

MR01

Particulars of a charge

W/15 697/63

**Laserform**

**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 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. This will be scanned and placed on the public record. **Do not send the original.**

TUESDAY



\*S41ET1TC\*

SCT

17/02/2015

#415

COMPANIES HOUSE

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 \*

**1 Company details**

Company number 

S	C	1	8	0	8	7	4
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Company name in full SUMMERSTON ENERGY LIMITED

**2 Charge creation date**

Charge creation date 

d	0	d	4	m	0	m	2	y	2	y	0	y	1	y	5
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**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 BRITISH GAS TRADING LIMITED

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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4

**Brief description**

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

N/A

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

**Other charge or fixed security**

Does the instrument include a charge (which is not a floating 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 company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

8

**Trustee statement ①**

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.

☐

① This statement may be filed after the registration of the charge (use form MR06).

9

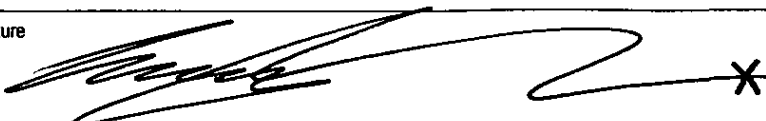
**Signature**

Please sign the form here.

Signature

Signature

X



X

PARTNER, FOR AND ON BEHALF OF CMS CAMERON MCKENNA LLP

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

MR01

Particulars of a charge



**Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Kirsty MacKay

Company name CMS CAMERON MCKENNA LLP

Address 191 WEST GEORGE STREET

Post town GLASGOW

County/Region

Postcode G 2 2 L D

Country SCOTLAND UK

DX

Telephone 0141 304 6238



**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: 180874

Charge code: SC18 0874 0017

The Registrar of Companies for Scotland hereby certifies that a charge dated 4th February 2015 and created by SUMMERSTON ENERGY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th February 2015.

Given at Companies House, Edinburgh on 20th February 2015



**Companies House**



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

Dated 4 February 2015

**SUMMERSTON ENERGY LIMITED**

and

**BRITISH GAS TRADING LIMITED**

(as Chargee)

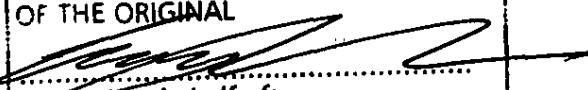
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**SECOND-RANKING FLOATING CHARGE**

This Floating Charge is subject to the terms of the Deed of Priority (as defined herein)

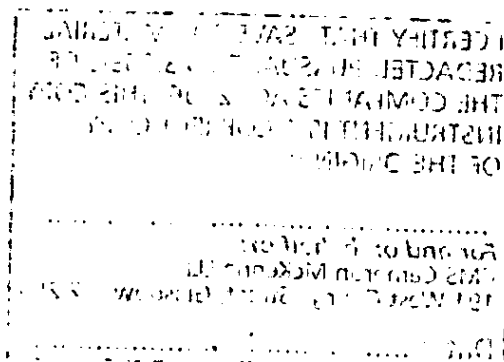
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I CERTIFY THAT, SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006, THIS COPY INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL

  
For and on behalf of:  
CMS Cameron McKenna LLP  
191 West George Street, Glasgow G2 2LD  
Date: 13/2/15

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**THIS FLOATING CHARGE is made BETWEEN:**

- (1) **SUMMERSTON ENERGY LIMITED**, a company incorporated in Scotland with registered number SC180874 (the "Chargor");
- and
- (2) **BRITISH GAS TRADING LIMITED** a company incorporated under the laws of England and Wales with registered number 03078711 whose registered office is Millstream, Maidenhead Road, Windsor, Berkshire, SL4 5GD (the "Chargee").

