



**Crown Estate
Scotland**
Oighreachd a' Chrùin Alba

Oighreachd a' Chrùin Alba

CROWN ESTATE SCOTLAND

and

[]

LEASE

of

Rights for Wind Farm Site upon Bed of the Sea at []

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LEASE BETWEEN:

- (1) **CROWN ESTATE SCOTLAND** (in Gaelic, Oighreachd a' Chrùin Alba) established as a body corporate in terms of the Crown Estate Scotland Order 2017 (previously carrying on business under the name of Crown Estate Scotland (Interim Management), (in Gaelic, Oighreachd a' Chrùin Alba (Stiùireadh Eadar-amail)) and renamed in terms of the Scottish Crown Estate Act 2019), having its principal office at Quatermile Two, 2nd Floor, 2 Lister Square Edinburgh EH3 9GL and acting in exercise of the powers conferred on it by the Scottish Crown Estate Act 2019 on behalf of Her Majesty The Queen (and its successors **the Landlord**); and
- (2) [] (the **Tenant**).

WHEREAS:

The parties have agreed to enter into this Lease to permit the Tenant to construct an offshore wind farm on the Site in accordance with the Specification prepared by the Tenant in respect of the Tenant's Works;

NOW WITNESSES as follows:

1 Definitions and Interpretation

1.1 In this Lease unless the context otherwise requires:

Acceptable Covenant means an entity with either:

- (a) BBB- or higher with Standard & Poor's Rating Group (a division of the McGraw-Hill Group of Companies, Inc.) or Baa3 or higher with Moody's Investor Services Inc. (or, if either cease to exist, an equivalent credit rating from another internationally recognised credit rating agency); or
- (b) Net Assets in excess of [20 x *indemnity cap sum*] POUNDS (£[]) Sterling (indexed annually upwards only);

Authority means an authority whether statutory public local European international or otherwise government department or agency or a court of competent jurisdiction;

Break Event means where the Tenant's Works or part of them have been destroyed or damaged by an Insured Risk and a funder has elected in accordance with the provisions of a direct agreement between the funder and the Landlord that the insurance monies will be applied in repayment of amounts owing under the funding agreement between the funder and the Tenant rather than in reinstating the Tenant's Works or the part of them damaged or destroyed;

Break Fee means the sum calculated in accordance with Clause 6.4

Cable Corridor means []

Cap means £[] ([] POUNDS) [Note: to be calculated for each project based on potential CES losses] Sterling as increased by Indexation;

Commencement Date means [];

CDM Regulations means the Construction (Design and Management) Regulations 2015;

Change of Control means a change in the Control of the Tenant;

Control has the meaning given in section 450 of the Corporation Tax Act 2010;

Conduit means a pipe drain sewer channel gutter cable wire or other conduit for the passage or transmission of water soil gas oil air smoke electricity communications information light or other thing and all ancillary structures and equipment in on or under the Site;

CPS means the Contracted Position Statement accepted by the Landlord in terms of the Option Agreement contained in Schedule Part 11;

Data means primary data, observations and metadata gathered and stored by or on behalf of the Tenant in relation to meteorological, aural, biological, sea user and geotechnical, geophysical, bathymetric, oceanographic, sedimentological, cultural and heritage investigations and monitoring on the Site or surrounding areas;

Development means the installation by or on behalf of the Tenant upon the Site of an offshore wind farm including (without limitation) wind turbine generators, cables between them, substation(s) energy storage equipment and supporting platforms and structures and ancillary structures and having an installed carrying capacity of not less than and no more than that specified in the Specification;

EML Consultant means a firm of insurance advisers of international repute with experience of the offshore wind industry jointly appointed by the Landlord and the Tenant in accordance with Schedule Part 5;

EML Study means a study performed by the EML Consultant pursuant to the terms of this Lease;

Estimated Maximum Loss means the estimated maximum loss arising from the worst-case credible scenario that could be expected to affect the Tenant's Works as determined in accordance with Schedule Part 5;

Force Majeure means fire storm tempest other exceptionally inclement weather conditions war hostilities rebellion revolution insurrection military or usurped power civil war labour lock-out strikes local combination of workmen and other industrial disputes riot civil commotion disorder decree of Government delay by a local authority or statutory undertaker in carrying out work in pursuance of its statutory obligations or failure by such authority to carry out such work or if the tests and procedures required to demonstrate that the Specified Works are capable of commercial operation cannot be carried out as a result of the Supply Cables not being connected or fully operational or any other cause or circumstance provided that in the case of any of the foregoing events, the event:

- a) adversely affects the completion of the installation of the Specified Works; and
- b) cannot be reasonably avoided or provided against by the Tenant or its contractors or professional team.

Funder means a bank or other financial institutions providing funding to the Tenant to implement the Development;

Generator Cables means the Conduits owned by the Tenant in on or under the Site for the passage of electricity generated by each of the Turbines to an offshore substation or other point of connection to the Supply Cables;

Implementation Date means the date the Tenant commences the installation of the Specified Works;

Index means the Consumer Prices Index (CPI) (or any identical index published under a different title) published by the Office of National Statistics or any successor body upon which the duties in connection with such an index devolve;

Indexed shall have the meaning given to it in clause 9;

Indexation shall have the meaning given to it in clause 9;

Insolvency Event means, with respect to the Tenant or any Security Provider, that it:

- a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph d) above and:
 - i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - ii) is not dismissed, discharged, stayed or restrained in each case within thirty (30) Working Days of the institution or presentation thereof;
- f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;
- g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- i) has a secured party take possession of all or substantially all its assets or has an execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) Working Days thereafter;
- j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs a) to i) above; or
- k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts

Intra Group Reorganisation means a Change of Control as a result of an intragroup reorganisation of the direct or indirect shareholders of the Tenant which has been intimated in writing to the Landlord;

Insured Risks means fire lightning explosion earthquake aircraft and other aerial devices dropped from them riot civil commotion storm impact by vessels subsidence landslip heave malicious damage terrorism and mechanical breakdown and such other risks as the Tenant may insure against and such other risks as the Landlord may reasonably require the Tenant to insure against;

Legal Obligation means an obligation imposed by or under or a requirement of any of the following (in so far as it relates to the Site or to their occupation or use or to the Tenant's Works or to the exercise of the Rights or to any substance or article upon in under or over the Site but irrespective of the person on whom such obligation is imposed or such requirement is made):

- (a) any present or future international convention or other international obligation or present or future legislation (whether an Act of Parliament European Union legislation or otherwise); or
- (b) any statutory instrument by law regulation direction order requirement notice plan code of practice or guidance note made under or pursuant to any of the matters referred to in clause (a) or by any Authority; or
- (c) any of the matters referred to in Schedule Part 1; or
- (d) any condition of a Necessary Consent;

Necessary Consents means:

- (a) all consents licences permissions orders exemptions and approvals required from any Authority (and shall include for the avoidance of doubt all assessments which may be required to be undertaken before the issue of any of the foregoing); and
- (b) those matters specified to be Necessary Consents in Schedule Part 3.

