



Registration of a Charge

Company name: **BLACKCRAIG WIND FARM (SCOTLAND) LIMITED**

Company number: **SC493311**



X4NA3UFM

Received for Electronic Filing: **29/12/2015**

Details of Charge

Date of creation: **16/12/2015**

Charge code: **SC49 3311 0006**

Persons entitled: **TEMPORIS CAPITAL LLP AS SECURITY AGENT**

Brief description: **THE LEASE BETWEEN GUY ROBERT WHITTAKER AND SSE GENERATION LIMITED DATED 17 AND 29 APRIL 2008 AND REGISTERED IN THE BOOKS OF COUNCIL AND SESSION ON 18 DECEMBER 2008 AS VARIED BY (I) MINUTE OF VARIATION BETWEEN GUY ROBERT WHITTAKER AND SSE GENERATION LIMITED DATED 17 MARCH AND 16 APRIL AND REGISTERED IN THE BOOKS OF COUNCIL AND SESSION ON 30 APRIL 2014 AND (II) MINUTE OF ASSIGNATION AND VARIATION BETWEEN SSE GENERATION LIMITED, THE CHARGOR AND GUY ROBERT WHITTAKER DATED 18 AND 24 MARCH 2015 AND REGISTERED IN THE BOOKS OF COUNCIL AND SESSION ON 27 APRIL 2015, ALL AS NOW REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER KRK8551**

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **BURGES SALMON LLP (JP21)**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 493311

Charge code: SC49 3311 0006

The Registrar of Companies for Scotland hereby certifies that a charge dated 16th December 2015 and created by BLACKCRAIG WIND FARM (SCOTLAND) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th December 2015 .

Given at Companies House, Edinburgh on 31st December 2015

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



Companies House



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

STANDARD SECURITY

BLACKCRAIG WIND FARM (SCOTLAND) LIMITED (1)

in favour of

TEMPORIS CAPITAL LLP (as Security Agent) (2)

Ref: AL11/GS06

Burges Salmon LLP

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THIS STANDARD SECURITY is granted

By:

BLACKCRAIG WIND FARM (SCOTLAND) LIMITED, a company incorporated in Scotland (company number SC493311) of 13 Queens Road, Aberdeen, AB15 4YL (the "**Chargor**")

In favour of:

TEMPORIS CAPITAL LLP, a limited liability partnership (incorporated in England with company registration number OC315077) whose registered office is at Berger House, 36/38 Berkeley Square, London W1J 5AE in its capacity as security agent for the Senior Creditors (as defined in the Intercreditor Deed) (the "**Security Agent**")

Background

- (A) The Senior Creditors are willing to enter into certain finance agreements with the Obligors, on the terms and conditions set out in the Finance Documents. One of the conditions is that the Chargor enters into this Standard Security.
- (B) The board of directors of each Chargor is satisfied that entering into and performing its obligations under this Standard Security are for the purposes and to the benefit of the Chargor and its business.
- (C) The Security Agent holds the benefit of this Standard Security on trust for the Senior Creditors.

IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

- 1.1 Unless the context otherwise requires or unless otherwise defined in this Standard Security, words and expressions defined in the Facility Agreement and the Intercreditor Deed shall have the same meaning when used in this Standard Security. In addition, the following expressions shall have the meanings specified next to each:

"**1970 Act**" means The Conveyancing and Feudal Reform (Scotland) Act 1970 as amended from time to time;

"**Default Rate**" means the rate specified in clause 8.3 (*Default Interest*) of the Facility Agreement;

"**Facility Agreement**" means the facilities agreement dated on or around the date of this Standard Security between, amongst others, Blackcraig Wind Farm (Scotland) Limited as Borrower, Blackcraig Windfarm Holdings Limited as Holdco, Temporis Capital LLP as Agent and Security Agent and UK Green Community Lending Limited,

KKR Turbine Investors Sarl and Candelia Limited as Arrangers and Original Lenders, as it may from time to time be amended, restated, novated or replaced (however fundamentally, including by an increase of any size in the amount of the facilities made available under it, the alteration of the nature, purpose or period of those facilities or the change of its parties);

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

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

"Receiver" means any receiver or administrative receiver appointed in respect of the Chargor or the Security Subjects (whether pursuant to the Finance Documents, pursuant to any statute, by a court or otherwise) and shall, if allowed by law, include an administrative receiver;

