

003823 / 26

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006

MR01

## Particulars of a charge



Companies House

A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If the form is delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery



You must enclose a certified copy of the instrument with this form. The instrument must be scanned and placed on the public record

THURSDAY



A57

\*A2NJI9FK\*

19/12/2013

#305

COMPANIES HOUSE

**1 Company details**

Company number 0 5 3 9 2 5 5 2

Company name in full Severn Power Limited

8 For official use

→ **Filling in this form**  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2 Charge creation date**

Charge creation date d 1 8 m 1 2 y 2 0 y 1 3

**3 Names of persons, security agents or trustees entitled to the charge**

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name Macquarie Bank Limited, London Branch

Ropemaker Place, 28 Ropemaker Street, London, EC2Y9HD

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

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Particulars of a charge

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Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

5

Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

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Particulars of a charge

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**Trustee statement** 

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

 This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature

X *M. Davis* *Wm & Brey UK Ltd* X

This form must be signed by a person with an interest in the charge

# MRO1

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name Charlotte Doerr

Company name McDermott Will & Emery UK LLP

Address Heron Tower, 110 Bishopsgate

Post town London

County/Region

Postcode E C 2 N 4 A Y

Country

DX

Telephone



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☒ The company name and number match the information held on the public Register
- ☒ You have included a certified copy of the instrument with this form
- ☒ You have entered the date on which the charge was created
- ☒ You have shown the names of persons entitled to the charge
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☒ You have given a description in Section 4, if appropriate
- ☒ You have signed the form
- ☒ You have enclosed the correct fee
- ☒ Please do not send the original instrument, it must be a certified copy



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



FILE COPY

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

Company number: 5392552

Charge code 0539 2552 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th December 2013 and created by SEVERN POWER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th December 2013

Given at Companies House, Cardiff on 27th December 2013



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 18 DECEMBER 2013

**CHARGE OVER SHARES**

between

**SEVERN POWER LIMITED**

and

**MACQUARIE BANK LIMITED**

*relating to 100% of the shares in*

**SEVERN GAS TRANSPORTATION LIMITED**

**MCDERMOTT WILL & EMERY UK LLP**

**110 BISHOPSGATE**

**LONDON EC2N 4AY**

*McDermott Will & Emery UK LLP*

**WE HEREBY CERTIFY THIS TO  
BE A TRUE COPY OF THE ORIGINAL**

18 DECEMBER 2013

**McDERMOTT WILL & EMERY UK LLP**

**110 Bishopsgate**

**London**

**EC2N 4AY**

**Tel +44 20 75776900**

**Fax +44 20 7677 6950**

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THIS DEED is dated 18 DECEMBER 2013

#### **PARTIES**

- (1) **SEVERN POWER LIMITED** a company incorporated and registered in England and Wales with company number 05392552 whose registered office is at Severn Power Limited, Uskmouth Power Station, West Nash Road, Nash, Newport, NP18 2BZ ("**Chargor**")
- (2) **MACQUARIE BANK LIMITED**, a company incorporated in Australia, and registered in England and Wales with company number FC018220, acting through its London Branch with registered number BR002678, whose registered office is at Ropemaker Place, 28 Ropemaker Street, London EC2Y 9HD ("**MBL**").

#### **BACKGROUND**

- (A) The Chargor is entering into this charge ("**Charge**") in connection with the Relevant Documents (as defined below)
- (B) The board of directors of the Chargor is satisfied that entering into this Charge is for the purposes and to the benefit of the Chargor and its business
- (C) MBL and the Chargor intend this document to take effect as a deed

#### **AGREED TERMS**

##### **1. DEFINITIONS AND INTERPRETATION**

##### **1.1 Definitions**

The following definitions apply in this Charge:

**Acceleration Notice** means any notice served by MBL under (i) clause 12 (*Events of Default*) of the LC Facility and/or (iii) clause 17.11 (*Acceleration*) of the WC Facility

