

## Dated 8 October 2014 Debenture Deed constituting unsecured debentures DistGen Rogershill LGC PLC

**This Deed** is made on 8 October 2014

**by**

DistGen Rogershill LGC plc a company registered in England and Wales with registered number 07913307 and having its registered office at 3 Merrietts Court, Long Ashton Business Park, Long Ashton, Bristol BS41 9LW (the Issuer).

### **Background**

**(A)** The Issuer has resolved, pursuant to a resolution of its board of directors passed on 29 September 2014 to create and issue the Debentures (as defined below) in connection with its investment in the Project (as defined below).

**(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 NRG Limited a private limited company incorporated in England and Wales with company number 07049166 and its registered address at 65-69 Threshold & Union House, Shepherds Bush Green, London W12 8TX; and which is authorised and regulated by the Financial Conduct Authority (the "**FCA**") with FCA registration number 525432.

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

**Additional Interest** has the meaning given in clause 5.

**Back-up Service Provider** has the meaning given in the Abundance Terms and Conditions.

**Business Day** means a day other than a Saturday, Sunday or English public holiday.

**Cash Account** has the meaning given in the Abundance Terms and Conditions.

**Cash Return Period** means the First Cash Return Period, the Final Cash Return Period and each six month period between the First Cash Return Period and the Final Cash Return Period, in respect of which repayments of Principal and payments of Investment Income are calculated and payable in accordance with this Deed.

**Change of Control** means a change whereby either the beneficial ownership of more than 50% of the issued or allotted share capital of the Issuer ceases to be held by the Parent or the legal power to direct or cause the direction of the general management of the Issuer ceases to be held by the Parent and Controlled shall be construed accordingly.

**Client Money Service Provider** has the meaning given in the Abundance Terms and Conditions.

**Conditions** means the conditions of the Debentures set out in Schedule 1 (as from time to time amended) and Condition shall be construed accordingly.

**Costs** has the meaning set out in part 1 of the Conditions.

**Debenture** means each Debenture constituted by this Deed (including, for the avoidance of doubt, any Debenture created by the conversion of any Director's Loan into Debentures as permitted by this Deed).

**Debenture Share of Operating Surplus** means the relevant proportion (expressed as a percentage) of the Operating Surplus (as calculated in accordance with Part 1 of the Conditions) which is the basis for making or deferral of payments to the Holders under this Deed.

**Deed** means this Deed and the Schedules to this Deed as amended from time to time.

**Deferred Amount** means a payment of Principal deferred in whole or part in accordance with clause 3 and the Conditions.

**Director's Loan** means any amount outstanding from the Issuer to the Relevant Director under the terms of a £344,222 director's loan agreement dated on or about the date of this Deed.

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

**Feed-in Tariff Scheme** means the feed-in tariff scheme established and operated pursuant to the terms of The Feed-in Tariffs Order 2012 (as amended from time to time).

**Final Cash Return Period** means the Cash Return Period beginning on 1 April 2032 and ending on the Maturity Date. **Final Repayment Date** means the date falling 10 weeks after the Maturity Date and is the date by which all outstanding Principal and all other sums due but unpaid under this Deed must be repaid.

**Final Repayment Date** means the date falling 10 weeks after the Maturity Date and is the date by which all outstanding Principal and all other sums due but unpaid under this Deed must be repaid.

**First Cash Return Period** means the Cash Return Period beginning on 1 October 2014 and ending on 31 March 2015.

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

**Investment Income** means an amount (other than Additional Interest) calculated as payable to a Holder in accordance with paragraph 1.7 of Part 1 of the Conditions and clause 4 of this Deed.

**Issue Amount** means the principal or face amount of the Debentures issued under this Deed, from time to time, before and excluding any repayments of Principal made under the Deed but less any amount that the Issuer has redeemed early in accordance with the Conditions.

**Maturity Date** means 30 September 2032.

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

**Operating Surplus** has the meaning given in the Conditions.

**Ordinary Resolution** means a resolution passed at a meeting of the Holders duly convened and held in accordance with the Provisions and carried by a simple majority of the eligible votes cast upon a show of hands or on a poll.

**Parent** means Participa Ltd, a registered company, with registration number 09198823, being the sole shareholder and owner of all of the fully paid up share capital of the Issuer.

**Parent Loan Agreement** means the loan agreement between the Issuer and the Parent under which the Issuer may advance money to the Parent up to a maximum of £303,278 but only in accordance with clause 9 of this Deed.

**Principal** means, as the context requires, the principal amount of the Debentures for the time being outstanding or the principal amount of the Debentures held by any Holder.

**Principal Repayment** means, for each Cash Return Period, an amount equal to 1/36th of the Issue Amount.

**Project** means the purchase, development, construction and operation of a refurbished 500 kW Vestas V39 wind turbine and the sub-station and all ancillary and related plant, foundations, cabling, lines, buildings, roads, equipment, apparatus and works associated with that wind turbine and sub-station located at Rogers Hill farm with post code DT2 7HJ for the purpose of generating electricity.

**Provisions** means the provisions for meetings of Holders set out in Schedule 2.

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

**Relevant Director** means John Zamick in his capacity as a director of the Issuer.

**Reserve** has the meaning given in the Conditions.

**Reserved Matters** means the matters specified in Schedule 3.

**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, by reason of any Tax or Regulatory Requirement, the Issuer (or Abundance acting on behalf of the Issuer) has determined is ineligible to acquire or hold the Debentures because of a Tax or Regulatory Requirement. A further summary of those eligible to invest and/or hold Debentures is given at paragraph 6.2 of the Conditions.

**Revenues** has the meaning given in the Conditions.

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

**Special Resolution** means a resolution passed at a meeting of the Holders duly convened and held in accordance with the Provisions contained and carried by a majority consisting of not less than three-quarters of the eligible votes cast upon a show of hands or on a poll.

**Subsequent Cash Return Period** means, in relation to any Cash Return Period, the Cash Return Period immediately following that Cash Return Period (and Subsequent Cash Return Periods means, in relation to any Cash Return Period, each of the Cash Return Periods following that Cash Return Period).

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

**Tax or Regulatory Requirement** means an event or circumstance arising from any law, regulation, tax requirement or any decision of any court or tribunal (having the force of law) in any country or territory leading the Issuer (or Abundance acting on its behalf) to determine in its discretion that it is illegal or inappropriate for a person affected by the legal, regulatory or tax requirement to be a Holder.

**US Person** has the meaning given in clause 6 of the Conditions.

1.2 In this Deed, unless a contrary intention appears:

- (a) Clause, Schedule and paragraph headings shall not affect the interpretation of this Deed;
- (b) Words denoting the singular include the plural and vice versa;
- (c) A reference to one gender includes the other gender;
- (d) Words denoting persons include corporations;
- (e) References to clauses and Schedules are to the clauses 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;
- (f) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made legislation from time to time under that statute or statutory provision;

- (g) The terms including, include and in particular or any similar expression shall be construed as illustrative and shall not limit the sense of words preceding those words;
- (h) Where indicated in this Deed, terms will have the meaning given to them by the Abundance Terms and Conditions; and
- (i) Other terms will have the specific meaning given to them in the Schedules to this Deed.

