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CHFP041

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lettering

\* insert full name  
of company

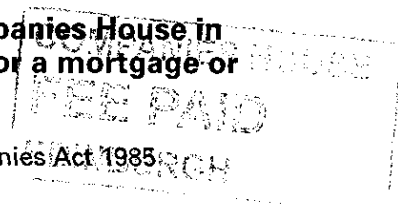
COMPANIES FORM No. 410(Scot)

## Particulars of a charge created by a company registered in Scotland

# 410

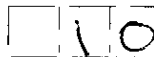
A fee of £10 is payable to Companies House in  
respect of each register entry for a mortgage or  
charge

Pursuant to section 410 of the Companies Act 1985



To the Registrar of Companies  
(Address overleaf - Note 6)

For official use Company number



SC147994

Name of company

\* EPR SCOTLAND LIMITED, a company incorporated in Scotland having its registered  
office at 191 West George Street, Glasgow, G2 2LB, (the "Assignor")

Date of creation of the charge (note 1)

18 October 2004

Description of the instrument (if any) creating or evidencing the charge (note 1)

Scottish Assignment in Security (the "Charge")

Amount secured by the charge

The Secured Liabilities

See Paper Apart I for definitions

Names and addresses of the persons entitled to the charge

The Governor and Company of the Bank of Scotland, acting through its  
Corporate Banking Division at New Ueberior House, 11 Earl Grey Street,  
Edinburgh, EH3 9BN, (the "Bank")

Presentor's name, address, telephone  
number and reference (if any):

Dundas & Wilson CS  
20 Castle Terrace  
Edinburgh  
EH1 2EN

PJR/KAA/MPS/BOS001.2073

For official use 110/021  
Charges Secti



## Short particulars of all the property charged

In security of the due and punctual payment and performance by the Assignor of the Secured Liabilities, the Assignor, hereby assigns to the Bank its whole right, title, interest and benefit in to each of the Accounts together with:

- (i) all balances at any time during the subsistence of this Deed standing to the credit of each account including all interest thereon and the debt represented thereby;
- (ii) any agreements (whether oral, written or implied) or instruments entered into in the constitution of the rights and obligations of the Assignor and the Account Bank in relation to each Account; and
- (iii) any agreements (whether oral, written or implied) or instruments entered into in substitution therefor or for such substituted agreement or instrument; and

all Rights of the Assignor relative to the Accounts.

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in black type, or  
bold block  
lettering*

## Statement, in the case of a floating charge, as to any restrictions on power to grant further securities and any ranking provision (note 2)

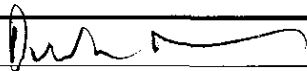
The security hereby granted by the Assignor, and any security interest constituted by the Assignor, pursuant to this Deed shall rank in point of security in priority to the floating charge created by the Floating Charge and to all other Encumbrances created or subsisting from time to time over all or any part of the Assigned Rights.

The Assignor undertakes that except with the prior written consent of the Bank or as expressly permitted by the terms of any Finance Document it shall not during the Security Period create, incur, assume or permit to subsist any Encumbrance, save for any Permitted Encumbrance, on all or any part of the Assigned Rights.

## Particulars as to commission, allowance or discount paid (see section 413(3))

N/A

Signed



Date

21.10.04

On behalf of ~~(company)~~ [chargee]†

*A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)*

## Notes

1. A description of the instrument e.g. "Standard Security" "Floating Charge" etc, should be given. For the date of creation of a charge see section 410(5) of the Act. (Examples - date of signing of an Instrument of Charge; date of recording/registration of a Standard Security; date of intimation of an Assignment.)

2. In the case of a floating charge a statement should be given of (1) the restrictions, if any, on the power of the company to grant further securities ranking in priority to, or pari passu with the floating charge; and/ or (2) the provisions, if any, regulating the order in which the floating charge shall rank with any other subsisting or future floating charges or fixed securities over the property which is the subject of the floating charge or any part of it.

3. A certified copy of the instrument, if any, creating or evidencing the charge, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of the creation of the charge. In the case of a charge created out of the United Kingdom comprising property situated outside the U.K., within 21 days after the date on which the copy of the instrument creating it could, in due course of post, and if despatched with due diligence, have been received in the U.K. Certified copies of any other documents relevant to the charge should also be delivered.

4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.

