



**Registration of a Charge**

Company name: **TORMYWHEEL WIND FARM LIMITED**

Company number: **SC272942**

Received for Electronic Filing: **26/04/2016**



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**Details of Charge**

Date of creation: **20/04/2016**

Charge code: **SC27 2942 0004**

Persons entitled: **CLOSE LEASING LIMITED AS SECURITY TRUSTEE FOR THE FINANCE PARTIES**

Brief description: **LEASE OF LAND AT (1) TORMYWHEEL WINDFARM, LEVENSEAT, BY FORTH, LANARK, ML11 8EP AND (2) SUBJECTS AT EDINBURGH AIRPORT.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**GORDON HAY FOR AND ON BEHALF OF CMS CAMERON  
MCKENNA LLP**



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

Company number: 272942

Charge code: SC27 2942 0004

The Registrar of Companies for Scotland hereby certifies that a charge dated 20th April 2016 and created by TORMYWHEEL WIND FARM LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th April 2016 .

Given at Companies House, Edinburgh on 27th April 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

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**STANDARD SECURITY**  
**by**  
**TORMYWHEEL WIND FARM LIMITED**  
**in favour of**  
**CLOSE LEASING LIMITED**

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**relating to**  
**Lease of land at**  
**Tormywheel Windfarm, Levensseat, by**  
**Forth, Lanark, ML11 8EP**

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**CMS Cameron McKenna LLP**  
**Saltire Court**  
**20 Castle Terrace**  
**Edinburgh**  
**EH1 2EN**

**T +44(0)131 228 8000**  
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**Reference: /GOHA/135172.00065**

**THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND.**

WE, **TORMYWHEEL WIND FARM LIMITED**, incorporated under the Companies Acts (registered number SC272942) and having our registered office at Muirhall Farm, Auchengray, Carnwath, South Lanarkshire ML11 8LL (the “**Granter**”) **CONSIDERING** that pursuant to the Finance Documents entered into or to be entered into on or about the date of this deed between the Granter and **CLOSE LEASING LIMITED**, a Company incorporated under the Companies Acts in England and Wales (Registered Number 06377532) and having their Registered Office at Tolworth Tower Ewell Road, Tolworth, Surbiton, Surrey KT6 7EZ as security trustee for the Finance Parties (the “**Security Trustee**”) we are to grant this Standard Security; we hereby undertake to the Security Trustee that we will pay, perform and discharge the aggregate of all present and future indebtedness, moneys, obligations and liabilities of the Granter to the Security Trustee under the Finance Documents (including this Standard Security) or otherwise, in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Documents, together with all Expenses (as hereinafter defined) and all interest payable under the Finance Documents (the “**Secured Liabilities**”); now therefore we hereby in security of the payment and satisfaction of the Secured Liabilities, **GRANT** a Standard Security in favour of the Security Trustee over (ALL AND WHOLE (ONE) ALL and WHOLE the Granter’s interest as tenant under the lease between Levenseat Limited, Matthew James Hamilton and Peter James McLaren and the Granter dated 6 and 8 April 2016 and to be registered in the Land Register of Scotland on or around the date of registration hereof of the subjects outlined in dark blue on the Plan 1 annexed and executed as relative hereto (and being referred to as “Lease Area” in the key on said Plan 1) which subjects form PART and PORTION of (First) ALL and WHOLE that area or plot of ground part of the lands and farm of Handaxwood and others in the County of Midlothian also known as Levenseat, by Forth, Lanark shown outlined in red on the plan annexed and subscribed as relative to Disposition by the Trustees of James W Thornton and others in favour of Robert C Hamilton dated 5 May 1959 and recorded in the Division of the General Register of Sasines for the County of Midlothian on 8 May 1959 and (Second) ALL and WHOLE the subjects being the sand, sandrock, sandstone for crushing and fireclay forming the surface or upper strata overlying the stratified rocks and all other minerals in and under Handaxwood Farm, West Calder being 757.9 hectares edged red on Plan 2 annexed and executed as relative hereto and registered in the Land Register of Scotland under Title Number MID144409 and (TWO) ALL and WHOLE the Granter’s interest as tenant under the lease between Edinburgh Airport Limited and Tormywheel Wind Farm Limited dated 4 and 12 April 2016 and to be registered in the Land Register of Scotland on or around the date of registration hereof of the subjects edged red on plan 3 annexed and executed as relative hereto, which subjects form PART and PORTION of the subjects registered in the Land Register of Scotland under Title Number MID97007 (the “**Property**”) **TOGETHER WITH** (One) the whole right, title and interest of the Granter in and to the wind turbines, radar mitigation equipment, buildings and the whole other erections, equipment and apparatus in connection therewith from time to time on, in, under or connected with the Property or the interest hereby charged; (Two) the parts, privileges and pertinents of the Property or the interest hereby charged; (Three) the whole right, title and interest of the Granter in and to the whole heritable fittings and fixtures in and on the Property or the interest hereby charged; (Four) the whole rights of access and any other rights, whether mutual or exclusive effering to the Property and the interest hereby charged; (Five) the whole heritable goodwill attaching to the Property or the interest hereby charged; and (Six) the whole right, title and interest present and future of the Granter in and to the Property or the interest hereby charged (the interest in land before described and hereby charged being referred to in this deed as the “**Security Subjects**”).