**BACKGROUND**

- (A) The Counterparties entered into the Power Purchase Agreements (as defined below) in relation to a portfolio of landfill gas generating facilities in England and Wales and Scotland.
- (B) By a loan agreement dated on or about the date hereof and made between, amongst others, MEIF Luxembourg Renewables S.à.r.l. as Parent, TopCo (as defined below) as Original Borrower, the companies listed at Part 1 of Schedule 1 thereto as Original Guarantors, and the financial institutions listed at Part 2 of Schedule 1 thereto as Original Lenders (each as defined therein) (the "Facility Agreement"), it was agreed, subject to the terms and conditions thereof, to make available to, among others, TopCo the loan facility specified therein.
- (C) TopCo, will on or around the date hereof, issue fixed rate senior secured notes due 2019 (the "Senior Secured Notes") pursuant to an indenture between, among others, TopCo as Issuer and US Bank Trustees Limited as Trustee (each as defined therein).
- (D) The loan facility under the Facility Agreement and the Senior Secured Notes form part of the First Ranking Liabilities (as defined below).
- (E) In order to secure the obligations of the Counterparties (as defined below) under the Power Purchase Agreements, the Chargor has agreed to enter into this Floating Charge, subject to the prior ranking claims of the Security Agent with respect to the First Ranking Liabilities (each as defined below).
- (F) The parties acknowledge that this Floating Charge is a Replacement Security Document (as defined in the Renewable Energy Power Purchase Agreement).

**IT IS AGREED AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

In this Floating Charge:

"**Charged Property**" means all the assets and undertaking of the Chargor which from time to time are subject of the security created or expressed to be created in favour of the Chargee by or pursuant to this Floating Charge;

"**Collateral Rights**" means all rights, powers and remedies of the Chargee provided by or pursuant to this Floating Charge or by law;

"**Counterparties**" means, in respect of the LG Energy Power Purchase Agreement, MEIF LG Energy Limited; or, in respect of the Renewable Energy Power Purchase Agreement, MEIF Renewable Energy Limited;

**"Deed of Priority"** means the English law deed of priority dated on or around the date of this Floating Charge between, among others, the Chargee and the Security Agent;

**"Event of Default"** has the meaning given to that term in the Power Purchase Agreements;

**"First Ranking Liabilities"** has the meaning given to that term in the Deed of Priority;

**"First Ranking Security"** means any Security granted by the Chargor at any time in favour of U.S. Bank Trustees Limited as security agent pursuant to, or in contemplation of, the Facility Agreement, the Senior Secured Notes and any other indebtedness permitted to be incurred under the terms of the Intercreditor Agreement and the Power Purchase Agreements;

**"Group"** means MEIF Renewable Energy UK Plc ("Topco") and each of its Subsidiaries;

**"Intercreditor Agreement"** means the intercreditor agreement dated on or about the date hereof between, among others, TopCo and the Security Agent;

**"LG Energy Power Purchase Agreement"** means the power purchase agreement dated on or around January 2007 between MEIF LG Energy Limited and the Chargee (as amended and/or restated from time to time);

**"Parties"** means each of the parties to this Floating Charge from time to time;

**"Power Purchase Agreements"** means the LG Energy Power Purchase Agreement and the Renewable Energy Power Purchase Agreement;

**"Quasi-Security"** means a transaction in which the Chargor:

- (a) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor or any other member of the Group;
- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms;
- (c) enters into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enters into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset;

**"Receiver"** means an administrator, a receiver and manager or (if the Chargee so specifies in the relevant appointment) receiver in each case appointed under this Floating Charge;

**"Renewable Energy Power Purchase Agreement"** means the power purchase agreement originally dated 18 March 2005 between MEIF Renewable Energy Limited as buyer and the Chargee as seller (as amended and/or restated from time to time);

**"Replacement Security Document"** has the meaning given to that term in the Renewable Energy Power Purchase Agreement;

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

**"Secured Obligations"** means all payment obligations and liabilities of the Counterparties to the Chargee under or in connection with the Power Purchase Agreements as amended or supplemented from time to time (whether present or future, actual or contingent and

including, without limitation, any liabilities arising as a result of any breach or termination of, or misrepresentation under, the Power Purchase Agreements);

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

"Security Agent" has the meaning given to that term in the Intercreditor Agreement; and

"Subsidiary" means a 'wholly owned subsidiary' as defined in section 1159(2) of the Companies Act 2006.

## 1.2 Construction

In this Floating Charge, unless a contrary intention appears, a reference to:

- (a) an "agreement" includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an "amendment" includes any amendment, supplement, variation, novation, modification, replacement or restatement and "amend", "amending" and "amended" shall be construed accordingly;
- (c) "assets" includes present and future properties, revenues and rights of every description;
- (d) an Event Default is "continuing", "subsisting" or "outstanding" unless it has been fully remedied or expressly and unconditionally waived in writing by the Chargee;
- (e) "including" means including without limitation and "includes" and "included" shall be construed accordingly;
- (f) "losses" includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and "loss" shall be construed accordingly;
- (g) a "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing;
- (h) a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law being one with which it is the practice of the relevant person to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- (i) a time of day is a reference to London time.

