



## **Amendment Agreement**

in relation to a Debenture Deed  
originally dated 12 December 2017

- (1) ILI Pump Storage Hydro P.L.C.
- (2) Intelligent Land Investments Group PLC
- (3) Abundance Investment Ltd
- (4) The Chargors

Dated

2020

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This Agreement is made the \_\_\_\_\_ day of \_\_\_\_\_ 2020

**Between:**

- (1) **ILI Pump Storage Hydro P.L.C.** a company incorporated and registered in Scotland with company number SC579766 and having its registered office at The Shires, 33 Bothwell Street, Hamilton, Scotland, ML3 0AS (the **Issuer**);
- (2) **Intelligent Land Investments Group PLC** a company incorporated and registered in Scotland with company number SC564296 and having its registered office at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS (the **Guarantor**);
- (3) **Abundance Investment Ltd**, a company incorporated and registered in England and Wales with company number 07049166 and having its registered office at 16 Linen House, 253 Kilburn Lane, London, W10 4BQ (the **Agent** and/or the **Arranger**); and
- (4) The several entities as set out in the Schedule to this Agreement (the **Chargors**).

**Background:**

- (A) The Issuer entered into a debenture deed, dated 12 December 2017, with the Agent and Arranger, pursuant to which the Issuer would issue up to a maximum aggregate amount of £3,400,000 of debentures to investors subscribing via the platform operated by the Agent (the **Original Debenture Deed**).
- (B) The Guarantor has guaranteed the performance of the Issuer of its obligations under the Original Debenture Deed.
- (C) Each Chargor and the Guarantor has granted certain third party security in support of the Issuer's obligations under the Original Debenture Deed.
- (D) The parties have agreed to amend the Original Debenture Deed as set out in this Agreement.
- (E) This Agreement is supplemental to the Original Debenture Deed.

**It is agreed** as follows:

1 Definitions and interpretation

1.1 Capitalised terms used in this Agreement but not defined herein shall have the meaning given to them in the Original Debenture Deed. In addition, the definitions below apply in this Agreement.

**Amended Debenture Deed** the Original Debenture Deed as amended by this Agreement

**Original Debenture Deed** has the meaning given in recital (A)

**Secured Liabilities** has the meaning set out in the Security Documents

1.2 The rules of interpretation of the Original Debenture Deed shall apply to this Agreement as if set out in this Agreement save that references in the Original Debenture Deed to "this Deed" shall be construed as references to this Agreement.

1.3 Unless the context otherwise requires, references in the Original Debenture Deed to "this Deed" shall be to the Original Debenture Deed as amended by this Agreement.

1.4 In this Agreement:

1.4.1 any reference to a "clause" is, unless the context otherwise requires, a reference to a clause of this Agreement; and

1.4.2 clause headings are for ease of reference only.

2 Amendments to the Original Debenture Deed

2.1 In accordance with clause 17.4 of the Original Debenture Deed, the consent of the Holders by way of Special Resolution has been obtained in order to approve the amendments to be effected to the Original Debenture Deed by this Agreement.

2.2 The Original Debenture Deed shall be amended with effect on and from the date of this Agreement as set out in this clause 2.

2.3 A new definition shall be inserted into clause 1.1 immediately following the current definition of "Agent" as follows:

**Amendment Agreement** means the amendment agreement, dated on or around December 2020 between the Issuer, the Guarantor, the Agent, the Arranger and each grantor of Security pursuant to the Security Documents or in connection with this Deed.

2.4 The definition of "Event Interest Rate" shall be deleted in its entirety and replaced as follows:

**Event Interest Rate** means 15 per cent per annum from 1 January 2018 to 31 December 2020 then 17 per cent. per annum from 1 January 2021 to the Final Repayment Date.

2.5 A new definition shall be inserted into clause 1.1 immediately following the current definition of "PSH Site" as follows:

**Ranking Agreement** means the ranking agreement, dated 7 February 2018, between the Issuer, the Security Trustee and the Royal Banks of Scotland plc, entered into as a requirement to and as more particularly described in paragraph 12.6.4 of Schedule 4 (*Positive Undertakings*) of this Deed.

2.6 The definition of "Finance Documents" shall be deleted in its entirety and replaced as follows:

**Finance Documents** means this Deed, the Parent Company Guarantee, the Amendment Agreement, each Security Document, any Subordination Agreement, the Ranking Agreement and any document designated as such by the Arranger and the Issuer.

2.7 Paragraph 4 of Schedule 4 (*Positive Undertakings*) shall be deleted and replaced with:

**Reserve:** the Issuer will at all times from 30 June 2021 until (and including) the Final Repayment Date, maintain an amount in free cash equal to the amount of Interest that would accrue under this Deed (calculated in accordance with clause 11 (*Interest*)) for the next Interest Period (that being, six months interest) in the Debt Service Reserve

Account, such account to be charged by way of fixed charge in favour of the Security Trustee (for the benefit of the Beneficiaries)."

3 Representations and warranties

The Issuer makes the representations and warranties set out in Schedule 3 (*Representations and Warranties*) of the Original Debenture Deed to each of the Beneficiaries on the date hereof as if each reference in those representations and warranties to "this Deed" is to this Agreement and the Amended Debenture Deed.

4 Continuity

The provisions of the Original Debenture Deed shall, save as amended in this Agreement, continue in full force and effect, and shall be read and construed as one document with this Agreement.

5 Security and Guarantee confirmation

5.1 Each of the Issuer, the Guarantor and each Chargor confirms that each Security Document:

5.1.1 ranks as a continuing security for the payment and discharge of the Secured Liabilities under or in connection with the Amended Debenture Deed; and

5.1.2 shall continue in full force and effect in all respects and each Security Document and this Agreement shall be read and construed together.

5.2 The Guarantor confirms that the guarantee and indemnity given by it in accordance with the Parent Company Guarantee continues in full force and effect and that the obligations guaranteed and indemnified under that agreement include all obligations and liabilities of the Issuer to the Beneficiaries under the Amended Debenture Deed.

6 Costs and expenses

The Issuer shall, promptly on demand, pay to the Agent the amount of their pre-agreed legal fees incurred in connection with the negotiation of this Agreement and any other documents referred to in it or entered into in connection with them.

7 Further assurance

The Issuer shall, at the request of the Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments made or to be made pursuant to this Agreement.

8 Miscellaneous

8.1 The provisions of clauses 20, 21, 22, 23 and 24 of the Original Debenture Deed shall apply to this Agreement, as if set out in full and so that references in those provisions to "this Deed" shall be construed as references to the Original Debenture Deed as amended by this Agreement.

8.2 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts together shall constitute one agreement.

This Agreement has been entered into as a deed and delivered on the date stated at the beginning of it.

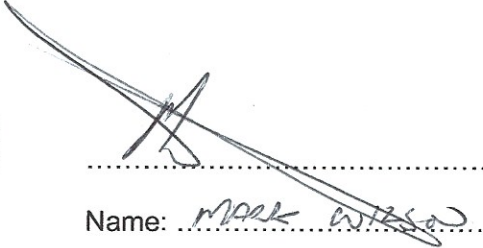
**SCHEDULE**

<b>Company (the Chargor)</b>	<b>Company Registration Number</b>	<b>Registered Office Address</b>
ILI (Highlands PSH) Limited	SC581757	The Shires, 33 Bothwell Road, Hamilton, Scotland, Scotland, ML3 0AS
ILI (Trossachs PSH) Limited	SC581741	The Shires, 33 Bothwell Road, Hamilton, Scotland, Scotland, ML3 0AS
Intelligent Land Investments Limited	SC271660	The Shires, 33 Bothwell Road, Hamilton, Scotland, Scotland, ML3 0AS
ILI (Security) Limited	SC581727	The Shires, 33 Bothwell Road, Hamilton, Scotland, Scotland, ML3 0AS
Intelligent Land Investments Group Plc	SC564296	The Shires, 33 Bothwell Road, Hamilton, Scotland, Scotland, ML3 0AS

SIGNATURE PAGES TO AMENDMENT AGREEMENT

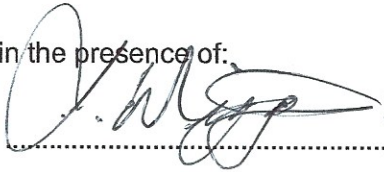
The Issuer

Executed as a deed  
by **ILI Pump Storage  
Hydro P.L.C.**  
acting by a director:

)  
)  
.....  


Name: MARK WILSON

in the presence of:

  
.....

Signature of witness

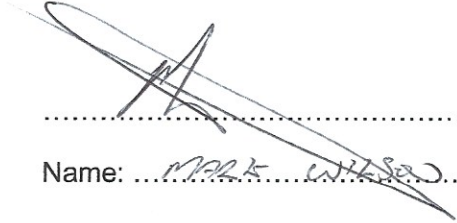
Name LINDSAY WIGGINS

Address 33 BOTHWELL RD  
HAMILTON, ML3 0AS

Occupation OPERATIONS DIRECTOR

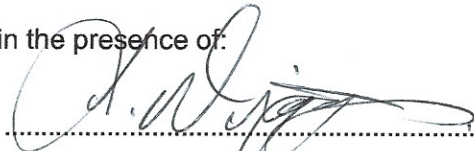
The Guarantor

Executed as a deed  
by **Intelligent Land Investments  
Group PLC**  
acting by a director:

)  
)  
.....  


Name: MARK WILSON

in the presence of:

  
.....

Signature of witness

Name LINDSAY WIGGINS

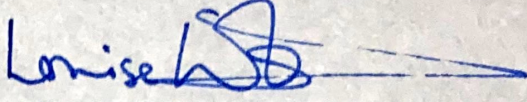
Address 33 BOTHWELL ROAD  
HAMILTON, ML3 0AS

Occupation OPERATIONS DIRECTOR



**The Agent**

Executed as a deed  
by Abundance Investment Ltd  
acting by a director:

)   
)

Name: LOUISE WILSON

in the presence of:

  
.....

Signature of witness


Name KEREN BLACKMORE

Address 34 MORTIMER ROAD  
LONDON, NW10 5QP

Occupation BUSINESS DIRECTOR

**The Arranger**

Executed as a Deed  
by Abundance Investment Ltd  
acting by a director:

)   
)

Name: LOUISE WILSON

in the presence of:

  
.....

Signature of witness

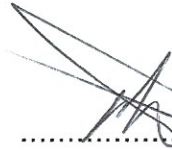
Name KEREN BLACKMORE

Address 34 MORTIMER ROAD  
LONDON, NW10 5QP

Occupation BUSINESS DIRECTOR.

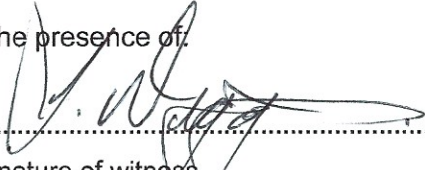
**The Chargors**

Executed as a deed  
by **ILI (Highlands PSH) Limited**  
acting by a director: )

  
.....

Name: MARK WIGGINS.....

in the presence of:

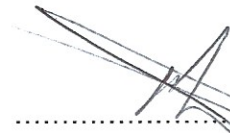
  
.....  
Signature of witness

Name LINDSAY WIGGINS.....