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

"Secured Obligations" means the Obligations from time to time incurred by the Obligors (whether entered into solely or jointly, or jointly and severally, with one or more persons and whether actual or contingent and whether as principal or as surety or otherwise) under or in connection with the Finance Documents together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities;

"Security Subjects" means the Chargor's right and interest as tenant in the Lease between Guy Robert Whittaker and SSE Generation Limited dated 17 and 29 April 2008 and registered in the Books of Council and Session on 18 December 2008 as varied by (i) Minute of Variation between Guy Robert Whittaker and SSE Generation Limited dated 17 March and 16 April and registered in the Books of Council and Session on 30 April 2014 and (ii) Minute of Assignment and Variation between SSE Generation Limited, the Chargor and Guy Robert Whittaker dated 18 and 24 March 2015 and

registered in the Books of Council and Session on 27 April 2015, all as now registered in the Land Register of Scotland under Title Number KRK8551;

"**Standard Conditions**" means the Standard Conditions specified in Schedule 3 to the 1970 Act and "**Standard Condition**" means such of them as the context shall require or permit; and

"**Standard Security**" means this standard security, as from time to time amended, restated, supplemented, novated, varied and or replaced and any document made pursuant or supplemental hereto.

- 1.2 Words and expressions which are defined in the 1970 Act or in the Standard Conditions shall be deemed to be so defined for the purpose of this Standard Security except (i) as otherwise defined in this Standard Security or in the Finance Documents or (ii) to the extent that the context requires otherwise, and each and every provision of this Standard Security shall be separately given the fullest effect permitted by law.
- 1.3 This Standard Security shall be read together with the Facility Agreement and the Intercreditor Deed and, in the event of any conflict or inconsistency between the provisions of this Standard Security and the provisions of the Facility Agreement and the Intercreditor Deed, the relevant provisions of the Facility Agreement and the Intercreditor Deed shall prevail. In the case of any conflict between the Facility Agreement and the Intercreditor Deed, the provisions of the Intercreditor Deed shall prevail.
- 1.4 Where there is any ambiguity or conflict between the rights conferred by law and those conferred by or pursuant to any Finance Document, the terms of that Finance Document shall prevail.
- 1.5 Where this Standard Security imposes an obligation on the Chargor to do something if required or requested by the Security Agent, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.6 The provisions of any other Finance Document relating to any obligation of the Lenders to make further advances are deemed to be incorporated in this Standard Security.
- 1.7 The Security Agent holds the benefit of this Standard Security and the Security Subjects on trust for the Senior Creditors.

2 PAYMENT OBLIGATION

- 2.1 The Chargor undertakes to the Security Agent for itself and as trustee for the Senior Creditors that it will pay or discharge each of the Secured Obligations as and when the same fall due for payment or discharge in accordance with its terms.

- 2.2 If not paid when due, the Chargor will pay interest on each amount demanded of it under this Standard Security from the date of demand until payment (after as well as before judgment) at the Default Rate.

3 GRANT OF STANDARD SECURITY

In security of the payment and discharge of the Secured Obligations in the manner provided the Chargor hereby grants a standard security in favour of the Security Agent over the Security Subjects; and the Standard Conditions and any lawful variation thereof operative for the time being shall apply.

4 VARIATION TO STANDARD CONDITIONS

- 4.1 The Chargor agrees that the Standard Conditions shall be varied in so far as lawful and applicable by the Facility Agreement and any lawful variation thereof for the time being, under declaration that:

- (a) in the event of there being any inconsistency between the Standard Conditions and the Facility Agreement; or
- (b) where there is an obligation in the Standard Conditions which is more onerous than an equivalent obligation in the Facility Agreement,

the terms of the Facility Agreement as applicable shall, so far as permitted by the 1970 Act, prevail, subject to the remaining provisions of this Clause 4.

- 4.2 For the purposes of Standard Condition 9, the debtor shall in addition be held to be in default if an Event of Default occurs and is continuing.

5 NEGATIVE PLEDGE AND RANKING

- 5.1 The Chargor shall not (and shall not agree to) create or permit to subsist any Security over the Security Subjects other than in favour of the Security Agent or as permitted by the Facility Agreement.
- 5.2 In the event that the Chargor grants or creates any Security (whether a fixed security or a floating charge) in breach of the prohibition in Clause 5.1, this Standard Security shall rank in priority to that fixed security or floating charge.