**Attorney** means an attorney of the Chargor appointed under clause 4.4

**Business Day** means a day (other than a Saturday or Sunday) on which commercial banks are open for general business in London and deposits are dealt with on the London Interbank Market

**Charged Property** means all the assets, property and undertaking for the time being subject to any Security Interest created by this Charge (and references to the Charged Property shall include references to any part of it) including, for the avoidance of doubt, the Shares and the Related Rights

**Company** means Severn Gas Transportation Limited a company incorporated and registered in England and Wales with company number 05121224 (an entity which is 100% directly owned by the Chargor)

**Costs** means all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on Costs.

**Facility Agreements** means the LC Facility and the WC Facility

**Finance Document** means this Charge, each Facility Agreement, each Letter of Credit, each Security Agreement (as defined within the Facility Agreements), any Utilisation Request (as defined within the WC Facility) and any other document designated as such by MBL and the Company

**Financial Collateral** has the meaning given to that expression in the Financial Collateral Regulations

**Financial Collateral Regulations** the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*).

**Hedging Agreement** means each master agreement, confirmation, schedule or other agreement evidencing any commodity or currency transaction or hedging facility between MBL and an Obligor, including for the avoidance of doubt, the ISDA Master Agreement (Multicurrency - Cross Border) entered into between MBL and the Chargor dated on or about the date hereof and incorporating the GTMA Annex, NBP Annex and EU Allowances Annex

**LC Facility** means the letter of credit facility agreement to be entered into on or about the date of this Charge between the Chargor and MBL.

**Letter of Credit** means a letter of credit issued pursuant to the LC Facility

**Obligor** means the Chargor, MPF (Severn) Limited (a company incorporated and registered in England and Wales with company number 08786682) and the Company

**Related Rights** means any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Shares; and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Shares by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

**Relevant Documents** means:

- (a) the Finance Documents,
- (b) the interim energy management services agreement dated on or about the date hereof between the Chargor and MBL;

- (c) the master netting agreement dated on or about the date hereof between the Chargor and MBL,
- (d) the trading transitional services agreement dated on or about the date hereof entered into between the Chargor, DONG Naturgas A/S and MBL,
- (e) any Hedging Agreement, and
- (f) any other document designated as such by MBL and the Chargor

**Secured Liabilities** means all present and future monies, obligations and liabilities owed by any Obligor to MBL, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever, including under or in connection with any Relevant Document (including, but not limited to those arising under clause 5.1, clause 12.1 or clause 15.3), together with all interest accruing on such monies and liabilities

**Security Financial Collateral Arrangement** has the meaning given to that expression in the Financial Collateral Regulations

**Security Interest** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Security Period** means the period starting on the date of this Charge and ending on the date on which MBL is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

**Shares** means the shares in the Company held by the Chargor as described in Schedule 1, and all other shares from time to time legally and beneficially owned by the Chargor or in which the Chargor has an interest.

**Warranties** means the representations and warranties set out in clause 7

**WC Facility** means the working capital facility entered into between MBL and the Chargor on or about the date of this Charge.

## 1.2 Interpretation

In this Charge.

- (a) reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts,

- (b) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (c) unless the context otherwise requires, words in the singular include the plural and in the plural include the singular,
- (d) a reference to a clause or Schedule is to a clause of, or Schedule to, this Charge and references to paragraphs are to paragraphs of the relevant Schedule, unless the context otherwise requires;
- (e) a reference to **continuing** in relation to an Event of Default means an Event of Default which has not been remedied or waived,
- (f) a reference to **this Charge** (or any provision of it) or any other document shall be construed as a reference to this Charge, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties;
- (g) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, or any state or any agency of any person,
- (h) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly),
- (i) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
- (j) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
- (k) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation,
- (l) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the discretion of the person making it;
- (m) where any statement is qualified by the expression **so far as [Name of Party] is aware or to [Name of Party]'s knowledge** or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry,
- (n) a reference to an investment shall include stocks, shares, loan capital, securities, bonds, warrants or any other investment,
- (o) a reference to any person shall include its successors, permitted transferees and permitted assigns; and

- (p) clause, schedule and paragraph headings shall not affect the interpretation of this Charge

**2. COVENANT TO PAY**

The Chargor shall on demand pay to MBL and discharge the Secured Liabilities when they become due whether in accordance with agreed dates or as a result of any acceleration in accordance with the provisions of the Facility Agreements.