Address 33 BOTHWELL ROAD,  
HAMILTON, ML3 0AS.....

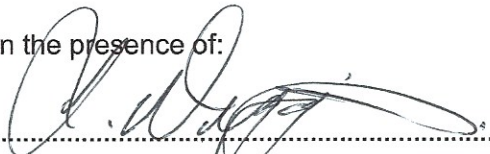
Occupation OPERATIONS DIRECTOR.....

Executed as a deed  
by **ILI (Trossachs PSH) Limited**  
acting by a director: )

  
.....

Name: MARK WIGGINS.....

in the presence of:

  
.....  
Signature of witness

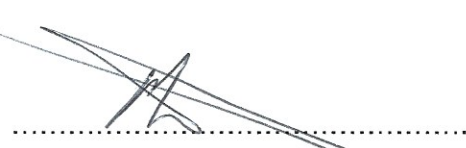
Name LINDSAY WIGGINS.....

Address 33 BOTHWELL ROAD,  
HAMILTON, ML3 0AS.....

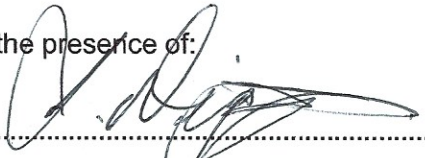
Occupation OPERATIONS DIRECTOR.....



Executed as a deed  
by **Intelligent Land Investments Limited** )  
acting by a director: )

  
.....

Name: MARK WILSON

in the presence of:  
  
.....

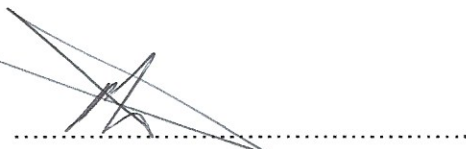
Signature of witness

Name LINDSAY WIGGINS

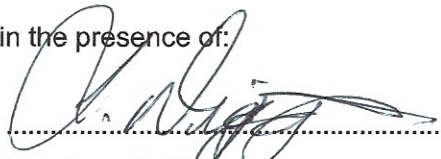
Address 33 BOTHWELL ROAD,  
HAMILTON, ML3 0AS

Occupation OPERATIONS DIRECTOR

Executed as a deed  
by **ILI (Security) Limited** )  
acting by a director: )

  
.....

Name: MARK WILSON

in the presence of:  
  
.....

Signature of witness

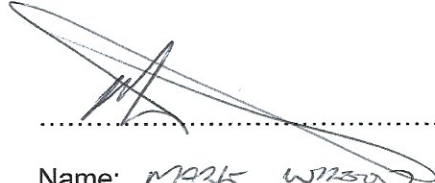
Name LINDSAY WIGGINS

Address 33 BOTHWELL ROAD,  
HAMILTON, ML3 0AS

Occupation OPERATIONS DIRECTOR

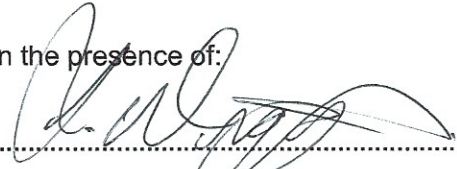
Executed as a deed  
by **Intelligent Land Investments  
Group PLC**  
acting by a director:

)  
)



.....  
Name: MARK WILSON.....

in the presence of:



.....  
Signature of witness

Name LINDSAY WIGGINS.....

Address 33 BOTHWELL ROAD  
HAMILTON ML3 0AS.....

Occupation OPERATIONS DIRECTOR.....

## Debenture Deed

**This Deed** is made on 12 December 2017 as amended on 26 February 2019.

### Between

**ILI Pump Storage Hydro P.L.C.**, a company incorporated in Scotland with registered number SC579766 and having its registered office at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS (the “**Issuer**”); and

**Abundance Investment Ltd**, a company incorporated in England and Wales with registered number 07049166 and having its registered office at 16 Linen House, 253 Kilburn Lane, London, W10 4BQ (the “**Agent**” or the “**Arranger**”)

### Background

(A) The Issuer has resolved, pursuant to a resolution of its board of directors dated 12 December 2017 and 26 February 2019 to create and issue the Debentures, in relation to its further investment in the Project.

(B) The Issuer has determined to constitute the Debentures in the manner set out in this Deed.

**Now this Deed witnesses** as follows:

### 1 Definitions and Interpretation

1.1 In this Deed, unless the subject or context requires otherwise, the following expressions shall have the meanings set out opposite them below:

**Abundance** means Abundance Investment Ltd a private limited company incorporated in England and Wales with company number 07049166 and having its registered address at 16 Linen House, 253 Kilburn Lane, London, W10 4BQ and which is authorised and regulated by the Financial Conduct Authority (“**FCA**”) with FCA registration number 525432.

**Abundance Service** means the website, services and the “Bulletin Board” operated by Abundance at [www.abundanceinvestment.com](http://www.abundanceinvestment.com).

**Abundance Terms and Conditions** means the terms and conditions governing the operation of the Abundance Service, from time to time, the latest copy of which can be found at [www.abundanceinvestment.com/legal/terms-and-conditions](http://www.abundanceinvestment.com/legal/terms-and-conditions) but at all times only to the extent that such terms and conditions do not impose any obligations or restrictions on the Issuer.

**Accounting Principles** means the generally accepted accounting principles in the United Kingdom.

**Affected Person** means any person which Abundance or the Issuer, in its discretion (acting reasonably and in good faith and after consulting with the other), determines is ineligible to acquire or hold Debentures due to the additional costs or restrictions or a Tax or Regulatory Requirement.

**Affiliate** means in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**Agent** means Abundance Investment Ltd, a company incorporated in England and Wales with registered number 07049166 and having its registered office at 16 Linen House, 253 Kilburn Lane, London, W10 4BQ, in its capacity as agent (which expression shall include any successor agent appointed).

**Assignment in Security** means each and any assignment in security in relation to the Project Documents from time to time executed or to be executed by the Issuer or any relevant ProjectCo for the benefit of the Security Trustee to supplement or replace or in order to give (or evidence) security (or any other form of support) for the performance of the obligations of the Issuer under the Finance Documents.

**Authorisation** means any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with any governmental, semi-governmental or judicial entity or authority (including any self-regulatory organisation established under statute or by a governmental or semi-governmental body).

**Beneficiaries** means each of the Agent, the Holders and each Delegate and the term “Beneficiary” means any one of them.

**Bond and Floating Charge** means the bond and floating charge (governed by Scots law) dated on or around the date of this Deed by the Issuer in favour of the Security Trustee (for the benefit of the Beneficiaries).

**Business Day** means a day other than a Saturday, Sunday or English public holiday when banks in London are open for business.

**Change of Control** means the Parent or any funds controlled by the Parent cease directly or indirectly to:

(a) have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(i) cast, or control the casting of, more than 51% of the maximum number of votes that might be cast at a general meeting of the Issuer;

(ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Issuer; or

(iii) give directions with respect to the operating and financial policies of the Issuer with which the directors or other equivalent officers of the Issuer are obliged to comply; or

(b) hold beneficially more than 51% of the issued share capital of the Issuer (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

# The legal agreement

**Client Money Services Provider** means Walker Crips Stockbrokers Limited, a company incorporated in England and Wales with registered number 04774117 and its registered address at Finsbury Tower, 103-105 Bunhill Row, London, EC1Y 8LZ.

**Connection Agreement** means any connection agreement in relation to the grid offer to supply the grid connection for a PSH Project.

**Connection Offer** means any grid offer to supply the grid connection for a PSH Project.

**Contract** means the agreement between Aecom Limited and the Issuer for the provision of technical and environmental feasibility services.

**Debt Liabilities** means all monies and obligations due, owing or incurred to the Beneficiaries or any of them by the Issuer (whether present or future, actual or contingent and whether incurred as principal or surety) pursuant to any Finance Document.

**Debenture** means each debenture constituted by this Deed.

**Debt Service Reserve Account** means the account held by the Issuer and designated as such by the Issuer and the Agent in accordance with paragraph 4 of Schedule 4.

**Debt Service Reserve Account Security Agreement** means an account charge, dated on or about the date of this Deed, pursuant to which the Issuer grants a fixed charge over the Debt Service Reserve Account in favour of the Security Trustee for the benefit of the Holders.

**Deed** means this deed and the Schedules to this deed.

Delegate means any delegate, agent, attorney or co-agent appointed by the Agent.

**Delegate** means any delegate, agent, attorney or co-agent appointed by the Agent.

**Direct Agreement** means each of the direct agreements entered into by the Issuer and/or a ProjectCo and each of the respective counterparties in respect of each of the following Project Documents:

- (a) the Contract;
- (b) each Lease;
- (c) each Option;
- (d) the Management Services Agreement;
- (e) each Connection Offer and Connection Agreement;
- (f) each Exclusivity Agreement;
- (g) any other agreement entered into by the Issuer or a ProjectCo and a counterparty to a Project Document designated as a Direct Agreement by the Security Trustee and the Issuer.

**Disruption Event** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Debentures (or otherwise in order for the transactions contemplated by any Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the parties to the relevant Finance Documents; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a party preventing that, or any other party to the relevant Finance Documents:

(i) from performing its payment obligations under the Finance Documents; or

(ii) from communicating with other parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the party whose operations are disrupted.

**Eligible EEA Country** has the meaning given to it in the Abundance Terms and Conditions.

**Enforcement Action** means any formal legal action or formal legal step taken by any Beneficiary whatsoever to enforce its rights against the Issuer under a Finance Document including:

- (a) to petition for (or take any other formal legal steps or action which are likely to lead to) the liquidation, winding up, administration or dissolution of the Issuer; or
- (b) to commence legal proceedings against the Issuer; or
- (c) to demand, accelerate or require payment, repayment or prepayment of all or any part of the Debt Liabilities; or
- (d) to enforce or make a demand under any guarantee or similar support given in connection with the Debt Liabilities; or
- (e) to cancel any obligation to provide any financial accommodation under a Finance Document.

**Environment** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);

(b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and

(c) land (including, without limitation, land under water).

**Environmental Claim** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

**Environmental Law** means any applicable law or regulation which relates to:

(a) the pollution or protection of the Environment;

(b) the conditions of the workplace; or

(c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

**Environmental Permits** means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by any member of the Group.

**Event** means each and any of the following:

(a) the sale of any PSH Project, including the disposal by the relevant ProjectCo of all or substantially all of its assets (intangible or tangible);

(b) a Change of Control; or

(c) the refinancing of a ProjectCo or any other transaction having a similar effect.

**Event Interest** has the meaning given in clause 11.3.

**Event Interest Rate** means 15 per cent. per annum.

**Event of Default** means any event or circumstances specified as such in clause 15 (*Events of Default*) of this Deed.

**Exclusivity Agreement** means each exclusivity agreement with a Land Owner in respect of each site comprised in a PSH Site.

**Extended Maturity Date** means 31 December 2022 or, if earlier, if an Event occurs during the Extension Period, the date of the next Interest Calculation Date following the occurrence of that Event.

**Extension Interest Rate** means 6 per cent. per annum.

**Extension Notice** has the meaning given to it in clause 9 (*Extension Option*).

**Extension Period** means the period from (and including) the Maturity Date until (and including) the Extended Maturity Date.