## **2 Issue and Status**

2.1 The aggregate principal amount of the Debentures is limited to a maximum of £860,000.

2.2 Subject to this Deed, as and when issued, the Debentures shall constitute unsecured and unsubordinated obligations of the Issuer and shall rank *pari passu*, equally and rateably with the other unsecured and unsubordinated obligations of the Issuer, without any preference among themselves.

2.3 The Debentures are issued to, and can only be held by, Members of Abundance (as defined in the Abundance Terms and Conditions) in accordance with the Abundance Terms and Conditions.

2.4 The Debentures are issued in amounts or multiples of one pound Sterling (£1.00) in nominal amount.

## 3 Repayment of Principal

3.1 Subject to this Deed, the Issuer shall repay Principal by making the Principal Repayments following the end of each Cash Return Period and the Maturity Date in accordance with this clause 3 and Part 1 of the Conditions.

3.2 Repayments of Principal may be deferred in accordance with this clause 3 and Part 1 of the Conditions.

3.3 The making of any repayment of Principal (including any Deferred Amounts) or its deferral following the end of any Cash Return Period (other than the Final Repayment Date) depends on the amount of Debenture Share of Operating Surplus in that Cash Return Period. As soon as is reasonably practicable following the end of each Cash Return Period, the Issuer shall perform the calculation of its Operating Surplus and Debenture Share of Operating Surplus in accordance with Part 1 of the Conditions, to determine what (if any) repayment of Principal is to be made in respect of that Cash Return Period at that time.

3.4 If (because there is sufficient Debenture Share of Operating Surplus on the basis of the calculation referred to in clause 3.3) the Issuer is required to make a repayment of Principal in respect of a Cash Return Period, the Issuer shall make that payment within ten weeks of the end of the relevant Cash Return Period. Payments of Principal will be apportioned by Abundance and/or the Client Money Services Provider and paid to Holders in proportion to their holdings of Debentures.

3.5 If, due to insufficient Debenture Share of Operating Surplus and Reserve (in accordance with clause 6.5), no repayment of Principal is required to be made in respect of a Cash Return Period, or the amount is less than the Principal Repayment, the shortfall shall be deferred and become due and payable within 10 weeks of the end of the Subsequent Cash Return Period (unless further deferred where such further deferral is permitted by this clause). Any Deferred Amounts shall, however, bear Additional Interest in accordance with clause 5. No amount of unpaid Principal may be deferred for a period of more than three years from the date on which it would have been due and payable if not first deferred under this Deed and, at the end of that three year period, it shall finally become due and payable under this Deed.

3.6 All outstanding Principal (including any Deferred Amounts) must be repaid by the Issuer no later than the Final Repayment Date.

## 4 Investment Income

4.1 Subject to this Deed, the Issuer shall pay Investment Income following the end of each Cash Return Period and the Maturity Date in accordance with this clause 4 and the Conditions.

4.2 Whether Investment Income is to be paid in respect of any Cash Return Period and the amount of any Investment Income depends on the amount of Debenture Share of Operating Surplus in that Cash Return Period and, in the case of the circumstances set out in clause 6.5(b) only, the Reserve.

4.3 As soon as practicable following the end of each Cash Return Period, the Issuer shall perform the calculation in paragraph 1.7 of Part 1 of the Conditions to determine what (if any) Investment Income is to be paid in respect of that Cash Return Period.

4.4 If (because there is sufficient Debenture Share of Operating Surplus in accordance with Part 1 of the Conditions or, in the case of the circumstances under clause 6.5(b) only, because of sufficient Reserve), the Issuer is required to make a payment of Investment Income in respect of a Cash Return Period, it shall make the appropriate payment in accordance with this Deed within ten weeks of the end of the relevant Cash Return Period. Payments of Investment Income will be apportioned by Abundance and/or the Client Money Services Provider and paid to Holders in proportion to their holdings of Debentures.

## 5 Additional Interest

5.1 The Issuer shall pay Additional Interest on Deferred Amounts at a rate of 3% over the published Base Rate of Barclays Bank PLC (or, if that rate is unavailable from Barclays Bank PLC, the equivalent base rate of another major UK retail bank of comparable size chosen by the Issuer) from the date when repayment of such amount of Principal would have been made in accordance with clause 3.1 until actual payment is made, after as well as before judgment.

5.2 In respect of each Cash Return Period, the Issuer shall pay Additional Interest on Deferred Amounts outstanding during that Cash Return Period, within 10 weeks of the end of such Cash Return Period except that such payment may be deferred on the same basis as is applicable to payments of Principal in accordance with clause 3.5 save that any deferred Additional Interest will not itself bear Additional Interest.

5.3 All due but unpaid Additional Interest shall be payable in accordance with clause 5.2 and by no later than the Final Repayment Date.

5.4 Additional Interest shall accrue on a daily basis and the on the basis of a 365 day year.

## 6 Payments

6.1 Any payments to the Holders under this Deed shall be allocated in the following order of priority:

- (a) first, to Additional Interest on Deferred Amounts in accordance with clause 5 (in reverse order of Deferred Amounts outstanding with the oldest being paid first);
- (b) secondly, to outstanding Deferred Amounts (in reverse order of Deferred Amounts outstanding with the oldest being paid first);
- (c) thirdly, to any repayments of Principal payable in accordance with clause 3 and Part 1 of the Conditions; and

(d) fourthly, to payments of Investment Income.

6.2 Any repayments of Principal or payments of Investment Income or Additional Interest shall be paid to the Cash Account of the Holder (as defined in the Abundance Terms and Conditions) and such payment shall be a good discharge of the payment obligations of the Issuer under this Deed.

6.3 If the Issuer is required by applicable law to make any withholding or deduction, it shall 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 Holder under this Deed.

6.4 This Issuer may at any time, make any payment of any Deferred Amount(s), payments of Investment Income deferred in accordance with clause 6.5 or Additional Interest in advance of its due date, provided there is sufficient Operating Surplus to do so (with the effect that it may make such payments in priority to any Costs other than amounts due to Abundance as described in paragraph 1.5 (b)) of Part 1 of the Conditions.

6.5 Subject to paragraph 1.7 of Part 1 of the Conditions, if there is either:

- (a) a shortfall in Operating Surplus for the Issuer to make any required payment to Holders under clauses 3 or 5 of this Deed; or

(b) at the time of making any required payment to Holders under clauses 3 to 5 (inclusive) of this Deed, there is less cash freely available to the Issuer than the amount of Operating Surplus available to make that payment,

(each such shortfall in Operating Surplus or cash in the sub-paragraphs above, being a "Relevant Shortfall"), the Issuer shall make that required payment out of the Reserve in an amount no greater than the Relevant Shortfall.

If the Reserve is insufficient for the Issuer to make any of the payments referred to in clause 6.5(a) or (b) above in full, any remaining shortfall in those payments (after application of the Reserve) shall be deferred in accordance with clause 3.5 or 5.2 (as applicable).