Net Assets means the fixed and current assets less the aggregate of the liabilities of the relevant entity based on financial statements prepared in accordance with the appropriate accounting policies and practices and as evidenced by its latest externally audited accounts;

Non-Statutory Decommissioning Programme means a programme for decommissioning activities for the removal of any equipment to be installed by the Tenant during the term of any Lease on Scottish Crown Estate Property and the restoration of any seabed and/or foreshore which does not fall within any Statutory Decommissioning Programme

OFGEM means the Office of the Gas and Electricity Markets Authority in the United Kingdom (or its successor Authority);

OFTO means:

- (a) the offshore transmission system owner appointed and licensed by OFGEM to acquire or (as the case may be) install and own the Supply Cables forming part of the offshore electricity transmission system; or
- (b) the Tenant where it has elected (in accordance with the relevant regulations and/or OFGEM guidance or policy) to install the Supply Cables forming part of the offshore electricity transmission system and it has notified the Landlord of such election.

[OFTO Works] means the [Substation and ancillary structures equipment and Conduits (excluding Generator Cables) within the Substation Site] and] [●] Supply Cable(s) within the Designated Area together with any ancillary works owned and operated by the OFTO – ***note: to be adjusted to reflect requirements***]

Oil and Gas Works means any pipelines platforms wellheads or other works for the exploration for or exploitation of oil and gas in respect of which the consents of the Secretary of State required under a licence issued pursuant to the Petroleum Act 1998 have been given;

Option Agreement means the option agreement dated [] made between the Landlord and the OFTO;

Plan means the plan attached to this Lease in Schedule Part 8;

Renewable Energy Zone means an area designated by an Order in Council made pursuant to Section 84(4) Energy Act 2004 within which the rights to which Section 84 Energy Act 2004 applies are exercisable, including any modification to the boundaries of that area as may from time to time be made by legislation or as may from time to time otherwise arise;

Rent means either (i) the Output Rent ascertained and payable as provided in Part 4 of the Schedule or (ii) from the Review Date, the Revenue Rent in the event of the Landlord so electing in terms of paragraph 7 of Part 4 of the Schedule;

REZ Site means that part of the bed of the sea within the Site which from time to time lies within a Renewable Energy Zone and references to the REZ Site include reference to any part of it which accommodate the Tenant's Works and Generator Cables together with any supporting structures or platforms for any supply transmission equipment;

Rights means the rights set out in Part 1 of the Schedule;

Scottish Crown Estate Property means any interest in land to which section 90B(5) of the Scotland Act 1998 applies;

Security Document means a guarantee or other form of credit support provided by the Tenant in a form as determined by the Landlord acting reasonably which may take the form of:

- (i) a guarantee from a guarantor, or guarantors, with an Acceptable Covenant; and/or
- (ii) a letter of credit or bond from a bank, financial institution or other organisation with an Acceptable Covenant;

and reference to Security Document shall include any permitted substitute security for the Tenant's obligations under this Lease;

Security Provider means a guarantor or any other bank, financial institution or other organisation with an Acceptable Covenant, providing security under any Security Document;

[Substation means the substation from time to time on the Substation Site;]

Site means the area shown for identification shaded pink on the Plan and more particularly described in the attached co-ordinates contained in Schedule Part 9 accommodating the Specified Works and references to the Site include reference to any part of it [but excluding for the avoidance of doubt the Sub-station Site – ***note: include only if lease and OFTO lease granted simultaneously***];

Specification means the specification prepared by the Tenant of the Tenant's Works attached to this Lease in Schedule Part 10;

Specified Works means *inter alia* [] Turbines together having a projected annual output of [] megawatt hours, scour protection material, energy storage equipment, substations and supporting structures and platforms, anemometry equipment, sub-structures, Generator Cables and Conduits within the Site (but excluding the Supply Cable(s)), the Specified Works being more particularly described in the Specification;

Statement of Commitment means a statement in the form contained in Schedule Part 8 (*Statement of Commitment*);

Statutory Decommissioning Programme means a decommissioning programme applicable to the Tenant's Works approved by the Secretary of State under the Energy Act 2004 including any modifications or conditions which the Secretary of State may from time to time specify;

[Substation Site] means the part of the bed of the sea shown coloured [] on the Plan and references to the Substation Site includes references to any part of it]

Supply Cables means Conduits, substations and ancillary equipment owned by the OFTO for the passage or transmission of electricity generated by the Tenant's Works or otherwise required for the operation of the Tenant's Works (but excluding the Generator Cables);

Tenant where the context admits includes the Tenant's successors in title as tenant under this Lease;

Tenant's Works means the Specified Works, all renewals or replacements of them and all alterations or additions to them;

Term means a term of sixty (60) years commencing on (and including) the Commencement Date;

Termination of the Term means Termination of the Term of this Lease by expiry re-entry notice surrender or otherwise;

Territorial Limit means the seaward limit from time to time of the territorial seas adjacent to Great Britain;

Terrorism Estimated Maximum Loss means the estimated maximum loss arising from the worst-case terrorist scenario that could be expected to affect the Tenant's Works as determined in accordance with Part 5 of the Schedule;

Turbine means a wind turbine generator including (without limitation) foundations and/or other method of attachment to the seabed, tower and blades.

VAT means value added tax or other similar tax and unless otherwise expressly stated all Rent and other sums payable by the Tenant under this Lease are exclusive of any VAT charged or chargeable and the Tenant shall pay such VAT in addition to and at the same time as the sum in question;

Working Day means any day except Saturday Sunday and bank or other public holidays in Scotland and England;

Works Completion Date means the date on which occurs the satisfactory completion of such procedures and tests as from time to time constitute usual industry standards and practices to demonstrate that the whole of the Tenant's Works are capable of commercial operation.

- 1.2 The expression "alteration" when used in respect of the Tenant's Works includes (without limitation) removal of the Tenant's Works or any part of them.