**Final Repayment Date** means the Maturity Date or, if extended in accordance with clause 9 (*Extension Option*), the Extended Maturity Date.

**Finance Documents** means this Deed, the Parent Company Guarantee, any Subordination Agreement, each Security Document and any document designated as such by the Arranger and the Issuer.

**Finance Party** means the Agent, the Arranger and each Holder.

**Financial Indebtedness** means any obligation (whether incurred as principal or surety and whether present, future, actual or contingent) for the payment or repayment of any indebtedness in respect of money borrowed or debt balances at any financial institution or under any bond, note, loan, debenture, loan stock or similar instrument, finance or capital lease, acceptance credit or bill discounting facility or guarantee and/or counter-indemnity obligation in respect of any of the above.

**Greenock Property** means the subjects at Balmore Road, Greenock, Renton Road, Greenock, Luss Avenue, Greenock, Luss Place, Greenock, Dalmoak Road, Greenock and Arden Road, Greenock being the subjects registered in the Land Register of Scotland under Title Number REN103882.

**Greenock Standard Security** means the standard security, in the agreed form, to be granted by the ILI Subsidiary in favour of the Security Trustee (for the benefit of the Beneficiaries) over the Greenock Property pursuant to paragraph 12.6 (*Conditions Subsequent*) of Schedule 4 (*Positive Undertakings*).

**Group** means the Parent and its respective Subsidiaries (including, but not limited to, the Issuer) for the time being.

**Holder** means the person entered in the Register as the holder of each Debenture from time to time.

**Holder Representative** means the Holders appointed as a committee to represent the interests of Holders in accordance with the Abundance Terms and Conditions.

**Holding Company** means in relation to a person, any other person in respect of which it is a Subsidiary.

**ILI Assignment in Security** means the third party assignment in security, in agreed form, to be granted by ILI Limited in favour of the Security Trustee (for the benefit of the Beneficiaries) over the profit share agreement between ILI Limited and Margaret Coffey and William Coffey dated 25 July and 12 August 2008 in respect of the property at Ramoan Farm, Glenboig pursuant to paragraph 12.6 (*Conditions Subsequent*) of Schedule 4.

**ILI Bond and Floating Charge** means the bond and floating charge (governed by Scots law), in agreed form, to be granted by ILI Limited in favour of the Security Trustee (for the benefit of the Beneficiaries) pursuant to paragraph 12.6 (*Conditions Subsequent*) of Schedule 4.

**ILI Dalshannon** means ILI Dalshannon Plc, a company incorporated in Scotland registered with company number SC351972 and whose registered office is at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS.

**ILI Limited** means Intelligent Land Investments Limited, a company incorporated in Scotland registered with company number SC271660 and whose registered office is at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS.

**ILI Share Pledge** means the pledge, in agreed form, to be granted by ILI Limited in favour of the Security Trustee over the 140,000 A Ordinary shares held by ILI Limited in the share capital of ILI Dalshannon.

**ILI Subsidiary** means ILI (Security) Limited, a company incorporated in Scotland registered with company number SC581727 and whose registered office is at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS, being a wholly owned subsidiary of the Parent.

**ILI Subsidiary Securities** means:

(a) the assignation in security, in the agreed form, to be granted by the ILI Subsidiary in favour of the Security Trustee (for the benefit of the Beneficiaries) in respect of the Overtown Option; and

(b) the standard security over the Overtown Standard Security, in the agreed form, to be granted by the ILI Subsidiary in favour of the Security Trustee (for the benefit of the Beneficiaries);

**Initial Interest Rate** means 3 per cent. per annum.

**Interest** means any amount of interest payable to a Holder in accordance with clause 11 (*Interest*) of this Deed.

**Interest Calculation Date** has the meaning given to it in clause 11.2 (*Interest*) of this Deed.

**Interest Period** means each six month period ending on 30 June and 31 December, with the first of such periods commencing on 1 January 2018 and ending on 30 June 2018 and the last of such periods ending on the Maturity Date, or, if the Issuer extends the Maturity Date in accordance with clause 9 (*Extension Option*), the Extended Maturity Date.

**Interest Rate** means the Initial Interest Rate, the Extension Interest Rate or the Event Interest Rate (as applicable).

**Issue Amount** means the total aggregate principal amount of all of the Debentures issued under this Deed.

**Issuer Share Pledge** means the pledge, dated on or about the date of this Deed, granted by the Parent in favour of the Security Trustee over all of the issued share capital of the Issuer and the ILI Subsidiary.

**Land Owner** means each owner of land comprised in a PSH Site.

**Lease** means each lease of land for the purposes of a PSH Project, entered into between the relevant Land Owner and a ProjectCo.

**Legal Reservations** means:

(a) the principle that equitable remedies may be granted at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

(c) the principle that a judgement obtained in the English courts will be enforceable in Scotland in accordance with and subject to the provisions of sections 18 and 19 and Schedules 6 and 7 of the Civil Jurisdiction and Judgements Act 1982 and such enforcement must

comply with the statutory procedures laid down in that Act and any applicable subordination and Rules of Court and will be subject to the limited rights of challenge provided for in the said Act; and

(d) similar principles, rights and remedies under the laws of any relevant jurisdiction.

**Loan to Value** means, at any time, the ratio of the aggregate market value of the assets subject to Transaction Security excluding cash held in accounts (determined, as applicable, in accordance with the most recent Valuations at that time) to the Principal (which, for these purposes, the Principal shall be deemed to have been reduced by the amount of any cash held in the Debt Service Reserve Account that isn't held for the purpose of the Reserve).

**Management Services Agreement** means a management services agreement between the Parent and the Issuer in respect of various services supplied by the Parent to the Issuer.

**Material Adverse Effect** means a material adverse effect on:

(a) the ability of the Issuer to perform its or their (as applicable) payment obligations under the Finance Documents; or

(b) the validity or enforceability of the Finance Documents against the Issuer or the rights or remedies of any of the Holders or the Arranger or the Agent against the Issuer under any of the Finance Documents.

**Maturity Date** means 31 December 2020.

**Members** has the meaning given in the Abundance Terms and Conditions.

**Offer Document** means the document produced by the Issuer, dated on or about the date of this Deed, relating to the Debentures as amended or updated from time to time.



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## **Option** means:

(a) each option to take a lease over land comprised in a proposed PSH Site, entered into between the relevant Land Owner and the Issuer or relevant ProjectCo; and

(b) each option for wayleaves or easements necessary for a Project, entered into between the Issuer/relevant ProjectCo and the relevant party.

**Ordinary Resolution** has the meaning given to in the Abundance Terms and Conditions.

**Original Jurisdiction** means, in relation to the Issuer, the jurisdiction under whose laws the Issuer is incorporated as at the date of this Deed.

**Overtown Option** means the option agreement in respect of the Overtown Property, entered into between Lorna Hillhouse and Castlevie Land & Development Limited dated on or around the date of this Deed which Option will be assigned to the ILI Subsidiary pursuant to an assignation by Castlevie Land & Development to the ILI Subsidiary.

**Overtown Abundance Standard Security** means the standard security, in agreed form, to be granted by the ILI Subsidiary in favour of the Security Trustee (for the benefit of the Beneficiaries) over the Overtown ILI Standard Security.

**Overtown Property** means the subjects at Overtown, North Lanarkshire described in the Overtown Option and shown tinted blue on the Plan annexed to the Overtown Option.

**Overtown ILI Standard Security** means the standard security, in agreed form, to be granted by Lorna Hillhouse in favour of Castlevie Land & Development Limited over the Overtown Property which standard security shall be assigned by Castlevie

Land & Development Limited in favour of the ILI Subsidiary.

**Parent** means Intelligent Land Investments Group PLC, a company incorporated in Scotland registered with company number SC564296 and whose registered office is at The Shires, 33 Bothwell Road, Hamilton, Scotland, ML3 0AS.

**Parent Company Guarantee** means the guarantee and indemnity, dated on or around the date of this Deed, between the Parent and the Security Trustee in respect of the Issuer's obligations under this Deed.

**Permitted Indebtedness** means any Financial Indebtedness incurred by the Issuer as follows:

- (a) under the Finance Documents; or
- (b) which is subordinated to the Debentures pursuant to a Subordination Agreement.

**Permitted Loan** means:

- (a) trade credit granted, given or issued by the Issuer on arm's length terms and in the ordinary course of its business to suppliers, customers or partners; or
- (b) any inter-company loan made to a ProjectCo in connection with a PSH Project.

**Permitted Security** means:

- (a) any Security created or expressed to be created pursuant to the Security Documents;
- (b) any netting or set-off arrangement entered into by the Issuer in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances; or
- (c) any lien arising by operation of law and in the ordinary course of business of the Issuer; or

(d) any Security over bank accounts or retention rights in respect of deposits granted in favour of the account bank as part of that bank's standard terms and conditions.

**Principal** means, unless the context requires otherwise, the aggregate principal amount of the Debentures or the principal amount of the relevant Debentures held by any Holder, in each case, for the time being outstanding.

**Proceeds** means all receipts and/or recoveries by the Agent pursuant to any Enforcement Action taken in respect of any Finance Document after deducting (to the extent not already deducted) all sums which the Agent is required by the terms of the Finance Documents or by applicable law to pay to any other person before distributing any such receipts or recoveries to any of the Beneficiaries.

**Project** means the acquisition of the necessary Options and/or land occupancy rights, planning consents and Connection Offers in respect of three PSH Sites for the development of a pumped storage hydroelectric project (each a **PSH Project**) in Scotland, as governed by the terms agreed in the Project Documents.

**ProjectCo** means, in relation to a Project, the Group company which is party to the Project Documents.

**ProjectCo Share Pledge** means a pledge, in agreed form, to be granted by the Issuer in favour of the Security Trustee over all of the issued share capital of each ProjectCo pursuant to paragraph 12.5 (*Conditions Subsequent*) of Schedule 4, which as at the date of this Deed shall be each of the ILI (Highlands PSH) Limited, ILI (Trossachs PSH) Limited and ILI (Borders PSH) Limited.

**Project Document** means each of:

- (a) the Contract;
- (b) each Lease;

# The legal agreement

(c) each Option;

(d) each Connection Offer and, to the extent entered into by the relevant ProjectCo, each Connection Agreement;

(e) each Exclusivity Agreement;

(f) the Management Services Agreement; or

(g) any other document designated a Project Document by the Agent and the Issuer.

**Property** means:

(a) the Greenock Property;

(b) the Overtown Property; and

(c) any such other freehold or leasehold property that is the subject of Transaction Security from time to time,

in each case for so long as such Property is subject to Transaction Security.

**PSH Site** means each site (comprising one or more plots of land) intended to be used for a PSH Project.

**Receipts Account** means the account held by the Issuer and designated as such by the Issuer and the Agent and into which Event Interest shall be paid in accordance with clause 11.5.

**Receipts Account Security Agreement** means an account charge, dated on or about the date of this Deed, pursuant to which the Issuer grants a fixed charge over the Receipts Account in favour of the Security Trustee for the benefit of the Holders.