**3. GRANT OF SECURITY**

As continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to MBL, by way of first fixed charge, the Shares and all Related Rights

**4. DEPOSIT OF TITLE DOCUMENTS**

**4.1 Deposit**

The Chargor shall

- (a) terminate with immediate effect any nominations it may have made under sections 145 and 146 of the Companies Act 2006 in respect of any Charged Property and, pending such termination, procure that any person so nominated:
  - (i) does not exercise any rights in respect of any Charged Property without the prior written approval of MBL, and
  - (ii) immediately upon receipt, forward to MBL all communications or other information received in respect of any Charged Property for which it has been so nominated;
- (b) on the execution of this Charge, deposit with MBL all stock or share certificates or other documents of title to or representing the Charged Property owned by the Chargor at that time,
- (c) on the purchase or acquisition by it of Charged Property after the date of this Charge, deposit with MBL all stock or share certificates or other documents of title to, or representing, such Charged Property, and
- (d) on the accrual, offer, issue or receipt of any Related Rights (other than, and only prior to the security constituted by this Charge becoming enforceable, any items referred to in paragraph (a) of the definition of Related Rights), deliver or pay or procure the delivery or payment to MBL of all such Related Rights, and deposit with MBL

the stock or share certificates or other documents of title to or representing such Related Rights,

together with such executed blank transfers or assignments as MBL may require so that MBL may at any time without notice present them for registration

**4.2 No nominations**

The Chargor shall not, during the Security Period, exercise any rights to nominate any person (other than MBL) to enjoy or exercise any rights relating to any of the Charged Property

**4.3 Further assurance**

The Chargor shall, at the direction of MBL given at any time, forthwith execute and deliver to MBL all transfers and other documents and do all such things as may be necessary or desirable.

- (a) to register all or any of the Charged Property in the name of MBL or its nominee,
- (b) for creating, registering, perfecting, maintaining or protecting the security created by this Charge,
- (c) for creating a fixed charge over any of the Charged Property; or
- (d) to facilitate the realisation of all or any of the Charged Property after this Charge has become enforceable, or the exercise of any right, power or discretion vested in MBL or the Attorney in relation to any Charged Property or this Charge

**4.4 Power of attorney**

By way of security the Chargor irrevocably appoints MBL to be the attorney (the Attorney) of the Chargor and in its name and on its behalf and as its act and deed

- (a) to execute any documents and do any acts and things which the Chargor is required to execute and do under this Charge, including execute any document required by MBL under this clause 4, and
- (b) to execute any documents, and do any acts and things, which the Attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this Charge or by law on MBL

**4.5 Ratification of attorney's acts**

By this Charge the Chargor ratifies and confirms, and agrees to ratify and confirm, anything which the Attorney may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 4

**5. PROTECTION OF SECURITY**

**5.1 Payment of calls**

Notwithstanding the security created by this Charge, the Chargor shall promptly pay all calls, instalments and other payments due on any of the Charged Property, failing which MBL may, at its discretion but without obligation, make such payments on behalf of the Chargor

**5.2 Payments by MBL**

Any sum paid by MBL on behalf of the Chargor under clause 5.1

- (a) shall be reimbursed by the Chargor on demand by MBL on a full indemnity basis,
- (b) is, pending reimbursement, secured by this Charge and may be debited to any account of the Chargor as MBL deems fit, and
- (c) shall bear interest accruing daily in arrear from the date of its payment at the default rate of interest specified in the Facility Agreements

**6. LIABILITY OF THE CHARGOR**

**6.1 Liability not discharged**

The liability of the Chargor under this Charge in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