The Standard Conditions specified in Schedule Three to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended from time to time (the “**1970 Act**”) (the “**Standard Conditions**”) and any lawful variation thereof operative for the time being shall apply; and we agree that the Standard Conditions shall be varied as follows:

**1. Finance Documents**

To the effect and extent necessary to ensure that, so far as lawful and applicable, all powers, provisions, undertakings, agreements and declarations contained in the Finance Documents relating to the Property or the Security Subjects and/or the interest of the Granter therein shall so relate to the Property or the Security Subjects and the interest of the Granter therein, which the Finance Documents shall for the purposes of this Standard Security be deemed to be supplemental to and their terms incorporated by reference *mutatis mutandis* into this Standard Security and in respect of which the whole provisions thereof, so far as lawful and applicable shall be binding upon the Granter in terms of this Standard Security, under declaration that in the event of there being any inconsistency between the Standard Conditions and the provisions of the Finance Documents, the terms of the Finance Documents shall prevail as far as permitted by law.

**2. Restriction on Disposals**

Any sale, lease, transfer, conveyance, assignation, licence, sub-lease, sub-licence or the grant of any option or agreement to grant an option or any other disposal, whether voluntary or involuntary, of the Property or the Security Subjects or any part thereof or of any interest therein under burden of this Standard Security, or the grant of any standard security or floating charge affecting the Property or the Security Subjects or any part thereof or any interest therein during the continuance of this Standard Security, is prohibited, except with the prior written consent of the Security Trustee or save insofar as permitted in terms of the Finance Documents and then only as provided therein, and any breach of this prohibition shall constitute an event of default in terms of Standard Condition 9.

**3. Default**

In addition to the events of default specified in Standard Condition 9, the Granter shall be deemed to be in default for the purposes of Standard Condition 9(1)(b) immediately at any time after the occurrence of an Enforcement Event (which includes, without limitation, an Event of Default) as is defined in the Debenture.

**4. Dealings by Security Trustee**

After the Security Trustee has become entitled to enter into possession of the Property or the Security Subjects, the Security Trustee shall be entitled without limitation to deal with the Property or the Security Subjects or any part or parts thereof (including, without limitation in so far as the same is not inconsistent with the terms of the Lease to grant a sub-lease or sub-leases), but that subject to the terms of the Lease and to the extent permitted in terms of the Finance Documents.