**Register** means the register of Holders of Debentures.

**Remedying Balance** has the meaning given in paragraph 15.2 (*Further Security*) of Schedule Schedule 4 (*Positive Undertakings*);

**Repeating Representations** means the representations and warranties in paragraph 1.1 (*Status*) to paragraph 1.6 (*Governing law and enforcement*), paragraph 1.8.1 (*No default*), and paragraph 1.11 (Financial information) of Schedule 3 (*Representations and Warranties*) of this Deed.

**Reserve** has the meaning given in paragraph 4 (*Reserve*) of Schedule 4 (*Positive Undertakings*) of this Deed.

**Restricted Person** means any person who does not fulfil any criteria of eligibility to invest and/or to hold Debentures set out in the Abundance Terms and Conditions from time to time including (without limitation): (i) any US Person; or (ii) any person who is resident in, whose permanent place of business or whose jurisdiction of incorporation or establishment is in any of the Channel Islands or the Isle of Man; or (iii) any Affected Person.

**Schedule** means a Schedule to this Deed.

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person.

**Security Documents** means each of the following documents:

(a) each Assignment in Security;

(b) the Bond and Floating Charge;

(c) each Standard Security;

(d) the Issuer Share Pledge;

(e) the Greenock Standard Security

(f) each of the ILI Subsidiary Securities;

(g) each ProjectCo Share Pledge;

(h) the ILI Assignment in Security;

(i) the ILI Bond and Floating Charge;

(j) the ILI Share Pledge;

(k) the Receipts Account Security Agreement;

(l) the Debt Service Reserve Account Security Agreement;

(m) the Security Trust Deed; and

(n) any document in accordance with which a Security is granted in favour of the Security Trustee pursuant to clause 16 of Schedule 4.

**Security Trust Deed** means the security trust deed, dated on or about the date of this Deed, entered into between, amongst others, the Issuer and the Security Trustee.

**Security Trustee** means Abundance Security Trustee Ltd, a company incorporated and registered in England and Wales with company number 09864672 and whose registered office is at 16 Linen House, 253 Kilburn Lane, London, England, W10 4BQ.

**Special Resolution** has the meaning given to it in the Abundance Terms and Conditions.

**Standard Security** means the standard security granted or to be granted by the Issuer or the relevant ProjectCo in favour of the Security Trustee in respect of the Issuer or that ProjectCo's interest as tenant under each Lease.

**Sterling or £** means the lawful currency for the time being of the United Kingdom.

**Subordination Agreement** means the subordination agreement, dated on or around the date of this Deed, between, amongst others, the Issuer, the Agent and the Parent.

**Subsidiary** means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**Tax or Regulatory Requirement** means any Tax or law, regulation, rule, order, official directive or guideline of any governmental, inter-governmental or supranational body, agency, department or regulatory authority or organisation or any decision of a court (having the force of law) in any country or territory.

**Transaction Documents** means:

- (a) the Finance Documents,
- (b) the Project Documents; and
- (c) the Security Documents.

**Transaction Security** means the Security created or expressed to be created in favour of the Security Trustee pursuant to the Security Documents.

**UK** means the United Kingdom.

**US** means the United States of America.

**US Person** means any persons who are or deemed to be US Persons for the purposes of US tax laws or US securities laws (including (without limitation) the US Securities Act of 1933). The Issuer may determine (acting reasonably) whether a person acquiring or holding Debentures (or proposing to do so) is a US person in accordance with applicable law at the time it makes such determination. Further summaries of what constitutes a US Person are provided in the Abundance Terms and Conditions.

**Valuations** means a valuation of each Property by the Valuer, supplied pursuant to this Deed and prepared on the basis of the market value as that term is defined in the then current Statements

of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors.

**Valuer** means the surveyor or valuer appointed by the Issuer, with the agreement of the Agent.

**Written Resolution** means a written resolution passed in accordance with the Abundance Terms and Conditions.

1.2 In this Deed unless the contrary intention appears:

1.2.1 terms defined in the Abundance Terms and Conditions have the same meaning in this Deed;

1.2.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Deed;

1.2.3 Words denoting the singular include the plural and vice versa and a reference to one gender includes the other gender;

1.2.4 A reference to a “person” means any individual, company, corporation, partnership, joint venture, association, unincorporated organisation, trust or other judicial entity;

1.2.5 A reference to a party or any other person includes its successors in title, permitted assigns and permitted transferees;

1.2.6 References to clauses, paragraphs and Schedules (including, for the avoidance of doubt, the Abundance Terms and Conditions) are to the clauses, paragraphs and Schedules of this Deed which form part of this Deed and shall have the same force and effect as if set out in the body of this Deed and any reference to this Deed shall include the Schedules;

1.2.7 A reference to this Deed or to any other deed, instrument, agreement or document shall, unless the context otherwise requires or unless the contrary intention appears, be construed as reference to this Deed or such other deed, instrument, agreement or document as the same may from time to time

be amended, varied, supplemented or novated, in each case, in accordance with its terms;

1.2.8 A reference to an “encumbrance” shall be construed as a reference to a mortgage, charge, assignment by way of security, pledge, lien (save as arising in the ordinary course of business), hypothecation, right of set-off (save as arising under the general law for the protection of certain classes of creditors) or trust arrangement for the purpose of and having a similar effect to the granting of security, or other security interest of any kind;

1.2.9 A reference to a statute or statutory provision or other law is a reference to it as amended, or replaced and includes all legislation and regulations made under it;

1.2.10 A month shall be construed as a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month except that:

- (a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end;

1.2.11 The winding-up, dissolution or administration of a person shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such person

is incorporated or of any jurisdiction in which such person carries on business;

1.2.12 All the provisions of this instrument are severable and distinct from one another and the illegality, invalidity or unenforceability of any provision of this instrument under the law of any jurisdiction shall not affect its validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision;

1.2.13 References to the Debentures include references to all and/or any of the Debentures;

1.2.14 The terms **including** and **include** or any similar expression shall be construed as illustrative and shall not limit the sense of words preceding those words;

1.2.15 Headings are inserted for convenience and do not affect the interpretation of this Deed;

1.2.16 A reference in this Deed to the exercise of any rights of a Holder Representative shall mean the exercise of such rights by a Holder Representative appointed pursuant to the Abundance Terms and Conditions; and

1.2.17 A reference to an Event of Default continuing means that it has not been remedied or expressly waived.

1.3 Other terms will have the specific meaning given to them in the relevant provisions of this Deed or the Schedules forming part of it.

## 2 Form, Title, Register and Arranger

2.1 Debentures will be held in electronic form, represented by book entries in the Register.

2.2 Holders will be issued with an electronic confirmation of their holding of Debentures via the Abundance Service in accordance with the Abundance Terms and Conditions.

2.3 The Issuer, the Arranger and the Agent will only recognise and treat each registered Holder as the absolute owner of his Debentures for all purposes and shall not be bound to take notice of any trust to which any Debenture may be subject and shall not be required to obtain any proof thereof or as to the identity of such Holder.

2.4 No notice of any trust, except as required by applicable law, will be entered on the Register in respect of any Debentures.

2.5 The Debentures will be registered only in accordance with the Abundance Terms and Conditions, the terms of which the Issuer hereby acknowledges and assents to.

2.6 The Debentures shall be held and transferred subject to the conditions set out in Schedule 2 (Holder Restrictions) of this Deed.

2.7 The Issuer shall maintain arrangements so that any changes to the Register required under this clause shall be made by Abundance in accordance with the Abundance Terms and Conditions.

2.8 Subject to clause 2.9, the personal representatives of a deceased Holder shall be the only persons recognised by the Issuer as having any title to, or interest in, that Debenture on the death of such Holder but will only be so recognised subject to their becoming Members in accordance with the Abundance Terms and Conditions.

2.9 Any person becoming entitled to a Debenture in consequence of the death or bankruptcy of any Holder or otherwise by operation of law, may, upon producing such evidence that he is so entitled as the Issuer may reasonably require, be registered himself as the Holder, subject to his becoming a Member of Abundance in accordance with the Abundance Terms and Conditions.

2.10 The Issuer may retain any payments paid upon any such Debentures which any person referred to in clause 2.9 is entitled to, until such person is registered as the holder of such Debentures or he has duly transferred the Debentures.

2.11 In accordance with the Abundance Terms and Conditions and the Offer Document, the Holders appoint the Agent to act on their behalf.

## 3 Denomination, Issue and Status

3.1 The Debentures are issued in minimum amounts of five pounds Sterling (£5.00) and in multiple integral amounts of one pound Sterling (£1.00) in nominal amount in excess thereof.

3.2 The aggregate principal amount of the Debentures is limited to a maximum of £3,400,000.

3.3 As and when issued, the Debentures shall constitute direct, unconditional and secured obligations of the Issuer and will rank *pari passu*, equally and rateably without discrimination or preference with all other outstanding secured and unsubordinated obligations of the Issuer, without any preference among themselves (except for obligations mandatorily preferred by law applying to companies generally).

3.4 The Holders will only subscribe for and the Debentures will only be issued once the Arranger has received all of the Transaction Documents and all of the documents and evidence listed in Schedule 1 (*Conditions Precedent*) and paragraph 12.2 (*Conditions Subsequent*) of Schedule 4 (*Positive Undertakings*) of this Deed, in each case, in form and substance satisfactory to it. The Arranger shall notify the Issuer promptly upon being so satisfied.

3.5 Should the Holders not subscribe for and the Debentures not be issued in accordance with clause 3.4 above, then the Security Trustee will procure that any Security created by any Security Documents already provided and executed in accordance with the requirements of this Deed shall be released.

3.6 The Debentures are issued to, and can only be held by, Members in accordance with the Abundance Terms and Conditions.

## 4 Covenant to pay

4.1 The Issuer will on any date when any Principal and/or Interest or any other amount becomes due pursuant to this Deed pay to or to the order of the Agent, in accordance with Clause 13 (*Application of proceeds*), in Sterling in immediately available funds such amount(s) due on that date and will, subject to Clause 12 (*Default Interest*), from the due date for such amount until (but excluding) the date of actual payment, after as well as before judgment, unconditionally so pay to or to the order of the Agent, in accordance with Clause 13 (*Application of proceeds*), Default Interest on such unpaid amounts, provided that payment of any sum due in respect of the Debentures made to the Agent as provided in this Deed shall, to that extent, satisfy such obligation. The Agent will hold the benefit of this covenant on trust for the Holders.

4.2 Any payment to be made in respect of the Debentures by the Issuer may be made as provided in this Deed and any payment so made will, to that extent only, be a good discharge to the Issuer.

## 5 Assignment and transfer

5.1 The Debentures may only be transferred in accordance with the Abundance Terms and Conditions or, if applicable, in accordance with clauses 2.8 and 2.9 (*Form, Title, Register and Arranger*) of this Deed.

5.2 The Issuer may not assign any of its rights or transfer by novation any of its rights and obligations under this Deed or any Finance Document without the consent of the Agent and the Arranger, and neither may the Agent or the Arranger without the consent of the Issuer.

## 6 Representations of the Issuer

The Issuer makes each of the representations and warranties set out in Schedule 3 (Representations and Warranties) of this Deed on the days and at the times stipulated therein.

## 7 Undertakings of the Issuer

So long as any amount under a Debenture is outstanding, the Issuer agrees to comply with each of the undertakings given by it that are set out in Schedule 4 (*Positive Undertakings*) and Schedule 5 (*Negative Undertakings*) of this Deed.