- (a) any Security Interest, guarantee, indemnity, remedy or other right held by or available to MBL being or becoming wholly or partially illegal, void or unenforceable on any ground,
- (b) MBL renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from any other person, or

- (c) any other act or omission which but for this provision might have discharged or otherwise prejudiced or affected the liability of the Chargor

**6.2 Immediate recourse**

The Chargor waives any right it may have of requiring MBL to:

- (a) enforce any security or other right, or
- (b) claim any payment from or otherwise proceed against any other person,

before enforcing this Charge against the Chargor

**7 REPRESENTATIONS AND WARRANTIES**

The Warranties set out in this clause 7 are made by the Chargor on the date of this Charge, and shall be deemed to be repeated on each day of the Security Period with reference to the facts and circumstances then existing.

**7.1 Ownership of Charged Property**

The Chargor is the sole legal and beneficial owner and registered holder of all the Charged Property free from any Security Interest other than this Charge and the Charged Property constitute 100% of all the issued capital in the Company

**7.2 Validity of issue**

The Charged Property has been duly authorised and validly issued, and is and will be free from any restrictions on transfer or rights of pre-emption whether contained in the constitutional documents or otherwise and there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of the Company

**7.3 Fully paid**

The Charged Property is fully paid up and there are no monies or liabilities outstanding in respect of any of the Charged Property

**7.4 No conflicting rights or breach**

This Charge does not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation to which the Chargor is a party or by which it is bound

**7.5 Enforceable security**

This Charge constitutes and will continue to constitute the legal valid binding and enforceable obligations of the Chargor, and is and will continue to be effective security over all and every part of the Charged Property in accordance with its terms.

**7.6 Avoidance of security**

This Charge is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise

**7.7 Constitution and authority**

The Chargor

- (a) is duly incorporated and validly existing under the law of its country of incorporation,
- (b) has the necessary capacity, power and authority to enter into and perform its obligations under this Charge; and
- (c) has obtained all necessary authorisations and consents, which will remain in full force and effect so long as this Charge subsists, to enable and entitle it to enter into this Charge

**8. CHARGOR COVENANTS**

The Chargor covenants with MBL during the continuance of the security constituted by this Charge in the terms set out in this clause 8

**8.1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, except with the prior written consent of MBL

- (a) create, purport to create or permit to subsist any Security Interest on, or in relation to, any Charged Property or any of its other assets other than any Security Interest created by this Charge,
- (b) permit any of its subsidiaries to subsist any Security Interest on, or in relation to, any of its other assets other than any Security Interest created by any other Relevant Document,

- (c) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Charged Property,
- (d) permit any of its subsidiaries to sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in any subsidiary;
- (e) create or grant (or purport to create or grant) any interest in any Charged Property in favour of a third party

## **8 2 Additional registration obligations**

The Chargor grants and agrees to

- (a) procure as necessary, any consents, waivers, approvals and permissions which are necessary, under the constitutional documents of the Company or otherwise, for the transfer of the Charged Property to MBL or its nominee or to a purchaser upon enforcement of this Charge, and
- (b) procure the amendment of the share transfer provisions of the constitutional documents of the Company in such manner as MBL may require in order to ensure such a transfer is permitted.

## **8 3 No alteration of rights and liabilities**

The Chargor shall not, without the prior written consent of MBL, amend, or agree to the amendment of, the constitutional documents of the Company or the rights or liabilities attaching to any of the Charged Property.

## **8 4 Preservation of Charged Property**

The Chargor shall not.

- (a) consolidate or subdivide any of its stock or shares or reduce or reorganise its share capital in the Company in any way, or
- (b) refuse to register any transfer of any of the Shares which may be lodged for registration by or on behalf of MBL or the Chargor in accordance with this Charge

## **8 5 Information**

The Chargor shall, promptly following receipt, send to MBL copies of all notices, circulars, reports, accounts and other documents, which are received by the Chargor, or any nominee of it, in respect of any Charged Property.

