

Option agreement

in relation to land at Parc Yr Ocar, Mynydd Llandegai and Land at Cil-Geraint, St Anns Bethesda

Richard Charles Harper Douglas Pennant (1)

and

Egni Mynydd Cyf (2)

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This agreement is made on

2022

BETWEEN:

- (1) RICHARD CHARLES HARPER DOUGLAS PENNANT of Penrhyn House, Penrhyn Park, Bangor, Gwynedd, LL57 (the "**Landowner**"); and
- (2) Egni Mynydd Cyf a Community Benefit Society registered with the FCA number 8069 whose registered office is at Ynys Uchaf, Mynydd Llandygai, Bangor, Gwynedd LL57 4BZ (the "**Company**")

together the "**Parties**" and individually a "**Party**".

BACKGROUND:

- (A) The Landowner owns freehold property at Parc Yr Ocar, Mynydd Llandegai and Land at Cil-Geraint, St Anns Bethesda and has agreed to grant the Company an option to take a lease of the Option Area during a specified period.
- (B) The Landowner has agreed to grant the Company rights during the Option Period to carry out certain site investigations to ascertain the suitability of the Option Area for the Development and to apply for necessary consents, including planning permission.

AGREED TERMS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this agreement:

"**Business Days**" means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England and Wales;

"**Deed of Covenant**" means a deed of covenant in favour of the Company containing covenants in the same terms as the obligations of the Landowner in this agreement and with such minor modifications as the Company may agree;

"**Community**" means a community benefit society or other organisation where profits are not distributed amongst members or external shareholders except in exception circumstances;

"**Company's Solicitors**" means Burges Salmon LLP, One Glass Wharf, Bristol, BS2 0ZX (Ref: Lm17/61244.1) or any other solicitor whose details are notified in writing from time to time by the Company to the Landowner;

"**Development**" means the development on the land to be demised by the Lease a hydro scheme for the commercial generation of electricity together with associated apparatus and equipment as the Company proposes to construct and operate on the whole or parts of the Option Area and parts of the Landowner's Property with a view to the commercial generation and/or storage, distribution and supply of electricity;

"**Direct Agreement**" means a direct agreement or direct agreements between the Landowner, the Company and the Company's funder which includes:

- (a) a right for the Company's funder to step-in within a specified period to ensure that the obligations of the Company are complied with and so prevent any circumstances arising under which the Landowner could seek to terminate this agreement or the Lease or Leases in accordance with clause 11 (Forfeiture) of the Lease;

- (b) the right for the Company's funder to procure an assignment or other transfer of the Company's rights and obligations under this agreement and the Lease in certain specified circumstances;
- (c) an acknowledgement by the Landowner of any charge or other security (in respect of this agreement or the Lease or Leases) granted by the Company to its funder;
- (d) an obligation on the Landowner to give notice to the funder (as mortgagee, security holder or creditor) under clause 8.4 (Forfeiture) of the Lease or Leases; and
- (e) an obligation on the Landowner not to take any action to wind up, appoint an administrator or sanction a voluntary arrangement (or similar) in relation to the Company without giving a prescribed period of notice to the funder

and is otherwise in the funder's standard form;

"Disposal" means a disposition within the meaning of section 205 of the Law of Property Act 1925 of the whole or any part or parts of the Landowner's Property;

"Electricity Substation" means an electricity substation to be constructed and operated on the Electricity Substation Site to serve the Development and to be of such type, size and construction as may reasonably be required by the Company or the Network Operator for the Development;

"Electricity Substation Site" means the area within the Option Area on which the Electricity Substation shall be constructed and operated and for which Planning Consent is granted;

"Funder" means any bank, funder or such other financial institution providing funding to the Company or to a Group Company of the Company or to the Development and/or any security agent or trustee for such bank, funder or financial institution;

"GB Transmission System" means the system consisting (wholly or mainly) of high voltage electric wires owned or operated by transmission licensees within Great Britain and used for the transmission of electricity;

"Grid Connection Agreement" means an agreement or agreements on terms acceptable to the Company (acting in its sole discretion) for connection of the Development to the public electricity distribution system or GB Transmission System in order to receive a supply of electricity from and export electricity into the public electricity distribution system or GB Transmission System;

"Group Company" means (i) any company of which the Company is a subsidiary or which has the same holding company or ultimate holding company as the Company or a subsidiary of such subsidiary or holding company or ultimate holding company where subsidiary and holding company have the meanings given to them by Section 1159 of the Companies Act 2006 or (ii) any parent undertaking or subsidiary undertaking of the Company where parent undertaking and subsidiary undertaking have the meanings given to them in Section 1162 of the Companies Act 2006 or or (iii) any legal entity in which members of the Community can invest;

"Initial Option Period" means the period of 2 (two) years from and including the date of this agreement subject to any extension in accordance with clause 3;

"Landowner's Property" means the land shown edged brown on the Plans;

"Landowner's Solicitors" means Carter Vincent LLP, of The Port House, Porth Penrhyn, Bangor LL57 4HN (Ref: ITH4572) or any other solicitor whose details may be notified in writing from time to time by the Landowner to the Company;

“Lease” means a lease of the Option Area for a term of 20 years substantially in the form of the draft lease at Appendix 2 and with any blanks completed or amendments made in accordance with the drafting notes and the provisions of this agreement;

“Long Stop Date” means the 4th (fourth) anniversary of the date of this agreement;

“Necessary Consents” means all consents (including but not limited to, planning permission, licenses, statutory agreements, and Grid Connection Agreements) required to construct and operate the Development;

“Network Operator” means (i) where the Development is to be connected to the local electricity distribution network the Landowner and/or operator of that network or any successors to it in the capacity of the operator of that system authorised to distribute electricity pursuant to Section 6(1)(c) of the Electricity Act 1989; (ii) where the Development is to be connected to the GB Transmission System, National Grid Electricity Transmission plc (whose registered number is 2366977) or any successors to it in the capacity of the operator of that system authorised to transmit electricity pursuant to Section 6(1)(b) of the Electricity Act 1989;

“Option” means the option granted by clause 2.1;

“Option Area” means the land shown edged red on the Plans;

“Option Fee” means £1 (one pound) (exclusive of VAT);

“Option Notice” means a notice in writing served by the Company (and/or by the Company’s Solicitors on behalf of the Company) on the Landowner (and/or on the Landowner’s Solicitors on behalf of the Landowner) generally in the form of the draft Option Notice at Appendix 1;

“Option Period” means the Initial Option Period subject to extension in accordance with clause 3;

“Planning Agreement” means an agreement and/or undertaking in respect of or affecting the Landowner’s Property (whether or not also affecting other property) pursuant to section 106 of the Act and/or section 33 of the Local Government (Miscellaneous Provisions Act) 1982 and/or section 111 of the Local Government Act 1972 and/or any provision, undertaking or obligation or any agreement of similar intent with any competent statutory and/or public authorities or bodies entered into as a requirement of the Planning Consent or entered into as a precondition to or in connection with the grant of the Planning Consent (including any habitat management plan), all in relation to the Development;

“Planning Application” means an application for Planning Consent for the Development and includes any further applications or variations made by or on behalf of the Company (acting reasonably) and which are permitted under this agreement;

“Planning Consent” means the grant of detailed planning permission for the construction, operation and removal of the Development and all necessary ancillary works;

“Schedule of Condition” means the schedule of condition prepared or to be prepared by the Company pursuant to clause 7.2(b).

1.2 Interpretation

- (a) Clause and Schedule headings will not affect the interpretation of this agreement.
- (b) Unless the context otherwise requires, references to clauses or Schedules are to the clauses and Schedules of this agreement.
- (c) Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended from time to time.

- (d) A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision.
- (e) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (f) Where the context so requires words importing the singular shall include the plural and vice versa.
- (g) If the Landowner or the Company comprise more than one person obligations and covenants in this agreement shall be deemed to be joint and several obligations and covenants.
- (h) A reference to writing or written includes email.
- (i) Any obligation on a party not to do something includes an obligation not to permit or suffer that thing to be done.
- (j) Any reference to the Landowner includes its successors in title.
- (k) Unless expressly provided otherwise, any reference to the consent or approval of the Landowner or the Company shall be deemed to include a proviso that such consent or approval shall be in writing and may not be unreasonably withheld or delayed nor subject to any unreasonable conditions provided always that it shall be reasonable for the Company to withhold consent where implementation of the proposal for which consent is requested would, in the reasonable opinion of the Company, adversely affect:
 - (i) the success of the Planning Application or the Company's application for a Grid Connection Agreement;
 - (ii) the economic viability of the Development;
 - (iii) the exercise of the rights granted to the Company in this agreement or to be granted to the Company in the Lease; or
 - (iv) compliance with any planning obligation or other statutory requirement relating to the Development
 and in relation to the Landowner's consent:
 - (v) if the Landowner does not consent or approve the Landowner must give sufficient written explanation and information to the Company for the Company to understand what is required to obtain such consent;
 - (vi) if the Landowner fails to serve the notice referred to at 1.2(k)(v) above within 21 days of receiving the Company's request for consent or approval then the Landowner shall be deemed to have provided such consent or approval.
- (l) Any phrase introduced by the words "**including**", "**include**", "**in particular**" or any similar expression is to be construed as illustrative only and is not to be construed as limiting the generality of any preceding words.

2 OPTION TO TAKE A LEASE

- 2.1 In consideration of payment of the Option Fee by the Company to the Landowner the Landowner
- (a) grants the Company during the Option Period the rights set out in this agreement;
 - (b) agrees that if the Option Notice is served during the Option Period then the Landowner shall grant the Lease on the terms of this agreement.

- 2.2 If the Landowner's Property is charged, the Landowner shall immediately upon request supply written evidence to the Company that the chargee has consented to the grant of the Option and that, in exercising any power of sale or disposal under the charge, such transaction will be subject to the Option.

3 EXTENSION OF THE OPTION PERIOD

3.1 If:

- (a) the Company has applied for Planning Consent(s) and:-
 - (i) prior to the expiry of the Initial Option Period the formal planning decision notice relating to that Planning Consent(s) is awaited; or
 - (ii) there is an outstanding appeal, statutory review or judicial review relating to a Planning Consent(s) which has been granted or refused; or
 - (iii) a Planning Consent(s) has been granted or refused during the eight weeks prior to the end of the Initial Option Period; or
- (b) the Company has applied to the relevant statutory undertaker or DNO (or any successor) with a view to securing the Grid Connection Agreement and prior to the expiry of the Initial Option Period the Company still awaits confirmation of the Grid Connection Agreement or a definite connection date

the Company may by written notice to the Landowner prior to the expiry of the Initial Option Period, extend the Option Period to expire on the Long Stop Date.

4 PROTECTION OF THE OPTION

- 4.1 The Landowner permits the Company to enter a unilateral notice of this agreement against the registered title to the Landowner's Property and the Landowner shall not apply to cancel such unilateral notice until the earliest of:

- (a) completion of the Lease;
- (b) termination of this agreement (however terminated); and
- (c) expiry of the Option Period.

- 4.2 The Landowner shall not make a Disposal of the Landowner's Property or any part of it without first having delivered to the Company a Deed of Covenant.

- 4.3 The Landowner permits the Company to register a restriction in the following terms against the registered title to the Landowner's Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a certificate signed by Egni Mynyff Cyf or its conveyancer that the provisions of clause 4.2 of the agreement dated [] and made between (1) Richard Charles Harper Douglas Pennant and (2) Egni Mynydd Cyf have been complied with or that they do not apply"

- 4.4 The Company shall deliver to the Landowner the certificate required by the restriction set out in clause 4.3 as soon as reasonably practicable after and in any event within 15 Business Days after the date on which the Company receives the completed Deed of Covenant.