## 8 Use of Proceeds

8.1 Subject to clause 8.3 below, the Issuer may only use the proceeds raised from the Debentures issued under this Deed for:

- 8.1.1 the financing of the Project; and
- 8.1.2 meeting the costs and expenses (including legal fees) incurred by the Issuer in connection with the negotiation, preparation and execution of the Finance Documents and the Offer Document.

8.2 Neither the Arranger nor any Holder is bound to monitor or verify the application of any net proceeds of a Debenture issued pursuant to this Deed.

## 9 Extension Option

The Issuer may, by giving not less than 30 Business Days prior written notice to the Agent (prior to the Maturity Date) extend the Final Repayment Date from the Maturity Date to the Extended Maturity Date (an “**Extension Notice**”). The Agent shall, following receipt of an Extension Notice, confirm to the Issuer that the Final Repayment Date has been extended to the Extended Maturity Date.

## 10 Repayment of Principal

10.1 The Issuer shall repay all Principal in full on the Final Repayment Date, together with all capitalised and accrued but unpaid Interest, plus any applicable Event Interest and any and all amounts due and outstanding under the Debentures pursuant to this Deed.

10.2 If the Issuer exercises the option to extend the Maturity Date in accordance with clause 9 (*Extension Option*) above and an Event occurs during the Extension Period, then all Principal, together with any and all capitalised and accrued but unpaid Interest plus Event Interest (each as calculated in accordance with clause 11 (*Interest*)), shall be payable in full on the Extended Maturity Date (that being, the next Interest Calculation Date falling within the Extension Period following the occurrence of an Event during the Extension Period).

## 11. Interest

11.1 The Debentures shall bear and accrue Interest on the Principal:

- 11.1.1 at the Initial Interest Rate, in respect of each Interest Period up to and including the Interest Period ending on 31 December 2020;
- 11.1.2 at the Extension Interest Rate, in respect of the Interest Period commencing on 1 January 2021 and each Interest Period thereafter during the Extension Period up to and including the Interest Period ending on the Final Repayment Date; and
- 11.1.3 if payable in accordance with clause 11.3, at the Event Interest Rate, in respect of each Interest Period up to and including the Interest Period ending on the Final Repayment Date.

11.2 Interest calculated in accordance with clauses 11.1.1 and 11.1.2 shall be payable in full on the final day of each Interest Period (each an **Interest Calculation Date**), with the last Interest Calculation Date falling on the Final Repayment Date.

11.3 Interest calculated in accordance with clause 11.1.3 (*Event Interest*) shall be payable by the Issuer:

- 11.3.1 on the Maturity Date, if an Event occurs prior to the Maturity Date; and

11.3.2 on the Extended Maturity Date, in accordance with clause 10.2, if an Event occurs during the Extension Period,

in each case, Event Interest shall be deemed to have accrued in accordance with clause 11.1.3 and to have compounded with the Principal on each Interest Calculation Date up to and including the Interest Period ending on the Final Repayment Date.

11.4 If Event Interest is payable in accordance with clause 11.3, the amount of Event Interest shall, for the avoidance of doubt, be payable in full, whether such amount needs to be funded by the proceeds of any such number of Events as may be necessary in order to make payment of all Event Interest in full.

11.5 All Event Interest paid must be paid into the Receipts Account, which shall be held under the control of the Security Trustee in accordance with the Receipts Account Security Agreement and the notice of charge to be given by the Issuer pursuant to the Receipts Account Security Agreement to the relevant account bank in respect of the Receipts Account.

11.6 Interest shall be calculated and accrue on a daily and simple basis and on the basis of the actual number of days elapsed in the relevant period and a 365-day year.

## 12 Default Interest

12.1 In the event the Issuer fails to make any payment of Principal, Interest or any other amount due pursuant to this Deed on its due date, interest (**Default Interest**) shall accrue on such unpaid amount from (and including) the due date for such amount until (but excluding) the date of actual payment (both before and after judgment) at a rate which is 3% per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, attracted Interest at the Initial Interest Rate.

12.2 Default Interest shall accrue on a daily basis and on the basis of a 365-day year, and shall be compounded with the overdue amount at the end of each Interest Period.

## 13 Application of Proceeds

### 13.1 Payments

13.1.1 Subject to clause 13.1.2, any payments required to be made by the Issuer under the Finance Documents shall be made not later than 10:00 a.m. (London time) on the relevant date required for payment (the **Payment Date**) and on such Payment Date, the Issuer shall transfer or cause to be transferred such an amount in respect of the payment to the account directed by the Agent (such account being directed in writing at least five (5) Business Days prior to the relevant Payment Date) being, in the case of any payments to the Holders under the Debentures, the account held with the Client Money Services Provider and with such reference number as directed by the Agent.

13.1.2 If there is an administrative or technical error or Disruption Event which prevents the Issuer from meeting its obligation to make payments under the Finance Documents within the time prescribed under clause 13.1.1, the Issuer will make that payment as soon as reasonably practicable but, in any event, no later than by close of business (in London) on the date falling in respect of Principal ten (10) Business Days and in respect of interest or any other amount five (5) Business Days from the Payment Date.

13.1.3 Any amounts payable under clause 13.1.1 or clause 13.1.2 shall be transferred by the Issuer or on behalf of the Issuer to the above-mentioned account or accounts unconditionally by credit transfer and in immediately available, freely transferable, cleared funds. All such amounts shall be made without set-off, counterclaim, deduction or withholding, unless otherwise required by law.

13.1.4 Subject to clause 13.2, any amounts payable by the Issuer to Holders under the terms of the Debentures shall be apportioned by the Client Money Services Provider on the instructions of the Agent into the relevant pro rata proportions and such apportioned payments shall be directed by the Agent to the Cash Account (as defined in the Abundance Terms and Conditions) of those relevant Holders.

13.1.5 If the Issuer is required by applicable law to make any withholding or deduction in relation to any amount payable under this clause 13.1, it shall be entitled to make such deduction or withholding and account to the relevant authority in respect of the amount withheld or deducted. The Issuer shall not be required to increase or gross-up any amount payable to the Beneficiaries under the Finance Documents as a result of any such deduction or withholding.

13.1.6 Any amounts payable under this clause 13.1 are subject in all cases to any applicable fiscal or other laws and regulations in the place of payment.

13.1.7 If, for any reason, the Agent considers in its sole discretion that amounts to be received in the relevant accounts pursuant to this clause are insufficient to satisfy all claims in respect of all payments under clause 13.1.1 then falling due

(i) the Agent shall, as soon as reasonably practicable, notify the Issuer in writing that the full amount has not been received;

(ii) the Agent shall not be obliged to direct the payment in satisfaction of any such claims until the full amount in respect of such claims has been received from the Issuer or the Guarantor, the Issuer has provided the Agent details of the reason and/or nature of the shortfall and, if there has been an Event of Default, the Issuer has confirmed that the relevant steps, actions or pre-conditions under the Finance Documents have been met



prior to any acceleration and subsequent payment of those amounts.

## 13.2 Application

If any payment for application against amounts due in respect of any Finance Document received or recovered by the Agent is insufficient to discharge all the Debt Liabilities then due and payable by the Issuer under the Finance Documents, the Agent shall direct the Client Money Services Provider to apply any and all such amounts towards satisfying the obligations of the issuer under those Finance Documents in the following order:

13.2.1 **firstly**, in or towards payment of any unpaid fees, costs and expenses of the Agent, the Security Trustee or any Delegate appointed by any of them;

13.2.2 **secondly**, for the account of the Holders, for application in or towards payment of Debt Liabilities payable to Holders, which shall be allocated in respective pro rata proportions to the Holders of the Debentures in accordance with the following order of priority;

13.2.3 **thirdly**, for the account of the Holders, in or towards payment pro rata of any accrued Interest, income, fee or commission owing to the Holders under those Finance Documents;

13.2.4 **fourthly**, in or towards payment pro rata of any other sum due but unpaid under those Finance Documents;

13.2.5 **fifthly**, in payment of the surplus (if any) to any person entitled to it.

## 14 Cancellation

Any Debentures which are repaid, redeemed or purchased by the Issuer shall forthwith be cancelled and shall not be available for re-issue.

## 15 Events of Default

15.1 Each of the events or circumstances set out in this clause 15.1 (*Events of Default*) is an Event of Default:

15.1.1 **Non-payment:** any failure by the Issuer to pay in full any amount payable under this Deed on its due date or, if a failure to pay is caused by an administrative or technical error or a Disruption Event, within 10 Business Days of its due date in respect of any amount of principal due and payable under the relevant Debentures, or within 5 Business Days of its due date in respect of interest or any other amount due and payable under the relevant Debentures; or

15.1.2 **Other obligations:** the Issuer fails to perform or comply with any of its other material obligations under the Finance Documents (other than the obligations specified in clause 15.1.1) or (subject to any applicable grace periods) any of its material obligations under the Project Documents and, except that no Event of Default shall occur:

(i) where such failure is capable of remedy, and is remedied within 10 Business Days of the earlier of (a) the Issuer receiving written notice from the Agent requiring remedy of such failure; or (b) the date that the Issuer has become aware of such failure; or

(ii) where such failure relates to a breach by the Issuer of paragraph 14 of Schedule 4 (*Loan to Value*) and such breach has been remedied in accordance with paragraph 15 of Schedule 4 (*Further Security and Equity Cure*) within the timeframe set out therein.

15.1.3 **Misrepresentation:** any material representation, warranty or statement made or deemed to have been made by the Issuer in the Finance Documents is or proves to have been incorrect or misleading in any material respect when made or deemed to have been made, unless and to the extent the underlying event

or circumstance is remedied within 20 Business Days of the earlier of (a) the Issuer receiving written notice from the Agent requiring remedy of such failure; or (b) the date that the Issuer has become aware of such failure; or

### 15.1.4 Cross-default:

(i) any Financial Indebtedness of the Issuer is not paid when due or within any applicable grace period; or

(ii) any Financial Indebtedness of the Issuer is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (howsoever described); or

(iii) no Event of Default will occur or subsist under this clause 15.1.4:

(aa) if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (ii) above is less than £100,000 (or its equivalent in any other currency or currencies); or

(bb) in respect of any Financial Indebtedness subordinated pursuant to a Subordination Agreement.