## 1.3 Other References

- (a) In this Floating Charge, unless a contrary intention appears, a reference to:
  - (i) any clause or schedule is a reference to, respectively, a clause of and schedule to this Floating Charge and any reference to this Floating Charge includes its schedules; and
  - (ii) a provision of law is a reference to that provision as amended or re-enacted.

- (b) The index to and the headings in this Floating Charge are inserted for convenience only and are to be ignored in construing this Floating Charge.
- (c) Words importing the plural shall include the singular and vice versa.

#### 1.4 Miscellaneous

- (a) The terms of the documents under which the Secured Obligations arise and of any side letters between the Chargor and the Chargee relating to the Secured Obligations are incorporated in this Floating Charge.
- (b) Notwithstanding any other provision of this Floating Charge, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Floating Charge to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by the Chargor or a ground for the appointment of a Receiver.
- (c) This Floating Charge is subject to the terms of the Deed of Priority. In the event of any conflict between the terms of this Floating Charge and the terms of the Deed of Priority, the terms of the Deed of Priority shall prevail.

### 2. COVENANT TO PAY

#### 2.1 Covenant to pay

The Chargor as primary obligor covenants with the Chargee that it shall discharge the Secured Obligations in accordance with the terms of the Power Purchase Agreements.

#### 2.2 Interest on Demands

If the Chargor fails to pay any sum on the due date for payment of that sum, the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment in accordance with the Power Purchase Agreements.

### 3. FLOATING CHARGE

- 3.1 Subject to the First Ranking Security, the Chargor, as continuing security for the payment of the Secured Obligations, grants in favour of the Chargee a first floating charge over all its present and future assets, undertakings and rights.
- 3.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Floating Charge.

### 4. FURTHER ASSURANCE

#### 4.1 General

- (a) The Chargor shall promptly (and at its own expense) do all such acts (including payment of all stamp duties or fees) or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require):
  - (i) to perfect the Security created or intended to be created under or evidenced by this Floating Charge or for the exercise of any rights, powers and remedies of

the Chargee, any Receiver provided by or pursuant to this Floating Charge or by law;

- (ii) to confer on the Chargee, Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Floating Charge; and/or
  - (iii) whilst an Event of Default is continuing but subject to the Deed of Priority, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Floating Charge.
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Chargee by or pursuant to this Floating Charge.
- (c) The Chargor shall, promptly upon request in writing from the Chargee at any time after release by the Security Agent (or its successor or transferee) of:
- (i) any pledge over shares which may have been granted by the Chargor in favour of the Security Agent, grant a pledge over such shares; and/or
  - (ii) any assignation in security of any gas landfill contract which may have been granted by the Chargor in favour of the Security Agent, grant an assignation in security in respect of any such gas landfill contract,

in each case, in favour of the Chargee.

## **5. NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE**

5.1 Save as otherwise provided in the Deed of Priority, the Chargor must not:

- (a) create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property; or
- (b) sell, transfer, lease out, lend or otherwise dispose of all or any part of the Charged Property (other than on arm's length terms in the ordinary course of trading) or the right to receive or to be paid the proceeds arising on the disposal of the same; or agree or attempt to do so;

(other than the First Ranking Security) except as permitted by the First Ranking Security and the terms of clause 21.2(b) (Negative Pledge) and 21.1(c) (Non-disposal of assets) in each of the Power Purchase Agreements.

- 5.2 Save as otherwise provided in the Deed of Priority, any fixed security granted by the Chargor in favour of the Chargee (whether before or after the date of execution of this Floating Charge) shall rank in priority to this Floating Charge.
- 5.3 Save as otherwise provided in the Deed of Priority, in the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 5.1 or with the consent of the Chargee under Clause 5.1 but with no written agreement of the Chargee as to the ranking of them, this Floating Charge shall rank in priority to that fixed security or floating charge.
- 5.4 The Chargor will notify the Chargee promptly in the event of any creditor exercising diligence against it or any of the Charged Property wherever situated or taking any steps which might be expected to lead thereto.
- 5.5 The Chargor will notify the Chargee promptly of the acquisition by it of any heritable, freehold or leasehold property.
- 5.6 The Chargor will, if the Chargee so requires, deposit with the Chargee all certificates, deeds and other documents of title or evidence of ownership in relation to all or any of the Charged Property.