- 1.3 The expression “decommission” when used in respect of the Tenant’s Works has the meaning given in section 104 Energy Act 2004.
- 1.4 Words importing one gender include other genders.
- 1.5 Words importing the singular include the plural and vice versa.
- 1.6 References to persons include bodies corporate and vice versa.
- 1.7 Obligations of a party comprising more than one person are obligations of such persons jointly and severally.
- 1.8 Undertakings by the Landlord or implied on behalf of the Landlord are with effect from the date on which the Site ceases to form part of Scottish Crown Estate Property such undertakings shall be deemed to be made by the person from time to time who owns the Site and all liability on the part of Her Majesty and Her Successors or the Landlord in respect of any such undertakings shall cease as from such date.
- 1.9 An undertaking or obligation of the Landlord is made separately with Her Majesty and Her Successors and the Landlord and any person charged with the management of Scottish Crown Estate Property and the person from time to time that owns the Site.
- 1.10 An undertaking by the Tenant not to do something shall be construed as including an undertaking not to permit or knowingly to suffer it to be done by any other person.
- 1.11 A consent or approval to be given by the Landlord is not effective for the purposes of this Lease unless it is in writing and signed by or on behalf of the Landlord.
- 1.12 Reference to a statute directive or regulation includes any amendment modification extension consolidation or re-enactment of it and reference to any statute or directive includes any statutory instrument regulation or order made under it for the time being in force.
- 1.13 References to numbered clauses and schedules are references to the relevant clause or schedule to this Lease and references in any schedule to numbered paragraphs are references to the numbered paragraphs of that schedule.
- 1.14 The clause headings do not affect the construction of this Lease.

2 Demise

- 2.1 In consideration of the Tenant paying the Rent in accordance with the provisions of Part 4 of the Schedule the Landlord hereby grants and the Tenant accepts this Lease of the Site ***[Note: If the site is wholly within the REZ Site then only Rights are granted]*** and the grant of the Rights from the Commencement Date for the Term
- 2.2 EXCEPT AND RESERVING the matters set out in Part 2 of the Schedule.
- 2.3 TO HOLD the Rights to the Tenant for the Term.
- 2.4 SUBJECT TO:
- 2.4.1 the public rights of navigation and fishing;
- 2.4.2 the matters referred to in Part 3 of the Schedule;
- 2.4.3 the rights of states or their nationals under rules of international law; and
- 2.4.4 all other rights, servitudes, easements, wayleaves and quasi easements, licences, exercisable over the Site.

- 2.5 This Lease is warranted by the Landlord from fact and deed only and the Tenant will have no claim against the Landlord or Her Majesty in respect of any loss or damage caused by the exercise of any of the rights hereby reserved and the Landlord does not warrant that the Rights and the Site may lawfully be used or are otherwise suitable for any purpose authorised under this Lease.

3 Tenant's Obligations

The Tenant undertakes to the Landlord to observe and perform the obligations in this clause 3.

3.1 Rent and other payments

- 3.1.1 To pay the Rent in accordance with the terms of this Lease without deduction or set off (so long as the Site forms part of the Scottish Crown Estate) to the Landlord by electronic transfer to any account nominated by the Landlord and notified to the Tenant.
- 3.1.2 To observe and perform such of the provisions contained in Schedule Part 4 as are expressed as obligations on the Tenant's part.
- 3.1.3 If any Rent or other sum becoming payable under this Lease by the Tenant to the Landlord remains unpaid for more than twenty one (21) days after becoming due (whether formally demanded or not) then the Tenant shall (if required but without prejudice to the Landlord's right of termination or any other right or remedy of the Landlord) as from the date on which it becomes due until the date of actual payment pay interest on it (as well after as before any judgement) at the rate of three per cent (3%) per annum above the base lending rate from time to time of the Royal Bank of Scotland plc (or such other bank as the Landlord nominates from time to time) or if such base rates cease to be published at any time such other comparable rate of interest as the Landlord designates and the interest shall be deemed to be part of the Rent and recoverable in like manner as rent in arrears but shall not itself bear interest.
- 3.1.4 To pay all existing and future rates taxes assessments impositions duties charges and outgoings whatsoever payable whether by the owner or occupier in respect of the Tenant's Works or the exercise of the Rights except for taxes (other than VAT) payable by the Landlord on the receipt of the Rent or on any dealing with the Landlord's heritable interest as proprietor of the subjects of this Lease.
- 3.1.5 To pay and indemnify the Landlord against:
- (a) all VAT which is chargeable on the Rent or any other sum payable by the Tenant under this Lease upon receipt of a valid VAT invoice addressed to the Tenant; and
 - (b) all VAT incurred in relation to any costs or expenses which the Tenant is obliged to pay or in respect of which it is required to indemnify the Landlord under the terms of this Lease save where such VAT is recoverable or available for set off by the Landlord as input tax.

3.2 Installation of Specified Works

- 3.2.1 To use reasonable endeavours to procure that the Specified Works are designed using the reasonable skill care and diligence expected of appropriate professional designers experienced in designing projects of a similar size scope and complexity having due regard to the industry's knowledge and standards at the time of design and installation of the Specified Works.
- 3.2.2 To give to the Landlord at least seven (7) days prior written notice of the Implementation Date.

- 3.2.3 To obtain each Necessary Consent required for the installation and operation of the Specified Works as soon as it is required and to give all notices required to be given in connection with it.
- 3.2.4 To ensure that the Works Completion Date occurs by the sixth (6th) anniversary of the Commencement Date notwithstanding any event of Force Majeure.
- 3.2.5 To provide the Landlord, within fifteen (15) Working Days of receipt by the Tenant, with copies of the results of any tests carried out by or on behalf of the Tenant, its contractors and any OFTO that confirms that the Tenant's Works have been constructed satisfactorily in accordance with the Necessary Consents and the Specification.
- 3.2.6 In the event that any test carried out by the Tenant pursuant to clause 3.2.4 evidences that the Tenant's Works are not in accordance with the Necessary Consents and the Specification or are substandard or defective, the Tenant shall at its sole cost comply with the reasonable recommendations of the Landlord to remedy such defects or to ensure that the Tenant's Works comply with the Specification.
- 3.2.7 To notify the Landlord in writing immediately the Works Completion Date occurs and to provide the Landlord with such evidence as the Landlord may reasonably require to prove it occurred on the date notified.
- 3.2.8 As soon as reasonably practicable to provide to the Landlord a copy of any notice which must be given by any Authority before the operation of the Specified Works may lawfully commence and not to commence the operation of the Specified Works before such notice is given.
- 3.2.9 To provide to the Landlord from time to time on reasonable written request details of the consultants and contractors engaged by the Tenant and the principal suppliers of goods and services to the Tenant and the principal sub-contractors having design responsibility in connection with the Specified Works.
- 3.2.10 To provide to the Landlord as soon as reasonably practicable after the Works Completion Date plans and co-ordinates showing the location of the Specified Works as installed.

