



Registration of a Charge

Company Name: **FIRST MOTORWAY SERVICES LIMITED**

Company Number: **03126731**



Received for filing in Electronic Format on the: **04/07/2022**

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Details of Charge

Date of creation: **28/06/2022**

Charge code: **0312 6731 0026**

Persons entitled: **LLOYDS BANK PLC (AS SECURITY AGENT)**

Brief description: **ALL AND WHOLE THE TENANT'S INTEREST IN THE LEASE OF ANNANDALE WATER MOTORWAY SERVICE AREA, JOHNSTONEBRIDGE, LOCKERBIE WHICH INTEREST IS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER DMF24803.**

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: **JONATHAN HEANEY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3126731

Charge code: 0312 6731 0026

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th June 2022 and created by FIRST MOTORWAY SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th July 2022 .

Given at Companies House, Cardiff on 6th July 2022

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**

For and on behalf of Burness Paull LLP, I certify that
this is a true copy of the original instrument, save for
the information redacted pursuant to section 859G of
the Companies Act 2006

 **Burness Paull**

FIRST MOTORWAY SERVICES LIMITED

as Chargor

and

LLOYDS BANK PLC

as Security Agent for the Secured Parties

STANDARD SECURITY

in respect of the tenant's interest in the subjects Annandale Water Motorway Service Area,
Johnstonebridge, Lockerbie

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FOR THE PURPOSES OF THE LEGAL WRITINGS (COUNTERPARTS AND DELIVERY)
(SCOTLAND) ACT 2015, THIS INSTRUMENT IS DELIVERED ON:
24 JUNE 2022

INSTRUMENT

by

- (1) **FIRST MOTORWAY SERVICES LIMITED**, incorporated under the Companies Acts with registered number 03126731 and having its registered office at Roadchef House, Norton Canes MSA, Betty's Lane, Norton Canes, Cannock, Staffordshire WS11 9UX (the "**Chargor**")

in favour of

- (2) **LLOYDS BANK PLC**, incorporated under the Companies Acts with registered number 00002065 and having its registered office at 25 Gresham Street, London, EC2V 7HN as trustee for each of the Secured Parties on the terms and conditions set out in the Intercreditor Agreement (the "**Security Agent**")

NOW IT IS HEREBY AGREED AND DECLARED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Instrument:

"**Acceleration Event**" has the meaning given to such term in the Intercreditor Agreement;

"**Facilities Agreement**" means the senior facilities agreement dated 31 March 2022 and made between, among others, MEIF 6 Range Bidco Limited as the Company, MEIF 6 Range Investments Limited as the Parent, the Security Agent, the Lenders, the Mandated Lead Arrangers, and the Agent (as each term is defined therein);

"**Final Discharge Date**" has the meaning given to such term in the Intercreditor Agreement;

"**Intercreditor Agreement**" means the intercreditor agreement dated 31 March 2022 and entered into between, amongst others, MEIF 6 Range Bidco Limited and the Security Agent;

"**Secured Obligations**" has the meaning given to such term in the Intercreditor Agreement;

"**Secured Parties**" has the meaning given to such term in the Intercreditor Agreement;

"**Security Period**" means the period beginning on the date of delivery of this Instrument and ending on the Final Discharge Date; and

"Security Subjects" means ALL and WHOLE the tenant's interest in the lease of Annandale Water Motorway Service Area, Johnstonebridge, Lockerbie which interest is registered in the Land Register of Scotland under Title Number DMF24803.

1.2 Terms defined in other Finance Documents

1.2.1 Unless defined in this Instrument, or the context otherwise requires, a term defined in the Intercreditor Agreement or in any other Finance Document has the same meaning in this Instrument, or any notice given under or in connection with this Instrument.

1.2.2 This Instrument is subject to the terms of the Intercreditor Agreement and to the extent that any provision of this Instrument is inconsistent with the Intercreditor Agreement, the Intercreditor Agreement will prevail.