5. Cheques and Postal Orders are to be made payable to **Companies House**.

6. The address of the Registrar of Companies is: Companies House, 37 Castle Terrace, Edinburgh EH1 2EB  
DX 235 Edinburgh or LP-4 Edinburgh 2

† delete as  
appropriate

**This is the Paper Apart I referred to in the foregoing Form 410 in respect of a Scottish Assignment in Security granted by EPR Scotland Limited in favour of The Governor and Company of the Bank of Scotland.**

In the interpretation of this Form 410:-

**"Accounts"** means each of the Insurance Account and the Compensation Account.

**"Account Bank"** means the Governor and Company of the Bank of Scotland, acting through its Corporate Banking Division or any other person with whom the Bank Accounts are maintained in terms of Clause 8 of the Agreement.

**"Agreement"** means the Facility Agreement between the Assignor and the Bank dated 25 July 1997 as supplemented on 13 February 1998 and 4 May 1999 and amended and restated by an amendment restatement agreement dated 21 and 22 June 2004.

**"Amendment and Restatement Effective Date"** means the Effective Date (as defined in the Amendment and Restatement Agreement).

**"Assigned Rights"** means the assets and rights assigned or to be assigned in security by or pursuant to the Deed.

**"Bank Accounts"** means each of the Proceeds Account, the Debt Service Reserve Account, the Operation and Maintenance Reserve Account, the Insurance Account and the Compensation Account.

**"Bank Engineer"** means PB Power Limited or such other firm of independent consulting engineers as may be appointed by the Bank from time to time with the consent of the Borrower, such consent not to be unreasonably withheld or delayed.

**"Bank Insurance Consultant"** means Sedgwick Bankrisk Limited in their capacity as insurance advisers to the Bank in relation to the Project and/or such other insurance advisers as the Bank may appoint with the approval of the Borrower (such approval not to be unreasonably withheld or delayed) as such from time to time.

**"Compensation Account"** means an account opened by the Assignor pursuant to Clause 8.5 of the Agreement the particulars of which are set out in the Schedule to the Charge as set out in Paper Apart II hereto.

**"Debt Service Reserve Account"** means a deposit account opened by the Borrower pursuant to Clause 8.2 of the Agreement.

**"Direct Agreements"** means the Supplier's Direct Agreement, the Purchasers' Direct Agreements and the Equity Providers' Direct Agreement, any direct agreement delivered pursuant to Clause 3.1 of the Equity Providers' Direct Agreement and any other agreement designated as such by the Bank and the Borrower in writing.

**"Electra"** means Electra Fleming Private Equity Partners, acting through its general partner Electra Fleming GP (Unquoted UK) Limited.

**"Electricity Purchase Contract "** means the document referred to as such in paragraph 4 of Part 5 of the Schedule to the Agreement as set out in Paper Apart III hereto, pursuant to which Scottish Power UK plc (formerly known as Scottish Power plc) and Scottish and Southern Energy plc (formerly known as Scottish Hydro-Electric plc) (as each may have transferred its undertaking thereunder by virtue of a Transfer Certificate under paragraphs 2(1) and 3(1) of Schedule 7 to the Utilities Act 2000)

agree to purchase the projected output of 9.8MW of electricity from the Plant and includes any New Electricity Purchase Contract.

**"Encumbrance"** includes fixed or floating security including, without limiting the generality, any standard security, assignation in security, pledge, floating charge, hypothecation, security interest, title retention or other preferential right having the effect of creating security.

**"Equity Provider "** means the Parent and its assignees and transferees permitted by the terms of this Agreement or the Equity Providers' Direct Agreement.

**"Equity Providers' Direct Agreement "** means the direct agreement between the Equity Provider, the Borrower and the Bank relating (inter alia) to the provision of equity finance and any further direct agreement granted pursuant to Clause 3.1 thereof as amended by a Supplemental Equity Providers' Direct Agreement between the same parties and dated on or around the Amendment and Restatement Effective Date.

**"Finance Documents"** means the Agreement, the Security Documents, the Inter-Creditor Agreement, the Ranking Agreement, the Direct Agreements, the Insurance Programme and any other document designated as such by the Bank and the Assignor.

**"Financial Close"** means 13 February 1998.

**"Floating Charge"** means a Bond and Floating Charge by the Assignor in favour of the Bank dated 13 February 1998.

**"Insurance Account"** means an account opened by the Assignor pursuant to Clause 8.5 of the Agreement the particulars of which are set out in the Schedule to the Charge as set out in Paper Apart II hereto.

**"Insurance Programme"** means the programme of insurances required by the Bank from time to time following consultation with the Bank Engineer and the Bank Insurance Consultant and notified to the Borrower and being initially in the form set out in Part 4 of the Schedule to the Agreement.

**" Inter-Creditor Agreement"** means the inter-creditor agreement to be entered into prior to Financial Close between the Borrower (1), the Bank (2) and the Subordinated Creditor (3) as amended by a supplemental inter-creditor agreement between the same parties and dated on or around the Amendment and Restatement Effective Date.