- 4.5 Upon expiry of the Option Period, grant of the Lease or determination of this agreement, the Company shall, at its own expense, as soon as reasonably practicable cancel all entries against the registered title to the Landowner's Property under this clause 4 and if the Company shall for any reason fail to effect such cancellation within 28 days of such

expiry, grant or determination, the Company hereby irrevocably appoints the Landowner as attorney of the Company to make such application on the Company's behalf.

5 EXERCISE OF THE OPTION AND COMPLETION OF THE LEASE

- 5.1 The Company may exercise the Option at any time during the Option Period by serving an Option Notice on the Landowner.
- 5.2 The Option may be exercised in respect of the whole of the Option Area or any part of it.
- 5.3 If an Option Notice is served the Landowner shall grant and the Company shall take the Lease in accordance with the terms of this agreement.
- 5.4 As soon as reasonably practicable following service of the Option Notice in accordance with the terms of this agreement:
- (a) the Company shall procure that the Company's Solicitors prepare the engrossment of the Lease and deliver it to the Landowner's Solicitors.
 - (b) (and in any event prior to completion of the Lease) the Landowner shall deliver to the Company a letter of consent in the holder's usual form in respect of the grant and registration of the Lease from each holder of a charge over the Landowner's Property.
 - (c) (and in any event prior to completion of the Lease) the Landowner shall deliver to the Company a letter of consent and non-crystallisation in the holder's usual form in respect of the grant and registration of the Lease from each holder of a floating charge granted by the Landowner.
- 5.5 The Lease shall be completed on the date which is 20 Business Days after service of the Option Notice or such earlier date as is agreed between the Parties.
- 5.6 The Option Notice shall be deemed validly served if it gives notice to the Landowner that the Company exercises its option for the Landowner to grant the Lease. Any details specified in the Option Notice and any plan accompanying the Option Notice are given for the purposes of finalising the Lease and may be varied as necessary by the Company without invalidating service of the Option Notice.
- 5.7 The Landowner and Company agree that the form of Lease is subject to such variations and amendments as may be required by a Funder, and the parties agree to act swiftly and reasonably in agreeing, effecting and incorporating such variations to the engrossment of the Lease.
- 5.8 Prior to the grant of the Lease, the Landowner and Company shall act reasonably in agreeing a Land Registry compliant plan to attach to the Lease (the "**Lease Plan**"). The Landowner and Company acknowledge that the Lease Plan shall be the plan attached to this agreement subject to Land Registry requirements and such modifications as may be reasonably required by the Company for the purposes of the Development.

6 VACANT POSSESSION AND TITLE

- 6.1 The Lease shall be granted with vacant possession and with full title guarantee.
- 6.2 The Landowner shall (and shall instruct the Landowner's Solicitors to) reply to any reasonable enquiries relating to the Landowner or the Landowner's Property which the Company's Solicitors may raise before completion of the Lease and which relate to the title of the Landowner's Property and reflect such prudent enquiries as may be made by a company or solicitor involved in a commercial enterprise such as the Development.
- 6.3 The Landowner warrants that it has procured the consent to the grant of the option contained in this agreement from any third party whose consent is required.

- 6.4 The Landowner shall procure the consent of any holder of a charge over the freehold interest in the Landowner's Property to the grant of the Lease and any Planning Agreement or other easements, wayleaves or agreements to be entered into pursuant to the terms of this agreement.
- 6.5 The Landowner warrants that (save as registered at the Land Registry against the Landowner's title to the Landowner's Property) no part of the Landowner's Property is subject to any lease, tenancy, licence, occupancy agreement, covenants, restrictions, conditions, rights, easements or other similar third party interest.

7 COMPANY'S RIGHTS

7.1 Rights granted

The Landowner grants to the Company and any persons authorised by the Company in connection with the Development the right during the Option Period:

- (a) to install, inspect, replace, renew, maintain and use any monitoring equipment reasonably required for the purposes of the Development on the Landowner's Property in such location or locations as the Company may reasonably require;
 - (b) to enter onto the Landowner's Property, with or without machinery, vehicles, materials and equipment for all purposes reasonably required in order to carry out site surveys, soil tests and other tests, inspections and surveys, to assess the feasibility of the Development, in connection with the Development, preparation of the Planning Application, environmental impact assessment or related to any Necessary Consents including but not limited to, geotechnical investigations, site investigations, geophysical surveys, topological surveys, the digging of trial holes and boreholes, conducting environmental and ecological surveys and such other surveys as may be required (provided that any trial pits and boreholes shall be in locations to be approved by the Landowner acting reasonably);
 - (c) of access over any access roads on the Landowner's Property (whether at the date of this agreement or later constructed) for the purpose of exercising the rights granted to it in this agreement;
 - (d) to carry out such other operations and investigations on and in relation to the Landowner's Property as may be reasonably necessary in the Company's opinion in connection with the potential development of the Development; and
 - (e) to submit the Planning Application
- (the "**Rights**").

7.2 Company's obligations in relation to the Rights

In exercising the Rights, the Company shall:

- (a) provide reasonable notice of not less than 48 hours prior to entering onto the Landowner's Property (except in cases of emergency, when no prior notice shall be required but the Company shall notify the Landowner as soon as reasonably practicable after entrance);
- (b) prior to carrying out any intrusive works to the Landowner's Property, a photographic or video schedule of condition of the relevant part of the Landowner's Property. The cost of preparing the Schedule of Condition shall be split equally between the Company and the Landowner;
- (c) leave all works and equipment carried out on or brought onto the Landowner's Property properly secured in a safe and tidy condition and not a danger to livestock or humans when not attended (including the erection of temporary

fencing around any trial pits or other excavations which are to be left open overnight and as soon as reasonably practicable after their use the filling of any trial pits, bore-holes or other excavations) all to the Landowner's reasonable satisfaction;

- (d) not bring or permit to be brought onto the Landowner's Property any dogs or firearms;
- (e) not light or permit the lighting of any fire on the Landowner's Property;
- (f) not leave any gates on the Landowner's Property open;
- (g) comply with all requirements of health and safety legislation in relation to any works or others undertaken by or for the Company on the Landowner's Property;
- (h) cause as little damage and disturbance to the Landowner's Property and/or the Landowner as is reasonably practicable and make good any damage caused as soon as reasonably practicable.

8 LANDOWNER'S OBLIGATIONS

8.1 No interference

The Landowner agrees with the Company that during the Option Period the Landowner shall not do anything which could adversely affect:

- (a) the Company's application for Planning Consent and/or a Grid Connection Agreement;
- (b) the economic viability of the Development;
- (c) the exercise of the rights granted to the Company in this agreement or to be granted to the Company in the Lease;
- (d) compliance with any planning obligation or other statutory requirement relating to the Development.

8.2 Use of Landowner's Property

Notwithstanding the generality of the provisions at 8.1 above, the Landowner further agrees with the Company that during the Option Period the Landowner:

- (a) shall at no cost to the Landowner assist the Company in identifying the route of existing services and land drains;
- (b) shall provide any construction and potential contamination information known to the Landowner which is relevant to the project;
- (c) shall keep the Option Area in the same general condition as it is on the date of this agreement (provided that the Landowner shall not be required to make good any damage caused by the Tenant);
- (d) shall not carry out any activity on the Landowner's Property which may in the opinion of the Company (acting reasonably) interfere with the free passage and flow of water reaching the Option Area;
- (e) shall not submit any application for planning permission in respect of the Landowner's Property without the consent of the Company;
- (f) shall not interfere with tamper with or take other steps to interrupt the operation and use of any equipment which the Company may have from time to time placed on the Landowner's Property (unless in case of emergency);

- (g) shall not object to or support any objection to the Planning Application;
- (h) shall (at the request and expense of the Company) take all reasonable steps to assist the Company to obtain all Necessary Consents;
- (i) shall not encumber, dispose of (including the grant of option agreements, leases, licences or other rights of occupancy), assign, sublet, charge, grant any rights (including easements or wayleaves) nor create any security interest over the whole or any part of the Landowner's Property without the prior written consent of the Company; and

8.3 The Landowner shall notify the Company of any damage caused to the Company's machinery or equipment by the Landowner or anyone else at the Landowner's Property (other than the Company or any person exercising the Rights) as soon as reasonably practicable after becoming aware of the same.

8.4 Planning Agreements

The Landowner shall enter into and take other necessary administrative steps to perfect any Planning Agreement(s) provided that:

- (a) the Company observes and performs all the obligations on the part of the Landowner contained in the Planning Agreement(s) (other than those which are only capable of being performed by the Landowner) and the Landowner shall give the Company all rights necessary to enable the Company to do so;
- (b) the Planning Agreement(s) shall not endure beyond the term of the Lease, including any extension thereof; and
- (c) the Company shall indemnify the Landowner against all proper and reasonable costs incurred by the Landowner in complying with the terms of this clause 10 (where requested by the Company).

8.5 Grant of rights to Network Operator

- (a) If the DNO requires that the Electricity Substation Site is leased directly to it by the Landowner, the Option is deemed to include the right in favour of the Company to require the Landowner to grant a separate lease of the Electricity Substation Site to the Network Operator in the standard form of the Network Operator at the time of the grant, such lease to commence on the commencement date of the Lease without the payment of any premium or rent, provided that the Company shall pay the Landowner's reasonable and properly incurred legal costs of entering into such lease.
- (b) Following the service of an Option Notice, the Landowner shall, at the request of the Company, enter into such agreements and grant such easements and wayleaves over and across or otherwise affecting the Landowner's Property without delay as may reasonably be required by:
 - (i) a Network Operator in respect of the connection of the Development or the Electricity Substation to the GB Transmission System or an electricity distribution system;
 - (ii) a telecommunications or data transmission operator in respect of the connection of either or both a telephone line and data transmission cables from the Development and the Electricity Substation to their network; or
 - (iii) a water company in respect of connection to water supplies and drainage (whether public or private),

in the standard form of the requiring party without the payment of any premium or sum provided that the Company shall pay the Landowner's reasonable and properly incurred legal costs of entering into such easements, wayleaves or agreements.

- (c) The Landowner shall sign any grid authority letter required by the District network Operator in order for the Company to secure a Grid Connection Agreement.

8.6 Direct Agreement

- (a) The Landowner acknowledges that the Company may obtain funding in relation to the Development and in providing such funding, a Funder may require the Landowner to enter into a Direct Agreement.
- (b) The Landowner shall enter into such Direct Agreement and/or agree such amendments to the Lease as the Funder may reasonably require as a condition of providing finance to the Company or the Development.
- (c) The Company shall pay the Landowner's reasonably and properly incurred legal costs in complying with clause 8.6(b).
- (d) as reasonably practicable and at its sole expense.

9 DEALINGS

- 9.1 Except as permitted by clause 9.2, the Company shall not assign this agreement without the consent of the Landowner.
- 9.2 The Company may without the Landowner's consent assign this agreement to any Group Company or Funder subject to the Company giving written notice of any such assignment to the Landowner as soon as reasonably practical after its completion.
- 9.3 The Company may without the Landowner's consent charge its interest in this agreement to any Group Company or Funder.

10 TERMINATION

- 10.1 The Company may terminate this agreement at any time by giving no less than one month's prior written notice to the Landowner whereupon this agreement shall terminate on the date stated in the notice ("**Termination Date**") and the Company shall before the Termination Date remove any plant and equipment and reinstate the Option Area to the reasonable satisfaction of the Landowner acting reasonably.
- 10.2 Termination of this agreement on the Termination Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this agreement.