### 15.1.5 Insolvency:

(i) the Issuer:

(aa) is unable or admits inability to pay its debts as they fall due for the purposes of section 123(1) or section 123(2) of the Insolvency Act 1986;

(bb) suspends making payments on any of its debts; or

(cc) by reason of actual or anticipated financial difficulties, commences formal negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness;

(ii) the value of the assets of the Issuer is less than its liabilities (taking into account contingent and prospective liabilities); or

(iii) a moratorium is declared in respect of any indebtedness of the Issuer. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium;

**15.1.6 Insolvency proceedings:** any corporate action, legal proceedings or other procedure or step is taken in relation to:

(i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Issuer;

(ii) a composition, compromise, assignment or arrangement with any creditor of the Issuer (other than for the purposes of a bona fide, solvent scheme of reconstruction or amalgamation previously approved by a Special Resolution);

(iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Issuer,

or any analogous procedure or step is taken in any jurisdiction, except that paragraph (i) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 20 days of commencement;

**15.1.7 Creditors' process:** any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset of the Issuer and is not discharged within 20 Business Days;

**15.1.8 Unlawfulness and invalidity:**

(i) it is or becomes unlawful for the Issuer to perform any of its material obligations under the Finance Documents; or

(ii) any material obligation of the Issuer under any of the Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Holders under the Finance Documents;

**15.1.9 Cessation of business:** the Issuer suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or substantially all of its business or abandons or ceases to carry on the management, ownership or operation of a material part of the Project;

**15.1.10 Expropriation:** the authority or ability of the Issuer or any member of the Group to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to the Issuer or any other member of the Group or any of its assets, in each case, which has or would have a Material Adverse Effect;

**15.1.11 Repudiation and rescission of agreements:** the Issuer rescinds or evidences as an intention in writing to rescind or repudiates or evidences as an intention in writing to repudiate a Finance Document;

**15.1.12 Litigation:** any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened, or any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body is made, in relation to the Finance Documents or the transactions contemplated in the Finance Documents or against the Issuer or any member of the Group or its assets, in each case which have, or would have a Material Adverse Effect;

15.2 The Issuer shall promptly notify the Arranger and the Agent of the occurrence of any Event of Default upon becoming aware of its occurrence (and the steps, if any, being taken to remedy it).

15.3 If any Event of Default occurs and is continuing, the Agent, if so directed in writing by Holders of at least 25 per cent. of the Principal (or by a Special Resolution of the Holders), shall:

15.3.1 by notice in writing (an "**Acceleration Notice**") declare all amounts accrued or outstanding under the Debentures and this Deed to be immediately due and payable, at which time they shall become immediately due and payable;

15.3.2 be permitted, at the cost and expense of the Issuer (such costs to be proper and reasonable and as far as practicable agreed in advance of appointment), to appoint accountants, lawyers or technical advisers as agreed by the Agent and the Issuer to protect the Holders' interests (taken as a class) under the Finance Documents and to investigate the Event of Default; or

15.3.3 permit the appointment of a Holder Representative in accordance with the Abundance Terms and Conditions.

15.4 No Holder shall be entitled to take any Enforcement Action in relation to the Debentures or enforce any provision of this Deed or waive, cure or consent to any Event of Default or proposed breach of the terms of this Deed except where such action is permitted by and in accordance with the Abundance Terms and Conditions.

15.5 An Acceleration Notice may be withdrawn with immediate effect by the Agent if it is directed to do so in writing by Holders of at least 25 per cent. of the Principal (or by a Special Resolution of the Holders) to the effect that the Event of Default or Events of Default in relation to which an Acceleration Notice has been given is or are cured or waived, but without prejudice to any rights or obligations which may have arisen before the Issuer withdraws such Acceleration Notice.



No such withdrawal shall affect any other Event of Default or any subsequent Event of Default or any right of any Holders in relation thereto.

15.6 The Security Trustee shall, at the Issuer's request, release an amount from the Debt Service Reserve Account to an account nominated in writing by the Issuer:

15.6.1 in an amount equal to such part of the Remedying Balance that, without such forming part of the Remedying Balance, the loan to value covenant in paragraph 14 (*Loan to Value*) of Schedule 4 (*Positive Undertakings*) would have been complied with on the testing of the loan to value covenant contained in paragraph 14 (*Loan to Value*) of Schedule 4 (*Positive Undertakings*) against the set of Valuations obtained in accordance with paragraph 13 (*Valuations*) of Schedule 4 (*Positive Undertakings*) immediately preceding the date of such request; and

15.6.2 at the date of such release, no Event of Default is continuing or would result from such release.

## 16 Notices

16.1 The Issuer will give each notice, and will send any other document, to a Holder by sending such notice to the Agent who will in turn send any document to the relevant Holder using the Abundance Service (which, for the avoidance of doubt, includes the use of e-mail). Each Holder agrees that the Issuer may rely on the Agent to deliver any such notice in accordance with the Abundance Terms and Conditions.

16.2 Each notice sent to a Holder pursuant to clause 16.1 shall, at the same time, be sent to the Agent by e-mail to: [support@abundanceinvestment.com](mailto:support@abundanceinvestment.com).

16.3 Any notice from the Holders (or the Agent acting on their behalf) to the Issuer contemplated by this Deed may be given by e-mail to the Issuer at [mw@ili-energy.com](mailto:mw@ili-energy.com) (copied to Damien Bechelli at [damien.bechelli@dwf.law](mailto:damien.bechelli@dwf.law)) or to such other address as otherwise directed by the Issuer from time to time.

16.4 A notice, document or information sent or supplied by electronic means to an address specified for the purpose is deemed to be given to or received by the intended recipient on the same day it was sent, and in proving service it is sufficient to prove that the communication was properly addressed and sent.

## 17 Meetings of Holders, Voting and Modifications to the Deed

17.1 The Abundance Terms and Conditions include provisions for:

17.1.1 convening meetings of Holders;

17.1.2 voting and quorum requirements and powers exercisable in respect of an Ordinary Resolution, Special Resolution or a Written Resolution; and

17.1.3 the ability to appoint (and powers of) a Holders Representative.

17.2 Provided a Holder Representative (if one has been duly appointed) does not object, the Agent may, without the consent or sanction of the relevant Holders, authorise or sanction any modification of or waive or consent to any breach or proposed breach of, any provisions of this Deed or other Finance Document, which the Agent considers, in its sole opinion, to be of a formal, minor or technical nature or to be necessary to correct a manifest error or to comply with any mandatory provisions of law or, in the case of a waiver of or consent to a breach or proposed breach, is not materially prejudicial to the interests of the relevant Holders.

17.3 Except as stated in clause 17.2, neither the Issuer nor the Agent shall:

(a) make or concur in making any modification to,

(b) give any consent under, or

(c) grant any waiver in respect of any breach or proposed breach of, any Finance Document unless any such modification, consent or waiver has been approved or, in the case of an actual breach or alleged breach, has been waived or consented to with the approval or sanction of a Special Resolution passed in accordance with the Schedule to the Abundance Terms and Conditions.

## 18 No Dealings

The Debentures are not capable of being dealt or listed on any stock exchange or other public market in the United Kingdom or elsewhere and no application has been, or is intended to be made, for the Debentures to be listed or otherwise traded on any such stock exchange or other public market.

## 19 Certificates and Determinations

Any certification or determination by the Agent of a rate or amount under any Finance Document is, in the absence of manifest or proven error, prima facie evidence of the matters to which it relates.

## 20 Rights and Obligations

20.1 No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

20.2 Abundance provides services in accordance with arrangements it has with the Issuer and operates the Abundance Service in accordance with the Abundance Terms and Conditions as agreed by Members.

## 21 Enforcement and preservation costs

The Issuer shall, within ten (10) Business Days of demand, pay to the Agent the amount of all costs, fees and expenses (including legal fees) together with any associated VAT properly incurred by the Agent in connection with the enforcement of or the preservation of any rights under any Finance Document or proceedings instituted by or against the Agent as a consequence of enforcing these rights under the Finance Documents.

## 22 Inspection

A copy of this Deed shall be kept at the registered office of the Issuer and any Holder and any person duly authorised in writing by a Holder may at all reasonable times during office hours inspect it.

## 23 Endorsement

A memorandum of execution of any deed supplemental to this Deed shall be endorsed by the Issuer on this Deed.

## 24 Governing Law and Jurisdiction

### 24.1 Governing Law

24.1.1 This Deed shall be governed by and construed in accordance with English law, and all claims and disputes between the parties or any of them arising out of or in connection with this Deed (whether or not contractual in nature) shall be determined in accordance with English law.

24.1.2 If in any court any party argues that a court other than the courts of England and Wales has jurisdiction to determine any dispute or difference between the parties or any of them arising out of or in connection with this Deed that issue shall be determined in accordance with English law, and any right any party might otherwise have to rely upon the law of the forum or any other law is hereby irrevocably and unconditionally waived.

### 24.2 Submission to jurisdiction

24.2.1 Each party submits to the exclusive jurisdiction of the courts of England and Wales in relation to all claims, disputes, differences or other matters arising out of or in connection with this Deed, provided that nothing in this clause shall prevent the Agent in its sole and unfettered discretion, from commencing proceedings against any other party in any court of competent jurisdiction.

24.2.2 Each party irrevocably waives any right that it may have:

(a) to object on any ground to an action being brought in the courts of England and Wales, to claim that the action brought in the courts of England and Wales has been brought in an inconvenient forum, or to claim that the courts of England and Wales do not have jurisdiction. The waiver contained in this clause 24.2.2(a) includes a waiver of all formal and substantive requirements of any otherwise competent jurisdiction in relation to this clause 24.2.2(a);

(b) to oppose the enforcement of any judgment of any court of England and Wales whether on any ground referred to in clause 24.2.2(a) or otherwise.

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

## Schedule 1 Conditions Precedent

### The Issuer and Parent

1 A copy of the constitutional documents of the Issuer, the Parent and each ProjectCo granting Transaction Security as at the date of this Deed.

2 A copy of a resolution of the board of directors of each of the Issuer, the Parent and each ProjectCo granting Transaction Security as at the date of this Deed:

2.1 approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party; and

2.2 authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf, to give all notices and take all other action in connection with the Finance Documents to which it is a party.

### Finance Documents

3 A copy of the Parent Company Guarantee, executed by the Parent.

4 A copy of the Subordination Agreement, executed by all parties thereto.

### Security Documents

5 A copy of each of the following Security Documents executed by the parties thereto:

5.1 each Assignment in Security;

5.2 the Bond and Floating Charge;

5.3 the Issuer Share Pledge;

5.4 the ProjectCo Share Pledge to be executed on the date of this Deed;

5.5 each Direct Agreement which has been executed prior to the date of this Deed; and

5.6 the Security Trust Deed.

### Project Documents

6 A copy of each Project Document in existence as at the date of this Deed, including, but not limited to, each of the following:

6.1 the Contract;

6.2 the Management Service Agreement;

6.3 each exclusivity agreement with a Land Owner in respect of a site comprised in a PSH Site.

## Other Documents and evidence

7 A report on title in relation to the Greenock Property and the Overtown Property prepared by the Security Trustee's solicitors and addressed to the Agent and the Security Trustee.

8 A copy of the group structure chart which shows the Group as at the date of this Deed.

9 Copies of all insurance policies relating to the Project (including, but not limited to, insurance covering third party liability, employers' liability and professional indemnity), together with evidence that the Security Trustee has been named as co-insured and first loss payee in respect of each such insurance policy.

## Schedule 2 Holder Restrictions

1.1 The Debentures may only be acquired or held by Members who are eligible to invest in accordance with the Abundance Terms and Conditions, which, as at the date of this Deed, includes:

1.1.1 individuals aged 18 years or over who have their permanent residence in an Eligible EEA Country;

1.1.2 those who are not individuals, being persons who have a permanent place of business in an Eligible EEA Country and are duly incorporated, authorised, established or formed in accordance with the relevant laws and regulations in the relevant Eligible EEA Country; or

1.1.3 other Members who fulfil all the applicable criteria of eligibility to acquire and to hold Debentures in accordance with the Abundance Terms and Conditions from time to time.