3.3 **Alterations**

- 3.3.1 Not to construct install erect fix or place on in over or under the Site any building erection structure works Conduit or materials except:
- (a) the Specified Works;
 - (b) any renewal or replacement of the Specified Works (in materially the same form and layout); and
 - (c) any alteration or addition to the Tenant's Works in accordance with clause 3.3.2.
- 3.3.2 Not to make any alteration or addition to the Tenant's Works unless:
- (a) the alteration/addition comprises the alteration or addition of Turbines and ancillary equipment structures and Conduits within the Site;
 - (b) the Tenant has obtained all Necessary Consents for the alteration/addition;
 - (c) the alteration/addition will not result in a reduction in the output capacity of the Tenant's Works below that stated in the definition of Specified Works other than:
 - (i) a temporary and unavoidable reduction while the alteration/addition is carried out;

- (ii) a reduction (either temporary or permanent) in order to comply with a Legal Obligation or a proper health and safety requirement which cannot otherwise reasonably be complied with; or
 - (iii) the removal of Tenant's Works in respect of which clause 3.6.3 applies;
 - (d) the Tenant has submitted to the Landlord detailed plans and specifications showing the proposed alteration/addition; and
 - (e) the Tenant has obtained the Landlord's consent to carry out the alteration/addition (such consent not to be unreasonably withheld or delayed).
- 3.3.3 To comply with the provisions of clauses 3.2.1, 3.2.3, 3.2.4, 3.2.8 and 3.2.10 (mutatis mutandis) in respect of any renewal or replacement of the Specified Works or any alteration or addition to the Tenant's Works in so far as applicable.
- 3.3.4 Not to place affix or display any sign advertisement notice flag poster or other notification whatsoever within the Site except for such warning or other notices relating to the operation or use of the Tenant's Works as may either be required under any Legal Obligation or may be approved by the Landlord (such approval not to be unreasonably withheld or delayed).
- 3.4 CDM Regulations**
- 3.4.1 The Tenant warrants that it has the competence to perform the duties imposed on a client by the CDM Regulations.
- 3.4.2 To comply with the provisions of the CDM Regulations in respect of the Tenant's Works including without limitation all requirements relating to the provision and maintenance of a health and safety file and to provide on request to the Landlord a copy of the health and safety file and any documents within it.
- 3.4.3 To supply all information to the Landlord that the Landlord reasonably requires to comply with the Landlord's obligations (if any) under the CDM Regulations.
- 3.4.4 Prior to commencing any Tenant's Works to confirm in writing to the Landlord who is to be the client for the purposes of the CDM Regulations in respect of those Tenant's Works which the parties agree, for the avoidance of doubt, shall not be the Landlord.
- 3.5 Seabed Provisions**
- 3.5.1 Not to dig extract or remove any sand stone beach shingle or other minerals or mineral substances from the Site except in so far as is reasonably necessary for the installation of the Specified Works permitted under this Lease and the exercise of the Rights.
- 3.5.2 Not to cause waste spoil or destruction on the Site except in so far as is reasonably necessary for the installation of the Specified Works permitted under this Lease and the exercise of the Rights.
- 3.5.3 As soon as reasonably practicable following any disturbance of the seabed within the Site in the installation of the Specified Works permitted under this Lease or the exercise of the Rights to restore the same to a safe and (allowing for the presence of the Specified Works) proper condition and in accordance with all Legal Obligations.
- 3.5.4 Not to damage or interfere with the Supply Cables and Conduits referred to in Schedule Part 2.
- 3.6 Repair**
- 3.6.1 To keep the Site and the Tenant's Works in good and safe repair and condition.

- 3.6.2 To keep the Tenant's Works properly maintained and in good working order.
- 3.6.3 The Tenant shall not be liable to comply with clauses 3.6.1 and 3.6.2 in respect of any part of the Tenant's Works which has broken down or been damaged to the extent that and for as long as it remains the case that it would not be economic in the reasonable opinion of a prudent operator of a project of similar size scope and complexity to the Tenant's Works to replace or repair the part of the Tenant's Works which is broken down or damaged taking into account the remainder of the design life of that part of the Tenant's Works, the unexpired residue of the Term and any notice given by the Tenant under clause 6 **Provided That:**
- (a) the Tenant shall not be relieved from liability by this clause 3.6.3 to the extent that the breakdown or damage is a consequence of any failure by the Tenant to comply with its obligations under this clause 3.6 prior to the date of breakdown or damage; and
 - (b) the Tenant shall remain liable to keep any part of the Tenant's Works to which this clause 3.6.3 applies in safe repair and condition.

3.7 Legal Obligations

- 3.7.1 At the Tenant's own expense to observe and comply with all Legal Obligations and not to do or omit to do in relation to the Tenant's Works or the exercise of the Rights anything by reason of which the Landlord may incur any liability under a Legal Obligation whether for penalties damages compensation costs or otherwise.
- 3.7.2 To do all works and things and to bear and pay all expenses required or imposed by any Legal Obligation and to use all reasonable endeavours to obtain all Necessary Consents required from time to time in order to install or operate the Tenant's Works.
- 3.7.3 If the Tenant receives from an Authority formal notice of a Legal Obligation forthwith to produce a copy to the Landlord and if such Legal Obligation is in the Landlord's reasonable opinion contrary to the Landlord's interests (but without prejudice to the requirements of clause 3.7.1 and 3.7.2) to make such objection representation or appeal against such Legal Obligation as the Landlord reasonably requires but at the Landlord's cost (except where such notice arises from the act neglect or default of the Tenant in which event any objection representation or appeal shall be made at the Tenant's cost).
- 3.7.4 Not to do or omit to do anything which may cause any Necessary Consent which has been obtained for the installation or operation of the Tenant's Works to be modified or revoked without the consent of the Landlord (which shall not be unreasonably withheld or delayed).
- 3.7.5 Following the Termination of the Term (unless a new lease is granted to the Tenant) the Tenant shall at any time if so required by the Landlord use reasonable endeavours (subject to reimbursement of the Tenant's reasonable and proper costs of doing so) to procure that any Necessary Consent for the installation and operation of the Tenant's Works (which does not automatically enure for the benefit of the Site) is transferred (in so far as it is transferable) to or is reissued or amended to be in favour of any person to whom a lease or option agreement is granted by the Landlord in respect of the Site.
- 3.7.6 Clauses 3.7.4 and 3.7.5 shall remain in full force and effect notwithstanding the Termination of the Term.