1.3 Construction

1.3.1 the rules of interpretation contained in clause 1.2 (*Construction*) of the Intercreditor Agreement shall apply to the construction of this Instrument, or in any notice given under or in connection with this Instrument;

1.3.2 if there is a conflict between this Instrument and the other Finance Documents or the Intercreditor Agreement then (to the fullest extent permitted by law) the provisions of the other Finance Documents or (as applicable) the Intercreditor Agreement will take priority over the provisions of this Instrument;

1.3.3 any reference to the "**Security Agent**", the "**Secured Parties**", the "**Chargor**" or any "**Debtor**" shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Intercreditor Agreement;

1.3.4 the term "**Party**" means any party to this Instrument;

1.3.5 any reference to "including" and "include" shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and

1.3.6 references in this Instrument to any Clause or Schedule shall be to a Clause or Schedule contained in this Instrument.

1.4 Third party rights

1.4.1 Unless expressly provided to the contrary in this Instrument a person who is not a Party has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Instrument.

1.4.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Instrument at any time.

1.5 Acting in accordance with Intercreditor Agreement

In exercising any right, power or discretion under, or taking any action in relation to this Instrument, the Security Agent shall act in accordance with the provisions of and with the benefit of the protections set out in the Intercreditor Agreement and shall be under no obligation to exercise any such right, power or discretion or take any action except in accordance with the provisions of the Intercreditor Agreement.

1.6 Security Agent assumes no obligation

The Security Agent shall not be under any obligation in relation to the Security Subjects as a consequence of this Instrument and the Chargor shall at all times remain liable to perform all obligations in respect of the Security Subjects.

2 BOND

The Chargor undertakes to the Security Agent as trustee for the Secured Parties that it shall, on demand of the Security Agent pay, discharge and satisfy the Secured Obligations in accordance with their respective terms.

3 CHARGE

The Chargor hereby in security of the Secured Obligations grants a standard security in favour of the Security Agent over the Security Subjects.

4 STANDARD CONDITIONS

The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, and any lawful variation thereof operative for the time being, shall apply and the Chargor agrees that the Standard Conditions shall be varied insofar as lawful and applicable:

- 4.1 to the effect that, except as permitted under the Debt Documents or with prior written consent of the Security Agent, the Chargor shall not at any time during the Security Period create or permit to subsist any Security over all or any part of the Security Subjects or dispose of or otherwise deal with any part of the Security Subjects;

- 4.2 to the effect that the insurance to be effected in terms of Standard Condition 5(a) shall provide cover to the extent of the reinstatement value of the Security Subjects and not their open market value; and
- 4.3 by the express provisions of this Instrument and provisions of the Intercreditor Agreement and the Facilities Agreement under declaration that (a) in the event of there being any conflict or inconsistency between the Standard Conditions and the Intercreditor Agreement and/or the Facilities Agreement (as applicable), or (b) where there is an obligation in the Standard Conditions which is either more onerous than an equivalent obligation or is not contained in the Intercreditor Agreement and/or the Facilities Agreement (as applicable), the terms of the Intercreditor Agreement and/or the Facilities Agreement (as applicable) shall insofar as permitted by the said 1970 Act prevail.

5 ENFORCEMENT

At any time after the occurrence of an Acceleration Event or a request from the Chargor to the Security Agent that it exercise any of its powers of enforcement under this Instrument:

- 5.1 the Chargor, shall be held to be in default within the meaning of Standard Condition 9(1)(b) of the Standard Conditions; and
- 5.2 the Security Agent may enforce all or any part of the Security created under or pursuant to this Instrument at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Security Subjects (and any assets of the Chargor which, when got in, would be part of the Security Subjects) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration).

6 NOTICE OF SUBSEQUENT CHARGE

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives or is deemed to have received notice of any subsequent Security, assignment or transfer affecting all or any part of the Security Subjects which is prohibited by the terms of any Finance Document, all payments thereafter made by or on behalf of the Chargor to the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties will (in the absence of any express contrary appropriation by the Chargor) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations at the time that notice was received.

7 APPLICATION OF ENFORCEMENT PROCEEDS

- 7.1 All monies received or recovered and any non-cash recoveries made or received by the Security Agent pursuant to this Instrument or the powers conferred by it shall (subject to the claims of any person having prior rights thereto) be applied in accordance with clause 17 (*Application of proceeds*) of the Intercreditor Agreement.

