UK Business Development Manager
.....

.....



GOLIAD

The Security Trustee

EXECUTED as a **DEED** by
[]
acting by

a director, in the presence of:

)
)
)
)
)



.....

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:

HELEN ASTLEY
HELEN ASTLEY
211 RAMSCATE ROAD
MARCIATE KENT CT9 4EY
OFFICE MANAGER

Dated:

.....



GOLIAD



GOLIAD

CUSTOMER DECLARATION

I have been provided with a copy of the Goliad Loan Note Instrument.



Signature

Name

GOLIAD

Date

NOTE HOLDER'S DETAILS

<u>Name</u>	
<u>Address</u>	
<u>Email</u>	
<u>Contact Number</u>	

GOLIAD



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