**5. Undertakings**

The Granter undertakes that it shall:

- 5.1 keep all the buildings, turbines and erections and all plant, machinery, fixtures, fittings, vehicles, computers and office and other equipment and effects and every part thereof located in, on, under or connected with the Security Subjects or the Property in good and substantial repair and in good working order and condition, all to the extent required in terms of the Facility Agreement (after defined) and subject to the terms of the Lease, with recognisable identification markings, and not pull down or remove or sell or otherwise dispose of any of the same without the prior consent in writing of the Security Trustee. If the Granter is at any time in default in complying with this undertaking the Security Trustee shall be entitled but not bound to repair and maintain the same with power for the Security Trustee, its agents and their respective

- employees to enter any of the Granter's property and the Property and the Security Subjects for that purpose or to inspect the same during business hours on reasonable notice, subject to the terms of the Lease. Any sum so expended by the Security Trustee shall be repayable by the Granter to the Security Trustee on demand together with interest at the Default Rate (as defined in the Facility Agreement) from the date of payment by the Security Trustee;
- 5.2 comply with the undertakings relating to the Insurances pursuant to Clause 17.48 (*Insurance*) and Schedule 6 (*Insurance Schedule*) of the Facility Agreement, and:
- 5.2.1 the Granter shall not do or cause or permit to be done or, as the case may be, not done, and shall not fail to disclose, any matter or thing which may make any such insurance as is required by this Clause 5.2 void or voidable;
- 5.2.2 if default shall be made by the Granter in complying with this Clause 5.2, then subject to the terms of the Facility Agreement the Security Trustee may (but shall not be obliged to) effect or renew any such insurance as is required by this Clause 5.2 on such terms, in such name(s) and in such amount(s) as the Security Trustee reasonably considers appropriate. All money expended by the Security Trustee under this provision shall be reimbursed by the Granter on demand and bear interest at the Default Rate (as defined in the Facility Agreement) from the date of payment by the Security Trustee;
- 5.2.3 all moneys received or receivable by the Granter under any Insurances shall be applied in accordance with the terms of the Facility Agreement.
- 5.3 punctually pay all rents, taxes, duties, assessments and other outgoings and observe and perform all title conditions pertaining to the Property or the Security Subjects and all tenants' obligations under the Lease;
- 5.4 deposit with the Security Trustee all deeds, certificates and documents constituting or evidencing title to the Property or interest or the Security Subjects or any part thereof charged by this Standard Security and all insurance policies;
- 5.5 comply with the provisions of all present or future statutes and directives pertaining to the Property or the Security Subjects and every notice, order or direction made under any of the foregoing;
- 5.6 duly and punctually observe and perform all title conditions, real burdens, servitudes and stipulations from time to time affecting the Property or the Security Subjects or the mode of user or enjoyment of the same, including without limitation access to and egress from the Property, or the Security Subjects and indemnify the Security Trustee in respect of any breach of such covenants and/or stipulations;
- 5.7 not without the prior consent in writing of the Security Trustee and save to the extent permitted in terms of the Facility Agreement, enter into or grant any onerous or restrictive obligations affecting the Property or the Security Subjects (including but not restricted to title conditions, real burdens or servitudes) or, make any structural or material alteration thereto, or suffer to be done on the Property or the Security Subjects anything which is "development" as defined in section 26 of the Town and Country Planning (Scotland) Act 1997 as from time to time amended, nor do or suffer or omit to be done any act matter or thing whereby any provision of any Act of Parliament, order or regulation from time to time in force affecting the Property or the Security Subjects is infringed;
- 5.8 notify the Security Trustee as soon as it becomes aware that the landlord of any leasehold property forming part of the Property or the Security Subjects has made an election under Part 1

of schedule 10 to the Value Added Tax Act 1994 in respect of leasehold property for the time being owned by it and not without the prior written consent of the Security Trustee to make such an election in respect of the tenants' interest in any such lease or any other property interest of the Granter;