**"Marshall Supply Contract"** means the document referred to as such in paragraph 3 of Part 5 of the Schedule as set out in Paper Apart IV hereto, pursuant to which Marshall Food Group Limited agrees to supply poultry litter to the Borrower.

**"New Administration Services Agreement"** means an agreement between the Borrower and the Parent in the Required Form relating to the provision of administration services for the Borrower for the payment of an administration fee.

**"New Ash Purchase Contract"** means an agreement between the Borrower and Fibrophos Limited in the Required Form pursuant to which Fibrophos Limited will agree to purchase ash produced by the Plant.

**"New Electricity Purchase Contract "** means a replacement purchase contract between the Borrower and the Non-Fossil Purchasing Agency Limited on similar terms to the Electricity Purchase Contract concluded in connection with the implementation of the new British Electricity Trading and Transmission Arrangements in Scotland presently targeted for in or around April 2005.

**"Operation and Maintenance Reserve Account "** means a deposit account opened by the Borrower pursuant to Clause 8.4 of the Agreement.

**"Parent "** means Energy Power Resources Limited (registered in England and Wales number 03302734).

**"Permitted Encumbrance"** means :

- (a) Encumbrances in favour of the Bank;
- (b) any lien arising solely by operation of law in the ordinary course of the business of the Borrower in respect of any obligation which is not overdue for settlement;
- (c) servitudes, wayleaves, reservations, conditions, burdens and other Encumbrances referred to in the certificate of title provided to the Bank by the Borrower's solicitors;
- (d) Encumbrances arising out of title retention provisions in a supplier's standard conditions of supply of goods entered into in the ordinary course of business; and
- (e) Encumbrances granted with the prior written consent of the Bank.

**" Plant "** means the generating facilities and ancillary equipment installed and commissioned in relation to the Project.

**"Proceeds Account "** means an account opened by the Borrower pursuant to Clause 8.1 of the Agreement.

**"Project "** means the construction, commissioning and operation of the biomass electricity generating power station referred to in Recital (A) of the Agreement.

**"Project Documents"** means the documents referred to in Part 5 of the Schedule to the Agreement as set out in Paper Apart V hereto.

**"Purchaser's Direct Agreements"** means the direct agreements entered into between the Bank, the Borrower, and, respectively, Scottish Power UK plc (formerly known as Scottish Power plc) and Scottish and Southern Energy plc (formerly known as Scottish Hydro-Electric plc) relating, *inter alia*, to termination of the Electricity Purchase Contract (and any replacement direct agreement with any counterparty delivered in connection with any New Electricity Purchase Contract and/or pursuant to Clause 19.4.4).

**"Ranking Agreement"** means an agreement between the Bank and Electra in relation to the Securities Charge and Electra's Securities Charge (as defined in the Ranking Agreement) in the Required Form.

**"Required Form"** means, in relation to any document, as required in respect of both the form and substance thereof by the Bank.

**"Rights"** in relation to any contract, document, agreement or arrangement includes:

- (a) the right to receive all and any moneys payable thereunder;
- (b) the proceeds of any payment thereunder;
- (c) all claims for damages for any breach thereof (except for a breach by the Assignor);

- (d) the benefit of all warranties and indemnities contained therein;
- (e) any right to terminate the same; and
- (f) the right to perform and observe the provisions of the same and to compel the performance and observance of the same.

**"Secured Liabilities"** means all present and future obligations and liabilities of the Assignor to the Bank hereunder and under the Agreement and the other Finance Documents and/or any deed or document supplemental thereto, whether actual, contingent, sole, joint and/or several or otherwise including, without prejudice to the foregoing generality, all obligations to indemnify the Bank.

**"Security Documents"** means

- (a) standard securities granted by the Borrower over its interest in the Site (each a **Standard Security**);
- (b) an assignment in security granted by the Borrower, over its rights, title and interest in and to, respectively, *inter alia* the Project Documents, the Bank Accounts and the Insurances (**the Assignment**);
- (c) a bond and floating charge granted by the Borrower over all its assets (**the Floating Charge**);
- (d) a fixed security over all the issued share capital of the Borrower held by the Parent and entered into between the Parent and the Bank (**the Securities Charge**); and
- (e) any security granted from time to time pursuant to (i) Clause 3.1 of the Equity Providers' Direct Agreement or (ii) Clause 4.2 of the Inter-Creditor Agreement or (iii) any further assurance undertaking or covenant in any Finance Document;
- (f) a supplemental assignment in security granted by the Borrower, over its rights, title and interest in and to, the New Ash Purchase Contract and the New Administration Services Agreement (**the Supplemental Assignment**);
- (g) any assignment in security of a New Electricity Purchase Contract granted by the Borrower pursuant to Clause 19.4.3.13 of the Agreement;
- (h) any assignment in security of any power purchase contracts granted by the Borrower pursuant to Clause 19.4.4 of the Agreement; and
- (i) any other document which the Bank and the Borrower agrees to in writing is a Security Document;

all in the Required Form.