- 7.2 All monies received, recovered or realised by the Security Agent under this Instrument (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account(s) maintained with any bank, building society, financial institution or other person which the Security Agent considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Security Agent's discretion, in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

8 DEPOSIT OF TITLE DEEDS

- 8.1 The Chargor must within ten Business Days of the date of delivery of this Instrument and thereafter promptly from time to time:

8.1.1 deposit with the Security Agent all copy deeds and documents of title necessary to show good and marketable title to the Security Subjects and similar documents received by it (the "**Title Documents**"); or

8.1.2 procure that the Title Documents are held to the order of the Security Agent by a firm of solicitors approved by the Security Agent for that purpose pursuant to an undertaking in a form satisfactory to the Security Agent.

9 COUNTERPARTS

- 9.1 This Instrument may be executed in any number of counterparts and by each of the parties hereto on separate counterparts.

- 9.2 Where executed in counterparts:

9.2.1 this Instrument will not take effect until each of the counterparts has been delivered;

9.2.2 each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered (the "**agreed date**");

9.2.3 the agreed date may be inserted at the top of page 1 of this Instrument.

10 POWER OF ATTORNEY

Appointment and powers

- 10.1 The Chargor irrevocably appoints the Security Agent to be its attorney and in its name, on its behalf and as its act and deed to, execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- 10.1.1 carrying out any obligation imposed on the Chargor by this Instrument or any other agreement binding on the Chargor to which the Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Security Subjects and perfecting and/or releasing the Security created or intended to be created in respect of the Security Subjects); and
 - 10.1.2 enabling the Security Agent to exercise (subject to the terms of any Finance Document), or delegate the exercise of, any of the Collateral Rights (including, after the occurrence of an Acceleration Event, the exercise of any right of a legal or beneficial owner of the Security Subjects).
- 10.2 The Security Agent shall not be permitted to exercise any powers granted pursuant to 10.1 above other than (i) following the occurrence of an Acceleration Event or (ii) if the Chargor has failed to comply with a further assurance or perfection obligation under this Instrument within 15 Business Days of being notified of that failure and being requested to comply (with a copy of such notice having been sent to the Company).

Ratification

- 10.3 The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

11 GOVERNING LAW

- 11.1 This Instrument and all non-contractual obligations arising out of or in connection with it are governed by Scots law.

12 JURISDICTION

Scottish Courts

- 12.1 The courts of Scotland have exclusive jurisdiction to settle any dispute (a "**Dispute**") arising out of, or in connection with this Instrument (including a dispute relating to the existence, validity or termination of this Instrument or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Instrument).

Convenient Forum

- 12.2 The Chargor agrees that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and, accordingly, that it will not argue to the contrary.

Exclusive Jurisdiction

- 12.3 Notwithstanding Clause 12.1 (*Scottish Courts*), to the extent allowed by law, the Security Agent may take proceedings relating to a Dispute in any other courts with jurisdiction and the Security Agent may take concurrent proceedings in any number of jurisdictions.

13 **RELEASE**

Release of Security

- 13.1 Subject to the terms of the Intercreditor Agreement, upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargor, release and cancel the Security created by this Instrument and procure the reassignment to the Chargor of the property and assets assigned to the Security Agent pursuant to this Instrument, in each case subject to Clause 13.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.

Clawback

- 13.2 If the Security Agent considers that any amount paid or credited to any Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Instrument and the Security created by this document will continue and such amount will not be considered to have been irrevocably paid or credited.

14 **EFFECTIVENESS OF SECURITY**

Continuing security

- 14.1 The Security created by or pursuant to this Instrument shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Agent in writing.
- 14.2 No part of the Security from time to time intended to be created by this Instrument will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

Cumulative rights

- 14.3 The Security created by or pursuant to this Instrument shall be cumulative, in addition to and independent of every other Security which the Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior Security held by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Security Subjects shall merge into the Security created by this Instrument.

No prejudice

- 14.4 The Security created by or pursuant to this Instrument shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or

indulgence granted to the Chargor or any other person, or the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties or by any variation of the terms of the trust upon which the Security Agent holds the Security or by any other thing which might otherwise prejudice that Security.

No liability

14.5 None of the Security Agent or its nominee(s) shall be liable:

14.5.1 to account as a heritable creditor or heritable creditor in possession; or

14.5.2 for any loss arising by reason of taking any action permitted by this Instrument or any neglect or default in connection with the Security Subjects or taking possession of or realising all or any part of the Security Subjects,

except in the case of gross negligence or wilful default upon its part.