1.2 The Debentures may not be acquired or held by any Restricted Person.

1.3 The Debentures have not been and will not be registered under the United States Securities Act of 1933, as amended, or qualified for sale under the laws of the US or under the laws of any country, jurisdiction, state or territory outside the UK.

1.4 The Issuer, or Abundance on its behalf, may require reasonable evidence that a proposed transfer is exempt from or not subject to a registration or similar requirement in the US or any other jurisdiction outside the United Kingdom.

## Schedule 3 Representations and Warranties

1 The Issuer represents and warrants to each of the Beneficiaries that:

1.1 **Status:** it is a limited company, duly incorporated and validly existing under the laws of its Original Jurisdiction and it has full power to own its assets and carry on its business;

1.2 **Binding Obligations:** the obligations expressed to be assumed by it in each of the Transaction Documents are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations;

1.3 **Non-conflict with other obligations:** the entry into and performance by it of, and the transactions contemplated by, the Transaction Documents do not and will not conflict with any law or regulation applicable to it, its constitutional documents or any

agreement or instrument binding upon it or any of its assets (breach of which would reasonably be expected to have a Material Adverse Effect);

1.4 **Power and Authority:** it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents and the transactions contemplated by the Finance Documents;

1.5 **Validity and admissibility in evidence:** it has obtained all required Authorisations to enable it to enter into, exercise its rights and comply with its obligations in the Finance Documents and to make them admissible in evidence in its jurisdiction of incorporation. Any such Authorisations are in full force and effect;

1.6 **Governing law and enforcement:** subject to the Legal Reservations, the choice of governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation and any judgment obtained in England or Wales in relation to a Finance Document will be recognised and enforced in that jurisdiction;

1.7 **Insolvency:** no:

1.7.1 corporate action, legal proceeding or other procedure or step described in clause 15.1.6 (*Insolvency Proceedings*); or

1.7.2 creditors' process described in clause 15.1.7 (*Creditors' Process*),

have been taken or, to its knowledge, threatened in relation to it; and none of the circumstances described in clause 15.1.5 (*Insolvency*) of this Deed applies to it;

1.8 **No default:**

1.8.1 no Event of Default is continuing or is reasonably likely to result from the entry into or the performance of any Finance Document by it, or the issuance of the Debentures by the Issuer;

1.8.2 no other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect;

1.9 **Arm's Length:** the Finance Documents to which it is expressed to be a party have been, are being or will be entered into in good faith for its benefit and on arm's length terms;

#### 1.10 **Information:**

1.10.1 to the best of its knowledge and belief (having taken all reasonable care to ensure it is so) all written information that it has given in connection with the Offer Document and the Finance Documents was true and accurate in all material respects as at the date it was provided, as at any date the information is expressed to be given or (as the case may be) as at the date of the relevant document containing the information;

1.10.2 any financial projections contained in the information referred to in paragraph 1.10.1 above have been prepared as at the date they were provided or stated to be given on the basis of both recent and historical (with reference to the date provided or stated to be given) information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration;

1.10.3 no event or circumstance has occurred or arisen and no information has been omitted from the information referred to in paragraph 1.10.1 and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the information referred to in paragraph 1.10.1 being untrue or misleading in any material respect;

#### 1.11 **Financial Information:**

1.11.1 the most recent financial statements delivered pursuant to paragraph 5 (Financial Information) of Schedule 4 (*Positive Undertakings*) of this Deed fairly present its financial condition as at the end of, and results of operations for, the period to which they relate;

1.11.2 since the date of the most recent financial statements delivered pursuant to paragraph 5 (*Financial Information*) of Schedule 4 (*Positive Undertakings*) of this Deed there has been no event which would have a Material Adverse Effect on the Issuer;

#### 1.12 **No litigation:**

1.12.1 other than as disclosed by the Issuer in the Offer Document, no litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which has a reasonable prospect of success and, if adversely determined, is reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) has been started or threatened against it or any of its Subsidiaries;

1.12.2 no judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any of its Subsidiaries;

1.13 **No breach of laws:** it has not breached any law or regulation where breach would have a Material Adverse Effect;

#### 1.14 **Environmental laws:**

1.14.1 each member of the Group is in compliance with paragraph 8 (*Environmental compliance*) of Schedule 4 (*Positive Undertakings*) and to the best of its knowledge and belief (having made due and

careful enquiry) no circumstances have occurred which would prevent such compliance, in each case, in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect;

1.14.2 no Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any member of the Group where that claim has a reasonable prospect of success and has or is reasonably likely to have, if determined against that member of the Group, a Material Adverse Effect;

#### 1.15 **Taxation:**

1.15.1 it is not materially overdue in the filing of any Tax returns and it is not, and no member of the Group is, overdue in the payment of any amount in respect of Tax of £50,000 (or its equivalent in any other currency) or more;

1.15.2 no claims or investigations are being, or are reasonably likely to be, made or conducted against it with respect to Taxes such that a liability of, or claim against it of £50,000 (or its equivalent in any other currency) is reasonably likely to arise; and

1.15.3 it is resident for Tax purposes only in its Original Jurisdiction.

1.16 **Group Structure Chart:** the group structure chart delivered to the Arranger pursuant to Schedule 1 (*Conditions Precedent*) of this Deed is true, complete and accurate in all material respects and shows each member of the Group, including current name and company registration number, its Original Jurisdiction (in the case of the Issuer), its jurisdiction of incorporation or establishment (in the case of any other member of the Group), in each case as at the date of this Deed;

1.17 **Trustee:** it is not entering into any Finance Document as a trustee;

1.18 **Centre of main interests and establishments:** for the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings and/or Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) (as applicable) (the “**Regulation**”) its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in the United Kingdom and it has no “establishment” (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

1.19 **Project Documents:** it has complied with the material terms of the Project Documents and no person has disputed, repudiated or disclaimed liability under any Project Document or evidenced an intention to do so.

2 The representations and warranties set out in this Schedule 3 (*Representations and Warranties*) (other than paragraph 1.11.2 (*Financial information*)) are made by the Issuer on the date of this Deed.

3 Subject to paragraph 4 below, the Repeating Representations are also deemed to be made by the Issuer on the first day of each Interest Period.

4 The Repeating Representation contained in paragraph 1.11.1 (*Financial Information*) above shall be deemed to be made by the Issuer in relation to each set of financial statements delivered under this Deed when such financial statements are provided to the Agent.  
5. Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

## **Schedule 4 Positive Undertakings**

The undertakings in this Schedule 4 (Positive Undertakings) remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Debenture is issued and remains outstanding.

Subject to the terms of this Deed, the Issuer undertakes as follows:

1 **Authorisations:** the Issuer must promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of England and Wales that enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document or that enable it to own its assets and carry on its business as it is being conducted, except where failure to obtain or effect such Authorisations would not materially adversely impair its ability to perform its payment obligations under the Finance Documents to which it is expressed to be a party.

2 **Compliance with laws:** the Issuer must comply with any law or regulation (including any Environmental Law) to which it is subject where such breach would materially adversely affect its ability to perform its obligations under the Finance Documents or result in a liability against it in an amount of which exceeds £50,000.

3 **Taxes:** the Issuer must pay all Taxes due and payable by it prior to the accrual of any fine or penalty for late payment and must promptly pay to HM Revenue & Customs all VAT and related interest and penalties payable by it, except to the extent contested by it in good faith.

4 **Reserve:** the Issuer will at all times until (and including) the Final Repayment Date, maintain an amount in free cash equal to the amount of Interest that would accrue under this Deed (calculated in accordance with clause 11 (*Interest*)) for the next two Interest Periods (that being, twelve months in aggregate) (or, if the Maturity Date is extended in accordance with clause 9 (*Extension Option*), for four Interest Periods) in the Debt Service Reserve Account, such account to be charged by way of fixed charge in favour of the Security Trustee (for the benefit of the Beneficiaries).

## **5 Financial Information:**

5.1 The Issuer shall supply to the Arranger and the Agent copies of:

5.1.1 as soon as they become available, but in any event within [180] days after the end of each of its financial years, its audited financial statements for that financial year; and

5.1.2 as soon as they become available, but in any event within [60] days after the end of each of its financial years, its unaudited management accounts for that financial half year.

5.2 Each set of financial statements delivered to the Arranger and the Agent pursuant to this paragraph 5 (*Financial information*) shall be certified by a director of the Issuer as giving a true and fair view of its financial condition as at the date at which those financial statements were drawn up.

6 **Financial Statements:** The Issuer shall ensure that the financial statements delivered to the Arranger and the Agent pursuant to paragraph 5 (*Financial Information*) above shall:

6.1 in the case of the audited financial statements for the financial year, be prepared in accordance with the Accounting Principles; and

6.2 fairly present the Issuer's assets, liabilities, financial position and profit or loss during the relevant accounting period; and

6.3 in the case of the audited financial statements for that financial year, have been approved by the Issuer's directors in compliance with section 393 of the Companies Act 2006.

7 **Event:** the Issuer must inform the Agent of any prospective Event that is due to or may take place not less than 5 Business Days prior to the occurrence of any such Event and of any Event that does take place no later than the day of the Event taking place.

8 **Environmental compliance:** the Issuer shall, and shall ensure that each member of the Group will:

8.1 comply with all Environmental Law;

8.2 obtain, maintain and ensure compliance with all requisite Environmental Permits;

8.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

9 **Environmental claims:** the Issuer shall procure that each member of the Group shall inform it, promptly upon becoming aware of the same, and the Issuer shall in turn inform the Agent in writing of:

9.1 any Environmental Claim against any member of the Group which is current, pending or threatened; and

9.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim has a reasonable prospect of success and, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

10 **Project Documents:** the Issuer must exercise its rights under and comply with its material obligations under each Project Document in a proper and timely manner.

11 **ProjectCo's:** any PSH Project established, in development, or to be developed (now or at any stage in the future) by the Issuer or the Parent must be established within a ProjectCo which is as a direct Subsidiary of the Issuer.

## 12 **Conditions Subsequent:**

12.1 Subject to clause 12.2 in relation to each and any Direct Agreement not yet in existence as at the date of this Deed, the Issuer shall provide the Arranger with fully executed copies of each Direct Agreement no later than two (2) Business Days following the execution of the relevant Direct Agreement by all parties thereto.

12.2 In relation to the granting of the Greenock Standard Security, if the application for registration of the disposition of the Greenock Property (1) by Malcolm McNeil in favour of Angela McNeil; and/or (2) the disposition by Malcolm and Angela McNeil in favour of the ILI Subsidiary into the ILI Subsidiary's name and/or (3) the Greenock Standard Security is rejected by the Keeper, then the Issuer shall procure that ILI (Security) Limited will co-operate with the Security Trustee at the ILI Subsidiary's expense, do such acts and things (including obtaining a further Advance Notice), execute such deeds and documents and deliver such documents and evidence as may be required to enable the Keeper to update or create (as the case may be) the Title Sheet of the Greenock Property to disclose the ILI Subsidiary (or its nominees) as the registered proprietor of the whole of the Greenock Property.

12.3 Within two (2) Business Days of entering into the novation of the Contract, the Issuer shall provide the Arranger with a fully executed, dated copy of such novation.