If the Reserve is insufficient for the Issuer to make a payment of Investment Income under the circumstances described in clause 6.5(b) above, any remaining shortfall in that payment of Investment Income (after application of the Reserve) shall be deferred and become due and payable within 10 weeks of the end of the Subsequent Cash Return Period and may be so deferred until it is paid in full but it may not be deferred any later than the third anniversary of the date which that payment of Investment Income was originally due in accordance with clause 4.

6.6 The Issuer has agreed with the Relevant Director that, provided that the Minimum Threshold (as defined in the Offer Document) has been reached, at the Closing Date (as defined in the Offer Document), to the extent that the Director's Loan has not been refinanced in full from the proceeds of Debentures, the Director's Loan may, at the option of the Relevant Director, be converted into Debentures on the same terms as this Deed.

## 7 Redemption and Early Repayment

7.1 The Issuer may redeem all or any of the Debentures in accordance with Part 2 of Schedule 1 of the Conditions or as otherwise specified in this Deed.

7.2 Any Holder may require immediate payment of all outstanding Principal together with all unpaid accrued Investment Income, Additional Interest, Deferred Amounts and any other sum then due and payable on such Debenture in the circumstances set out in paragraph 3 of Part 2 of the Conditions.

## 8 Form of Debentures and Register

8.1 Debentures will be held in electronic form, represented by book entries in the Register. Holders will be issued with an electronic confirmation of their holding via the Abundance Service.

8.2 The Issuer will only recognise each registered Holder as the absolute owner of his Debentures and is not bound to take notice of any trust to which any Debenture may be subject.

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

8.4 Subject to clause 8.5, 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 and will be so recognised subject to their becoming Members of Abundance in accordance with the Abundance Terms and Conditions.

8.5 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.

8.6 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.

## 9 Purpose

9.1 The Issuer may only use funds raised from Debentures issued under this Deed (the **Funds**) to fund the following items and in the following order of priority:

- (a) Firstly, the first portion of Funds will be used by the Issuer to fund the purchase of the Project turbine from IP-Performance Limited for £170,000 under an executed valid and legally binding sale and purchase agreement (on arm's length terms) between the Issuer and IP-Performance Limited (dated on or before the date of such funding) where any conditions to that purchase have been satisfied or waived (as the case may be);
- (b) Secondly, the next portion of Funds will be used by the Issuer to repay (and, if fully repaid, discharge) the Director's Loan; and
- (c) Subject to clause 1.10 of the Conditions, thirdly, the balance of Funds (if any) will be lent by the Issuer to the Parent under the Parent Loan Agreement on or as soon as practicably after Funds have been received by the Issuer.

## 10 Transfer

The Debentures may only be transferred in accordance with the Abundance Terms and Conditions or, if applicable, in accordance with clauses 8.4 and 8.5 (but subject to the provisions of paragraph 6.10 of Part 2 of the Conditions relating to any Debentures which may be held by the Relevant Director).

## 11 Notices

The Issuer will give each notice, and will send any other document, to a Holder using the Abundance Service. Each Holder agrees that the Issuer may rely on Abundance to deliver any such notice in accordance with the Abundance Terms and Conditions.

## 12 No Dealings

The Debentures are not capable of being dealt or listed on any stock exchange in the United Kingdom 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.

## 13 Rights and Obligations

13.1 This Deed does not confer rights on any persons other than the Holders and the Issuer.

13.2 Each Holder shall be entitled to sue for the performance and observance of the provisions of this Deed as far as his holding of Debentures is concerned.

13.3 Where under this Deed any matter is to be decided by a meeting of Holders, then the provisions of Schedule 2 will apply.

13.4 Any or all of the Reserved Matters set out in Schedule 3 must be approved by a Special Resolution of the Holders as set out in that Schedule, save where expressly permitted under that Schedule 3.

13.5 For the avoidance of doubt, Abundance is not a party to this Deed and has no obligations under it. Subject to paragraph 8 of Part 2 of the Conditions, Abundance:

- (a) provides services in accordance with arrangements it has with the Issuer; and
- (b) operates the Abundance Service in accordance with the Abundance Terms and Conditions as agreed by Members (as defined in the Abundance Terms and Conditions).

## 14 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.

## 15 Endorsement

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

## 16 Governing Law and Jurisdiction

16.1 This Deed and the Debentures are governed by and construed in accordance with English law.

16.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim, whether contractual or non-contractual, arising out of or in connection with this Deed or the Debentures.

**This document is executed as a deed and is delivered by the Issuer or its duly authorised representatives on the date written at the beginning of it.**

Executed as a deed by \_\_\_\_\_ )  
**DistGen Rogershill LGC Plc** )  
acting by a director \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
Director

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

## Schedule 1 Conditions

**Words and expressions defined in the Deed shall bear the same meanings when used in these Conditions.**

**Part 1 – Calculation of Repayments of Principal and of Investment Income**



## 1 Calculation of Repayments of Principal and of Investment Income

The Issuer shall calculate any amounts payable to the Holders under this Deed in the manner set out in the following sub-paragraphs:

1.1 The First Cash Return Period ends on 31 March 2015. Subsequent Cash Return Periods will be periods of six months following the First Cash Return Period until the Final Cash Return Period which ends on the Maturity Date, as set out in the Deed.

1.2 Within 10 weeks of the last day of the each Cash Return Period, the Issuer will calculate its Operating Surplus, Revenues and Costs in such Cash Return Period.

1.3 The Issuer's Operating Surplus for the purposes of the calculation in paragraph 1.2 is the total of:

- (a) the sums receivable by the Issuer as Revenues during that Cash Return Period; plus
- (b) any sum actually receivable by the Issuer during that Cash Return Period in relation to rebate or repayment of any Costs incurred during any previous Cash Return Period; less
- (c) the Costs incurred by the Issuer in respect of that Cash Return Period; and
- (d) tax liabilities incurred by the Issuer in respect of that Cash Return Period.

1.4 The Issuer's Revenues for the purpose of the calculation in paragraph 1.2 shall be any sums receivable by the Issuer in respect of the generation or sale of any electricity produced by the Project including (i) any proceeds receivable in relation to any power purchase agreement, the Feed-in Tariff Scheme, any Renewable Energy Guarantee of Origin, Levy Exemption Certificate or embedded benefit; and (ii) any other sums receivable by the Issuer in connection with the Project under performance bonds, letters of credit, bank interest, claims under any insurance policy, liquidated damages or other sums receivable by the Issuer under any contract relating to the Project.

1.5 The Issuer's Costs, for the purposes of the calculation in paragraph 1.2, shall be the costs and expenses of the Issuer (excluding any capital expenditure) incurred in respect of any given Cash Return Period, including (without double counting):

- (a) operating costs and expenses (including administrative, legal, management and accounting);
- (b) fees and expenses payable to Abundance or any other third party incurred by the Issuer in the establishment of the Debentures (excluding the one-off upfront Abundance transaction fee of 4% of the total amount raised by the Debenture and the Issuer's legal and accounting transaction fees capped at £8,100);
- (c) amounts payable under the management services and support contract with Distributed Generation Limited;
- (d) maintenance costs and expenses incurred in respect of the Project;

- (e) lease rental payments or interest payments incurred relating to the Project;
- (f) insurance premium incurred relating to the Project; plus
- (g) any contribution into the Issuer's contingency reserve referred to in paragraph 1.10 of these Conditions).