## **6. PROTECTION OF SECURITY**

- 6.1 The Security constituted by this Floating Charge shall be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing.
- 6.2 Neither the Security constituted by this Floating Charge nor the rights, powers, discretions and remedies conferred upon the Chargee by this Floating Charge or by law shall be discharged, impaired or otherwise affected by reason of:
- (a) any present or future security, guarantee, indemnity or other right or remedy held by or available to the Chargee being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Chargee from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
  - (b) the Chargee compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
  - (c) any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Obligations; or
  - (d) any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.
- 6.3 The Chargee shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Floating Charge or by law, to:
- (a) take any action or obtain judgement or decree in any court against the Chargor; or

- (b) make or file any claim to rank in a winding-up or liquidation of the Chargor; or
- (c) enforce or seek to enforce any other security taken, or exercise any right or plea available to the Chargee, in respect of any of the Chargor's obligations under the Power Purchase Agreements.

## **7. CHARGEES POWER TO REMEDY**

If the Chargor fails to comply with any obligation set out in Clause 6 (*Protection of Security*) and that failure is not remedied to the satisfaction of the Chargee within 14 days of the Chargee giving notice to the Chargor or the Chargor becoming aware of the failure to comply, it will allow (and irrevocably authorises) the Chargee or any person which the Chargee nominates to take any action on behalf of the Chargor which is necessary to ensure that those obligations are complied with.

## **8. OTHER SECURITY**

The Security constituted by this Floating Charge is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Chargee may now or after the date of this Floating Charge hold for any of the Secured Obligations, and this Security may be enforced against the Chargor without first having recourse to any other rights, Security or claim of the Chargee, but at all times subject to the First Ranking Security and the terms of the Deed of Priority.

## **9. ENFORCEMENT OF SECURITY**

### **9.1 Enforcement Powers**

In addition to any statutory provisions concerning enforceability or attachment this Floating Charge shall become enforceable upon and the Chargee's powers of appointment and other rights and powers shall become exercisable at any time after (subject at all times to the Deed of Priority):

- (a) the occurrence of an Event of Default; or
- (b) the receipt of any request from the board of directors of the Chargor,

and the Chargee may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Charged Property. In addition, and without prejudice to the foregoing provisions of this Clause 9.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Chargee shall be entitled so to appoint another person as Receiver in his place.

### **9.2 Administrator's Powers**

A Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights

incidental to ownership of the Charged Property, including (as regards shares and other securities) any voting rights or rights of enforcing the same together with power to:

- (a) implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Charged Property;
- (b) make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;
- (c) promote or procure the formation of any new company or corporation;
- (d) subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;
- (e) sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Charged Property or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in the name of the Chargor and on its behalf and/or in the name(s) of any nominee(s) or trustee(s) for it, any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;
- (f) sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- (g) convene an extraordinary general meeting of the Chargor;
- (h) acquire any property on behalf of the Chargor;
- (i) do all such other acts and things as he may consider necessary or desirable for protecting or realising the Charged Property, or any part thereof, or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Floating Charge and exercise in relation to the Charged Property, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid;

subject always to the rights of the Chargee as holder of this Floating Charge.

### **9.3 Appropriation under the Financial Collateral Regulations**

- (a) To the extent that any of the Charged Property constitutes "financial collateral" and this Floating Charge and the obligations of the Chargor hereunder constitute "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (as amended) (the "Regulations")), the Chargee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise that right to appropriate by giving notice to the Chargor at any time after an Event of Default has occurred, but subject to the Deed of Priority.
- (b) The Parties agree that the value of any such appropriated financial collateral shall be:  
(x) in the case of securities, the price at which such securities can be disposed of by

the Chargee; and (y) in the case of any other asset, the market value of such financial collateral as determined by the Chargee, in each case, in a manner which is commercially reasonable (including by way of an independent valuation). The Parties agree that the methods of valuation provided for in this paragraph shall constitute commercially reasonable methods of valuation for the purposes of the Regulations.

