

DATE:

DEED OF SERVITUDE – UNDERGROUND CABLES

by

[•]

in favour of

SCOTTISH HYDRO ELECTRIC POWER DISTRIBUTION PLC

[with the consent of

[•]]

(SSE REF:[])

**Legal Services
SSE plc
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ
FAS 8428**

DEED OF SERVITUDE

BY:

- (1) [●] **LIMITED**, incorporated under the Companies Acts in [] (Company Number [●]) and having its registered office at [●] (the “**Burdened Owner**”);
in favour of
- (2) **SCOTTISH HYDRO ELECTRIC POWER DISTRIBUTION PLC**, incorporated under the Companies Acts in Scotland (Company Number SC213460) and having its registered office at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ (who and whose successors as heritable proprietors of the Benefited Property (hereinafter defined) are hereinafter referred to as the “**Benefited Owner**”);
[with the consent of
- (3) [●] **LIMITED**, incorporated under the Companies Acts in [] (Company Number [●]) and having its registered office at [●] as heritable creditor under a standard security by the Burdened Owner in their favour dated [●] and [recorded in the Division of the General Register of Sasines for the County of [●]] [registered in the Land Register of Scotland under Title Number [●]] on [●] (the “**Consentor**”);]

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the following words and expressions shall have the following meanings:

“**Benefited Property**”: ALL and WHOLE (1) the electricity distribution network currently owned and operated by the Benefited Owner together with substations and other apparatus and (2) the areas of land which are owned by the Benefited Owner under, upon and over which said distribution network substations and other apparatus are installed or erected all as varied or altered from time to time;

“**Burdened Property**”: ALL and WHOLE [●];

“**Cables**”: all electrical plant and underground electric lines (as defined in section 64 of the Electricity Act 1989) and all other appurtenant apparatus installed or to be installed along and within the Servitude Strip;

“**Plan**”: the plan annexed and executed as relative to this Deed of Servitude;

“**Schedule**”: the schedule in 3 parts annexed and executed as relative to this Deed of Servitude;

“**Servitude Conditions**”: the conditions under which the Servitude Rights are to be exercised set out in Part 2 of the Schedule;

“**Servitude Rights**”: the servitude rights set out in Part 1 of the Schedule;

“**Servitude Strip**”: the strip of land shown coloured blue on the Plan and forming part of the Burdened Property;

- 1.2 Where at any one time there are two or more persons included in the expression “Benefited Owner” or “Burdened Owner” [or “Consentor”] obligations contained in this Deed which are expressed to be made by the party denoted by the expression in question are binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order.
- 1.3 Any reference to a Clause, Schedule or Part of the Schedule is to the relevant Clause, Schedule or Part of the Schedule of or to this Deed.
- 1.4 Any rights reserved to the Benefited Owner are exercisable by the tenants, agents, employees, workmen and others authorised by them from time to time.
- 1.5 The Schedule forms part of this Deed.

2. GRANT OF SERVITUDE

In consideration of the sum of one pound £(1) Sterling paid to the Burdened Owner by the Benefited Owner, (the receipt of which is hereby acknowledged) the Burdened Owner grants the Servitude Rights but subject always to the Servitude Conditions.

3. [CONSENT

The Consentor consents to the grant of the Servitude Rights subject to the Servitude Conditions.]

4. DATE OF COMMENCEMENT OF SERVITUDE

The Servitude Rights granted by this Deed will be exercisable with effect from [●] notwithstanding the dates of this Deed.

5. OWNERSHIP OF CABLES

The Cables shall be and shall remain the property of the Benefited Owner.

6. OBLIGATIONS ON THE BURDENED OWNER

The Burdened Owner undertakes to comply with the obligations set out in Part 3 of the Schedule

7. NO LANDS TRIBUNAL APPLICATIONS

No application may be made to the Lands Tribunal for Scotland under section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in this Deed for a period of five years after the [registration of this Deed in the Land Register of Scotland] [recording of this Deed in the General Register of Sasines]

8. WARRANDICE

The Burdened Owner grants warrandice.

9. DISPUTE RESOLUTION

- 9.1 Any dispute arising under this Deed shall be determined by a single expert, whose appointment is to be agreed upon between the Burdened Owner and the Benefited Owner, or failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the Chairman of the Scottish Branch of the Royal Institution of Chartered Surveyors.

9.2 The expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the expert) shall be borne by the Burdened Owner and the Benefited Owner in such proportions as the expert shall direct.