1.6 If there is a positive Operating Surplus in respect of a Cash Return Period then the Issuer shall, in all events, use the full amount of the Debenture Share of Operating Surplus to make any payments to Holders under this Deed.

1.7 Within ten weeks of the end of each Cash Return Period, the Issuer shall calculate (i) the Debenture Share of Operating Surplus to determine the amounts payable to Holders in respect of that Cash Return Period; and (ii) the amount of Investment Income due to the Holders for that Cash Return Period, being the amount of Debenture Share of Operating Surplus for that Cash Return Period remaining after deducting any payment of Principal, Deferred Amount and/or Additional Interest that is going to be made to Holders for that Cash Return Period.

1.8 Subject to sub-paragraph 1.9 of these Conditions, the Debenture Share of Operating Surplus shall be 63.9 per cent. of Operating Surplus assuming the full amount of £860,000 is raised from the issue of the Debentures but, if the amount raised is less, it shall be such percentage of Operating Surplus as is conclusively determined (by no later than the payment date for the first Principal Repayment under this Deed) by Abundance and the Issuer in good faith (using the same



methodology as used to produce the above-mentioned percentage split) with the object of providing Cash Returns (as defined in the Offer Document) that provide Holders with an effective rate of return of 9% over the life of the Debenture (consistent with the “central case” as described in the Offer Document).

1.9 The Debenture Share of Operating Surplus may be re-set at each Reset Date in accordance with Part 3 of the Conditions.

1.10 The Issuer will at all times any amount is outstanding under this Deed and until the Final Repayment Date:

- (a) maintain an amount in free cash (“**Reserve**”) consisting of an amount equal to one thirty-sixth (1/36th) of the Issue Amount (to be used solely for repayment of Principal and payment of Additional Interest, Deferred Amounts and/or payments of Investment Income (but, for the latter, only where a payment due at the end of the Cash Return Period (in accordance with clause 4 of this Deed) of Investment Income cannot be made (in full) because the cash available to the Issuer (excluding the Reserve) is less than the amount of Operating Surplus (as calculated in accordance with sub-paragraph 1.4 above)) provided that if the Issuer makes any payment out of the Reserve, the amount shall temporarily reduce and the resulting shortfall shall be funded out of the Issuer’s share of Operating Surplus (after the Debenture Share of Operating Surplus has been accounted for)); and

- (b) set aside an amount in free cash equal to £5,000 per annum for a minimum of 10 years as an operational contingency reserve to be used solely for the normal running of the Project and for meeting any decommissioning liabilities over the life of the Project. Any payment out of the Contingency shall not constitute a Reserved Matter and if the Issuer shall make any payments made out of the Contingency it shall not be required to increase the Contingency to the previous level.

## **Part 2 – Other Conditions including Redemption or Early Repayment**

### **2 Early Redemption by the Issuer**

2.1 The Issuer shall be entitled at any time following (i) a Change of Control; and/or (ii) a Tax or Regulatory Requirement, by issue of an irrevocable notice (the “**Notice of Redemption**”) to the Holders (or, in the case of a Tax or Regulatory Requirement, to any Holder affected by such event), any such Notice of Redemption giving not less than 20 Business Days’ notice and no more than 40 Business Days’ notice (which shall be given via the Abundance Service) of its intention to redeem the Debentures, or in the case of a Tax or Regulatory Requirement, redeem the affected Debentures and the date for the proposed redemption.

2.2 Following the Notice of Redemption, on the date of redemption, the Issuer shall redeem the affected Debentures and repay the Principal then outstanding on those affected Debentures together with any accrued Additional Interest owing in relation to those Debentures.

2.3 Where the Issuer has issued a Notice of Redemption in respect of a Change of Control event (but not otherwise), the Issuer will pay a further amount expressed as a percentage amount of such Principal amount of the Debenture being redeemed (the “**Premium**”) to be determined by an independent valuer appointed in accordance with paragraph 2.4 below (the “**Independent Valuer**”) on any Debenture registered in that Holder’s name. Subject to giving such notice and upon the expiry of such notice, the Issuer shall be entitled and bound to pay off that part of those amounts in respect of which such notice of redemption has been given.

2.4 The Independent Valuer shall be appointed by the Issuer, acting reasonably, and shall be a firm of Chartered Accountants who have not been engaged by the Issuer to provide professional services to it within a period of 5 years prior to the issue of the Notice of Redemption. Following the appointment of the Independent Valuer, the Issuer shall inform the relevant Holders of the identity of the Independent Valuer as soon as reasonably practicable.

2.5 The Independent Valuer shall determine the percentage of premium payable in addition to the Principal amount and other amounts owing having regard to all reasonable circumstances including the period of time remaining until the Final Repayment Date and the likely amount of Investment Income that would have been payable but for early redemption, discounted to present value in a commercially reasonable manner. Save in the case of manifest error the decision of the Independent Valuer shall be final and binding on the Issuer and the relevant Holders and any applicable premium shall be paid by the Issuer within 28 days of the date that the Issuer is notified of the Independent Valuer's determination regarding the payment and amount of the Premium.

2.6 The costs of the Independent Valuer shall be payable by the Issuer.

### 3 Repayment on Default

3.1 If, at any time and for any reason, any of the following events ("**Events of Default**") has occurred and is outstanding, any Holder shall be entitled by notice in writing ("**Default Notice**") to the Issuer to require that the Principal payable in respect of each Debenture (or part thereof) that he holds, together with all unpaid and/or accrued Additional Interest, Investment Income, all Deferred Amounts and any other sum then payable on such Debenture, shall become due and payable immediately.

If a Holder gives such a Default Notice or where the Event of Default in paragraph (f) below occurs, then such Principal, unpaid and/or accrued Additional Interest, Investment Income and Deferred Amounts and any other sum then payable on such Debenture shall be immediately due and payable by the Issuer and the Issuer shall immediately pay or repay such amounts to such Holder on receipt of the Default Notice or, if applicable, upon the occurrence of the Event of Default in paragraph (f) below.