## **10. RECEIVERS**

### **10.1 Appointment of Receiver**

- (a) Subject to paragraph (c) below and subject to the Deed of Priority, and in accordance with Clause 8 (Enforcement of Security), at any time after an Event of Default has occurred, or if so requested by the Chargor, the Chargee may by writing under hand signed by any officer or manager of the Chargee, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) The Chargee shall be entitled to appoint a Receiver save to the extent prohibited by section 72A Insolvency Act 1986.

### **10.2 Powers of Receiver**

Each Receiver appointed under this Floating Charge shall have (subject to any limitations or restrictions which the Chargee may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Insolvency Act 1986 (each of which is deemed incorporated in this Floating Charge), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Chargor, each Receiver shall have power to:

- (a) manage, develop, reconstruct, amalgamate or diversify any part of the business of the Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) exercise all voting and other rights attaching to the stocks, shares and other securities owned by the Chargor and comprised in the Charged Property, but only following a written notification from either the Receiver or the Chargee to the Chargor stating that the Chargee shall exercise all voting rights in respect of the stocks, shares and other securities owned by the Chargor and comprised in the Charged Property;
- (h) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so

settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;

- (i) appoint and discharge officers and others for any of the purposes of this Floating Charge and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (j) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property;
- (k) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (l) purchase or acquire any land or any interest in or right over land; and
- (m) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 10.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Chargor for all such purposes,

and in each case may use the name of the Chargor and exercise the relevant power in any manner which he may think fit.

#### **10.3 Receiver as Agent**

Each Receiver shall be the agent of the Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Chargee will not be responsible for any misconduct, negligence or default of a Receiver.

#### **10.4 Removal of Receiver**

The Chargee may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

#### **10.5 Remuneration of Receiver**

The Chargee may from time to time fix the remuneration of any Receiver appointed by it.

#### **10.6 Several Receivers**

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Floating Charge (unless the document appointing such Receiver states otherwise).

### **11. APPLICATION OF PROCEEDS**

#### **11.1 Order of Application**

All monies received or recovered by the Chargee or any Receiver pursuant to this Floating Charge or the powers conferred by it shall (subject to the claims of any person having prior

rights thereto) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Chargee in discharge of the Secured Obligations.

#### **11.2 Insurance Proceeds**

If an Event of Default has occurred (and subject to the First Ranking Security and the terms of the Deed of Priority), all moneys received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Chargee (or, if not paid by the insurers directly to the Chargee, shall be held on trust for the Chargee) and shall, at the option of the Chargee, be applied in replacing or reinstating the assets destroyed, damaged or lost (any deficiency being made good by the Chargor) or (except in the case of leasehold premises) in reduction of the Secured Obligations.

#### **11.3 Application against Secured Obligations**

Subject to Clause 11.1 above, any moneys or other value received or realised by the Chargee, from the Chargor or a Receiver under this Floating Charge may be applied by the Chargee to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Chargee may determine.

#### **11.4 Suspense Account**

Until the Secured Obligations are paid in full, the Chargee or the Receiver (as applicable) may place and keep (for such time as it shall determine) any money received, recovered or realised pursuant to this Floating Charge or on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the Chargor or the Chargee or the Receiver as the Chargee or the Receiver shall think fit) and the Chargee or the Receiver may retain the same for the period which it considers expedient without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations.

### **12. PROTECTION OF CHARGEES AND RECEIVER**

#### **12.1 No Liability**

Neither the Chargee nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence or wilful default.

#### **12.2 Possession of Charged Property**

Without prejudice to Clause 12.1 above, if the Chargee or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

#### **12.3 Primary liability of Chargor**

The Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of the Chargor under this Floating Charge and the charges contained in this Floating Charge shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Chargee, or by any other act, event or

matter whatsoever whereby the liability of the Chargor (as a surety only) or the charges contained in this Floating Charge (as secondary or collateral charges only) would, but for this provision, have been discharged.

#### **12.4 Waiver of defences**

The obligations of the Chargor under this Floating Charge will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Floating Charge (without limitation and whether or not known to it) including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor or other person;
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- (e) any amendment (however fundamental) or replacement of the Power Purchase Agreements or security or of the Secured Obligations;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under the Power Purchase Agreements or security or of the Secured Obligations; or
- (g) any insolvency or similar proceedings.