Partial invalidity

14.6 If, at any time, any provision of this Instrument is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Instrument nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Instrument is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

Waiver of defences

14.7 The obligations assumed, and the Security created, by the Chargor under this Instrument will not be affected by any act, omission, matter or thing which, but for this Clause 14.7, would reduce, release or prejudice any of its obligations under, or the Security created by, this Instrument (whether or not known to the Chargor or any Secured Party) including:

14.7.1 any time, waiver or consent granted to, or composition with, any Debtor or other person;

14.7.2 the release of any other Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

14.7.3 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, any Debtor 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;

- 14.7.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, any Debtor or any other person;
- 14.7.5 any amendment, novation, supplement, extension, restatement (in each case, however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security or of the Secured Obligations including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or Security;
- 14.7.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security or of the Secured Obligations; and
- 14.7.7 any insolvency or similar proceedings.

Chargor intent

- 14.8 Without prejudice to the generality of Clause 14.7 (*Waiver of Defences*), the Chargor expressly confirms that it intends that the Security created under this Instrument shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

Immediate recourse

- 14.9 The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from the Chargor under this Instrument or enforcing the Security created by this Instrument. This waiver applies irrespective of any law or any provision of this Instrument to the contrary.

Deferral of rights

- 14.10 Until the end of the Security Period, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Instrument:
 - 14.10.1 to be indemnified by a Debtor or in respect of any other person;

- 14.10.2 to claim any contribution from any guarantor or any other person in respect of any Debtor's obligations under the Finance Documents;
- 14.10.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- 14.10.4 to bring legal or other proceedings for an order requiring any Debtor or other person to make any payment, or perform any obligation, in respect of which any Debtor or other person has given a guarantee, undertaking or indemnity under any Finance Document;
- 14.10.5 to exercise any right of set-off against any Debtor or other person; and/or
- 14.10.6 to claim or prove as a creditor of any Debtor or other person in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Debtors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 7 (*Application of Enforcement Proceeds*).

Additional Security

- 14.11 The Security created by the Chargor under this Instrument are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party.

15 SET-OFF

The Chargor authorises the Security Agent (but the Security Agent shall not be obliged to exercise such right), after the Security created by or pursuant to this Instrument has become enforceable in accordance with Clause 5 (*Enforcement*), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Security Agent to the Chargor and apply any credit balance to which the Chargor is entitled on any account with the Security Agent in accordance with Clause 7 (*Application of Enforcement Proceeds*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

16 WARRANDICE AND CONSENT TO REGISTRATION

16.1 The Chargor hereby grants warrandice excepting therefrom sublease between Blue Boar Motorways Limited and Scottish Power UK plc dated 16 July and 1 August and registered in the Books of Council and Session on 29 October, all months in 2001 and also registered in the Land Register of Scotland under Title Number DMF10920.

16.2 The Chargor hereby consents to the registration of this Instrument for preservation:

IN WITNESS WHEREOF these presents consisting of this and the preceding 10 pages are executed as follows and, if executed in counterpart in terms of the Legal Writings (Counterpart and Delivery) (Scotland) Act 2015, are delivered for the purposes of that Act on the date set out on page 1 of this Instrument:

THE CHARGOR

SUBSCRIBED for and on behalf of the said **FIRST MOTORWAY SERVICES LIMITED**

at

Norton Canes

on

22 June 2022

by

James Muirhead

Print Full name

[Redacted Signature]

Director

before this witness:

Michael HEDDITCH

Print Full Name

[Redacted Signature]

Witness

Address:

ROADCHEF

NORTON CANES M4WAY SERVICE AREA

BETTY'S LANE

NORTON CANES, CANNOCK

STAFFORDSHIRE WS11 9UX

THE SECURITY AGENT

SUBSCRIBED for and on behalf of the said **LLOYDS BANK PLC**

at **DUNFERMLINE**

on **21st JUNE 2022**

by

JENNIFER ANN ESPINER

Print Full name

before this witness:

MICHAEL ESPINER

Print Full Name

Address:

[Redacted Address]

[Redacted Signature]

Authorised Signatory

[Redacted Signature]

Witness