11 INDEMNITY

- 11.1 Subject to clause 11.2, the Company shall indemnify and keep indemnified the Landowner against all losses, damages, costs, claims, demands or expenses which the Landowner incurs by reason of any breach of the Company's covenants in this agreement or negligence by the Company
- 11.2 The indemnity given under clause 11.1 shall apply provided always that:
 - (a) the Company shall not be liable in respect of losses, damages, costs or claims attributable solely to any act or default on the part of the Landowner;
 - (b) the Company shall have no liability under this agreement for economic or consequential losses (including loss of production, loss of profit, loss of profitability, economic loss, loss of use, loss of contract, loss of goodwill) or for any indirect loss or damage whatsoever whether or not the Company knew (or

ought to have known) that such losses would be likely to be suffered as a result of such performance, non-performance, act, omission or breach;

- (c) the Company is not responsible to the Landowner or to anyone at the Landowner's Property with the Landowner's express or implied authority for any accident, injury, damage or loss except to the extent that such accident, injury, damage, or loss results from the negligence of the Company or its authorised representatives or a breach of the terms of this agreement by any of those persons;
- (d) the Company may at any time take over and defend in the name of the Landowner any claims for losses, damages, or claims for which the Company is alleged to be responsible under this clause 10. Until the Company exercises those rights the Landowner shall keep the Company fully informed of the progress of any such claims and shall not make any admission of liability to, or agreement, or compromise, with any person in relation to such claims without the prior written consent of the Company (at the Company's sole discretion);
- (e) the maximum aggregate liability of the Company under this Agreement shall be £1,000,000 (one million pounds sterling) provided always that the Company shall not seek to limit its liability in respect of personal injury and/or death resulting from its negligence or the negligence of its authorised representatives.

12 COMPANY'S INSURANCE

The Company shall maintain public liability insurance through a reputable insurance office for a minimum amount of £1,000,000 (one million pounds sterling) and not more than once a year at the request of the Landowner shall produce a copy of the policy to the Landowner with evidence of payment of the premium.

13 EXCLUSION OF SECURITY OF TENURE

13.1 The Company confirms that in relation to the tenancy to be created by the Lease and prior to entering into this agreement:-

- (a) the Landowner served on the Company a notice dated in accordance with the requirements of section 38A(3) of the Landowner and Tenant Act 1954;
- (b) the Company or a 1.2(k)(v) person duly authorised by the Company made a statutory declaration dated (the "**Statutory Declaration**") in accordance with the requirements of Schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003.

13.2 Where the Statutory Declaration was made by a person other than the Company the Company confirms that the declarant was duly authorised to make the Statutory Declaration on the Company's behalf.

13.3 The Landowner and the Company agree that sections 24 to 28 (inclusive) of the Landowner and Tenant Act 1954 shall be excluded in relation to the tenancy to be created by the Lease.

14 NOTICES

14.1 Any notice given under this agreement must be in writing.

14.2 Any notice or document to be given or delivered under this agreement must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

- 14.3 Any notice or document to be given or delivered under this agreement must be sent to the relevant party as follows:
- (a) to the Landowner at:
Penrhyn House, Penrhyn Park, Bangor, Gwynedd, LL57
or at the Landowner's Conveyancer, quoting the reference Richard Pennant;
 - (b) to the Company at the Company's registered office address from time to time.
or as otherwise specified by the relevant party by notice in writing to each other party.
- 14.4 Any change of the details in clause 14.3 specified in accordance with that clause shall take effect for the party notified of the change at 9.00 am on the later of:
- (a) the date, if any, specified in the notice as the effective date for the change; or
 - (b) the date five working days after deemed receipt of the notice.
- 14.5 Any notice or document given or delivered in accordance with clauses 14.1, 14.2 and 14.3 will be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day; or
 - (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the working day after posting; or
 - (c) if sent by fax, at the time of transmission provided that if transmission occurs before 9.00 am on a working day, the notice or document will be deemed to have been received at 9.00 am on that day, and if transmission occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day.
- 14.6 In proving delivery of a notice or document, it will be sufficient to prove that:
- (a) a delivery receipt was signed or that the notice or document was left at the address; or
 - (b) the envelope containing the notice or document was properly addressed and posted by pre-paid first class post or other next working day delivery service.
- 14.7 A notice or document given or delivered under this agreement shall not be validly given or delivered if sent by email.
- 14.8 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15 DISPUTES

- 15.1 Any dispute or difference between the Landowner and the Company relating to the interpretation or implementation of this agreement or arising in any way from it shall be referred at the instance of either party to a suitably qualified independent third party with previous experience of dealing with hydro-electricity projects (who shall be a member or fellow of the Royal Institution of Chartered Surveyors) whose identity shall be agreed by the parties or failing agreement appointed on the application of either party to the President for the time being of the Royal Institution of Chartered Surveyors or his duly appointed deputy, such arbitration to be in accordance with the Arbitration Act 1996. Any

award of the arbitrator will be final and binding on the Landowner and the Company. Payment of the costs of the arbitration will be as determined by the arbitrator, or in the absence of a determination by the arbitrator, will be apportioned equally between the Landowner and the Company.

- 15.2 Any dispute between the parties as to the reasonableness of the amendments required to the Lease by a Funder shall be referred by either party to a suitably qualified independent third party with previous experience of dealing with hydroprojects (who shall be a member or fellow of the Law Society of England and Wales) whose identity shall be agreed by the parties, or failing agreement, be appointed on the application of either party to the President for the time being of the Law Society of England and Wales or his duly appointed deputy, such arbitration to be in accordance with the Arbitration Act 1996.

16 VAT

- 16.1 The Landowner confirms that, as at the date of this agreement, the Landowner has not elected to opt to tax the Landowner's Property for Value Added Tax purposes.
- 16.2 The Landowner shall not opt to tax the Landowner's Property for Value Added Tax purposes during the Option Period.
- 16.3 Each amount stated to be payable by the Company to the Landowner under or pursuant to this agreement is exclusive of VAT (if any). If the Company receives a valid VAT invoice together with satisfactory evidence that VAT is properly payable, the Company shall pay VAT on all taxable supplies made to it in connection with this agreement on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

17 CONFIDENTIALITY

- 17.1 Neither party shall without the prior written consent of the other, disclose to any third party (except so far as may be necessary to its financial and professional advisers, or as required by any other court proceedings or HM Revenue Customs, or to the Land Registry, or to a bona fide lending institution for the purposes of security, or to any bona fide prospective purchaser) the provisions of this agreement or the Lease or any data or information which the Company has told the Landowner is a trade secret or confidential information relating to the Development.
- 17.2 The provisions of this clause 17 shall remain in full force and effect whether or not the Company exercises the Option (but shall lapse one year after the expiry of the Option if it is not exercised).

18 ENTIRE AGREEMENT

- 18.1 This agreement constitutes the entire agreement between the parties and supersedes any prior drafts, agreements, undertakings, understandings, representations, warranties and arrangements of any nature between the parties, whether or not in writing, in relation to the subject matter of this agreement.
- 18.2 Each party warrants that (other than reliance by the Company on the Landowner's and Landowner's Solicitors' replies to the written enquiries raised by the Company's Solicitors) it has not entered into this agreement in reliance on any representation, warranty or undertaking which is not expressly stated in this agreement and any representation, warranty or undertaking implied by law or by custom is expressly excluded.

19 FURTHER ASSURANCE

Each party shall, at the cost of the other party, execute such documents and do such acts and things as the other party may reasonably require for the purpose of giving to that party the full benefit of all the provisions of this agreement and/or shall use reasonable

endeavours to procure as appropriate that any necessary third party executes or does such acts and things.

20 SEVERANCE

If any provision of this agreement is or becomes illegal, invalid, or unenforceable in any jurisdiction, that does not affect:-

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or
- (b) the legality, validity or enforceability in any other jurisdiction of that or any other provision of this agreement.

21 GOVERNING LAW AND JURISDICTION

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

21.2 Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims) except where it is specifically provided that a matter shall be referred to an arbitrator for determination in accordance with clause 15.

22 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this agreement does not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

This agreement has been entered into on the date stated at the beginning of it.

Executed by Richard Douglas Pennant in the presence of:

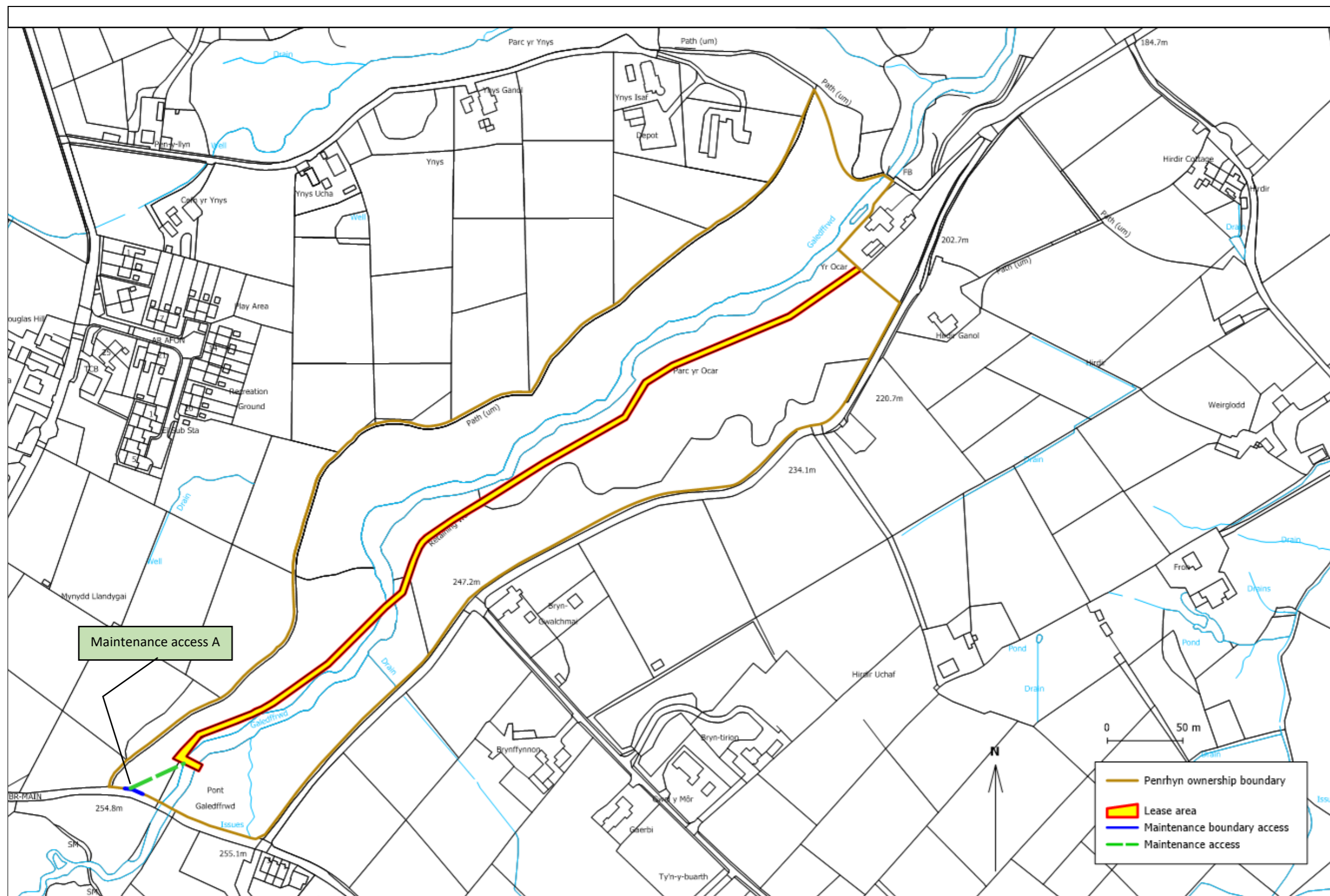
..... [SIGNATURE OF WITNESS] [SIGNATURE OF DIRECTOR] Director
Name of Witness [IN BLOCK CAPITALS]
Address of Witness
Occupation of Witness