12.4 Within twenty (20) Business Days of the date of this Deed, a print (certified by a director of the Parent) of a resolution of the shareholders of the Parent passed at a general meeting of the Parent, duly convened and held, ratifying and approving the granting of the Parent Company Guarantee and the Issuer Share Pledge.

12.5 Within twenty (20) Business Days of the date of this Deed, the Issuer shall provide the Security Trustee with fully executed, dated copies of each of:

12.5.1 the Receipts Account Security Agreement; and

12.5.2 the Debt Service Reserve Account Security Agreement.

12.6 Within forty (40) Business Days of the date of this Deed, the Issuer shall provide the Security Trustee with fully executed, dated copies of each of:

12.6.1 the ILI Bond and Floating Charge;

12.6.2 the ILI Assignment in Security;

12.6.3 the ILI Share Pledge;

12.6.4 a ranking agreement between the Issuer, the Security Trustee and The Royal Bank of Scotland plc, in terms of which consent is provided to the granting of the above securities (at paragraphs 12.6.1, 12.6.2 and 12.6.3) in favour of the Security Trustee and the priority of them in relation to any securities granted by ILI Limited in favour of The Royal Bank of Scotland plc is regulated;



12.6.5 a copy of the constitutional documents of ILI Limited together with a copy of a resolution of the board of directors of ILI Limited approving the terms of, and the transactions contemplated by, the Security Documents at paragraphs 12.6.1, and 12.6.2 and the document at 12.6.3 above and resolving that it execute, deliver and perform them and authorising a specified person or persons to execute those documents, to give all notices and take all other action in connection with them and a copy of an ordinary resolution of the members of ILI Limited approving the terms of and execution of the Security Documents at paragraphs 12.6.1, and 12.6.2 and the document at 12.6.3 above;

12.6.6 the Greenock Standard Security.

12.7 Before 31 January 2018:

12.7.1 the Issuer shall provide the Security Trustee with a fully executed, dated copy of the Assignment in Security from ILI (Borders PSH) Limited in relation to the Exclusivity Agreement to be entered into by it in relation to a lease of subjects at Bowerhope, Yarrow;

12.7.2 the Issuer shall provide the Security Trustee with a fully executed, dated copy of each of the ILI Subsidiary Securities; and

12.7.3 the Security Trustee's solicitors shall provide a report on title in relation to the Overtown Property prepared by them and addressed to the Agent and the Security Trustee and the Issuer shall provide such co-operation as is reasonably required to enable the Security Trustee's solicitors to prepare such report on title.

12.8 Within five (5) Business Days of each and any ProjectCo being incorporated, the Issuer shall grant Security in the form of a ProjectCo Share Pledge on substantially the same terms as the Issuer Share Pledge and each other ProjectCo Share Pledge.

12.9 The Issuer shall procure that, within five (5) Business Days of entering into any Project Document, the relevant ProjectCo grants Security in the form of an Assignment in Security in favour of the Security Trustee (for the benefit of the Beneficiaries) in support of the Issuer's obligations under the Finance Documents.

### 13 Valuations:

13.1 The Issuer:

13.1.1 shall, at its own cost, obtain and provide the Agent with a set of Valuations prior to each and any disposal of a Property which is subject to Transaction Security, in accordance with paragraph 5 (Disposals) of Schedule 5 (Negative Undertakings);

13.1.2 shall promptly, at the request of the Agent, obtain and pay for a set of Valuations at any time when an Event of Default is continuing or, in the reasonable opinion of the Agent, is likely to occur as a result of obtaining those Valuations; and

13.1.3 may, by its own election and at its own cost, obtain and provide the Agent with a set of Valuations at any time for the purposes of testing the financial covenant in paragraph 14 (*Loan to Value*) of this Schedule 4 (*Positive Undertakings*) for the purposes of clause 15.6 of this Deed,

and must supply the Agent with a copy of any Valuation of any Property promptly upon obtaining it.

13.2 The Issuer shall supply a compliance certificate to the Arranger and the Agent with each set of Valuations delivered pursuant to this paragraph 13 (*Valuations*) setting out (in reasonable detail) computations as to compliance with paragraph 14 (*Loan to Value*).

13.3 Each compliance certificate shall be signed by a director of the Issuer and be in the form agreed by the Issuer and the Arranger.

14 **Loan to Value:** the Issuer shall ensure that the Loan to Value is, at any time, at least 1.75:1.0.

15 **Further Security and Equity Cure:** should the Issuer fail to comply with paragraph 14 (*Loan to Value*) of this Schedule 4 (*Positive Undertakings*) of this Deed at any time, then the Issuer shall:

15.1 at the request of the Agent, within 6 months of the date of the Valuations evidencing a failure to comply with that obligation, grant such further Security in favour of the Security Trustee (for the benefit of the Beneficiaries) as may be required in order to ensure compliance with paragraph 14 (*Loan to Value*) of this Schedule 4 (*Positive Undertakings*) of this Deed; or

15.2 by its own election, within 20 Business Days of the earlier of (a) the Issuer receiving written notice from the Agent of a failure to comply with that obligation and (b) the date that the Issuer has become aware of such failure to comply with that obligation, subject to clause 15.6 of this Deed, pay into the Debt Service Reserve Account an amount sufficient ("**Remedying Balance**") so that if the Remedying Balance was deemed to have been deducted from the Principal (for the purpose only of this paragraph 15) and the financial covenant in paragraph 14 (*Loan to Value*) of this Schedule 4 (*Positive Undertakings*) of this Deed was retested by reference to the most recent Valuations, the Issuer would be in compliance with paragraph 14 (*Loan to Value*).

### 16 Substitute Security:

16.1 Subject to clause 16.2 below, if, at any time, the Issuer requests that any Transaction Security then subsisting is released or that any asset is released from the ambit of a Transaction Security, the Arranger and the Agent shall procure that the Security Trustee immediately releases such Security or the relevant asset(s) from the ambit of such Transaction Security (as the case may be), provided always that:

16.1.1 the Issuer grants or procures that a third party grants to the Security Trustee a Security over another asset (the “**Alternative Asset**”) in form and content satisfactory to the Security Trustee (but on terms no more onerous than the terms in the Security Documents granted on or around the date of this Deed) at the same time as the release is granted; and

16.1.2 the Issuer provides the Security Trustee with a valuation of the Alternative Asset (in form and content satisfactory to the Security Trustee, acting reasonably) demonstrating that the Alternative Asset has a value equal to or greater than the value of the assets being released from Security.

16.2 The Issuer shall not be entitled to request a release of the following Security Documents under clause 16.1:

16.2.1 the Issuer Share Pledge;

16.2.2 any ProjectCo Share Pledge; or

16.2.3 the Bond and Floating Charge.

17 **Access:** the Issuer shall allow the Agent or any person or persons appointed on the Agent’s or Holders’ behalf in accordance with clauses 15.3.2 or 15.3.3 (*Events of Default*) of this Deed (respectively) or the Abundance Terms and Conditions (each a “**Holder Appointee**”) and any of their officers, employees, professional advisers and agents to have, and shall ensure that the Agent and/or the Holder Appointee (as applicable) are given, access to the premises, assets, books, accounts and records of the Issuer during normal business hours on reasonable notice, being notice which is given no less than 20 Business Days prior to the proposed day of access, and further provided that such requests are made no more frequently than once in any six-month period.

## **Schedule 5 Negative Undertakings**

The undertakings in this Schedule 5 (Negative Undertakings) remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Debenture is issued and remains outstanding.

Subject to the terms of this Deed, the Issuer undertakes to the Holders that it shall not, without the consent of the Agent:

1 **Financial Indebtedness:** incur or allow to remain outstanding any Financial Indebtedness other than Permitted Indebtedness;

2 **Lending:** be a creditor in respect of any Financial Indebtedness other than a Permitted Loan;

3 **Negative Pledge:** create or permit to subsist any encumbrance over any of its assets other than Permitted Security;

### **4 Dividends:**

4.1 declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

4.2 repay or distribute any dividend or share premium reserve;

4.3 redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so; or

4.4 make any distribution of assets or other payment whatsoever in respect of share capital whether directly or indirectly;

5 **Disposals:** enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary)

to sell, lease, transfer, licence, surrender, set-off or otherwise to dispose of all or any part of any Property, shares, account or rights under a contract subject to Transaction Security, without having first provided the Agent with a set of Valuations and obtained its consent to the relevant disposal;

6 **Merger:** enter into any amalgamation, demerger, merger or corporate reconstruction;

7 **Joint Venture:** form, enter into, invest in or transfer any asset to any partnership, consortium or joint venture entity or any other incorporated or unincorporated association for the purposes of any business or form or acquire any subsidiary undertaking (as defined in section 1162 of the Companies Act 2006);

8 **Change in business:** change the general nature of the business of the Issuer from the Purpose (as such term is defined in an engagement letter), dated on or around the date of this Deed, between the Issuer and Abundance Investment Limited;

9 **Scheme:** establish any pension or life insurance scheme, or any bonus, profit sharing, share option or other incentive scheme for its directors or employees;

10 **Directors’ payments:** make any payment, whether by way of emoluments for services or otherwise (but not including reimbursement of expenses reasonably and properly incurred) to, or on behalf of, any director of the Issuer;

11 **Conversion:** convert the Debentures or any repayments of Principal or payments of Interest in relation to the same into shares or any other securities of the Issuer without the sanction of a Special Resolution in accordance with the Abundance Terms and Conditions;



# The legal agreement

## Execution pages

### The Issuer

Executed as a Deed by \_\_\_\_\_ )  
**ILI Pump Storage Hydro P.L.C.** )  
acting by a director \_\_\_\_\_ )

Name: .....

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Occupation: .....

Witness Address: .....

### The Arranger

Executed as a Deed by \_\_\_\_\_ )  
**Abundance Investment Ltd** )  
acting by a director \_\_\_\_\_ )

Name: .....

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Occupation: .....

Witness Address: .....

### The Agent

Executed as a Deed by \_\_\_\_\_ )  
**Abundance Investment Ltd** )  
acting by a director \_\_\_\_\_ )

Name: .....

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Occupation: .....

Witness Address: .....

# The legal agreement

## Our service providers

### Issuer, we or us:

#### **ILI Pump Storage Hydro Plc**

Company Number: SC579766  
The Shires  
33 Bothwell Street  
Hamilton ML3 0AS

### Legal advisors to ILI Pump Storage Hydro Plc and Intelligent Land Investments Group Plc:

#### **DWF LLP**

110 Queen Street  
Glasgow G1 3HD

### Arranger and distributor:

#### **Abundance Investment Ltd (Abundance)**

16 Linen House  
253 Kilburn Lane  
London W10 4BQ

### Legal advisors to Abundance:

#### **Keystone Law Limited**

48 Chancery Lane  
London WC2A 1JF

#### **TLT LLP**

1 Redcliff Street  
Bristol BS1 6TP

Terms and conditions for the use of the Abundance service available at [www.abundanceinvestment.com](http://www.abundanceinvestment.com)

We would like to thank you for taking the time to read our offer document. ILI Pump Storage Hydro Plc accepts responsibility for the information it contains, which is true to the best of our knowledge and belief (having taken all reasonable care to ensure this is so) and reflects the facts without omitting anything which could affect its importance.



Dr Michael Kelly and Mark Wilson

**Directors of ILI Pump Storage Hydro Plc**