- 5.9 notify the Security Trustee in writing within five days of being informed of, or receiving notice of, any proposal for the compulsory acquisition of the Property or the Security Subjects;
- 5.10 use the Security Subjects and the Property only for such purpose or purposes as may for the time being be authorised as the permitted use or user of such property under or by virtue of planning legislation;
- 5.11 not make or permit to be made any alterations or additions to the Property or the Security Subjects (or any part thereof) which would be reasonably likely to materially adversely affect the value of the Property or the value of the Property or the Security Subjects;
- 5.12 within five days after the receipt by the Granter of any application, requirement, direction, proposal, order or notice served or given by any public or local or any other authority (including without limitation any made pursuant to planning or environmental legislation) with respect to the Security Subjects or the Property (or any part thereof), whether relating to compulsory acquisition, development or otherwise, send a copy of it and accompanying material to the Security Trustee and also within five days after demand from the Security Trustee inform it of the steps taken or proposed to be taken by the Granter to comply with any requirement made in it or implicit in it and (if the Security Trustee requires) to contest or appeal any such application, requirement, direction, proposal order or notice and to take all necessary steps without delay to comply with or make objections or representations as to the same;
- 5.13 not negotiate, waive or settle any claim for compensation (whether payable under any Act of Parliament or otherwise) in respect of the compulsory acquisition of the Security Subjects or the Property or reduction in the value of the Property or the Security Subjects;
- 5.14 not, except with the prior written consent of the Security Trustee or as permitted under the Facility Agreement, make or authorise the making of any application for planning permission in respect of the Security Subjects or the Property or any part of them; Declaring that the Security Trustee consents to the development of a wind farm in terms of consent granted or to be granted under Planning Permission reference 0193/FUL/14 issued by West Lothian Council on 26 May 2014 as amended or varied from time to time;
- 5.15 not, except with the prior written consent of the Security Trustee or as permitted under the Facility Agreement, grant or agree to grant or enter into (whether in exercise or independently of any statutory power) any lease or sub-lease in relation to the Property or the Security Subjects or any part of them or vary, terminate or accept a surrender of any lease save where it is being granted pursuant to any statutory rights of renewal and, prior to such grant, having provided full details of such grant or proposed grant to the Security Trustee and without limiting the foregoing:
  - 5.15.1 not exercise or agree to exercise the statutory or other powers of making leases or of accepting or agreeing to accept surrenders of leases nor grant or agree to grant any licence or right to occupy the Security Subjects or the Property;
  - 5.15.2 not cancel, surrender, renounce, assign or permit to be forfeited or irritated any lease or any part of any lease (including the Lease), credit sale, hire purchase, leasing, rental licence or the like agreements the tenant's interest in which comprises the Property or the Security Subjects or otherwise comprising, relating to or affecting the Property or the Security Subjects, the Property or any material equipment or structures on them or



on the Property or agree to do so whether such lease is held by the Granter or is superior to it or is derived out of the Granter's interest therein and not sub-let or permit to be cancelled, surrendered, renounced, assigned, sub-let or charged the whole or any part of the property comprised in such a lease or agree to do so and if any part of the Property or the Security Subjects is tenanted serve all notices necessary to ensure that the right to recover rents or other fixed charges payable under any leases are preserved and otherwise manage the Property or the Security Subjects and such property in a proper and efficient manner and not vary or release any undertaking or obligation contained in any lease or licence, credit sale, hire purchase, leasing, rental licence or the like agreements relating to or affecting the Security Subjects or the Property or any material equipment or structures on them;

5.16 not waive or vary nor permit to be waived or varied the terms of any of the documents (including the Lease) the tenant's interest in which comprises the Property or the Security Subjects or otherwise relating to, benefiting or affecting the Security Subjects or the Property;

5.17 use reasonable endeavours to enforce the obligations of the landlord in terms of the Lease;

## **6. Security Trustee Rights**

If the Granter shall fail to satisfy the Security Trustee that it has performed any of its obligations under clause 5 then the Security Trustee may take such steps as it considers appropriate to procure the performance of such obligation and shall not thereby be deemed to be a heritable creditor in possession and the monies expended by the Security Trustee shall be reimbursed by the Granter on demand and until so reimbursed shall carry interest at the Default Rate (as defined in the Facility Agreement) or chargeable in accordance with the Floating Charge from the date of payment to the date of reimbursement.

## **7. Power of Attorney**

7.1 The Granter, by way of security for its obligations under this Standard Security, irrevocably appoints the Security Trustee to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

7.1.1 carrying out any obligation imposed on the Granter by this Standard Security; and

7.1.2 enabling the Security Trustee to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Standard Security or by law (including the exercise of any right of a proprietor of the Property or the Security Subjects).

7.2 The Granter shall ratify and confirm whatever any attorney does or purports to do pursuant to the appointment in clause 7.1 above.