The Events of Default are:

(a) any failure by the Issuer to pay in full any amount payable to such Holder in respect of the Debentures within 14 days after the due date for its payment (and, for the avoidance of doubt, the due date for any Deferred Amount (or deferred amount of Investment Income under clause 6.5) shall be determined in accordance with clause 3, 5 or 6.5 (as applicable) of this Deed and shall in no circumstances be later than the third anniversary of the date which that payment would, but for any first deferral for that payment under this Deed, have been due); or

- (b) the Issuer failing duly to perform or comply with any obligation (other than an obligation to pay any amount payable in respect of the Debentures) expressed to be assumed by it in this Deed and (except where such failure is incapable of remedy) such failure continues for a period of 14 days after the earlier of (a) written notice has been given by any Holder requiring remedy of such failure; or (b) the date that the Issuer has become aware of such failure; or
- (c) an effective resolution being passed or an order being made for the winding up or dissolution of the Issuer (other than (a) a solvent winding up for the purposes of amalgamation or reconstruction; or (b) a members' voluntary winding up on terms previously approved by a Special Resolution); or
- (d) an encumbrancer (being a person enforcing an encumbrance as defined in Schedule 3) taking possession of, or a trustee, receiver, administrator or similar officer being appointed or an administration order being made in respect of, the Issuer or the whole or substantially the whole of the property or undertaking of the Issuer and such person not being paid out or discharged within 14 days; or

- (e) if the Issuer proposes, makes or is subject to an arrangement or composition with its creditors generally, an application to a court of competent jurisdiction for protection from its creditors generally or a scheme of arrangement under Part 26 of the Companies Act 2006 (other than in the latter case for the purpose of a solvent voluntary reconstruction or amalgamation); or
- (f) if the Issuer is insolvent for the purposes of section 123(1) (e) or section 123(2) of the Insolvency Act 1986, whereupon the Principal amount of such Debentures (together with all other amounts due but unpaid including Deferred Amounts, Investment Income and Additional Interest) shall forthwith become immediately due and payable; or
- (g) the Issuer ceasing to carry on the business or a substantial part of the business that it carries on at the date of this Deed or the Issuer abandons the Project or ceases to carry on the Project; or
- (h) it is or becomes or will become unlawful for the Issuer to perform or comply with any of its obligations under this Deed, or any such obligation is not or ceases to be legal, valid and binding.

3.2 The Issuer shall as soon as practicable notify the Holders of the happening of any Event of Default.

#### **4 Purchase**

The Issuer or a party associated with the Issuer may at any time by agreement with the relevant Holder purchase any Debentures at any price by tender, private treaty or otherwise.

#### **5 Cancellation**

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

#### **6 Registration and Transfer**

6.1 The Debentures will be registered and transferable only in accordance with the Abundance Terms and Conditions.

6.2 The Debentures may be acquired and/or held only by Members of Abundance (as defined in the Abundance Terms and Conditions) who are eligible to invest in accordance with the Abundance Terms and Conditions, which includes:

- (a) individuals aged 18 years or over who have their permanent residence in an Eligible EEA Country (but excluding any Restricted Person); or
- (b) 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 European laws and regulations;

- (c) other Members of Abundance who fulfil any criteria of eligibility to invest and/or to hold Debentures in accordance with the Abundance Terms and Conditions from time to time.

6.3 The Debentures may not be acquired by any Restricted Person. For the avoidance of doubt, individuals who are resident, or businesses that have their permanent place of business or are otherwise incorporated or established in, any of the Channel Islands or the Isle of Man, are not eligible to hold the Debentures.

6.4 Without limiting Conditions 6.1 to 6.3, the Debentures will not be registered under the United States Securities Act of 1933 or the securities laws of any country, jurisdiction, state or territory outside the United Kingdom.

6.5 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 United States or any other jurisdiction outside the United Kingdom and is not to, or for the benefit of, a Restricted Person.

6.6 The Issuer may require redemption of any Debenture (together with any Additional Interest accrued to the date of redemption and any Investment Income due but unpaid at such date) that reasonably appears to it to be held by, or for the benefit of, a Restricted Person by giving not less than 10 Business Days' notice to the relevant Holders.

For the avoidance of doubt no Premium shall be payable in respect of any Debentures redeemed in accordance with this paragraph 6.6.

6.7 For the avoidance of doubt, references to a “**US Person**” include those who are US Persons for the purposes of US tax law or US securities laws. The Issuer may reasonably determine whether a person acquiring or holding Debentures is a US Person or a Restricted Person in accordance with applicable law at the time it makes such determination (but summaries of the relevant requirements at the date of this Deed are provided in Conditions 6.8 to 6.9).

6.8 For the purposes of United States tax law, a summary of the definition of “**US Person**” is:

- (a) a citizen or resident of the United States;
- (b) a US domestic partnership;
- (c) a US domestic corporation;
- (d) any estate other than a foreign estate for the purposes of US tax law;
- (e) any trust if:
  - (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and
  - (ii) one or more United States persons have the authority to control all substantial decisions of the trust;

- (f) any other person that is not a foreign person for the purpose of US tax law.

6.9 For the purposes of US securities laws, a US Person is as defined in Regulation S (promulgated under the Securities Act of 1933) in Section 902(k)(1) namely:

- (a) any natural person resident in the United States;
- (b) any partnership or corporation organized or incorporated under the laws of the United States;
- (c) any estate of which any executor or administrator is a U.S. person;
- (d) any trust of which any trustee is a U.S. person;
- (e) any agency or branch of a foreign entity located in the United States;
- (f) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. person;
- (g) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; and
- (h) any partnership or corporation if:
  - (i) organized or incorporated under the laws of any foreign jurisdiction; and

- (ii) formed by a U.S. person principally for the purpose of investing in securities not registered under the Act, unless it is organized or incorporated, and owned, by accredited investors (as defined in Rule 501(a)) who are not natural persons, estates or trusts.

6.10 If at any time any Debentures are held by the Relevant Director, then any transfer of such Debentures shall only be in such amounts, at such prices and by such means as are approved by Abundance in its discretion (acting reasonably) prior to such transfer. Abundance will exercise its discretion based on what it regards to be its legal and regulatory obligations and its obligation to act honestly, fairly and professionally to Members of Abundance and Holders.

## 7 Modification of Rights

7.1 The provisions of this Deed (including the Conditions and the content of any Schedules) may from time to time be modified, abrogated or compromised in any respect by the Issuer with the sanction of a Special Resolution or in accordance with this Condition 7.

7.2 Subject to Condition 7.3, where the Offer Document permits the Issuer to extend, restrict or modify the period during which the Debentures are available for subscription (and only in such circumstances) the Issuer may (by deed expressed to be supplemental to this Deed) make such amendments as it reasonably considers necessary to reflect such extension, modification and restriction including (but not limited to) changing the dates for the First Cash Return Period or Subsequent Cash Return Periods (including the dates on which they begin and end) and/or or the date given as the Maturity Date.

7.3 The Issuer may only make such amendments as are referred to in Condition 7.2 where it is reasonably satisfied (i) that it is necessary to do so in order to reflect any such changes as are referred to in Condition 7.2; and (ii) that Holders are not materially prejudiced by such amendments which reflect the same economic basis on which the Debentures are offered in the Offer Document. Without limitation, the Issuer shall not, by virtue of Condition 7.2, be entitled to change the following as set out in this Deed and these Conditions ("**Restricted Conditions**"): frequency of Cash Return Periods; definitions of and/or the method of calculation and/or amounts of repayments or payments of Principal, Investment Income and Additional Interest; definitions and calculations of Operating Surplus, Debenture Share of Operating Surplus, Revenues and Costs; any provisions relating to deferral or Deferred Amounts; the 10 week period for performing any calculations or making any payments or any Reserved Matters

in Schedule 3 and any provision that would be reasonably likely to materially impact the economic basis on which Debentures are offered. For the avoidance of doubt the Issuer may change Restricted Conditions with the sanction of a Special Resolution.