3.8 Use and Operation

- 3.8.1 After the Works Completion Date to keep the Tenant's Works in operation for the purpose of generating electricity at all times during the Term except:

- (a) insofar as the Tenant is prevented from doing so by an event or circumstance which is beyond its reasonable control including (without limitation) unsuitable weather conditions and safety reasons;
- (b) to the extent that temporary cessation of operation is necessary to carry out any inspection testing maintenance alteration repair enhancement or renewal of the Tenant's Works in accordance with the terms of this Lease;
- (c) in respect of any part of the Tenant's Works to which clause 3.6.3 applies;
- (d) to the extent and for such time only as National Grid - Electricity System Operator (or any successor organisation) requests the Tenant to cease or constrain the generation of electricity by the Tenant's Works; or
- (e) during the period reasonably required by the Tenant to decommission the Tenant's Works immediately prior to Termination of the Term;

Provided That in the circumstances set out in clauses 3.8.1(a) and (b) the Tenant shall use all reasonable endeavours to bring the Tenant's Works back into operation as soon as reasonably possible

3.8.2 Not to use the Site or exercise the Rights for any purpose except the installation of the Tenant's Works permitted under this Lease and the generation and storage of electricity by the Tenant's Works.

3.8.3 Not to do any act or allow any substance or article to remain on in under or over the Site or to exercise the Rights in a manner which:

- (a) may be or become or cause a danger nuisance (other than a nuisance which is not actionable by reason of statutory authorisation) damage or injury to the Landlord or any other person or premises; or
- (b) may cause pollution or harm to the environment or human health (except in so far as such pollution or harm is lawful by reason of the Necessary Consents for the purpose).

3.9 **Diversion**

To observe and perform the Tenant's obligations in respect of any diversion of any Generator Cables required under paragraphs 3 and 4 of Schedule Part 2.

3.10 **Alienation**

3.10.1 Not to assign or grant a charge over the whole or part of the Tenant's interest in the Lease and not to sublet part with or share the possession of or grant any licence in respect of the whole or part of the Tenant's interest in the Lease nor hold the Lease on trust for any other person;

3.10.2 Not to assign the whole of the Tenant's interest in the Lease without the consent of the Landlord such consent not to be unreasonably withheld or delayed provided that:

- (a) the Landlord shall not be regarded as unreasonably withholding its consent if it withholds it on the ground of any of the circumstances set out in clause 3.10.4; and
- (b) the Landlord shall not be regarded as giving its consent subject to unreasonable conditions if it gives its consent subject to any of the conditions set out in clause 3.10.5.

- 3.10.3 The provisos in clause 3.10.2 (a) and (b) shall operate without prejudice to the entitlement of the Landlord to withhold its consent on any other ground or grounds where such withholding of consent would not be unreasonable or to impose any further or subsequent condition or conditions upon the grant of consent where the imposition of such condition or conditions would not be unreasonable
- 3.10.4 The circumstances referred to in clause 3.10.2(a) are:
- (a) where in the reasonable opinion of the Landlord the proposed assignee is not of sufficient financial standing to enable it to comply with the Tenant's obligations under this Lease and a valid Security Document is not agreed to be provided to the Landlord from an agreed Security Provider; and
 - (b) the proposed assignee is not resident in the United Kingdom or in a jurisdiction where reciprocal enforcement of judgements exists.
- 3.10.5 The conditions referred to in clause 3.10.2(b) are:
- (a) that prior to the assignation the Tenant pays all arrears of Rent and other sums made payable under this Lease;
 - (b) that the proposed assignee executes and delivers an undertaking to the Landlord in such form as the Landlord may reasonably require to pay the Rent and observe and perform the covenants and the other provisions of this Lease to be observed and performed by the Tenant;
 - (c) that, where the proposed assignee is not incorporated in the United Kingdom, the proposed assignee procures a legal opinion letter from a firm of solicitors in the relevant jurisdiction addressed to and approved by the Landlord (acting reasonably) and provides to the Landlord an irrevocable address for service in the United Kingdom for notices under this Lease and proceedings with solicitors or other agents approved by the Landlord (acting reasonably);
 - (d) that all Necessary Consents for the installation and operation of the Tenant's Works are transferred or granted to the proposed assignee on or before the completion of the proposed assignation; and
 - (e) where the Landlord requires, the provision of a suitable Security Document.
- 3.10.6 Not to grant a charge over the whole of the Tenant's interest in this Lease without the consent of the Landlord such consent not to be unreasonably withheld provided that the consent of the Landlord shall not be required for a charge over the whole of the Tenant's interest in the Rights in favour of a reputable bank or other reputable and substantial financial institution provided that any chargee exercising a power of sale (or otherwise dealing with the Rights) shall be subject to the same terms and conditions relating to underletting or assignation as are set out in this clause 3.10.
- 3.10.7 Within one (1) month from their respective dates to send to the Landlord copies of all assignments of the Tenant's interest in the Lease, orders of court and other instruments affecting the devolution of this Lease or the Term and charges over it.
- 3.10.8 Any Change of Control (other than an Intra Group Reorganisation which has been notified to the Landlord in writing) of the Tenant is prohibited without the Landlord's prior written consent which shall not be unreasonably withheld or delayed. In deciding whether or not to grant their consent the Landlord shall have regard to the following factors (considered individually and collectively):
- (a) the impact of the Change of Control on the ability of the Tenant to timeously and safely progress the Development and the ability of the Tenant to comply with its obligations under this Lease in a timely and safe manner;

- (b) the selection process and factors taken into account by the Landlord in deciding to award the Option Agreement to the Tenant, including any special factors attributable to any shareholder whose ownership share of the Tenant will be reduced as a result of the Change of Control;
- (c) the impact of the Change of Control on the financial resources available to the Tenant to enable it to perform its obligations under this Lease;
- (d) whether the Change of Control would have an adverse effect on the capacity of the Tenant or otherwise available to the Tenant to enable it to perform its obligations under this Lease;
- (e) whether the Change of Control would have an adverse effect on the experience and capability of the Tenant or otherwise available to the Tenant to enable it to perform its obligations under this Lease;
- (f) whether the Tenant is in breach of its obligations under this Lease or any ancillary documents thereto;
- (g) that the entity taking on Control has delivered a Statement of Commitment to the Landlord validly signed by an officer of the relevant entity; and
- (h) such other material factors (not specified above) that may reasonably appear to the Landlord or are identified by the Tenant to be relevant at the time which may positively or negatively impact on the Landlord's assessment as to whether or not to grant consent to the Change of Control.