## **8 6 No adverse actions or variations**

The Chargor shall not cause or permit anything to be done which may adversely affect the security created by this Charge or which is a variation or abrogation of the rights attaching to or conferred on all, or any part of the Charged Property by this Charge, without the prior written consent of MBL

## **9. RIGHTS OF MBL**

### **9.1 Chargor exercise of rights**

- (a) Subject to Clause 9.2, the Chargor is entitled to exercise or direct the exercise of the voting and other rights attached to any Charged Property as it sees fit provided that
  - (i) it does so for a purpose not inconsistent with its obligations under any Relevant Document; and
  - (ii) the exercise of or failure to exercise those rights does not have an adverse effect on the value of the Charged Property and does not otherwise prejudice MBL's interests under this Charge
- (b) The Chargor shall not, without the prior written consent of MBL, by the exercise of any voting rights or otherwise, permit or agree to (a) any variation of the rights attaching to or conferred by all or any part of the Shares or (b) any issuance of additional shares in the Company (i) to any person other than the Chargor and/or (ii) with rights which differ in any way from the rights attaching to or conferred by the Shares.

### **9.2 Post enforcement rights**

After the security constituted by this Charge has become enforceable:

- (a) all dividends, interest and other distributions paid in respect of the Charged Property and received by or on behalf of the Chargor shall be held on trust for MBL and forthwith paid into an account designated by MBL or, if received by MBL, may be applied by MBL as though they were the proceeds of sale, and
- (b) all voting and other rights and powers attaching to the Charged Property shall be exercised by, or at the direction of, MBL, and the Chargor shall, and shall procure that its nominees shall, comply with any directions MBL may, in its absolute discretion, give concerning the exercise of those rights and powers.

### **9.3 Protection of interests**

The powers conferred on MBL by this Charge are solely to protect its interests in the Charged Property and shall not impose any duty on MBL to exercise any of those powers. Nothing in any Finance Document constitutes MBL as a trustee or fiduciary of the Chargor or other person

**9.4 No duties**

MBL shall not, in respect of any of the Charged Property, have any duty or incur any liability for:

- (a) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Charged Property or the nature or sufficiency of any payment whether or not MBL has or is deemed to have knowledge of such matters; or
- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Charged Property

**9.5 Exclusion of liability**

MBL shall not be liable to account as a mortgagee in possession in respect of the Charged Property, and shall not be liable in connection with the Charged Property for:

- (a) any loss on realisation,
- (b) any failure to present any interest coupon or any bond or stock drawn for repayment,
- (c) any failure to pay any call or instalment;
- (d) the acceptance of any offer or the notification of the Chargor of any such offer,
- (e) any failure to ensure that the correct amounts are paid or received in respect of the Charged Property;
- (f) any negligence or default by its nominees, or
- (g) any other loss of any nature whatsoever.

**10. POWERS OF MBL**

MBL shall have the powers set out in this clause 10

**10.1 Power to remedy**

MBL shall be entitled (but shall not be bound) to remedy a breach at any time by the Chargor of any of its obligations contained in this Charge, and the

Chargor irrevocably authorises MBL and its agents to do all such things as are necessary or desirable for that purpose

**10.2 Exercise of rights**

The rights of MBL under clause 10.1 above are without prejudice to any other rights of MBL under this Charge and the exercise of those rights shall not make MBL liable to account as a mortgagee in possession

**10.3 Currency conversion**

For the purpose of, or pending the discharge of, any of the Secured Liabilities MBL may convert any monies received, recovered or realised by MBL under this Charge (including the proceeds of any previous conversion under this clause) from their existing currencies of denomination into such other currencies of denomination as MBL may think fit. Any such conversion shall be effected at MBL's then prevailing spot selling rate of exchange for such other currency against the existing currency. Each reference in this clause to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

**10.4 New accounts**

- (a) If MBL receives notice of any Security Interest or other interest affecting all or part of the Charged Property, MBL may open a new account or accounts for the Chargor in MBL's books and (without prejudice to MBL's right to combine accounts) no money paid to the credit of the Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities
- (b) If MBL does not open a new account or accounts immediately on receipt of notice under clause 10.4(a) above, then, unless MBL gives express written notice to the contrary to the Chargor, as from the time of receipt of the relevant notice by MBL of notice under clause 10.4(a) all payments made by the Chargor to MBL shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities

**10.5 MBL's set-off rights**

If MBL has more than one account for the Chargor in its books, MBL may at any time after

- (a) the security constituted by this Charge has become enforceable, or
- (b) MBL has received notice of any Security Interest or other interest affecting all or any part of the Charged Property,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit, but MBL shall notify the Chargor of the transfer once made

#### **10.6 Indulgence**

MBL may at its discretion grant time or other indulgence, or make any other arrangement, variation or release with any person or persons not being a party to this Charge (whether or not such person or persons are jointly liable with the Chargor) in respect of any of the Secured Liabilities or of any other Security Interest for them without prejudice either to this Charge or to the liability of the Chargor for the Secured Liabilities

### **11. ENFORCEMENT**

#### **11.1 Enforcement events**

This Charge shall be enforceable if any of the circumstances set out in paragraph 1 of Schedule 2 occur. The parties to this Charge agree that the provisions of Schedule 2 shall apply to this Charge and shall be binding between them

#### **11.2 Power of disposal**

At any time after this Charge has become enforceable, MBL and any nominee of MBL may (without prejudice to any other right which MBL may have), without further notice to the Chargor, exercise the power to sell or otherwise dispose of the whole or any part of the Charged Property

#### **11.3 Terms of disposal**

Any sale or disposal under clause 11.2 may be made in such manner, on such terms and for such consideration (whether payable immediately or by instalments) as MBL shall in its absolute discretion think fit and without liability for loss.

#### **11.4 Cash**

MBL may (without prejudice to any right which it may have under any other provision of this Charge) treat any part of the Charged Property consisting of money as if it were the proceeds of a sale or other disposal under clause 11.2

#### **11.5 Application of proceeds**

MBL shall apply the proceeds of a sale or other disposal under clause 11.2 (without prejudice to the right of MBL to recover any shortfall from the Chargor) in or towards the satisfaction of the Secured Liabilities in such order as MBL in its absolute discretion may from time to time determine subject to MBL's rights under paragraph 5 of Schedule 2

#### **11.6 Right of appropriation**

- (a) To the extent that the Charged Property constitutes Financial Collateral and this Charge and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, MBL shall have the right, at any time after this Charge has become enforceable, to appropriate all or any of the Charged Property in or towards the payment and/or discharge of the Secured Liabilities in such order as MBL in its absolute discretion may from time to time determine.
- (b) The value of any Charged Property appropriated in accordance with this clause shall be the price of that Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as MBL may select, including a valuation carried out by an independent firm of accountants or valuers appointed by MBL
- (c) The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

### **12. COSTS AND INDEMNITY**

#### **12.1 Costs**

The Chargor shall pay to or reimburse MBL on demand, on a full indemnity basis, all Costs incurred by MBL in relation to

- (a) this Charge or the Charged Property,
- (b) protecting, perfecting, preserving or enforcing (or attempting to do so) any of MBL's rights under this Charge; or

(c) taking proceedings for, or recovering any of, the Secured Liabilities, (including, without limitation, the Costs of any proceedings in relation to this Charge, the Charged Property or the Secured Liabilities), together with, in the case of clause 12 1(b) and clause 12 1(c), interest on the amount due from the date of demand until payment at the default rate of interest specified in the Facility Agreements.