7.4 Additionally, the Issuer may amend any provisions of this Deed including the Conditions, the Provisions or any of the Schedules, by supplemental deed expressed to be supplemental to this Deed where, in the reasonable opinion of the Issuer and the opinion of the Issuer's legal advisers, the amendment is considered to be of a formal, minor or technical nature or to be necessary to correct a manifest error.

## 8 Alternative Service Provider

8.1 If for any reason, Abundance ceases to provide the Abundance Service and it is not provided by the Back-up Service Provider or Abundance ceases to maintain the Register or there is any other material change to the nature of the Abundance Service or the involvement of Abundance which has a material effect on any matter relating to the Debentures, then for the avoidance of doubt the obligations of the Issuer will remain valid and binding subject to Condition 8.2.

8.2 In the circumstances set out in Condition 8.1, the Issuer shall make such arrangements as it reasonably considers appropriate and may amend this Deed by deed expressed to be supplemental to this Deed (but only so far as is reasonably necessary to incorporate the revised arrangements for the matters listed in paragraphs 8.2(a) to (d)).

The Issuer shall take reasonable steps as soon as practicable to inform the Holders of any changes to:

- (a) the arrangements for maintaining the Register;
- (b) the procedures for making payments (but not the amount of any payment, the frequency of any payment or how such amount is calculated) to Holders;
- (c) the procedures for transfer (including acceptance of any instrument in common standard form) of Debentures; and/or
- (d) how notices can be given to Holders.

## Part 3 – Reset Provisions

### 9 Availability Test

9.1 During each Relevant Period, the Issuer shall monitor, record and calculate the AEP and the Internal Availability of the Project Turbine throughout that period and, within 2 weeks of the end of each Relevant Period, the Issuer will calculate (for that Relevant Period):

- (a) The AEP (including for each 12 month period during the Relevant Period); and
- (b) The Internal Availability (for each 12 month period during the Relevant Period) and the Average Internal Availability.

## 10 Power Curve Verification Test

10.1 The Issuer shall ensure that a Power Curve Verification Test is carried out at the relevant times within the First Relevant Period.

## 11 Reset

11.1 Within two (2) weeks of the end of the First Relevant Period, from the results of the Power Verification Test, the Issuer will:

- (a) calculate and produce the Observed Power Curve; and
- (b) calculate the Observed Power Curve Predicted AEP.

11.2 The Issuer shall procure that, within four (4) weeks of the end of the First Relevant Period:

- (a) both the methodology used to conduct and the conclusions of the Power Curve Verification Test (including the Observed Power Curve and Observed Power Curve Predicted AEP) be confirmed as reasonable and independently verified by Topwind Consultancy BV or another reputable independent wind turbine expert chosen by the Issuer (acting reasonably) (the Relevant Expert); and
- (b) that any adjustments (including to the inputs or methodology) that have been recommended in writing by Topwind Consultancy BV or the Relevant Expert (as the case may be) are incorporated in both the Observed Power Curve and Observed Power Curve Predicted AEP (as applicable).

11.3 Within two (2) weeks of the end of each Relevant Period (the “Reset Date”), the Issuer shall, acting reasonably, in good faith and in consultation with Abundance, make the Agreed Adjustments to the Agreed Financial Model and, after those changes have been made, adjust the Debenture Share of Operating Surplus (calculated in accordance with Part 1 of the Conditions) to ensure that, over the whole term of the Debenture, the estimated effective annual return of holders of Debentures (showing in the Agreed Financial Model) will be 9% (on an XIRR basis).

## 12 Definitions

**AEP** means, for any 12 month period, the annual energy production of the Project turbine (MWh) calculated for that period.

**Actual Operating Hours** means, for any 12 month period, the number of hours that the Project turbine was operating or able to run (as evidenced by the turbine controller).

**Agreed Adjustments** means:

- (a) in relation to the First Relevant Period only, replace the existing V39 Power Curve Predicted AEP with the Observed Power Curve Predicted AEP for that period but only if the Observed Power Curve Predicted AEP is less than the V39 Power Curve Predicted AEP and use that resulting predicted AEP figure in the Agreed Financial Model for the remainder of the term of the Debenture; and

- (b) in relation to each Relevant Period (other than the First Relevant Period), adjust the Net Predicted AEP only if a Required Availability Adjustment is necessary.

**Agreed Financial Model** means the financial model as agreed between the Issuer and Abundance for the Project and which shall be updated, from time to time, in accordance with this clause as agreed by those parties in accordance with clause 11.3 above.

**Assumed Availability** means 96%.

**Availability** means the amount of time the Project turbine is operating as a percentage of the amount of time that the turbine has a live connection and which, in the context of the Agreed Financial Model, shall be the Assumed Availability subject to any change made in accordance with Agreed Adjustments.

**Average Internal Availability** means, for a Relevant Period, the combined average Internal Availability for each of the 12 month periods within that Relevant Period.

**Availability Test** means the monitoring, recording, calculation and testing of data throughout the Relevant Period in order to produce the Internal Availability for the Project turbine for that period.

**External Factors** means any factors that have substantially contributed to the unavailability of the Project turbine that are, in the reasonable opinion of the Issuer (acting in good faith) (i) outside of its (or any of its sub-contractors') reasonable control and (ii) not substantially the result of any deterioration, rust, mildew, corrosion, wear and tear, flaws, distortions, cracks, fractures or other defects of the Project turbine (or related equipment and infrastructure) that may have developed over time.

**First Relevant Period** means the 12 month period consisting of both the First Cash Return Period and Subsequent Cash Return Period.

**Internal Availability** means, for any 12 month period, the amount of time the Project turbine is technically available and measured as the sum of (i) Actual Operating Hours and (ii) the number of hours that the Project turbine did not operate (during Line Available Hours) as a result of External Factors as a percentage of Line Available Hours.

**Line Available Hours** means, for any 12 month period, the number of hours that the Project turbine was technically available to run given there was a live connection (as evidenced by the turbine controller).

**Net Predicted AEP** means, after accounting for the current Availability, the relevant predicted AEP used in the Agreed Financial Model being, for the First Relevant Period, the V39 Predicted AEP and, in subsequent Relevant Periods, the relevant predicted AEP used in accordance with paragraph (a) of the Agreed Adjustments.

**Observed Power Curve** means the power curve for the Project turbine showing electrical power (kW) vs horizontal wind speed (metres per second) calculated by or for the Issuer after a Power Curve Verification Test has been carried out.

**Observed Power Curve Predicted AEP**, for the First Relevant Period, means the predicted AEP at the Predicted Mean Wind Speed as shown by the relevant Observed Power Curve for that period.

**Power Curve Verification Test** means a test to produce an Observed Power Curve for the Project turbine from the combined data from recordings (measured at 10 minute average intervals) taken over a continuous week period within each of the months of October, January, April and July during the First Relevant Period.