3.10.9 The Tenant may (but without prejudice to the other provisions of this Lease), permit any OFTO to carry out activities on the Site in connection with the transmission of electricity by the OFTO Works and the interface of the OFTO Works and the Tenant's Works including, without limitation, any of the following activities for those purposes:

- (a) installing, using, commissioning, maintaining, inspecting, accessing, removing, operating, modifying, altering, repairing and decommissioning equipment comprising part of the OFTO Works on the Site; and
- (b) providing services to the OFTO

but that subject to any such activities being carried out in accordance with the terms of the relevant interface agreement between the Tenant and the OFTO and no relationship of landlord and tenant being created or allowed to arise.

3.11 Indemnity

3.11.1 To indemnify and keep the Landlord indemnified against all actions proceedings claims and demands brought or made and all proper costs and expenses (including reasonable legal fees and expenses) and all losses damages and liabilities incurred suffered or arising directly or indirectly in respect of or otherwise in connection with:

- (a) the grant of this Lease
- (b) the exercise or purported exercise of the Rights;
- (c) the installation existence or use of the Tenant's Works;
- (d) the state of repair and condition of the Site and the Tenant's Works;
- (e) any act neglect or default of the Tenant or anyone deriving title through or under the Tenant or anyone exercising the Rights with the express or implied authority of such persons;

- (f) any breach of any covenant or other provision of this Lease to be observed and performed by the Tenant; or
- (g) any Tenant's Works remaining on in or under the Site and/or the Cable Corridor after the Termination of the Term (whether or not in breach of clause 3.16 and whether or not the Tenant has been negligent) including (without limitation) any removal or disposal of those Tenant's Works pursuant to clause 10.3.2.

3.11.2 The following provisions apply to clause 3.11.1:

- (a) clause 3.11.1 shall not apply to the extent that any such actions proceedings claims and demands are brought or made or any losses damages costs expenses and liabilities are incurred or suffered as a consequence of the breach by the Landlord of its obligations under this Lease or the negligence of the Landlord or its servants agents and contractors;
- (b) the Landlord shall take reasonable steps to mitigate its losses in respect of which it claims an indemnity under clause 3.11.1;
- (c) the Landlord shall not make any admission of liability nor compromise or settle any actions proceedings claims and demands in respect of which it claims an indemnity under clause 3.11.1 without first notifying the Tenant and having due regard to the Tenant's timely representations;
- (d) the Tenant may with the consent of the Landlord (which shall not be unreasonably withheld) conduct on the Landlord's behalf any proceedings in respect of which the Landlord claims an indemnity under clause 3.11.1 in which case:
 - (i) the Tenant shall give full indemnity and security to the Landlord in relation to all costs expenses damages and liabilities incurred suffered or arising from such proceedings; and
 - (ii) the Tenant shall act so as to minimise any liability or other adverse effects on the Landlord;
- (e) clause 3.11.1 shall remain in full force and effect notwithstanding the Termination of the Term; and
- (f) the Landlord shall not be entitled under clause 3.11.1 to an indemnity in respect of the Landlord's loss of use loss of contracts and/or any other indirect loss of the Landlord but this limitation shall not apply to any other person's losses and shall not limit any other right or remedy of the Landlord apart from clause 3.11.1.

3.11.3 Notwithstanding the other terms of this Lease, the Tenant's liability to the Landlord but only in respect of actions, proceedings, claims and demands brought or made and all proper costs or expenses and all losses, damages and liabilities incurred suffered or arising directly or indirectly as referred to in clause 3.11.1 (a) to (f) shall not exceed the sum of [] POUNDS (£[]) Sterling (as indexed annually), in aggregate, exclusive of all if any VAT which shall be payable in addition if applicable but declaring that the Tenant's liability to the Landlord shall not be limited in any way in respect of:

- (a) death or personal injury caused by the Tenant's negligence or that of its directors, officers, employees, advisors, agents, consultants or contractors (including sub-contractors); and
- (b) Fraud or fraudulent misrepresentation by the Tenant or its officers or employees; and

(c) any liability which cannot be excluded or limited by any laws and regulations.

3.11.4 Clauses 3.11.1 and 3.11.2 shall remain in full force and effect notwithstanding the Termination of the Term for a period of 5 years after the Termination of the Term.

3.12 **Costs**

3.12.1 To pay and indemnify the Landlord against all proper (and in the case of clause 3.11.1(a) reasonable) fees charges disbursements costs and expenses connected with incidental to consequent upon and (where appropriate) in proper contemplation of:

- (a) an application for the Landlord's consent (whether or not the consent is given or the application is withdrawn) unless such consent is unlawfully withheld or is subject to an unlawful qualification or condition because it is unreasonable or otherwise;
- (b) the inspection of the Site in accordance with paragraph 1.3 of Schedule Part 2 (where such inspection reveals a breach of the Tenant's covenants in this Lease) and the superintendence of any works required to remedy any breach of the Tenant's obligations under this Lease;
- (c) the recovery of arrears of Rent or other sums payable under this Lease; or
- (d) the enforcement of any obligation of the Tenant under this Lease.

3.12.2 Clause 3.12.1 shall remain in full force and effect notwithstanding the Termination of the Term.

3.13 **Insurance**

3.13.1 To effect and maintain the following insurances:

- (a) insurance of the Tenant's Works against destruction or damage by the Insured Risks in a sum equal to or in excess of the Estimated Maximum Loss (as Indexed) and Terrorism Estimated Maximum Loss (as Indexed) in accordance with normal insurance practice for offshore wind farms from time to time, approved by the Landlord (acting reasonably); and
- (b) third party and public liability insurance in respect of the Tenant's Works and the exercise of the Rights in the sum of £25,000,000, or in such other sum as the Landlord may from time to time reasonably require, in respect of each and every occurrence (except for pollution and product cover which may be on an annual aggregate basis if unavailable on an each and every occurrence basis), on terms in accordance with normal insurance practice for offshore wind farms from time to time.

3.13.2 The insurances required by clause 3.13.1 shall:

- (a) be with an insurer holding a credit rating of at least A- with Standard & Poor's Rating Group (or an equivalent credit rating from another internationally recognised credit rating agency):
- (b) name the Landlord as co-insured;
- (c) contain waiver of subrogation, separate policy provision and non-vitiating endorsements in a form acceptable to the Landlord (acting reasonably); and
- (d) be on terms in accordance with normal insurance practice for offshore wind farms from time to time (including the level of any deductible) approved by the Landlord (acting reasonably).