Executed by Egni Mynydd Cyf acting by a director, in the presence of:

..... [SIGNATURE OF WITNESS] [SIGNATURE OF DIRECTOR] Director
Name of Witness [IN BLOCK CAPITALS]
Address of Witness
Occupation of Witness

Appendix 1

Form of Option Notice



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Preliminary drawing – Not for construction

Project:

Galedffrwd Hydro Scheme

Client:

Egni Mynydd

Drawing Title:

Penrhyn upper Maintenance Access
Lease area

File name:

PU M access3 incl FP.jpg

Scale
1:2500

Revision	E 3/04/20
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Sheet
1 of 4

Drawn by:

BD

Notes

Taken from OS Mastermap 1:1250

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2010

Supplied by:

GETMAPPING Plc of FLEET 27, Rye
Close, Fleet Hampshire, GU51 2UH
License number: 100030835

Location

SW corner: 260322 365430

Tolerances

The final route of the penstock may vary marginally as site conditions dictate

Maintenance access

[illegible]

Appendix 2

Lease

Lease

in relation to land at Parc Yr Ocar, Mynydd Llandegai and Land at Cil-
Geraint, St Anns Bethesda

RICHARD CHARLES HARPER DOUGLAS PENNANT (1)

and

EGNI MYNYDD CYF (2)

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LAND REGISTRY PRESCRIBED CLAUSES

LR1. Date of lease	
LR2. Title number(s)	LR2.1 Landlord's title number(s) CYM441463 and CYM440118 LR2.2 Other title numbers
LR3. Parties to this lease	Landlord RICHARD CHARLES HARPER DOUGLAS PENNANT of Penrhyn House, Penrhyn Park, Bangor, Gwynedd, LL57 Tenant Egni Mynydd Cyf a Community Benefit Society incorporated and registered in England and Wales with the Financial Conduct Authority Society number 8069 whose registered office is at Ynys Uchaf, Mynydd Llandygai, Bangor, Gwynedd LL57 4BZ Other parties None
LR4. Property	In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail. The land demised by this lease known as Parc Yr Ocar, Mynydd Llandegai and Land at Cil-Geraint, St Anns Bethesda more fully described in and defined as the Premises in clause 1.1 of this lease.
LR5. Prescribed statements etc.	LR5.1 <i>Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196</i>

	<p><i>(leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.</i></p> <p>None</p> <p>LR5.2 This lease is made under, or by reference to, provisions of:</p> <p>None</p>
LR6. Term for which the Property is leased	As specified in definition of the "Term" at clause 1.1 of this lease.
LR7. Premium	None
LR8. Prohibitions or restrictions on disposing of this lease	This lease contains a provision that prohibits or restricts dispositions.
LR9. Rights of acquisition etc.	<p>LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land</p> <p>None</p> <p>LR9.2 Tenant's covenant to (or offer to) surrender this lease</p> <p>None</p> <p>LR9.3 Landlord's contractual rights to acquire this lease</p> <p>See clause 5.7(a) of this lease</p>
LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property	See clause 5.4 of this lease.
LR11. Easements	<p>LR11.1 Easements granted by this lease for the benefit of the Property</p> <p>See Schedule 1 of this lease.</p>

	LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property See Schedule 2 of this lease.
LR12. Estate rentcharge burdening the Property	None
LR13. Application for standard form of restriction	None
LR14. Declaration of trust where there is more than one person comprising the Tenant	None

This lease is made on the date set out in clause LR1 of the Land Registry Particulars

BETWEEN:

- (1) **RICHARD CHARLES HARPER DOUGLAS PENNANT** of Penrhyn House, Penrhyn Park, Bangor, Gwynedd, LL57 (the "**Landlord**"); and
- (2) **EGNI MYNYDD CYF** a Community Benefit Society incorporated and registered in England and Wales with the Financial Conduct Authority Society number 8069 whose registered office is at Ynys Uchaf, Mynydd Llandygai, Bangor, Gwynedd LL57 4BZ (the "**Tenant**").

together the "**Parties**" and individually a "**Party**".

AGREED TERMS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this lease:

"**Abstraction Licence**" means a licence to abstract water granted and issued by NRW pursuant to an application made by the Developer to NRW;

"**Abstraction Point**" means the point at which the Tenant shall have the right to abstract water from the watercourse adjacent to the Premises marked "X" on Plan [●];

"**Access Roads**" means the Existing Access [and any New Access];

"**Annual Rent**" means the Base Rent as revised in accordance with clause 4;

"**Assignment Fee**" means a sum equal to 3.3% of any premium paid to the Tenant on such an assignment;

"**Base RPI Figure**" means the most recently published figure for RPI as at the date of this lease;

"**Base Rent**" means £1,500 (fifteen hundred pounds) per annum;

"**Business Days**" means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England and Wales;

"**Cable Route**" means the route shown by a [brown] line on the Plan or such alternative route as (i) the Tenant shall elect at its sole discretion insofar as it falls within the Premises and (ii) Landlord may consent to insofar as it falls within the Landlord's Property, such consent not to be unreasonably withheld or delayed;

"Compound" means the area(s) (if any) shown coloured [yellow] on the Plan or such alternative area(s) as the Landlord may consent to;

"Community" means a community benefit society or other organisation where profits are not distributed amongst members or external shareholders except in exception circumstances;

"Conducting Media" means any wire, cable, tube, pipe, conductor, or other similar thing (including its casing or coating or protective tile) placed on, above, or in the ground (including but not limited to the Cable Route) for transmitting and/or distributing electricity together with marker tape and junction boxes and other ancillary equipment and any drains, pipes, fibre optic cables and other conduits and any posts, pylons, poles, supports, substations and other ancillary apparatus;

"Conducting Media Route" means the intended route of the Conducting Media as shown by the red line on Plan ●;

"RPI" means the Retail Prices Index;

"Default Rate" means 3% above the base rate from time to time of National Westminster Bank;

"Development" means the hydro scheme which the Tenant proposes to construct and operate on the Premises and parts of the Landlord's Property [and other land shown edged [green] on the Plan] with a view to the commercial generation of, distribution and supply of electricity and includes (without limitation) where the context admits the Premises, the Compound and the Equipment;

"Direct Agreement" means a direct agreement or direct agreements between the Landlord, the Tenant and a Funder which (if required by the Funder) includes:

- (a) a right for the Funder to step-in within a specified period to ensure that the obligations of the Tenant are complied with and so prevent any circumstances arising under which the Landlord could seek to forfeit this lease;
- (b) the right for the Funder to procure an assignment or other transfer of this lease in certain specified circumstances;
- (c) an acknowledgement by the Landlord of any charge or other security (in respect of this lease) granted by the Tenant to the Funder;
- (d) an obligation on the Landlord to give notice to the Funder under clause 11 of this lease;

- (e) an obligation on the Landlord not to take any action to wind up, appoint an administrator or sanction a voluntary arrangement (or similar) in relation to the Tenant without giving a prescribed period of notice to the Funder

and is otherwise in the funder's reasonable standard form;

"Electricity Substation" means an electricity substation to be constructed and operated on the Electricity Substation Site to serve the Development and to be of such type, size and construction as may reasonably be required by the Tenant or the Network Operator for the Development;

"Electricity Substation Site" means the area within the Premises on which the Electricity Substation shall from time to time be constructed and operated and for which Planning Consent (if any) is granted;

"Environment" means all or any of the air, water and land (including without limitation air within buildings and other material or man-made structures above or below the ground) and any living organisms or systems supported by those media;

"Environmental Law" means all applicable laws concerning health, safety or matters related to pollution or protection of the Environment, including but not limited to any licences granted to the Tenants in relation to the Permitted Use under the Environmental Permitting Regulations 2016 or any obligations imposed by the Environmental Agency or Natural Resources Wales (as applicable);

"Equipment" means all plant and equipment used or to be used by the Tenant in connection with the Permitted Use as are at the date hereof or shall during the Term be installed on, over, under or through the Premises and the Landlord's Property including without prejudice to the generality of the foregoing Conducting Media, all electricity generators, water flow measuring and monitoring equipment, noise monitoring equipment, any ancillary equipment, the Electricity Substation and security fencing surrounding all or any part of the Development;

"Existing Access" means the roads on the Landlord's Property shown [coloured orange] on the Plan;

"Force Majeure" means any event or circumstance, or any combination of events or circumstances (or any consequence of them), which is beyond the reasonable control of the Tenant and which (or any consequence of which) could not have been prevented by the Tenant adopting practices, methods and procedures which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating electricity generating plant (of the same or similar type to be installed on the Premises) lawfully in accordance with all applicable safety and environmental regulations,

having regard to the proposed use and the capability of the plant provided lack of funds shall not be interpreted as a cause beyond the reasonable control of the Tenant;

"Funder" means any bank, funder or such other financial institution providing funding to the Tenant or to a Group Company of the Tenant or to the Development and/or any security agent or trustee for such bank, funder or financial institution;

"GB Transmission System" means the system consisting (wholly or mainly) of high voltage electric wires owned or operated by transmission licensees within Great Britain and used for the transmission of electricity;

"Group Company" means (i) any company of which the Tenant is a subsidiary or which has the same holding company or ultimate holding company as the Tenant or a subsidiary of such subsidiary or holding company or ultimate holding company where subsidiary and holding company have the meanings given to them by Section 1159 of the Companies Act 2006 or (ii) any parent undertaking or subsidiary undertaking of the Tenant where parent undertaking and subsidiary undertaking have the meanings given to them in Section 1162 of the Companies Act 2006, or (iii); any legal entity in which members of the Community can invest;

"Gross Income" means all income received by the Tenants during the payment period in question and attributable to the generation or non-generation of electricity from the Permitted Use including, without limitation, the proceeds of sale of electricity generated by the Permitted Use, any premium, subsidy, allowance, credit or incentive payment or any sum in the nature of a premium, subsidy, allowance, credit or incentive payment payable by reference to or by virtue of the fact that electricity generated by the Permitted Use derives from a renewable source or has benign environmental characteristics or otherwise and any payments received in respect of the trading or sale of renewable obligation certificates or similar or substituted arrangements in respect of the Permitted Use, and any payments made to the Tenants to cease generating electricity or as compensation for not generating electricity all exclusive of VAT, as the same shall be certified by the Tenants (acting reasonably);

"Habitat Management Plan" means any plan or scheme which contains measures to compensate or mitigate the environmental and/or ecological impact of the Permitted Use and which is required by the relevant planning authority in respect of an application for Planning Consents or any environmental statement or environmental impact assessment (including in any Planning Agreement), and which plan or scheme shall be approved by the Landlord;

"Habitat Management Works" means any works or activities which are required by any Planning Consents for the Permitted Use (including any Planning Agreement) to compensate for or mitigate the environmental and/or ecological impact of the Permitted

Use including (without limitation) the implementation of any Habitat Management Plan whether the same is approved before or after any such Planning Consents which shall be approved by the Landlord;

"Hazardous Substance" means any natural or artificial substance or material in solid, liquid, gas or vapour form and whether alone or in combination with any other substances or matter or material, whether hazardous, toxic, ignitable, reactive, corrosive, radioactive, caustic, a contaminant, hazardous waste, special waste, industrial waste, waste or pollutant, (including petroleum, its derivatives, by-products and other hydrocarbons, polychlorinated bi-phenyls and asbestos, and any daughter compounds produced as a result of the degradation of any of the foregoing), which could cause harm or damage to the Environment;

"Historic Contamination" means:

- (a) the presence, migration, escape, emission or exposure to any Hazardous Substance at, in, under or from the Premises, on or prior to the date of this lease (**"Pre-Completion Contamination"**);
- (b) the migration to any location on or after the date of this lease of any Pre-Completion Contamination; and
- (c) any act, omission or default on or after the date of this lease by the Landlord or any agent, servant, contractor, or sub-contractor of the Landlord to the extent that such act, omission or default exacerbates, increases or otherwise causes or contributes to any Pre-Completion Contamination;

"Income Rent" means a minimum of 3% of Gross Income (less the Annual Rent) per annum;

"Landlord's Property" means the freehold property at Parc Yr Ocar, Mynydd Llandegai and Land at Cil-Geraint, St Anns Bethesda shown more particularly delineated edged blue on the Plan and being part of the land registered at the Land Registry with title absolute under title number CYM441463 and CYM440118 excluding the Premises;

"Necessary Consents" means all consents (including but not limited to, planning permission, Planning Consents, licences, statutory agreements, and grid connection agreements) required to construct and operate the Development;

"Network Operator" means (i) where the Development is to be connected to the local electricity distribution network the Landlord and/or operator of that network or any successors to it in the capacity of the operator of that system authorised to distribute electricity pursuant to Section 6(1)(c) of the Electricity Act 1989; (ii) where the Development is to be connected to the GB Transmission System, National Grid Electricity

Transmission plc (whose registered number is 2366977) or any successors to it in the capacity of the operator of that system authorised to transmit electricity pursuant to Section 6(1)(b) of the Electricity Act 1989;

"New Access" means the area coloured [] on the Plan or such alternative area as the Landlord may consent to (in each case being up to a minimum of [4.5 metres] in width) such consent not to be unreasonably withheld or delayed;

"NRW" means The Natural Resources Body for Wales acting in its capacity as the appropriate agency pursuant to Sections 24 and 25 of the Water Resources Act 1991 (as amended by the Water Act 2003);

"Payments" means all payments (including tariffs), certificates and other benefits of whatever nature arising from the generation and/or export of electricity from the Development;

"Permitted Use" means the construction, installation, repair, replacement, renewal, use and removal on or from the Premises of:

- (a) any Equipment and such ancillary equipment as is reasonably necessary for the purpose of the generation, distribution and supply of electricity and uses ancillary or preparatory thereto including (without limitation) the Electricity Substation and for any other activities reasonably related or incidental to operation of a hydro scheme;

"Pipeline" means the water pipeline serving the Development to be constructed by the Tenant for the purposes of transporting water from the Abstraction Point to the Tenant's hydro electric generating equipment;

"Plan" means the plan annexed to this lease;

"Planning Acts" means the Town and Country Planning Act 1990 the Planning (Listed Buildings and Conservation Areas) Act 1990 the Planning Act 2008 the Localism Act 2011 and the rules regulations and orders which are either made under one of them or are continued by the Planning (Consequential Provisions) Act 1990 as they apply from time to time;

"Planning Agreement" means an agreement and/or undertaking in respect of or affecting the Landlord's Property (whether or not also affecting other property) pursuant to section 106 of the Act and/or section 33 of the Local Government (Miscellaneous Provisions Act) 1982 and/or section 111 of the Local Government Act 1972 and/or any provision, undertaking or obligation or any agreement of similar intent with any competent statutory and/or public authorities or bodies relating to the Development;

"Planning Consent" means any planning permission for the Development (if any);

"Premises" means the land shown edged red on the Plan and forming part of the land registered at the Land Registry with freehold title absolute with title number(s) [];

"Rent" means the Annual Rent and the Income Rent;

"Rent Commencement Date" means [TBC];

"Rent Payment Dates" means [Inset the day and month of the date of this Lease];

"Reserved Rights" means the rights reserved to the Landlord by Schedule 2;

"Review Date" means each fifth anniversary of the date of this lease;

"Rights" means the rights granted to the Tenant by Schedule 1;

"Schedule of Condition" means the photographic and written schedule of condition agreed between the Landlord and Tenant (acting reasonably);

"Term" means a term of 20 years from and including the date of this lease until and including [DATE];

"Third Party Rights" means the matters (other than financial charges) contained in the property and charges register of the Landlord's Property as at [] on [] insofar as they relate to the Premises together with the following documents:

"Works" means any works on the Premises or the Landlord's Property which are reasonably necessary or desirable for the Permitted Use and the Development and for decommissioning any part of the Development; and

"VAT" means the tax currently charged under the Value Added Tax Act 1994 as amended or supplemented or replaced from time to time and any other tax of a similar nature amending or replacing the same.

1.2 Interpretation

- (a) A reference to this lease, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.
- (b) Clause and Schedule headings will not affect the interpretation of this lease.
- (c) Unless the context otherwise requires, references to clauses or Schedules are to the clauses and Schedules of this lease.

- (d) Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended from time to time.
- (e) A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision.
- (f) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (g) Where the context so requires words importing the singular shall include the plural and vice versa.
- (h) If the Landlord or the Tenant comprise more than one person obligations and covenants in this lease shall be deemed to be joint and several obligations and covenants.
- (i) A reference to writing or written does not include email.
- (j) Any obligation on a Party not to do or omit something includes an obligation not to permit that thing to be done or omitted by another person.
- (k) Any reference to the Landlord includes the person entitled to the immediate reversion to this lease. A reference to the Tenant includes a reference to its successors and assigns.
- (l) Unless expressly provided otherwise, any reference to the consent or approval of the Landlord or the Tenant shall be deemed to include a proviso that such consent or approval shall be in writing and may not be unreasonably withheld or delayed nor subject to any unreasonable conditions provided always that it shall be reasonable for the Tenant to withhold consent where implementation of the proposal for which consent is requested would, in the reasonable opinion of the Tenant, adversely affect:
 - (i) the economic viability of the Development;
 - (ii) the exercise of the rights granted to the Tenant in this lease; or
 - (iii) compliance with any planning obligation or other statutory requirement relating to the Developmentand in relation to the Landlord's consent:
 - (iv) if the Landlord does not consent or approve the Landlord must give sufficient written explanation and information to the Tenant for the Tenant to understand what is required to obtain such consent;

- (v) if the Landlord fails to serve the notice referred to at (iv) above within 21 days of receiving the Tenant's request for consent or approval then the Landlord shall be deemed to have provided such consent or approval. and in relation to the Landlord's consent:
 - (A) if the Landlord does not consent or approve the Landlord must give sufficient written explanation and information to the Tenant for the Tenant to understand what is required to obtain such consent;
 - (B) if the Landlord fails to serve the notice referred to at (A) above within 21 days of receiving the Tenant's request for consent or approval then the Landlord shall be deemed to have provided such consent or approval.
- (m) The Reserved Rights may (in the absence of any provision to the contrary) also be exercised by any person authorised by the Landlord with or without workmen equipment and materials where the context would permit but in all cases the person exercising such rights shall comply with the reasonable requirements of the Tenant as regards safety and security and shall do so only after giving reasonable notice to the Tenant and accompanied by a representative of the Tenant.
- (n) References to the Premises and the Landlord's Property are in the absence of any contrary indication to be construed (respectively) as references to the whole or to any part thereof.
- (o) Any phrase introduced by the words "**including**", "**include**", "**in particular**" or any similar expression is to be construed as illustrative only and is not to be construed as limiting the generality of any preceding words.

2 GRANT OF LEASE

- 2.1 The Landlord with full title guarantee lets the Premises to the Tenant for the Term.
- 2.2 The grant is made together with the ancillary rights set out in Schedule 1, excepting and reserving to the Landlord the rights set out in Schedule 2, subject to the Third Party Rights and with the Tenant paying the Rent to the Landlord.

3 TENANT'S GENERAL COVENANTS

The Tenant hereby covenants with the Landlord throughout the Term as follows:

3.1 Rent and other payments

The Tenant shall pay:

- (a) from and including the Rent Commencement Date for the duration of the Term, the Rent and any VAT in respect of it, provided that:
 - (i) the Annual Rent shall be payable annually in advance on or before the Rent Payment Date; and
 - (ii) the Income Rent shall be payable annually in arrears on or before the first Rent Payment Date which follows the anniversary of the Rent Commencement Date.
- (b) on demand interest at the Default Rate on any of the sums due from the Tenant to the Landlord under this lease which remain unpaid more than 14 days after becoming due; and
- (c) all proper and reasonable costs and disbursements reasonably incurred by the Landlord in relation to:
 - (i) any application by the Tenant for consent under the covenants in this lease whether or not consent is granted or the application withdrawn except where consent is unlawfully withheld or granted subject to an unlawful condition;
 - (ii) the recovery of the Rent or any sums due from the Tenant to the Landlord under this lease;
 - (iii) proper and reasonable action taken by the Landlord in relation to the enforcement of the tenant covenants of this lease;
 - (iv) any deed of easement or wayleave required pursuant to clause 5.7;
 - (v) any Direct Agreement required pursuant to clause 5.8;
 - (vi) preparation and service of a notice and the conduct of proceedings relating to the Premises under section 146 of the Law of Property Act 1925 notwithstanding that forfeiture is avoided other than by relief granted by the court.

3.2 Repairs

The Tenant shall keep the Premises neat and tidy and shall keep any equipment installed by or on behalf of the Tenant electrically safe and in accordance with the requirements of statute.

3.3 Alienation

- (a) Save as expressly permitted by this lease, the Tenant may not assign, transfer, underlet, part with or share possession or occupation of the whole or any part of this lease or the Premises or hold the same in trust for any person (except pending registration of a permitted dealing with this lease at the Land Registry).
- (b) The Tenant may without the consent of the Landlord assign, transfer, underlet, charge, mortgage, part with or share occupation and possession of the whole of the Premises to or with a Group Company.
- (c) The Tenant may without the consent of the Landlord assign or charge the whole of this lease to a Funder.
- (d) The Tenant may without the consent of the Landlord share occupation and possession of and grant an underlease or licence of the Electricity Substation Site or any part of it, with or to the Network Operator or whomever the Network Operator shall direct.
- (e) The Tenant may without the consent of the Landlord grant to an Network Operator or any other statutory undertaker or utility provider in connection with the supply or removal of electricity, gas, water, drainage, telecommunications or other services to and/or from the Premises any easement, wayleave, privilege or other right over the Tenant's interest in the Premises in connection with any services to be supplied to or from the Premises or in connection with the siting and use of any substation, electricity lines, or other ancillary transmission and safety equipment required to establish a connection for the export and import of electricity to and from the Equipment by such party.
- (f) The Tenant may share occupation of the whole or any part of the Premises provided that no relationship of landlord and tenant is created.
- (g) The Tenant may assign or charge the whole and underlet the whole or any part of this lease with the Landlord's prior written consent (such consent not to be unreasonably withheld or delayed) and subject to a payment of the Assignment Fee. The Landlord may not call for the Tenant to enter into an authorised guarantee agreement on any assignment of the whole or any part of its interest in the Premises.

3.4 Notice of Dispositions

The Tenant shall give written notice to the Landlord within 28 days after any assignment, underlease or charge of this lease.

3.5 Statutory Requirements

- (a) The Tenant shall not commit any breach of law in relation to the Premises or their use by the Tenant or the exercise by the Tenant of the Rights.
- (b) The Tenant shall comply with any Planning Agreement and any Planning Consent insofar as they relate to the exercise of the Rights.

3.6 Yielding Up

- (a) At the end of the term of this lease (however it determines) the Tenant shall remove the Equipment and yield up the Premises to the condition as evidenced by the Schedule of Condition required by and in accordance with the terms of this lease but the Tenant shall not be required to remove any property belonging to a Network Operator or any Equipment installed at a depth of 1 metre or more.
- (b) The Tenant shall not be required to comply with the terms of this clause 3.6 where it is prevented from doing so in order to comply with any Planning Consent or any Planning Agreement.