**Predicted Mean Wind Speed** means predicted wind speed means 5.9 metres per second for the Project turbine based on the Virtual Met Mast Report produced by the Met Office for the Issuer.

**Relevant Period** means:

- (A) the First Relevant Period; and
- (B) subsequent to that First Relevant Period, each three (3) year period consisting of three consecutive 12 month periods with the first such Relevant Period to commence on the first day of the third Cash Return Period.

**Required Availability Adjustment** means a change to the Availability used in the Agreed Financial Model (in accordance with clause 11.3 above) by replacing it with the Average Internal Availability for that Relevant Period but only where both (i) that Average Internal Availability is lower than the Availability then shown in the Agreed Financial Model and (ii) the combined average AEP for the Relevant Period is also lower than the current Net Predicted AEP.

**V39 Power Curve** means the power curve showing electrical power (kW) vs horizontal wind speed (m/s) for the Vestas V39 500 kW wind turbine at 1.225 kg/m<sup>3</sup> air density as produced by Vestas.

**V39 Predicted AEP** means the predicted annual energy production (MWh) of 884 MWh for the Project turbine (at the correct hub height) calculated using the Predicted Mean Wind Speed and the V39 Power Curve.

## Schedule 2 Meetings of Holders

1.1 The Issuer may (and will on the request in writing of a person or persons holding not less than 10% of the aggregate Principal) convene a meeting of the Holders. Any such meeting shall be held at the registered office of the Issuer or such other convenient place as the directors of the Issuer may decide.



1.2 At least 14 clear days' notice, or when the meeting is being convened for the purpose of passing a Special Resolution at least 21 clear days' notice, of every meeting shall be given to the Holders. The notice shall specify the place, date and time of meeting and the general nature of the business to be transacted, but except in the case of a Special Resolution it shall not be necessary to specify in the notice the terms of any resolution to be proposed. The accidental omission to give notice to or the non-receipt of notice by any of the Holders shall not invalidate the proceedings at any meeting.

1.3 At any meeting Holders present in person or by proxy holding or representing 50% of the aggregate Principal shall form a quorum for the transaction of business except for the purpose of passing a Special Resolution. The quorum for passing a Special Resolution shall be Holders present in person or by proxy holding or representing 75% of the aggregate Principal. No business (other than the election of a chairman) shall be transacted at any meeting unless the necessary quorum is present at the commencement of business. If within half an hour from the time appointed for the meeting a quorum is not present the meeting if convened upon the requisition of Holders shall be dissolved. In any other case it shall stand adjourned to such day and time not being less than 7 clear days thereafter and to such place as may be decided by the chairman and at such adjourned meeting the Holders present in person or by proxy and entitled to vote whatever their number and whatever the Principal Sum held by them shall be a quorum for the transaction of business including the passing of Special Resolutions.

At least 3 clear days' notice of any adjourned meeting of Holders at which a Special Resolution is to be submitted shall be given in the same manner as for the original meeting and the notice shall state that the Holders present at the adjourned meeting whatever their number and whatever the aggregate Principal amount of the Debentures held by them will form a quorum.

1.4 The chairman or any other director of the Issuer shall preside at every meeting, but or if no director or chairman of the Issuer is present within 5 minutes after the time appointed for holding the meeting or is unwilling to act, the Holders shall choose one of their number to be chairman. Any director, the secretary, the auditors of the Issuer and the solicitors of the Issuer and any other person authorised to do so by the Issuer may attend any meeting.

1.5 The chairman may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.

1.6 At any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman or by one or more Holders present in person or by proxy and holding or representing not less than 10% of the aggregate Principal.

Unless a poll is so demanded a declaration by the chairman that a resolution has been carried or carried unanimously or by a particularly majority or lost shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. If a poll is duly demanded it shall be taken forthwith or at such time and in such manner as the chairman may direct, and the result of such a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

1.7 In the case of an equality of votes whether on a show of hands or on a poll the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Holder.

1.8 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

1.9 On a show of hands every Holder who is present in person shall have one vote and on a poll every Holder who is present in person or by proxy shall have one vote for every £1 or part thereof of the Principal of which he is the Holder.

1.10 In the case of joint registered holders of Debentures, the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.

1.11 On a poll votes may be given either personally or by proxy and a Holder entitled to more than one vote need not use all his votes or cast all the votes he uses in the same manner.

1.12 The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney or in the case of a corporation under the hand of a duly authorised officer or attorney.

1.13 A person appointed to act as a proxy need not be a Holder.

1.14 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed shall be delivered to the chairman not less than 24 hours before the time appointed for the meeting (or adjourned meeting) and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after 3 months from the date named in it as the date of execution or signature.

1.15 An instrument appointing a proxy may be in the usual or common form or in such other form as the directors of the Issuer may from time to time prescribe or accept and need not be witnessed. The proxy shall be deemed to confer the right to demand or join in demanding a poll. A proxy shall unless it states otherwise be valid for the meeting to which it relates and for any adjournment of that meeting.

1.16 Any company or corporation which is a registered holder of any of the Debentures may by resolution of its directors or other governing body authorise any person to act as its representative at any meeting of the Holders, and such representative shall be entitled to exercise the same powers on behalf of the company or corporation which he represents as he would be entitled to exercise if he was himself the registered holder of such Debentures. A company or corporation attending by such a representative shall be deemed to be present in person.

1.17 A meeting of the Holders shall have the following powers exercisable by Special Resolution:

- (a) power to sanction any modification or compromise or any arrangement in respect of the rights of the Holders against the Issuer, whether such rights arise under this Deed or otherwise;
- (b) power to assent to any modifications of the Conditions to which the Debentures are subject and/or of the provisions contained in this Deed proposed or agreed to by the Issuer;
- (c) power to sanction any agreement for postponing or advancing the time for the making of any payment under this Deed or for changing the basis on which any payments are to be calculated or for the capitalising of any amount that would otherwise be payable;

- (d) power to appoint any persons (whether Holders or not) as a committee to represent the interests of the Holders and to confer upon such committee any powers or discretions which the Holders could themselves exercise;
- (e) power to sanction the exchange of the Debentures for or the conversion of the Debentures into shares, stock, debentures or other obligations or securities of the Issuer or any other Issuer formed or to be formed;
- (f) power to give consent to any of the Reserved Matters in Schedule 3.

1.18 Every other matter to be determined at a meeting of Holders shall be decided by Ordinary Resolution.

1.19 A resolution passed at a meeting of the Holders duly convened and held in accordance with this Deed shall be binding upon all the Holders whether or not present at the meeting and each of the Holders shall be bound to give effect to it accordingly.

1.20 Subject to clause 1.22 below, the expression “**Ordinary Resolution**” means a resolution passed at a meeting of the Holders duly convened and held in accordance with the provisions contained in this instrument and carried by a simple majority of the votes cast upon a show of hands or on a poll.

1.21 Subject to clause 1.22 below, the expression “**Special Resolution**” means a resolution passed at a meeting of the Holders duly convened and held in accordance with the provisions herein contained and carried by a majority consisting of not less than three-quarters of the votes cast upon a show of hands or on a poll.