- 3.13.3 The Tenant shall not be obliged to insure under clause 3.13.1(a) if and to the extent that such insurance is not available in the European insurance market on commercially reasonable terms or is only available at uneconomic rates.
- 3.13.4 To produce to the Landlord upon request from time to time (but no more frequently than once every twelve (12) months) a copy of or full details of each policy of insurance and evidence that each policy is in force.
- 3.13.5 Except to the extent clause 3.6.3 applies, if the Tenant's Works or any part of them are damaged or destroyed by an Insured Risk to apply for and use reasonable endeavours to obtain all Necessary Consents to reinstate the Tenant's Works and as soon as reasonably practicable after they are obtained to apply the insurance monies received under the policy of insurance in reinstating the Tenant's Works with all reasonable speed making up any shortfall out of its own resources.
- 3.13.6 To pay to the Landlord the premium and other costs which the Landlord may incur in effecting and maintaining any insurance which the Tenant fails to effect or maintain in accordance with the provisions of this clause 3.13.
- 3.13.7 To observe and perform the terms of any insurance policy effected pursuant to this clause 3.13 and all requirements from time to time of the insurers and not to do or fail to do anything which shall or may cause any such policy to be void or voidable or any monies payable under it to be irrecoverable.

3.14 **Health and Safety Reporting**

- 3.14.1 In this clause 3.14 the following expressions shall have the following meanings:

Health and Safety Incident means any incident which is reportable under this Lease at clause 3.14.2;

Health and Safety Requirements means all applicable health and safety obligations of the Tenant deriving from Legal Obligations and this Lease.

HSI Notification means the form of notification set out at Schedule Part 6 to this Lease.

RIDDOR Reportable Incident means a Health and Safety Incident giving rise to reporting requirement under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013;

Serious Incident means any fatal RIDDOR Reportable Incident or Health and Safety Incident which involves serious threat to life, harm or damage to the environment or property including but not limited to vessel collisions, structural collapses, explosions or fires, releases of flammable liquids and gases, hazardous escapes of substances.

Incident Reporting

- 3.14.2 The Tenant shall notify the Landlord of the following incidents occurring at the Site using the HSI Notification as follows:
- (a) in relation to a non-fatal RIDDOR Reportable Incident within one (1) month; and
 - (b) in relation to a Serious Incident as soon as reasonably practicable and, in any event, within forty-eight (48) hours.
- 3.14.3 The Tenant shall co-operate with the Landlord's reasonable written requests for information relating to any Health and Safety Incident at any time, save that the Tenant shall in no event be required to disclose any documentation or other information which is subject to legal privilege.

3.14.4 In the event of a Serious Incident occurring:

- (a) the Tenant must comply with its reporting obligations pursuant to Clause 3.14.2(b);
- (b) the Tenant shall notify the Landlord in the event that it proposes to release a press/public statement in connection with the same and shall provide a copy to the Landlord for information or in the event that it is not practicable to notify the Landlord in advance the Tenant shall notify the Landlord as soon as reasonably practicable following release of the press/public statement;
- (c) the Landlord shall notify the Tenant in the event that it wishes to release a press/public statement in connection with the same and shall provide a draft copy in advance of release to the Tenant for review and approval and the Landlord shall not be entitled to so release a press/public statement without the prior written approval of the Tenant (not to be unreasonably withheld or delayed) save where the Landlord considers acting reasonably and in good faith, that a press/public statement urgently requires to be made and that the approval of the Tenant may not be obtained timeously.

3.15 **Encroachments**

To use reasonable endeavours to prevent all encroachments and unlawful acts on the Site which may prejudice the Landlord's title to them and if any claim is made to the Premises or to any right profit or easement in or out of or affecting them forthwith to give notice of it to the Landlord and not to admit or acknowledge it in any way whatsoever.

3.16 **Decommissioning**

3.16.1 Prior to the Termination of the Term:

- (a) to decommission the Tenant's Works and to restore the Site in accordance with the Statutory Decommissioning Programme; and
- (b) if and to the extent that the Statutory Decommissioning Programme does not apply to any element of the Tenant's Works, to remove those Tenant's Works (unless the Landlord agrees otherwise in writing) in accordance with the Non-Statutory Decommissioning Programme

in both cases in accordance with all Legal Obligations;

3.16.2 On the Termination of the Term to deliver up the Site to the Landlord in good and safe order and condition in accordance with the Tenant's covenants in this Lease; and

3.16.3 To comply with the provisions of the Statutory Decommissioning Programme and all other Legal Obligations relating to the Tenant's Works which continue to apply after the Tenant has complied with clause 3.16.1 (including (without limitation) those relating to post decommissioning monitoring maintenance and management of the Site) and this obligation shall continue in full force and effect after the Termination of the Term for as long as any such provision of the Statutory Decommissioning Programme or Legal Obligation continues to apply.

3.17 **Data**

3.17.1 If the Landlord, acting in good faith, considers that it would be beneficial to the development of the offshore wind energy industry in Scotland, the Tenant shall provide the Data to the Landlord.

3.17.2 The Data shall be provided as follows:

- (a) in reports provided at such intervals as the Landlord may from time to time reasonably require (but no more frequently than annually) the first report during the Term to contain Data gathered since the Commencement Date and the subsequent reports to contain Data gathered since the previous report;
- (b) the Data shall be provided in each report in any format which the Landlord reasonably require from time to time and which:
 - (i) uses appropriate standards and protocols for data (including metadata) handling and archiving;
 - (ii) is in digital format which can be transmitted electronically;
 - (iii) can be entered into geographical information systems; and
 - (iv) is either geographically or library referenced;

and for the avoidance of doubt the Tenant acknowledges and agrees that it has no interest or right (including copyright and database rights) in any format or database in which Data is put stored or processed whether by the Tenant pursuant to its obligation under this clause 3.17, by the Landlord.

3.17.3 Subject to clause 4.4 the Tenant grants to the Landlord (and shall procure all necessary third party consents to enable it to do so) a perpetual non-exclusive right and licence to use and make publicly available for any purpose or in any manner or form Data provided to them pursuant to this clause 3.17.

3.17.4 This clause 3.17 shall remain in full force and effect notwithstanding the Termination of the Term in respect of Data gathered in connection with monitoring carried out in connection with the Tenant's obligations under clause 3.17.3.

3.18 **Bribery**

The Tenant shall comply and use all reasonable endeavours to ensure that any person employed by or acting on behalf of the Tenant or any of their representatives comply, whether with or without the knowledge of the Tenant, with all the requirements of the Bribery Act 2010 and any form of Guidance issued in respect of the Bribery Act 2010.

3.19 **Disposal Premium**

The Tenant shall pay any Disposal Premium (as defined in the Option Agreement) that falls due after the Commencement Date all in terms of the Option Agreement.