3.7 Decommissioning Security

- (a) On or prior to the date which is the twentieth anniversary of the date of this lease the Tenant will:
 - (i) obtain an independent assessment in relation to the anticipated cost of complying with its obligations pursuant to clause 3.6 above and the assessment (the "**Reinstatement Cost**") shall be final and binding on both Parties (save in the case of manifest error); and
 - (ii) put in place a bond from a reputable insurance company bondsman, a deposit, a guarantee or such other form of security both Parties agree (acting reasonably) in respect of the Reinstatement Cost (the "**Security**").
- (b) The Landlord shall be entitled to have recourse to the Security if and to the extent that the Tenant has failed to comply with its obligations under clause 3.6 above in order to recover the reasonable losses and costs properly incurred by the Landlord as a direct result of the Tenant failing to comply with its obligations under clause 3.6.
- (c) The Security (or the balance thereof after any valid claim by the Landlord) shall together with all interest thereon be repaid to the Tenant on the expiry or sooner determination of this lease or, if later, the date upon which the Tenant discharges its obligations pursuant to clause 3.6.

- (d) If planning permission for the Development requires that similar security is put in place then the provisions relating to the Reinstatement Cost and the Security shall not apply provided that (i) the Landlord has approved (such approval not to be unreasonably withheld or delayed) such similar security; (ii) the Landlord has access to the funds in the event that the relevant authority does not affect the reinstatement; and (iii) in the event that the similar security is of a lower value than the Reinstatement Cost then the provisions of this clause 3.7 shall apply but the Reinstatement Cost shall be adjusted such that it represents the difference between the two pieces of security.

3.8 Outgoings

- (a) The Tenant shall pay promptly all rates, taxes, charges and other outgoings which are now or may during the Term be charged assessed or imposed upon the Premises and/or the Equipment (excluding any tax payable by the Landlord in respect of the Rent or any other payment to be made by the Tenant to the Landlord under this lease or any tax payable by the Landlord in connection with any disposition of or dealing with or the ownership of the reversion to this lease).
- (b) If any rates, taxes or other impositions are payable in respect of the Premises together with other property, the Tenant shall pay a fair proportion of the amount payable.

3.9 Indemnity

- (a) Subject to clause 3.9(b), the Tenant covenants to indemnify the Landlord against all losses, damages, costs, claims, or expenses incurred by the Landlord as a result of any breach of the Tenant's covenants under this lease.
- (b) The indemnity in clause 3.9(a) shall apply provided always that:
 - (i) the Tenant shall not be liable in respect of losses, damages, costs, claims, or expenses attributable to any act or default on the part of the Landlord or in respect of any losses, damages, costs, claims, or expenses arising out of the Tenant's ordinary and lawful exercise of the rights granted to the Tenant in this lease;
 - (ii) the Tenant is not responsible to the Landlord or anyone at the Premises with the Landlord's express or implied authority for any accident, injury, damage or loss save to the extent that such accident injury damage or loss results from the negligence of the Tenant, or anyone with the Tenant's express authority or a breach of the terms of this lease by any of those persons;

- (iii) the Landlord shall be obliged to intimate to the Tenant as soon as practicable details of such costs, claims, demands, proceedings, losses, damages or expenses and shall mitigate such costs, claims, demands, proceedings, losses, damages, or expenses as much as possible;
- (iv) it shall be in the option of the Tenant at any time to take over and defend in the name of the Landlord any claims for losses, damages or expenses for which the Tenant is alleged to be responsible under 3.9(a) and unless and until the Tenant exercises the foregoing option the Landlord shall keep the Tenant fully informed of the progress of any such claims and shall not make any admission of liability to or agreement or compromise with any person in relation to such claims without the prior consent of the Tenant;
- (v) the Tenant shall have no liability under this lease for economic or consequential losses (including loss of production, loss of profit, loss of profitability, economic loss, loss of use, loss of contract, loss of goodwill) or for any indirect loss or damage whatsoever whether or not the Tenant knew (or ought to have known) that such losses would be likely to be suffered as a result of such performance, non-performance, act, omission or breach;
- (vi) the maximum aggregate liability of the Tenant under this lease shall be £5,000,000

provided always that the Tenant shall not seek to limit its liability in respect of personal injury and/or death resulting from its negligence or the negligence of any of its officers employees agents and/or sub-contractors and no such liabilities shall count towards the cap on liability set out in 3.9(b)(vi) above.

3.10 Public Liability

The Tenant shall insure against public liability in respect of the Premises for at least £5,000,000 throughout the duration of the Term and shall provide the Landlord with evidence that insurance is in place on request, but not more often than once in every year.

3.11 Use

The Tenant shall not use the Premises other than for the Permitted Use except with the Landlord's consent.

3.12 Easements and wayleaves

- (a) Save as otherwise permitted by this lease, the Tenant shall not knowingly permit any right, wayleave or licence to be made or acquired over the Premises.
- (b) If the Tenant becomes aware of any third party making or attempting to make any encroachment over the Premises or taking any action by which a right may be acquired over the Premises (other than as permitted by this lease), the Tenant must:-
 - (i) notify the Landlord as soon as reasonably practical; and
 - (ii) take all reasonable steps at the Landlord's cost to prevent the continuation of that encroachment or action.

3.13 Code of Conduct

The Tenant shall observe all reasonable and proper regulations made by the Landlord from time to time in accordance with the principles of good estate management and notified to the Tenant relating to the use of the Landlord's Property provided that:

- (a) such regulations shall not materially interfere with the Tenant's use of the Premises for the Permitted Use and the Tenant's exercise of the Rights; and
- (b) if there is any conflict between such regulations and the terms of this lease, the terms of this lease shall prevail.

3.14 Flooding

In the event of a significant flood event affecting the Premises which is not the result of the presence of the Development or Permitted Use, but is naturally occurring then each Party will be responsible for making good damage to their respective infrastructure situated on the Premises or on the Landlord's Property. The Parties shall use reasonable endeavours to work together in relation to such making good as aforesaid to ensure any damage is rectified in the most economic and timely manner save where as a result of such significant flood event being an emergency situation in which case either Party may take such reasonable and prudent steps to prevent the flood event causing further damage to the said infrastructure and to notify the other Party of such steps as soon as reasonably practicable thereafter.

3.15 Tree Safety

The Tenant will undertake periodic inspection of the Premises to determine the risk of tree fall and where root development may compromise the integrity of the Equipment. If the risk is deemed to be high (in the Tenant's opinion) the Tenant will carry out any

remedial works the Tenant deems necessary, at the Tenant's cost, with the consent of the Landlord (not to be unreasonably withheld or delayed).

4 RENT REVIEW

- 4.1 The Annual Rent shall be reviewed on each Review Date to equal the Annual Rent payable immediately before the relevant Review Date or, if greater, the indexed Base Rent determined pursuant to this clause.
- 4.2 The indexed Base Rent after a Review Date shall be determined by multiplying the Base Rent by the value of the RPI for the month two months before the month in which that Review Date falls, then dividing the product by the Base RPI Figure.
- 4.3 The Tenant shall calculate the indexed Base Rent as soon as reasonably practicable and shall give the Landlord written notice of the indexed Base Rent as soon as it has been calculated.
- 4.4 In the event that the RPI ceases to be published or if there is a fundamental change to the RPI, the Parties shall agree either:
- (a) to another index to use; or
 - (b) an adjustment to the RPI to use in determining the increase to the Annual Rent.
- 4.5 In either case, with the intention of putting the Parties in no better or worse a position than they would have been had the RPI not ceased to be published or such fundamental change had not been made. If the Parties cannot agree another index to use or an adjustment to the RPI to use in determining the increase to the Annual Rent, either Party may refer the matter to a Surveyor (as defined below) to determine an alternative mechanism.
- 4.6 The "**Surveyor**" shall be an independent valuer who is a Member or Fellow of RICS. The Landlord and the Tenant may, by agreement, appoint the Surveyor at any time before either of them applies to the President for the Surveyor to be appointed.
- 4.7 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor's decision shall be given in writing, and the Surveyor shall provide reasons for any determination. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.

5 LANDLORD'S COVENANTS

The Landlord hereby covenants with the Tenant as follows:

5.1 Power to grant Lease

Save as registered at the Land Registry against the Landlord's title to the Landlord's Property, no part of the Landlord's Property is subject to any lease, tenancy, licence, occupancy agreement, covenants, restrictions, conditions, rights, easements or other similar third party interest and the Landlord has the right power and authority to enter into this lease and to grant the Rights and further that the Landlord has obtained all necessary consents from any relevant mortgagee or chargee.

5.2 Access

The Landlord shall keep the Access Roads in good repair suitable for use for the Development provided that the Tenant shall contribute a fair proportion of the cost of repair to be calculated according to user of the Access Roads provided that the Tenant shall not be liable to contribute to maintaining the Access Roads to a better standard than the Access Roads are in as at the date of this lease.

5.3 Quiet Enjoyment

That the Tenant shall peaceably hold and enjoy the Premises and exercise the Rights during the Term without any interruption by the Landlord or any person claiming under or in trust for the Landlord or by title paramount.

5.4 Restrictive covenants relating to the Landlord's Property

- (a) The Landlord (with the intention of binding the Landlord's Property and each and every part of it) shall not do anything in or upon the Premises or the Landlord's Property which would or may interfere with the free passage and flow of water to the Premises or with the operation of or efficiency of the Equipment nor which adversely affects or may adversely affect the construction, operation, efficacy or maintenance of the Equipment or the use of the Premises for the Permitted Use and shall not interfere with obstruct or damage the Equipment or the Access Roads;
- (b) Notwithstanding the generality of (a) above, the Landlord (with the intention of binding the Landlord's Property and each and every part of it) shall not:
 - (i) construct any building or structure or plant any tree, shrub, hedge or bush on the Landlord's Property within 10 metres of the Premises over any Conducting Media of which the Landlord has been notified, without the Tenant's consent;

5.5 Livestock

If reasonably required from time to time by the Tenant, the Landlord shall keep any of the Landlord's livestock away from the Premises and Equipment while the Tenant is carrying out any works permitted by this lease.

5.6 Landlord to Remedy Damage

- (a) If the Landlord or anyone else at the Premises or the Landlord's Property with the Landlord's authority other than the Tenant or its invitees causes damage to the Premises or the Tenant's machinery or equipment, the Tenant may carry out works required to make good the damage and the Landlord must pay the Tenant on demand the proper costs and expenses incurred by the Tenant in making good such damage.
- (b) The Landlord shall notify the Tenant of any damage caused to the Tenant's machinery or equipment by the Landlord or anyone else at the Premises or the Landlord's Property (other than the Tenant or its invitees) as soon as reasonably practicable after becoming aware of the same.

5.7 Grant of rights to Network Operator

- (a) If the Network Operator requires that the any Electricity Substation Site or any part of it is leased directly to it by the Landlord, the Tenant may require the Landlord to accept a partial surrender of this lease insofar as it relates to such Electricity Substation Site (or part thereof), and to grant a separate lease of such area to the Network Operator in the standard form of the Network Operator at the time of the grant. ¹
- (b) The Landlord must, at the request of the Tenant, grant easements and wayleaves and enter into agreements over and across or otherwise affecting the Landlord's Property without delay as may reasonably be required by:-
 - (i) a Network Operator in respect of the connection of the Development or the Electricity Substation to the GB Transmission System or an electricity distribution system;
 - (ii) a telecommunications or data transmission operator in respect of the connection of either or both a telephone line and data transmission cables from the Development and the Electricity Substation to their network; or

¹ DN: This is only relevant to Coetir Mynydd.