## **12 2 Indemnity**

MBL and its employees and agents shall be indemnified on a full indemnity basis out of the Charged Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

- (a) the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Charge;
- (b) any matter or thing done or omitted to be done in relation to the Charged Property under those powers; or
- (c) any default or delay by the Chargor in performing any of its obligations under this Charge

Any past or present employee or agent may enforce the terms of this clause 12.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

## **12 3 Gross-up**

- (a) All payments made by the Chargor to MBL under the Finance Documents to MBL shall be made in sterling
  - (i) in full, without any deduction, withholding, set-off or counterclaim (including in respect of tax, unless a tax deduction is required by law), and
  - (ii) in immediately available cleared funds on the due date to the account that MBL may specify to the Chargor
- (b) If the Chargor is required by law to make a deduction or withholding for or on account of tax in respect of any payment made under the Finance Documents, the Chargor shall make such deduction or withholding and any payment required in connection therewith within the time allowed and in the minimum amount required by law and the amount of the payment due from the Chargor to MBL shall be increased to an amount which (after making any tax deduction) leaves

an amount equal to the payment which would have been due if no tax deduction had been required

**13. RELEASE BY MBL**

Subject to clause 15 3, upon the expiry of the Security Period (but not otherwise) MBL shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Charge.

**14. ASSIGNMENT AND TRANSFER**

**14 1 Assignment by MBL**

MBL may at any time, without the consent of the Chargor, assign or transfer the whole or any part of MBL's rights and obligations under this Charge to any person

**14 2 Assignment by the Chargor**

The Chargor may not assign any of its rights or transfer any of its obligations under this Charge or enter into any transaction, which would result in any of the Chargor's rights or obligations under this Charge passing to another person.

**15. FURTHER PROVISIONS**

**15 1 Independent security**

This Charge shall be in addition to, and independent of, every other Security Interest or guarantee which MBL may at any time hold for any of the Secured Liabilities, and no prior Security Interest held by MBL over the whole or any part of the Charged Property shall merge in the security created by this Charge

**15 2 Continuing security**

This Charge shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or other matter or thing whatsoever, unless and until MBL discharges this Charge in writing.

**15 3 Discharge conditional**

Any release, discharge or settlement between the Chargor and MBL shall be deemed conditional upon no payment or security received by MBL in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any provision of any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise and, notwithstanding any such release, discharge or settlement

- (a) MBL or its nominee shall be at liberty to retain this Charge and the security created by this Charge, including all certificates and documents relating to the whole or any part of the Charged Property, for such period as MBL shall deem necessary to provide MBL with security against any such avoidance, reduction or order for refund, and
- (b) MBL shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.

#### **15.4 Certificates**

A certificate or determination by MBL as to any amount for the time being due to it from the Chargor shall (in the absence of any manifest error) be conclusive evidence of the amount due

#### **15.5 Rights cumulative**

The rights and remedies of MBL conferred by this Charge are cumulative, may be exercised as often as MBL considers appropriate and are in addition to its rights and remedies under the general law

#### **15.6 Waivers**

Any waiver or variation of any right or remedy (whether arising under this Charge or under the general law), or any consent given under this Charge, is only effective if it is in writing and signed by the waiving, varying or consenting party, and applies only in the circumstances for which it was given and shall not prevent the party giving it from subsequently relying on the relevant provision

#### **15.7 Further exercise of rights**

No act or course of conduct or negotiation by or on behalf of MBL shall in any way preclude MBL from exercising any right or remedy under this Charge, or constitute a suspension or variation of any such right or remedy.

15 8 **Delay**

No delay or failure to exercise any right or power under this Charge shall operate as a waiver of any such right or remedy

15 9 **Single or partial exercise**

No single or partial exercise of any right or remedy under this Charge shall prevent any further or other exercise of such right or remedy, or the exercise of any other right or remedy under this Charge.

15 10 **Consolidation**

The restriction on the right of consolidating mortgages contained in section 93 of the Law of Property Act 1925 shall not apply to this Charge

15 11 **Partial invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Charge under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties

15 12 **Counterparts**

This Charge may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document

15 13 **Third party rights**

Save as expressly provided in clause 12 2, a third party (being any person other than the Chargor and MBL and its permitted successors and assigns) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this Charge and no consent and no consent of any third party is required for any variation or termination of this Charge Notwithstanding any term of this Charge, the consent of any person who is not a party to this Charge is not required to rescind or vary this Charge at any time