10. NOTICES

10.1 All notices shall be in writing.

10.2 Any notice shall be sufficiently served if sent by registered post or recorded delivery to:

10.2.1 the party concerned at its registered office (if incorporated in the UK), marked for the attention of the company secretary, or

10.2.2 it at its last known address in the UK (if an individual or partnership).

10.3 Any notice sent by registered post or recorded delivery shall be assumed to have been served 48 hours after it is posted.

10.4 To prove service it shall be enough to prove that the envelope containing the notice was correctly addressed and was posted to the place to which it was addressed.

IN WITNESS WHEREOF these presents consisting of this and the preceding [2] pages together with the Schedule of 3 Parts and the Plan annexed and executed as relative hereto are executed as follows:

Executed for and on behalf of []

AT

DATE

Signature:

Signature:

Witness

Director/ Secretary/Authorised Signatory

Name:

Name:

Address:

Executed for and on behalf of []

AT

DATE

Signature:

Signature:

Witness

Director/ Secretary/Authorised Signatory

Name:

Name:

Address:

Executed for and on behalf of Scottish Hydro Electric Power Distribution plc

AT

DATE

Signature:

Signature:

Witness

Director/Secretary/Authorised Signatory

Name:

Name:

.....

Address:

.....

This is the Schedule referred to in the foregoing Deed of Servitude by [●] in favour of Scottish Hydro Electric Power Distribution plc [with consent of [●]].

SCHEDULE

Part 1

The Servitude Rights

The following heritable and irredeemable servitude rights are imposed on the Burdened Property in favour of the Benefited Property:

1. For all proper purposes connected with the exercise of the rights granted in Part 1 of the Schedule, the right of access to and egress from the Benefited Property and all parts of the Servitude Strip with or without vehicles, plant and equipment and at all reasonable times (and at any time in cases of emergency) over the roads, footpaths and other areas providing access to the Servitude Strip and to temporarily park vehicles thereon.
2. The right to lay, relay, construct, use, inspect, maintain, repair, protect, replace, renew, supplement, connect into, remove or render unusable the Cables and to break up so much of the surface of the Burdened Property as is reasonably necessary from time to time for the purpose of exercising this right.
3. The right to fell, lop or cut all trees and shrubs standing on the Burdened Property which (in the reasonable opinion of the Benefited Owner), may, if not felled, lopped or cut, obstruct or interfere with the construction, maintenance or safe operation of any apparatus on the Benefited Property or the Cables, under payment of compensation for the value of any tree, shrub or other vegetation so felled. No compensation shall be payable by the Benefited Owner to the Burdened Owner in respect of any tree, shrub or other vegetation which may be felled or lopped within the Servitude Strip but any such tree, shrub or other vegetation felled or lopped by the Benefited Owner within the Servitude Strip shall be left by the Benefited Owner for the Burdened Owner.

Part 2

The Servitude Conditions

The Servitude Rights created by this Deed are subject to the following Servitude Conditions:

1. When exercising the rights granted in Part 1 of the Schedule, the Benefited Owner shall take reasonable precautions to minimise undue damage or obstruction to or interference with the use of the Burdened Property.
2. Whenever necessary following exercise of the rights granted in Part 1 of the Schedule, the Benefited Owner shall either (at the Benefited Owner's option) (i) make good and restore the Burdened Property to the reasonable satisfaction of the Burdened Owner, or (ii) pay the proper and reasonable costs incurred by the Burdened Owner in making good physical damage to the Burdened Property.
3. So far as is reasonably practicable and for so long as the Cables are used for or in connection with the transmission or distribution of electricity, the Benefited Owner shall keep the Cables in good repair and condition, and upon abandonment of the whole or any part of the Cables the Benefited Owner shall render them permanently safe.
4. The Benefited Owner shall indemnify the Burdened Owner in respect of all liabilities incurred, all damage and loss suffered, all claims, demands, actions and proceedings arising as a consequence of any breach of the Servitude Conditions in this Part 2 of the Schedule.

Part 3

The Burdened Owner's Obligations

1. The Burdened Owner shall not:
 - (a) make any alteration to the Servitude Strip, nor plant any tree or shrub or erect any structure on or over the Servitude Strip, nor
 - (b) do anything (other than normal agricultural operations) whereby the support of or the cover of soil over the Cables shall be altered

other than with the prior written consent and under the supervision of the Benefited Owner (such consent not to be unreasonably withheld or delayed where such alteration, planting or erection is not likely to cause damage to the Cables or interfere with the safe operation thereof).
2. The Burdened Owner shall not do anything that may or may be likely to cause damage to the Cables and it shall take all reasonable precautions to prevent any damage to the Cables.
3. The Burdened Owner shall not interfere with or obstruct either the operation of the Cables or the access to the Cables.