**"Security Period "** means the period beginning on the date of the Scottish Assignment in Security and ending on the date upon which all the Secured Liabilities which have arisen or which may arise have been irrevocably paid or discharged or the security hereby created has been finally released and discharged.

**"Site"** means that part of the site at Westfield Development Centre, Westfield, Fife, Scotland owned by the Borrower and on which *inter alia* the Plant has been constructed and is being operated.

**"Subordinated Creditor "** means the Parent.

**"Supplier's Direct Agreement"** means the direct agreement entered into between Marshall Food Group Limited, the Borrower and the Bank relating inter alia to the termination of the Marshall Supply Contract.

**This is the Paper Apart II referred to in the foregoing Form 410 in respect of a Scottish Assignment in Security granted by EPR Scotland Limited in favour of The Governor and Company of the Bank of Scotland.**

**The Accounts**

| <b>Account</b>       | <b>Account Number</b> | <b>Bank/Branch/Location</b>  | <b>Currency</b> |
|----------------------|-----------------------|--|-----------------|
| Insurance Account    | 06000062              | Bank of Scotland<br>Corporate Banking Division<br>(Sort Code 80-20-11) | Sterling        |
| Compensation Account | 06000070              | Bank of Scotland<br>Corporate Banking Division<br>(Sort Code 80-20-11) | Sterling        |



**This is the Paper Apart III referred to in the foregoing Form 410 in respect of a Scottish Assignment in Security granted by EPR Scotland Limited in favour of The Governor and Company of the Bank of Scotland.**

4. The Power Purchase Agreement between Scottish Power UK plc (formerly known as Scottish Power plc), Scottish and Southern Energy plc (formerly known as Scottish-Hydro Electric plc) (as each may have transferred its undertaking thereunder by virtue of a Transfer Certificate under paragraphs 2(1) and 3(1) of Schedule 7 to the Utilities Act 2000) and the Borrower dated 28 September, 21 and 22 December 1994 relating to the purchase of electricity and any New Electricity Purchase Contract (**the Electricity Purchase Contract**).

**This is the Paper Apart IV referred to in the foregoing Form 410 in respect of a Scottish Assignment in Security granted by EPR Scotland Limited in favour of The Governor and Company of the Bank of Scotland.**

3. The Long Term Supply Agreement between Marshall Food Group Limited and the Borrower dated 22 January and 18 February 1997 relating to the supply of chicken litter (**the Marshall Supply Contract**).

**This is the Paper Apart V referred to in the foregoing Form 410 in respect of a Scottish Assignment in Security granted by EPR Scotland Limited in favour of The Governor and Company of the Bank of Scotland.**

#### **Part 5 - Project Documents**

1. Not Used.
2. Not Used.
3. The Long Term Supply Agreement between Marshall Food Group Limited and the Borrower dated 22 January and 18 February 1997 relating to the supply of chicken litter (**the Marshall Supply Contract**).
4. The Power Purchase Agreement between Scottish Power UK plc (formerly known as Scottish Power plc), Scottish and Southern Energy plc (formerly known as Scottish-Hydro Electric plc) (as each may have transferred its undertaking thereunder by virtue of a Transfer Certificate under paragraphs 2(1) and 3(1) of Schedule 7 to the Utilities Act 2000) and the Borrower dated 28 September, 21 and 22 December 1994 relating to the purchase of electricity and any New Electricity Purchase Contract (**the Electricity Purchase Contract**).
5. The New Ash Purchase Agreement between Fibrophos Limited and the Borrower to be entered into pursuant to Clause 19.4.5 relating to the purchase of ash (**the New Ash Purchase Contract**).
6. The New Administration Services Agreement between the Parent and the Borrower to be entered into pursuant to Clause 19.4.5 (**the New Administration Services Agreement**).
7. The Connection Agreement.
8. Any power purchase agreement entered into pursuant to Clauses 19.4.3.13 or 19.4.4 of the Agreement.

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## CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number 147994

I hereby certify that a charge created by

EPR SCOTLAND LIMITED

on 18 OCTOBER 2004

for securing ALL SUMS DUE, OR TO BECOME DUE

in favour of

THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND

was delivered pursuant to section 410 of the Companies Act, 1985,  
on 28 OCTOBER 2004 given at Companies House, Edinburgh  
1 NOVEMBER 2004



C O M P A N I E S H O U S E