6 POSSESSION

If the Security Agent takes or enters into possession of the Security Subjects, it may at any time relinquish possession without reason and without liability. Without prejudice to Clause 8 (*Security Agent's Liability*) the Security Agent shall only be liable as a heritable creditor in possession if the Security Agent specifically adopts and accepts such liability and without limitation shall not be liable as a heritable creditor in possession by reason

of viewing or repairing any of the Chargor's present or future assets and no adoption or acceptance shall be implicit.

7 APPLICATION OF PROCEEDS

All money received by the Security Agent or a receiver under or in connection with the Finance Documents (whether during, or before, enforcement of any Security) will, subject to the rights of any persons having priority, be applied in or towards payment of the Secured Obligations in such order as is set out in clause 9 (*Payment cascade*) of the Intercreditor Deed (and, if any of the Secured Obligations are not then payable, by payment into a suspense account until they become payable).

8 SECURITY AGENT'S LIABILITY

Neither the Security Agent nor any of their Officers will be in any way liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Security Subjects or any Security created under the Finance Documents, except to the extent caused by its own gross negligence or wilful misconduct.

9 THIRD PARTIES

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

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

10 PROTECTION OF SECURITY

- 10.1 This Standard Security shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Obligations.
- 10.2 The Rights created by this Standard Security are in addition to any other Rights of the Security Agent and the Senior Creditors against the Chargor or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.
- 10.3 No failure by the Security Agent or a Senior Creditor to exercise any Right under this Standard Security will operate as a waiver of that Right, nor will a single or partial

exercise of a Right by the Security Agent or a Senior Creditor preclude its further exercise.

10.4 The obligations of the Chargor under this Standard Security will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Standard Security (without limitation and whether or not known to it or to the Security Agent or to any Senior Creditor), including:

- (A) any time, waiver or consent granted to, or composition with, the Borrower or the Chargor or any other person;
- (B) the release of the Borrower or any other person;
- (C) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (E) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;
- (G) the participation of the Chargor under a Finance Document being terminated; or
- (H) any insolvency or similar proceedings.

10.5 The Chargor expressly confirms that it intends that the Security created pursuant to this Standard Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents.

10.6 Each of the provisions in this Standard Security shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions

of this Standard Security shall not in any way be affected or impaired by that occurrence.

- 10.7 At any time after the receipt by the Security Agent of notice (either actual or otherwise) of any subsequent Security affecting the Security Subjects (other than as permitted in accordance with the terms of the Facility Agreement), the Security Agent may open a new account in the name of the Chargor with the Security Agent (whether or not it permits any existing account to continue). If the Security Agent does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant event occurred. No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the amount recoverable pursuant to any Finance Document to which the Chargor is party.

11 PAYMENTS MADE UNDER THIS STANDARD SECURITY

Until the Secured Obligations have been irrevocably and unconditionally discharged in full, each Senior Creditor (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other money, security or Rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Chargor will not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any money received from the Chargor or on account of the Chargor's liability under this Standard Security.

12 FURTHER ASSURANCE

The Chargor will, at its own expense, create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry or the Registers of Scotland or otherwise), deposit all such documents and do all such other things as the Security Agent may require from time to time in order to:

- (a) perfect or protect the Security constituted by or pursuant to this Standard Security or the priority of such Security;
- (b) facilitate the realisation of the Security Subjects;
- (c) facilitate the exercise of any rights, powers, authorities and discretions vested in the Security Agent;

- (d) confer on the Security Agent security over any assets of the Chargor (in whatever jurisdiction situated) equivalent or similar to the security intended to be conferred by this Standard Security; or
- (e) promptly provide to the Security Agent any information which it may require.

13 MANDATE AND ATTORNEY

13.1 The Chargor, by way of security, irrevocably appoints the Security Agent to be its attorney:

- (a) to do anything which the Chargor is obliged to do under this Standard Security; and
- (b) to exercise any of the Rights conferred on the attorney by this Standard Security or by law.

13.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 13.

14 EXPENSES

The Chargor will, on demand, pay all legal and other costs and expenses (including any stamp duty, registration or other similar taxes):

- (a) reasonably and properly incurred by the Security Agent in connection with the enforcement or preservation of the Security or the Security Subjects; and
- (b) reasonably and properly incurred by Security Agent in connection with any other matter relating to the Security, including any amendment, waiver, consent or release required in connection with the Security.