15 14 **Perpetuity period**

If the rule against perpetuities applies to any trust created by this Charge, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

**16. NOTICES**

- (a) Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter
- (b) The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) for MBL and the Chargor for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name in the signature pages of this Charge or any substitute address or fax number or department or officer as such party may notify to the other party by not less than five Business Days' notice.
- (c) Any notice or other communication given under this Charge shall be deemed to have been received if sent by fax, when received in legible form and otherwise at the time of actual receipt

**17. GOVERNING LAW AND JURISDICTION**

**17.1 Governing law**

This Charge and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

**17.2 Jurisdiction**

The parties to this Charge irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Charge or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of MBL to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction

**17.3 Other service**



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The Chargor irrevocably consents to any process in any proceedings being served on it in accordance with the provisions of this Charge relating to service of notices. Nothing contained in this Charge shall affect the right to serve process in any other manner permitted by law.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**Schedule 1    Particulars of Charged Property**

<b>Company</b>	<b>Registered Number</b>	<b>Number and class of shares</b>	<b>Certificate Number</b>
Severn Gas Transportation Limited	05121224	7,000,001 Ordinary Shares	Two
<b>TOTAL NUMBER OF CHARGED SHARES</b>			



## **Schedule 2    Enforcement**

### **1.    ENFORCEMENT EVENTS**

This Charge shall be enforceable if MBL has served an Acceleration Notice and in any such event MBL or any nominee of MBL may without further notice, without regard to the restrictions contained in section 103 of the Law of Property Act 1925 and without prejudice to any of MBL's other rights, immediately exercise all the powers conferred on mortgagees by the Law of Property Act 1925 as varied or extended by this Charge without any restrictions

### **2.    POWER OF SALE**

Notwithstanding that as between MBL and a purchaser from MBL, the power of sale arises on and is exercisable at any time after the execution of this Charge, MBL shall not exercise that power of sale until an event (as specified in the paragraph 1 of this Schedule 2) entitling MBL to enforce its security has occurred

### **3.    PROTECTION OF THIRD PARTIES**

No purchaser, mortgagee or other person dealing with MBL or its nominee shall be concerned to:

- (a) enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or not discharged, or whether the power MBL is purporting to exercise has become exercisable; or
- (b) see to the application of any money paid to MBL or its nominee.

### **4.    APPROPRIATION**

Neither MBL nor any nominee of MBL shall be bound (whether by virtue of section 109(8) of the Law of Property Act 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order as between any of the Secured Liabilities.

### **5.    SUSPENSE ACCOUNT**

All monies received by MBL under this Charge may, at the discretion of MBL, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between MBL and the Chargor and may be held in such account for so long as MBL thinks fit

**6. STATUTORY PROTECTION**

All the protection to purchasers contained in sections 104 and 107 of the Law of Property Act 1925, section 42(3) of the Insolvency Act 1986 or in any other appropriate legislation shall apply to any person purchasing from MBL or any nominee of MBL as a result of MBL exercising or purporting to exercise its power of sale under this Charge

Executed as a deed by **SEVERN  
POWER LIMITED** acting by its  
duly appointed attorneys



Attorney  
Name of Attorney **GORDON PARSONS**



Attorney  
Name of Attorney. **DOUGLAS MCLEISH**

Contact details

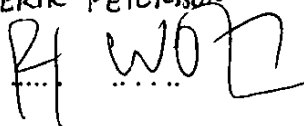
Address Uskmouth Power Station, West Nash Road, Nash, Newport, NP18  
2BZ

Number:  
Attention

Executed as a deed by  
**MACQUARIE BANK LIMITED,  
LONDON BRANCH** acting by its  
duly appointed attorneys



Attorney **ERIK PETERSSON**



Attorney  
**PAUL WESTON**

Contact details

Address Ropemaker Place, 28 Ropemaker Street, London, EC2Y 9HD  
Fax Number +44 20 3037 5700  
Attention: FICC Legal London, with a copy to [ficclegallon@macquarie.com](mailto:ficclegallon@macquarie.com)