## **8. Certificate**

8.1 Any certificate signed by any manager or officer of the Security Trustee as to the amount due or owing (a "**Certificate**") will be conclusive evidence of the matters to which it relates and shall (in the absence of manifest error) be binding and conclusive upon the Granter.

## **9. Assignment**

9.1 The Granter may not assign, charge or transfer all or any of its rights under this Standard Security.

- 9.2 The Security Trustee may assign, charge or transfer all or any of its rights under this Standard Security without the consent of the Granter. The Security Trustee may disclose any information about the Granter and this Standard Security as the Security Trustee shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

## 10. Governing Law and Jurisdiction

### *Governing law*

- 10.1 This Standard Security and any non-contractual obligations arising out of or in connection with it are governed by the law of Scotland.

### *Jurisdiction*

- 10.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Standard Security (including a dispute relating to the existence, validity or termination of this Standard Security or any non-contractual obligation arising out of or in connection with this Standard Security) (a “**Dispute**”).
- 10.3 The parties to this Standard Security agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly they will not argue to the contrary or take proceedings relating to a Dispute in any other courts.
- 10.4 Clauses 10.2 and 10.3 (*Jurisdiction*) above are for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

### DECLARING THAT:

- (One) Words and expressions (including without limitation “Finance Document” and “Finance Documents”) defined in the facilities agreement entered into between *inter alios* (1) the Granter as borrower and (2) the Security Trustee as Security Trustee and signed by the Granter on or about the date hereof (the “**Facility Agreement**”), shall, unless the context otherwise requires or unless stated otherwise or specifically defined herein, have the same meaning in this Standard Security, and, unless in conflict with the definitions used in the Facility Agreement (in which case the words used in the Facility Agreement shall prevail) words and expressions which are incorporated in the foregoing variations of the Standard Conditions and which are defined in the 1970 Act shall be deemed to be so defined for the purposes of the foregoing variations also;
- (Two) “Expenses” means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Security Trustee or any Receiver or Delegate at any time in connection with the Property or the Security Subjects; or all present and future indebtedness, moneys, obligations and liabilities of the Granter to the Security Trustee under the Finance Documents in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Documents; or in taking holding or perfecting this Standard Security or in protecting, preserving, defending or enforcing the security constituted by this Standard Security; or in exercising any rights, powers or remedies provided by or pursuant to this Standard Security (including any right or power to make payments

on behalf of the Granter under the terms of this Standard Security)); or by law, in each case on a full indemnity basis;

- (Three) In this Standard Security any reference to a Finance Document or to any other agreement or document (including without limitation the Facility Agreement) shall be deemed to be or to include a reference to that Finance Document or other agreement or document as amended, restated, assigned, substituted, modified, varied, novated or supplemented from time to time and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under that Finance Document or other agreement or document; and
- (Four) Each and every provision of this Standard Security shall separately be given the fullest effect permitted by law and if at any time one or more of the provisions of this Standard Security shall be unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions of this Standard Security shall not in any way be affected or impaired thereby and the provision or provisions affected by such unenforceability shall be given effect in all respects other than that in which it is/they are unenforceable;

(Five) Any reference to the Security Trustee shall include its successors and its assignees;  
and

AND WE GRANT WARRANTICE; and we consent to registration hereof and of any Certificate for preservation and execution: **IN WITNESS WHEREOF** these presents consisting of this, the seven preceding pages and the three plans annexed and executed as relative hereto are subscribed as follows:

For and on behalf of  
**Tormywheel Wind Farm Limited**

by:

GOY RUBINSTEIN

Full name of Director for and on behalf of  
Tormywheel Wind Farm Limited



Signature of Director for and on behalf of  
Tormywheel Wind Farm Limited

In the presence of:

Signature of witness:



Name:

KEITH SIMPSON

Address:

SALTIRE COURT, 20 CASTLE  
TERRACE, EDINBURGH

At:

EDINBURGH

On:

12 APRIL 2016



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THIS IS PLAN 2 REFERRED TO IN THE FOREGOING  
STANDARD SECURITY.