1.22 The requisite majority of either an Ordinary Resolution or Special Resolution shall be calculated without taking into account the Principal of Debentures held by the Relevant Director with the effect that:

- (a) an ordinary resolution with a majority of the votes of the Holders other than the Relevant Director will be valid as such; and
- (b) a Special Resolution with a majority of not less than three-quarters of votes of the Holders other than the Relevant Director will be valid as such.

1.23 A resolution in writing signed by all the Holders together holding not less than 50% or 75% of the aggregate Principal (excluding the Principal held by the Relevant Director) shall for all purposes be as valid and effective as an Ordinary Resolution or Special Resolution respectively passed at a meeting duly convened and held in accordance with the provisions contained in this Instrument. Any such resolution in writing may be contained in one document or in several documents in similar form each signed by one or more Holders and the effective date of any such resolution shall be the date of the last signature to it.

1.24 In relation to any Debentures held from time to time by the Relevant Director:

- (a) for as long as such Debentures are held by the Relevant Director, the Relevant Director shall not be entitled to vote and any vote cast by the Relevant Director or any of its representatives or proxies shall be disregarded;
- (b) no meeting or other event requiring notice shall be invalidated by the absence of any notice given to the Relevant Director or by any insufficiency in the period of notice given to the Relevant Director or by any defect in the form of notice given to the Relevant Director;
- (c) any holding of Debentures by the Relevant Director and their aggregate Principal shall not be relevant and shall be disregarded in determining whether there is a sufficient quorum for any purpose under these Provisions.

### **Schedule 3 Reserved Matters**

1.1 Subject to the terms of this Deed, the Issuer shall not, without Holder prior approval by way of a Special Resolution:

- (a) amend the basis on which the Operating Surplus, the Debenture Share of Operating Surplus and Revenues and/or Costs are calculated;

- (b) form, enter into, terminate or withdraw from any partnership, consortium, joint venture 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);
- (c) enter into, or increase or extend any liability under, any guarantee or indemnity other than an indemnity under a contract for goods or services entered into in the ordinary and/or normal course of carrying on the Project;
- (d) make, increase or extend any loan or advance or grant any credit to any person other than trade credit in the ordinary course of carrying on the Project (other than the Parent Loan) or;
- (e) grant, create or allow to arise or continue any encumbrance over any of its assets other than those arising by operation of law in the ordinary and/or normal course of carrying on the Project;
- (f) borrow any monies or incur any Indebtedness other than (i) trade credit in the ordinary course of carrying on the Project; or (ii) Indebtedness under the terms of the Director’s Loan subject to paragraph (2) below; or
- (g) establish any pension or life insurance scheme, or any bonus, profit sharing, share option or other incentive scheme for directors of the Issuer;

- (h) 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 (save for any payment properly made in accordance with the management services and support agreement between the Issuer and Distributed Generation Limited);
- (i) acquire or dispose of any freehold or leasehold property (other than as may be required for in the ordinary course of running the Project), grant a lease or licence in respect of any property or take or omit to take any action that would be reasonably likely to prejudice the continuation of any such lease or licence;
- (j) undertake any business other than the Project or make or permit any material change in the nature or scope of the Issuer's business; or
- (k) enter into any contract or arrangement with any member of its Group other than on arm's length terms and in the ordinary course of its business,

provided that the Issuer may undertake any of the matters set out in paragraphs 1(c), (d), (e), (f) or (k) of this Schedule 3 without the approval of a Special Resolution in circumstances of urgency provided:

- (x) they are undertaken by the Issuer solely for the purpose and benefit of the Project and do not amount to more than £50,000 in aggregate value; and

- (y) in the Issuer's reasonable opinion:
  - (i) any delay in acting would or would be likely to have a material adverse impact on the Project or the likelihood of generating Revenues; and
  - (ii) any of those matters undertaken by the Issuer would not be materially prejudicial to the Holders,

and where the Issuer has done so, it shall notify the Holders via the Abundance Service of the action it has taken as soon as reasonably practicable after it has done so.

1.2 Notwithstanding anything to the contrary in this Deed, the Issuer may permit to exist, and make payments under the Director's Loan subject to the terms of subordination contained in the Director's Loan provided that the Issuer covenants that it:

- (a) shall at all times comply with the subordination provisions of the Director's Loan and shall use its best endeavours to procure that all other parties to the Director's Loan do so; and
- (b) shall agree to no changes to the Director's Loan which might in any way adversely affect the Holders of the Debentures without the prior approval of a Special Resolution.

1.3 Notwithstanding anything to the contrary in this Deed, the Relevant Director may subscribe for Debentures on their first issue in a Principal amount not exceeding the amount then outstanding under the Director's Loan and, to the extent that it does so, the amount equivalent to its subscription shall

be promptly applied by the Issuer to repay the corresponding amount drawn under the Director's Loan, with any such repaid amount under the Director's Loan being irrevocably cancelled.

1.4 For the purposes of the Reserved Matters:

**"assets"** means all or any material part of the Issuer's business, undertaking, property, assets, revenues (including any right to receive Revenues) and uncalled capital;

**"encumbrance"** means any mortgage, charge, assignment, pledge, lien (save as arising in the normal course of carrying on the Project), hypothecation, right of set-off (except 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;

**"Group"** means in relation to the Issuer from time to time the Issuer itself, any subsidiary undertaking or any parent undertaking of the Issuer, and any subsidiary undertaking of a parent undertaking of the Issuer. The terms subsidiary undertaking and parent undertaking shall be as defined in section 1162 Companies Act 2006; and

**"Indebtedness"** includes any obligation (whether incurred as principal or surety and whether present, future, actual or contingent) for the payment or repayment of money.

## Our service providers

### Issuer, we or us

#### **DistGen Rogershill LGC plc (DistGen Rogershill)**

Company registration number: 07913307  
3 Merietts Court,  
Long Ashton Business Park,  
Bristol BS41 9LB

### Our service providers:

#### **Project developer**

##### **Distributed Generation Ltd (DistGen)**

3 Merietts Court, Long Ashton Business Park  
Bristol BS41 9LB

#### **Arranger and distributor**

##### **Abundance NRG Ltd (Abundance)**

Union & Threshold House, 65-69 Shepherds Bush Green  
London W12 8TX

#### **Legal advisors to DistGen Rogershill**

##### **Osborne Clarke**

2 Temple Back East, Temple Quay  
Bristol BS1 6EG

#### **Legal advisors to Abundance**

##### **Keystone Law LLP**

Second Floor, Audley House, 13 Palace Street  
London SW1E 5HX

#### **Company secretary**

##### **Tax Shop Accountants**

9 High Street, Wellington  
Somerset TA21 8QT

#### **Independent technical and wind expert**

##### **Virtual Met Mast as provided by Met Office Consulting**

### The following documents are available on request at our registered address:

- Service agreement with DistGen Ltd
- Superior lease and underlease
- Director's loan agreement

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

We would like to thank you for taking the time to read our offer document. We the Directors accept 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.



John Zaniich

Bob, Darran, Malcolm and John  
**Directors of DistGen Rogershill LGC plc**