- (iii) a water company in respect of connection to water supplies and drainage (whether public or private),

in the standard form of the requiring party without the payment of any premium or sum.

5.8 Direct Agreement

- (a) The Landlord acknowledges that the Tenant may wish to finance or refinance its investment in the Development with a Funder and in providing such funding, a Funder may require the Landlord to enter into a Direct Agreement.
- (b) The Landlord will co-operate in good faith with the Tenant and use reasonable endeavours to satisfy the requirements of any Funder in respect of such financing or refinancing including, but not limited to, entering into a Direct Agreement.

5.9 Planning Agreements

- (a) Subject to being indemnified by the Tenant for the costs of compliance with this clause the Landlord shall enter into and take all reasonable steps to perfect (and procure that any chargee of the Landlord's Property does the same) any Planning Agreement provided that:
 - (i) all liabilities in such Planning Agreement shall be expressed to be subject to the grant and implementation of planning consent;
 - (ii) the Tenant shall (and the Landlord shall give the Tenant all rights necessary to enable the Tenant to) observe and perform all the obligations on the part of the Landlord contained in the Planning Agreement, other than those which are only capable of being performed by the Landlord;
 - (iii) all liabilities on the part of the Landlord under such Planning Agreement will cease on the sooner of (i) the date on which the Development is removed from the Premises; and (ii) the expiry of this lease and any renewal thereof.
- (b) The Landlord must not do anything which would contravene or invalidate any Planning Agreement or Planning Consent.

5.10 Payments

The Landlord acknowledges that the Tenant is solely entitled to any Payments and, if at any time during the Term the Landlord is in receipt of any Payments arising by virtue of

its interest in the reversion to this lease, it shall promptly and without delay pay and otherwise transfer to the Tenant all such Payments.

5.11 Dealings with the Premises

- (a) In the event that the Landlord proposes to gift, sell, transfer or otherwise dispose or convey the Premises and any part of the Landlords Property containing any of the Access Roads and/or Cable Routes to a third party during the term of this Lease:
 - (i) The Landlord shall give to the Tenant written notice of their intention to do so prior to the completion of such gift, sale, transfer, disposition or conveyance; and
 - (ii) The Landlord shall procure that as a condition of any such gift, sale, transfer, disposition or conveyance to a third party, such third party shall grant in favour of the Tenant an irrevocable undertaking in terms acceptable to each of (i) the Tenant and (ii) any Tenant's Funder and (iii) the Landlord (the Landlord and the Tenant acting reasonably and the Tenant being obliged to procure that any Funder acts reasonably) for the remainder of the Term then subsisting or such longer period as may be agreed between the Tenant and the third party which provides that the said third party undertakes to comply with the terms of this Lease (including for the avoidance of doubt holding its successors bound by the terms of this clause) and not to do any act or thing that would materially prejudice the Permitted Use. The Landlord shall be obliged to deliver such undertaking, validly executed by such third party, to the Tenants on the date of completion of such gift, sale, transfer, disposition or conveyance;
- (b) The Tenant shall pay the proper and reasonable costs and expenses incurred by the Landlord and the third party in connection with the grant of the undertaking referred to in clause 5.11(a), declaring that, without prejudice to the foregoing, the Tenant shall not be liable for any other costs and expenses incurred in relation to such gift, sale, transfer, disposition or conveyance.
- (c) In the event of a breach by the Landlord of their obligations in this clause **Error! Reference source not found.**, the Landlord will indemnify the Tenant against all loss, injury, damages, costs and expenses incurred directly by the Tenant as a result of such breach.

5.12 Claims against the Tenant

The Landlord acknowledges and accepts that the Development will result from time to time in a diminished flow of water supply, as permitted by the planning consent for the Development, but not of water quality. The Landlord will not have or make any claim against the Tenant and/or the Tenants' Funder in respect of such diminution of flow of the water supply and the Tenant shall have no liability to the Landlord in respect thereof, except in respect of any flow that is less than that authorised in the said planning consent.

6 OWNERSHIP OF THE EQUIPMENT AND INCOME

- 6.1 Any and all Equipment installed or constructed by the Tenant (including its third party suppliers) on under or over the Premises and/or the Landlord's Property shall remain at all times the property of the Tenant (or a Network Operator or other statutory undertaker, as the case may be).
- 6.2 All income arising from the generation of electricity on the Premises during the Term, shall belong to the Tenant.
- 6.3 The Landlord shall not at any time have any interest or title in, or otherwise acquire or become entitled to, the whole or any part of the Equipment.
- 6.4 Nothing contained in this lease shall impose any obligation on the Tenant to generate electricity at the Premises.
- 6.5 The Tenant shall be at liberty to remove the Equipment from the Premises at any time during and at the end of the Term (howsoever determined) and the Landlord shall allow the Tenant such access as the Tenant may reasonably require for such removal.

7 OPTION TO RENEW

For the purpose of this clause 7, the following definitions shall apply:

New Lease	the lease of the Premises (the terms of which are set out in clause 7.5) to be granted upon the exercise of the Option.
Option	the option granted by the Landlord to the Tenant by this clause.
Option Notice	written notice exercising the Option in accordance with the terms of this clause.
Option Period	the period from and including the date of this Lease up to and including the date that is three months prior to the end of the Term.

- 7.1 The Landlord grants the Tenant, during the Option Period, an option to take the New Lease.

- 7.2 The Tenant may exercise the Option at any time during the Option Period by serving an Option Notice on the Landlord.
- 7.3 If the Option is exercised in accordance with the terms of this clause:
- (a) the Landlord will grant to the Tenant and the Tenant will accept from the Landlord the New Lease, provided that:
 - (i) the Tenant cannot require the Landlord to grant the New Lease to any person other than the Tenant; and
 - (ii) (no premium is payable for the grant of the New Lease.
- 7.4 The New Lease shall:
- (a) include all of the terms, requirements, covenants and conditions contained in this lease except to the extent that they are inconsistent with the terms of this clause 7.4;
 - (b) be for a term of 20 years beginning on and including the day after the expiry of the term granted by this Lease;
 - (c) be at an annual rent of an amount equivalent to the annual rent payable by the Tenant at the end of the term of this Lease (or which would then be payable but for any abatement, suspension or restriction on the right to collect the same);
 - (d) provide that the Security held pursuant to the provisions of this Lease shall be carried over to the New Lease;
 - (e) not include this clause 7.
- 7.5 The Tenant shall procure that a draft of the New Lease will be provided to the Landlord not later than the date which is one month prior to the end of the Term and the New Lease shall be completed as soon as reasonably practicable and in any event not less than 10 days prior to the end of the Term.
- 7.6 The Landlord will grant the New Lease with full title guarantee.
- 7.7 If the Option is not exercised in accordance with the terms of this clause then, within one month of the expiry of the Option Period, the Tenant will remove all entries relating to the Option registered against the Landlord's title to the Premises.
- 7.8 The Parties confirm that:
- (a) the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the 1954 Act, applying to the tenancy created by the New Lease before this Lease was entered into;

- (b), who was duly authorised by the Tenant to do so, made a statutory declaration dated (the "Statutory Declaration") in accordance with the requirements of 38A(3)(b) of the 1954 Act.

- 7.9 Where the Statutory Declaration was made by a person other than the Tenant the Tenant confirms that the declarant was duly authorised to make the Statutory Declaration on the Tenant's behalf.
- 7.10 The Parties agree that sections 24 to 28 (inclusive) of the 1954 Act are excluded in relation to the tenancy to be created by the New Lease.

8 HISTORIC CONTAMINATION

- 8.1 Notwithstanding any other provisions in this lease, the Tenant shall have no liability whatsoever as a result of the presence in on over or under the Premises or the Landlord's Property of any Historic Contamination.
- 8.2 It is agreed without prejudice to the generality of clause 8.1 that the Tenant shall not be required by any of the covenants on the part of the Tenant contained in this lease to make good or rectify (or pay to make good or rectify) any defect or want of repair resulting from Historic Contamination (whether at the Premises or elsewhere) nor shall the Tenant be required to rectify remove treat or render harmless Historic Contamination or rectify any damage or other adverse consequences arising from any Historic Contamination.
- 8.3 The Landlord shall indemnify and hold harmless the Tenant against all liabilities damage costs or claims arising from the existence of Historic Contamination at the Premises but for the avoidance of doubt the Tenant shall be liable for any other breach of Environmental Law arising solely and exclusively from the Tenant's use of the Premises for the Permitted Use.

9 NO PLANNING WARRANTIES

Nothing in this lease or in any consent granted by the Landlord under this lease constitutes any warranty by the Landlord that the Premises are authorised under the Planning Acts or otherwise for use for any specific purpose.

10 NOTICES

Any notice to be given under this lease must be in writing and (unless the person to whom it is given acknowledges receipt in writing) shall be valid if (and only if) it complies with the provisions of this clause:

- 10.1 The notice must either be given by hand or sent by registered or recorded delivery post.

10.2 The notice must be served:

- (a) where the Party to whom it is given is the Tenant either at its registered office or at the last address notified by the Tenant to the Landlord in writing for the purpose of notices; and
- (b) where the Party to whom it is given is the Landlord:
 - (i) if the Landlord is not a company at the address shown in this lease or at the last address notified by it to the Tenant in writing for that purpose; and
 - (ii) if the Landlord is a company at its registered office or at the last address notified by it to the Tenant in writing for that purpose;
- (c) where the person to whom it is given is a Funder at the last address notified by it to the Landlord in writing for that purpose and a copy of any notice given to a Funder must be simultaneously served upon the Tenant.

10.3 Any change of the details in clause 10.2 specified in accordance with that clause shall take effect for the Party notified of the change at 9.00 am on the later of:

- (a) the date, if any, specified in the notice as the effective date for the change; or
- (b) the date three working days after deemed receipt of the notice.

10.4 Any notice or document given or delivered in accordance with clauses 10.1, 10.2 and 10.3 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day; or
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the working day after posting.

10.5 In proving delivery of a notice or document, it will be sufficient to prove that:

- (a) a delivery receipt was signed or that the notice or document was left at the address; or
- (b) the envelope containing the notice or document was properly addressed and posted by pre-paid first class post or other next working day delivery service.

- 10.6 A notice or document given or delivered under this lease shall not be validly given or delivered if sent by fax or email.
- 10.7 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

11 FORFEITURE

If:

- 11.1 at any time during the Term, the Tenant materially breaches any of the covenants or conditions on the part of the Tenant contained in this lease and fails to remedy the breach within a reasonable period (being not less than 90 days) after having received written notice from the Landlord specifying the breach;
- 11.2 within 2 years of the date of this Lease, the Tenant has not begun to construct the Project and fails to begin construction within 1 month after having received written notice from the Landlord; or
- 11.3 if the Development is non-operational for a period of 1 year, and continues to fail to be non-operational for a period of 1 month after having received written notice from the Landlord

then and in any such case the Landlord may re-enter the Premises or any part of the Premises in the name of the whole and thereupon this lease shall absolutely cease and determine but without prejudice to any rights and remedies of either Party in respect of any antecedent breach by the other PROVIDED THAT the Landlord shall not exercise any right of forfeiture or re-entry without first giving to any Funder (of which the Landlord has been notified) written notice of its intention to take steps to forfeit the lease or to re-enter the Premises, together with particulars of the breach in question and allowing the Funder a reasonable period (being not less than four months in respect of monetary breach and nine months in respect of non-monetary breach) to remedy or as near as possible in the circumstances remedy such breach.