15 INDEMNITY

The Chargor will, on demand, indemnify each of the Security Agent, their Officers and any Receiver in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:

- (a) anything done or omitted in the exercise of the powers conferred on it under the Finance Documents, unless it was caused by its gross negligence or wilful misconduct;
- (b) a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the Finance Documents had not been granted and which was not caused by its negligence or wilful misconduct; or

- (c) any breach by the Chargor of the Finance Documents.

16 WAIVER

16.1 Until the Secured Obligations have been irrevocably and unconditionally discharged in full, each Senior Creditor (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other money, security or Rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Chargor will not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any money received from the Chargor or on account of the Chargor's liability under this Standard Security.

16.2 Unless the Security Agent otherwise directs, the Chargor will not exercise any Rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified or reimbursed by the Borrower;
- (b) to claim any contribution from any other guarantor of the Borrower's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Senior Creditors under the Finance Documents or of any other guarantee or security taken under, or in connection with, the Finance Documents by any Senior Creditor;
- (d) To bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation;
- (e) To exercise any right of set-off against the Borrower; and/or
- (f) To claim or prove as a creditor of any other in competition with any Senior Creditor

If the Chargor receives any benefit, payment or distribution in relation to such Rights it will promptly pay an equal amount to the Security Agent for application in accordance with this Standard Security.

16.3 Clause 16.2 only applies until all the Secured Obligations have been irrevocably and unconditionally discharged in full.

17 FINAL REDEMPTION

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

18 THE SECURITY AGENT

- 18.1 The Security Agent may be replaced by a successor in accordance with the Intercreditor Deed.
- 18.2 On the date of its appointment, the successor Security Agent will assume all the Rights and Obligations of the retiring Security Agent. However, this does not apply to any Obligations of the retiring Security Agent which arise out of its acts or omissions as Security Agent before the appointment of the successor, in respect of which the retiring Security Agent will continue to have the Obligations imposed by, and the Rights contained in, this Standard Security and the Intercreditor Deed.
- 18.3 The retiring Security Agent will, at the Chargor's expense, provide its successor with copies of those of its records as Security Agent as its successor properly requires to perform its functions as Security Agent.

19 NOTICES

- 19.1 Any notice or other communication to a party to this Standard Security must be in writing. It must be addressed for the attention of such person, and sent to such address or fax number as that party may from time to time notify to the other parties.
- 19.2 It will be deemed to have been received by the relevant party on receipt at that address or fax number.

19.3 The initial administrative details of the parties are contained in Schedule 2 to the Facility Agreement (*Initial administrative details of the parties*) but a party may amend its own details at any time by notice to the other party.

19.4 Any notice to the Chargor may alternatively be sent to its registered office or to any of its places of business or to any of its directors or its company secretary; and it will be deemed to have been received when delivered to any such places or persons.

20 LAW

This Standard Security and any non-contractual obligations connected with it are governed by Scots law.

21 ENFORCEMENT AND JURISDICTION

21.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Standard Security or any non-contractual obligations connected with it (including a dispute regarding the existence, validity or termination of this Standard Security) (a **Dispute**).

21.2 The parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and, accordingly, that they will not argue to the contrary.

21.3 Clause 21.1 is for the benefit of the Security Agent only. As a result, the Security Agent will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

21.4 The Chargor irrevocably and unconditionally:

- (a) agrees not to claim in any jurisdiction, for itself or in respect of its assets, immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and waives such present or future immunity, whether claimed or not; and
- (b) consents generally to the giving of any relief or the issue of any process in connection with any proceedings, including the making, enforcement or execution against any property of any nature (irrespective of its use or intended use) of any order or judgement which may be made or given in any proceedings.

22 **WARRANTICE AND CONSENT TO REGISTRATION**

The Chargor grants warrantice, and the Chargor hereby consents to the registration of this Standard Security and of any such certificate for preservation: IN WITNESS WHEREOF these presents consisting of this and the preceding 11 pages are subscribed as follows:-

Subscribed for and on behalf of the said BLACKCRAIG WIND FARM (SCOTLAND) LIMITED

at LONDON

on 16 DECEMBER 2015

by SIMON JAHN Foy
(Name)


Director

in the presence of:

 Witness

JAMIE O'NEILL (Name)

DLA Piper Scotland LLP
Coltins House (Address)
Roiland Square
Edinburgh EH1 2AA