#### **12.5 Delegation**

The Chargee may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Floating Charge to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Chargee will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate.

#### **12.6 Cumulative Powers**

The powers which this Floating Charge confers on the Chargee and any Receiver appointed under this Floating Charge are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Chargee or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Chargee and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

### **13. POWER OF ATTORNEY**

The Chargor irrevocably and severally appoints the Chargee; each Receiver and any person nominated for the purpose by the Chargee or any Receiver (in writing and signed by an

officer of the Chargee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Floating Charge, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Chargee or any Receiver under this Floating Charge or otherwise for any of the purposes of this Floating Charge, and the Chargor covenants with the Chargee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney. The power of attorney referred to in this Clause 13 may only be exercised following: (i) the occurrence of an Event of Default that is continuing; or (ii) a failure by the Chargor to carry out any further assurance or perfection obligation under this Floating Charge (and any grace period applicable thereto has expired), and, in the case of sub-paragraph (ii), only to the extent necessary in order to complete such further assurance or perfection obligations.

#### **14. COSTS AND EXPENSES**

##### **14.1 Expenses**

The Chargor shall, from time to time on demand of the Chargee, reimburse the Chargee for all the costs and expenses (including legal fees) on a full indemnity basis together with any VAT thereon incurred by it in connection with:

- (a) the negotiation, preparation and execution of this Floating Charge and the completion of the transactions and perfection of the security contemplated in this Floating Charge; and
- (b) the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Floating Charge or any proceedings instituted by or against the Chargee as a consequence of taking or holding the security or of enforcing the Collateral Rights, and shall carry interest from the date of such demand until so reimbursed at the rate and on the basis as mentioned in Clause 2.2 (*Interest on Demands*).

##### **14.2 Indemnity**

The Chargor shall, notwithstanding any release or discharge of all or any part of the security, indemnify the Chargee, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Floating Charge, the exercise or purported exercise of any of the rights and powers conferred on them by this Floating Charge or otherwise relating to the Charged Assets, except where arising from the gross negligence or wilful misconduct of the Chargee, agents, attorneys or any Receiver as the case may be.

##### **14.3 Payments free of deduction**

All payments to be made to the Chargee under this Floating Charge shall be made free and clear of and without deduction for or on account of tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **15. REINSTATEMENT AND RELEASE**

### **15.1 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this Floating Charge that amount shall not be considered to have been paid.

### **15.2 Discharge Conditional**

Any settlement or discharge between the Chargor and any Secured Party shall be conditional upon no security or payment to that Secured Party by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Secured Party under this Floating Charge) that Secured Party shall be entitled to recover from the Chargor the value which that Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

### **15.3 Covenant To Release**

Once the Power Purchase Agreements have expired or terminated and all the Secured Obligations have been irrevocably paid in full and none of the Chargee nor any Secured Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, the Chargor, the Chargee shall, at the request and cost of the Chargor, execute any documents (or procure that its nominees execute any documents) or take any action which may be necessary to release the Charged Property (or any part of it) from the Security constituted by this Floating Charge (including the return of any documents deposited with the Chargee pursuant to this Floating Charge).

## **16. CURRENCY CLAUSES**

### **16.1 Conversion**

All monies received or held by the Chargee or any Receiver under this Floating Charge may be converted into any other currency which the Chargee considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Chargee's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

### **16.2 No Discharge**

No payment to the Chargee (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Chargee has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security constituted by this Floating Charge to recover the amount of the shortfall.

**17. SET-OFF**

After the occurrence of an Event of Default, the Chargee may (but is not obliged to) retain any money standing to the credit of the Chargor with the Chargee in any currency upon any account or otherwise (whether or not in such Chargor's name) as cover for any Secured Obligations and/or at any time or times without notice to such Chargor combine or consolidate all or any of such money with all or such part of the Secured Obligations due or owing by it as the Chargee may select and the Chargee may purchase with any such money any other currency required to effect such combination or consolidation.

**18. RULING OFF**

If the Chargee receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Power Purchase Agreements) it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it (in the absence of any express appropriation to the contrary) 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 Obligations.