12 CONFIDENTIALITY

- 12.1 Neither Party shall without the prior written consent of the other, disclose to any third party (except so far as may be necessary to its financial and professional advisers, or as required by any other court proceedings or HM Revenue Customs, or to the Land Registry, or to a bona fide lending institution for the purposes of security, or to any bona fide prospective purchaser) any data or information which the Tenant has told the Landlord is a trade secret or confidential information relating to the Development.

- 12.2 The provisions of this clause 12 shall not apply where any such information (other than by breach of this clause) is already in the public domain.

13 FORCE MAJEURE

If either Party is prevented by Force Majeure for any period of time from performing its obligations under this lease that Party shall not be in breach of such obligations for so long as and to the extent that such reasons shall subsist and in the event of a dispute between the Landlord and the Tenant relating to the existence of Force Majeure or its duration then the matter shall be referred for determination in accordance with clause 16.

14 NEW TENANCY

This Lease is a new tenancy within the meaning of section 1(3) of the Landlord and Tenant (Covenants) Act 1995.

15 EXCLUSION OF SECURITY OF TENURE

- 15.1 The Parties confirm that:

- (a) the Landlord served a notice on the Tenant, as required by section 38A(3)(a) of the 1954 Act, applying to the tenancy created by this lease before the Option was entered into;
- (b), who was duly authorised by the Tenant to do so, made a statutory declaration dated (the "**Statutory Declaration**") in accordance with the requirements of 38A(3)(b) of the 1954 Act; and
- (c) there is no agreement for lease to which this lease gives effect.

- 15.2 Where the Statutory Declaration was made by a person other than the Tenant the Tenant confirms that the declarant was duly authorised to make the Statutory Declaration on the Tenant's behalf.

- 15.3 The Parties agree that sections 24 to 28 (inclusive) of the 1954 Act are excluded in relation to the tenancy to be created by this lease.

16 DISPUTES

- 16.1 The Parties shall at all times act in good faith and will use reasonable endeavours to resolve any disputes that arise within 28 days of them arising without recourse to arbitration or court proceedings.

- 16.2 Subject to clause 16.1, and save where otherwise provided, all disputes of fact arising between the Parties under this lease shall be determined by an arbitrator such arbitrator

to be nominated in the absence of agreement by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors.

16.3 The arbitration shall be conducted in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force with the further provision that if the arbitrator nominated pursuant to clause 16.2 above shall die or decline to act the President for the time being of the Royal Institution of Chartered Surveyors or the person acting on his behalf may on the application of either the Landlord or the Tenant by writing discharge the arbitrator and appoint another in his place.

16.4 The fees and expenses of the arbitrator including the cost of his nomination shall be borne equally by the Landlord and the Tenant or otherwise within the arbitrator's award.

17 LAND REGISTRY REQUIREMENTS

17.1 Where this lease and (as the case may be) any rights granted by this lease are required to be registered at the Land Registry under the Land Registration Act 2002, the Tenant shall apply to the Land Registry for registration of this lease and use all reasonable endeavours to procure the:

- (a) registration of this lease; and
- (b) proper noting of all rights granted by this lease against the titles affected by them

PROVIDED THAT the Landlord shall assist the Tenant, at the Tenant's cost, in providing answers to and producing any documents that may properly be required to deal with any Land Registry requisitions.

18 JURISDICTION

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

18.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this lease or its subject matter or formation (save where this lease provides otherwise).

19 RIGHTS OF THIRD PARTIES

Unless, the right of enforcement is expressly provided, it is not intended that a third party should have the right to enforce a provision of this lease pursuant to the Contracts (Rights of Third Parties) Act 1999 except for a Funder in respect of clauses 5.7(a) and 11.

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

Schedule 1

Rights granted

1 The Landlord grants the Tenant the following rights for the benefit of the Premises and the Development:

1.1 Usage

- (a) the right to all water which would naturally reach the Premises and the Development with no interruption or obstruction;
- (b) to abstract water from the Abstraction Point pursuant to and in accordance with the Abstraction Licence;
- (c) the right to monitor the Equipment and Premises as may be required by any Planning Agreement, any other confidential consents related to the Permitted Use, any Environmental Law or by any other statutory regulations;
- (d) the right to construct, install, operate, inspect, monitor, maintain, repair, renew and replace the Equipment, any temporary hard standings at locations agreed between the Parties acting reasonably and/or permanent foundations for the Equipment;
- (e) the right to construct, install, operate, inspect, monitor, maintain, repair, renew and replace the Pipeline;
- (f) the right to construct, install, operate, inspect, monitor, maintain, repair, renew and replace the Conducting Media through the Premises and the Conducting Media Route;
- (g) the right to install a penstock at a depth no less than 600mm from the top of the penstock to the surface of the land.
- (h) to construct and install, use, maintain, modify, refurbish, replace and remove and intake including a screening and cleaning system;
- (i) the right (subject to obtaining a proper licence to do so) to fell, lop or cut from time to time all trees, branches and hedges growing on the Landlord's Property or the Premises which if not felled, lopped or cut would obstruct or interfere with the Development or Equipment or the exercise of the Tenant's Rights, such right being subject always to compliance with legislation or environmental stewardship schemes in place which have been disclosed by the Landlord to the Tenant prior to the date of this lease. Any timber so felled, lopped or cut will be the property

of the Landlord and must be removed or disposed of as the Landlord may reasonably direct;

1.2 Support and protection

the right of support and protection for the Premises;

1.3 Access

- (a) a right of way at all times for all purposes in connection with the Development with or without vehicles, plant, machinery and equipment over the Access Roads to gain access to and egress from the Premises;
- (b) the right to park vehicles on so much land as is reasonably necessary adjacent to the Access Roads and Electricity Substation Site to facilitate all permitted construction, maintenance, repair, renewal, removal and replacement;

1.4 Works

- (a) the right to carry out the Works (and the Tenant shall have full discretion to determine which of the Works are necessary) and to construct and use the Compound (if any) for the storage of plant, equipment, and materials in respect of the Works;
- (b) the right to execute on the Premises and/or Landlord's Property all works necessary to implement any Necessary Consents for the Development;
- (c) the right to (i) construct new access roads within the Premises and connect them into the Access Roads, (ii) construct the New Access; and (iii) to widen and improve the Existing Access in accordance with the Planning Consent (if any);
- (d) the right to deposit top soil and other excavated spoil from the widening, improvement, construction, maintenance, repair, renewal, removal and replacement of the Access Roads, Electricity Substation, Equipment, Development or from the carrying out of the Works in positions on the Premises;
- (e) the right to erect or install (in accordance with plans and specifications previously approved of by the Landlord, which approval will not be unreasonably withheld or delayed), and thereafter operate, inspect, monitor, maintain, repair, renew or replace any substation buildings or buildings for the Permitted Use together with all associated Equipment;
- (f) the right, following on the construction of the weir referred to in Clause 1.4(h) the crest of such weir being to a maximum level of [] above the ordnance datum, to flood the Premises which flooding will be to or above the said level of the weir.

Such right to flood will specifically allow the height of the river to be raised as a result of such flooding;

- (g) the right to demolish any existing derelict buildings as agreed with the Landlord to enable the construction of the power house required for the Permitted Use;
- (h) the right to carry out works on the river bed comprised in the Premises including affixing the parts of the Equipment forming part of the Permitted Use required to install a weir as part of the design of the Development and to permit the excavation of materials from the river bed and the right to relocate them as required within the river all as provided for in terms of the Planning Consents and any other relevant consents;
- (i) the right to use any available stone from existing weir located adjacent to the Premises and to alter the river bed as a result of using the stone as aforesaid in terms of the Planning Consents and any other relevant consents;
- (j) the following rights to use the Landlord's Property in order to fulfil certain conditions of Planning Consents and Environmental Law for the Permitted Use:
 - (i) the right to access the river both up and down stream;
 - (ii) the right to undertake a fish monitoring plan including surveys as electrofishing and tagging and the assessment of spawning habitat as such plan is to be agreed with the relevant environmental agency in order to comply with the Environmental Law;
 - (iii) the right to use the banks and sides of the river to undertake a monitoring programme for otters in placement with the Planning Consents;
 - (iv) the right to clear debris from the river from upstream or downstream of the Premises which may if not removed cause damage to the Development.

1.5 **Conducting Media**

the right to lay or erect and thereafter test, monitor, maintain, operate, repair, alter, renew, remove, render safe or unusable, replace and use the Conducting Media in, on or under the Cable Route;

1.6 **Security and signage**

- (a) the right to install, operate, and maintain such security systems and fencing on the Premises and such temporary fences on the Landlord's Property during the

carrying out of works as the Tenant shall reasonably require or its insurers shall require for the protection of the Equipment or for the safety of the public;

- (b) the right to erect signage (i) within the Premises; and (ii) within the Landlord's Property to the extent required by any applicable legislation or planning requirement with the Landlord's reasonable consent;

1.7 **Removal of Equipment**

the right at any time during and at the end of the Term (howsoever determined) to remove the whole or any parts of the Equipment;

1.8 **Remedy Landlord's breach**

the right to enter the Landlord's Property to take such action as is necessary to remedy a breach of any of the Landlord's covenants in this lease where the Landlord has failed to take appropriate action to remedy the position within a reasonable period of being notified in writing by the Tenant of such breach (or immediately in case of an emergency) and any proper costs incurred by the Tenant in remedying a Landlord's breach under this clause shall be a debt due from the Landlord to the Tenant;

1.9 **Habitat management zone**

- (a) the right to carry out Habitat Management Works within the Landlords' Property at the locations approved in terms of the Planning Consents for the Permitted Use (including any Planning Agreement) or, where the locations of Habitat Management Works are not determined in Planning Consents and the Tenants intend to locate the same outwith the Premises, in positions previously agreed by the Landlord (such agreement not to be unreasonably withheld or delayed and if agreement is withheld the Landlord shall be obliged to propose a reasonable alternative position within the Landlords' Property for the Habitat Management Works which complies with the obligation of the Tenants and/or the Landlord in the said Planning Consents or any Habitat Management Plan);

and such other rights as may be required by the Tenant for the full and beneficial use of the Premises for the Permitted Use **PROVIDED THAT** the person exercising such rights shall cause as little damage and interference as reasonably practical to the Landlord's Property and as soon as reasonably practical shall make good to the Landlord's reasonable satisfaction or pay reasonable compensation for all physical damage caused to the Landlord's Property.

Schedule 2

Reserved Rights

- 1 Subject always to the rights of the Tenant and the obligations of the Landlord pursuant to this lease (both of which shall take precedence) there is excepted and reserved to the Landlord the following in relation to the Premises:

1.1 **Support and protection**

the full right of support and shelter and protection to the Landlord's Property as are at the date of this lease enjoyed from the Premises; and

1.2 **Service media**

- (a) the right to free and uninterrupted passage and running of water, gas, electricity and soil through any pipes, cables, wires or drains on or under the Premises which serve other land and which are at the date of this lease within the Premises and were disclosed prior to exchange of the Option to the Tenant; and
- (b) the right to access to the Premises at any reasonable times on reasonable prior notice and only when accompanied by an authorised representative of the Tenant in order to inspect repair maintain replace or clean the service media referred to in paragraph 1.2(a) above.

Landlord

Executed AS A DEED by Richard Douglas
Pennant acting by a director, in the presence
of:

.....
[SIGNATURE OF DIRECTOR]
Director

.....
[SIGNATURE OF WITNESS]

.....

Name of Witness
[IN BLOCK CAPITALS]

.....

Address of Witness

.....

Occupation of Witness

.....

Tenant

Executed AS A DEED by Egni Mynydd Cyf
acting by a director, in the presence of:

.....
[SIGNATURE OF DIRECTOR]
Director

.....
[SIGNATURE OF WITNESS]

.....

Name of Witness
[IN BLOCK CAPITALS]

.....

Address of Witness

.....

Occupation of Witness

.....