**19. REDEMPTION OF PRIOR CHARGES**

The Chargee may, at any time after an Event of Default has occurred, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Chargee all principal monies and interest and all losses incidental to any such redemption or transfer.

**20. NOTICES**

**20.1 Communications in Writing**

Each communication to be made under or in connection with this Floating Charge shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

**20.2 Addresses**

The address and fax number of each Party for any communication or document to be made or delivered under or in connection with the Floating Charge is:

(a) in the case of the Chargor, that identified with its name below;

(b) in the case of the Chargee, that identified with its name below,

or any substitute address or fax number as the Party may notify to the other party.

**20.3 Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with this Floating Charge will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is

specified as part of its address details provided under Clause 20.2 (*Addresses*) of this Floating Charge if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Chargee will be effective only when actually received by the Chargee and then only if it is expressly marked for the attention of the department or officer identified with the Chargee's signature below (or any substitute department or officer as the Chargee shall specify for this purpose)..

## **21. MISCELLANEOUS**

### **21.1 Certificates Conclusive**

A certificate or determination of the Chargee as to any amount payable under this Floating Charge will be conclusive and binding on the Chargor, except in the case of manifest error.

### **21.2 Invalidity of any Provision**

If any provision of this Floating Charge is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

### **21.3 Remedies**

- (a) The Rights created by this Floating Charge are in addition to any other Rights of the Chargee against the Chargor or any other Security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.
- (b) No failure by the Chargee to exercise any Right under this Floating Charge will operate as a waiver of that Right. Nor will a single or partial exercise of a Right by the Chargee preclude its further exercise.

### **21.4 Deferral of Chargor's rights**

Until such time as the Power Purchase Agreements has expired or terminated and all the Secured Obligations have been irrevocably and unconditionally discharged in full and unless the Chargee otherwise directs, the Chargor will not exercise any Rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Power Purchase Agreements:

- (a) to claim any contribution from any person liable under the Power Purchase Agreements; or
- (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Chargee under the Power Purchase Agreements or of any other guarantee or Security taken under, or in connection with, the Power Purchase Agreements by the Chargee.

### **21.5 Inconsistency**

Save as provided in the Deed of Priority, nothing in this Floating Charge will have the effect of overriding the Rights of the Chargee in the Power Purchase Agreements. To the extent that there is any inconsistency between the Rights conferred on the Chargee in this Floating Charge and the Rights conferred on the Chargee in the Power Purchase Agreements, the Rights conferred on the Chargee in the Power Purchase Agreements shall prevail.

22. GOVERNING LAW AND JURISDICTION

- (a) Subject to Clause (b) below, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish courts to settle any dispute arising out of or in connection with this Floating Charge, (a "Dispute"). The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (b) The Parties agree that, for the benefit of the Chargee only, nothing in this Floating Charge shall limit the right of the Chargee to bring any legal action against the Chargor in any other court of competent jurisdiction.

IN WITNESS whereof this Floating Charge and the preceding 16 pages are executed as follows:

SUBSCRIBED for and on behalf of Summerston Energy Limited

acting by: [REDACTED] (Director) Edwin John Wilkinson (Print Name)

on the 4<sup>th</sup> day of February 2015

before this witness:

Witness: [REDACTED] (Signature)

Name: LLOYD JONES

Address: 30 St Mary Axe, London EC3A 8HF

Occupation: SOLICITOR


Notice Details

Address: c/o Pinsent Masons LLP  
Princes Exchange  
1 Earl Grey Street  
Edinburgh  
EH3 9AQ

Facsimile: +44 (0) 8450 510 511

Attention: The Directors

SUBSCRIBED for and on behalf of  
British Gas Trading Limited acting by:

 (Authorised Signatory) Georges Tijbosch (Print Name)

on the 14 day of February 2015

before this witness:

Witness:  (Signature)

Name: TOM GUILFOYLE

Address: \_\_\_\_\_

Occupation: SOLICITOR

DENTONS UKMEA LLP  
ONE FLEET PLACE  
LONDON EC4M 7WS  
T +44 (0) 7242 1212

**Notice Details**

Address: Millstream East  
Maidenhead Road  
Windsor  
SL4 5GD

Facsimile: +44 (0) 17 5349 4602

Attention: For the attention of Group General Counsel and Company Secretary