4 Landlord's Obligations

4.1 The Landlord undertakes to the Tenant that the Landlord shall not:

- 4.1.1 exercise the rights reserved in paragraph 1.2 of Schedule Part 2 to install Conduits other than to an OFTO in respect of the Supply Cables;
- 4.1.2 carry out or grant any licence or consent for the dredging or removal of minerals within the [Site/REZ Site]; or
- 4.1.3 install or permit the installation of any wind farm within a distance of five (5) kilometres from the boundary of the Site

without the consent of the Tenant (such consent not to be unreasonably withheld or delayed). [**note: to be discussed if phased projects**]

4.2 Clause 4.1 shall not apply to the exercise of any right granted pursuant to the matters referred to in Schedule Part 3.

- 4.3 The Landlord undertakes to the Tenant that they will not do or fail to do anything which shall or may cause any policy of insurance maintained under clause 3.13.1(b) to be void or voidable or any monies payable under it to be irrecoverable.
- 4.4 The Landlord undertakes to the Tenant not to disclose any Data relating to wind resource provided under clause 3.17 to any third party for a period of three (3) years after the date on which that Data was gathered except:
 - 4.4.1 to employees of the Landlord and to government departments agencies or other government bodies and their respective employees;
 - 4.4.2 to national repositories for data provided that any such repository does not publish or distribute the Data in its entirety or only uses the Data in aggregation with other data for the production of charts or for the purposes of research and keeps the source of the Data confidential;
 - 4.4.3 as required by law or parliamentary questions;
 - 4.4.4 where, in the absolute discretion of the Landlord, disclosure is required under the Freedom of Information (Scotland) Act 2002 (**FOISA**), or the Environmental Regulations (Scotland) 2004 (**EIRs**) and the Tenant acknowledges and agrees that the Landlord may, acting in accordance with the codes of practice (**Codes**) issued and revised from time to time under Section 60 of the FOISA and regulation 18 of the EIRs, disclose such data either in certain circumstances as described in the Codes, without consulting the Tenant, or following consultation with the Tenant and taking its views into account in accordance with the Codes;
 - 4.4.5 in so far as already in the public domain through no default of the Landlord; or
 - 4.4.6 as agreed by the Tenant;

and where disclosure is made under clause 4.4.1 or 4.4.2 the Landlord shall notify the person to whom the information is disclosed of the confidentiality of the information and shall take reasonable steps to ensure that such person observes the restrictions on disclosure in this clause 4.4.
- 4.5 The Landlord covenants with the Tenant that it shall compensate the Tenant for any actual direct loss, costs and expenses (including any liability for loss of income incurred by the Tenant as a result of the Landlord requiring an OFTO to divert any Supply Cables (which at the time of the diversion are actually transmitting electricity generated by the Tenant's Works or otherwise required for the operation of the Tenant's Works) or any part of such Supply Cable (and which loss could not have been reasonably avoided or is not too remote) with the Tenant taking all reasonable and appropriate steps to mitigate against such loss.
- 4.6 Clause 4.5 shall not apply where the Landlord requires an OFTO to divert any Supply Cables or any part of a Supply Cable which, at the time of the diversion, are not actually transmitting electricity generated by the Tenant's Works nor otherwise required for the operation of the Tenant's Works.
- 4.7 The Landlord's obligations under this clause 4 shall cease upon Termination of the Term.

5 Termination on default

- 5.1 The Landlord may at any time after the occurrence of any of the following events exercise any of the rights set out in clause 5.3:
 - 5.1.1 if any Rent remains unpaid twenty-one (21) days after it is due (whether formally demanded or not);

- 5.1.2 if any undertaking or provision in this Lease which is to be observed or performed by the Tenant is not observed or performed;
- 5.1.3 if the Works Completion Date has not occurred by the sixth (6th) anniversary of the Commencement Date whether or not the Tenant is in breach of any covenant or provision in this Lease and whether or not there is or has been an event of Force Majeure;
- 5.1.4 the occurrence of an Insolvency Event in respect of either the Tenant or any Security Provider;
- 5.1.5 any Disposal Premium (as defined in the Option Agreement) that may become due in terms of the Option Agreement after the Commencement Date remains unpaid twenty-one (21) days after it is due (whether formally demanded or not); or
- 5.1.6 any Security Document ceases to be valid, binding and enforceable for any reason or, if applicable, the Security Provider ceases to hold an Acceptable Covenant and the Tenant has not procured a replacement Security Document in accordance with clause 8 within thirty (30) Working Days.
- 5.2 the Tenant, or any person employed by or acting on behalf of the Tenant (whether or not with the Tenant's knowledge), has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing any action in relation to the obtaining or complying with the Tenant's obligations under the Lease or any other contract with the Landlord.
- 5.3 Subject to the terms of clause 5.4 of the Lease, the Landlord may at any time after the occurrence of the events detailed in Clause 5.1.1 to 5.1.5 bring this Lease to an end on giving written notice to that effect to the Tenant whereupon the Lease shall cease and terminate (but without prejudice to any rights and remedies of the Landlord in respect of any arrears of Rent or any antecedent breach of this Lease and the continuing operation of any provision of this Lease which is expressed to continue to apply or remain in force and effect after or notwithstanding termination of the Lease) but which irritancy is hereby declared to be contractual and not penal and will not be purgeable at the Bar.
- 5.4 In the case of the occurrences detailed at Clauses 5.1.2 to 5.1.5 the Landlord will not be entitled to terminate the Lease as aforesaid unless it will have first given written notice of the breach to the Tenant and each Security Provider and to every creditor in any then existing standard security or floating charge (so far as the grant of such standard security or floating charge has been notified to the Landlord) affecting the Lease prescribing a time which is reasonable in the circumstances (such circumstances not including the financial position of the Tenant) within which such breach must be remedied and the Tenant (or any such creditor or Security Provider) will have failed to remedy the breach within the time prescribed in the notice and declaring that where the breach is the failure to pay any sum of money, a reasonable time will be a period of not less than fifteen (15) Working Days and that in the case of a breach of clause 5.1.2 will be not less than three (3) months and (b) in the case of the Tenant going into liquidation or suffering an administrative receiver, receiver or an administrator to be appointed the Landlord will allow the liquidator or administrative receiver, receiver or administrator (as the case may be) and any such creditor as aforesaid a period of one year in which to dispose of the Tenant's interest in the Lease and will only be entitled to terminate the Lease if the liquidator or administrative receiver, receiver or administrator or such creditor as the case may be will have failed to dispose of the Tenant's interest at the end of the said period provided always that the liquidator or administrative receiver, receiver or the administrator or such creditor as the case may be will accept in probative writing within one (1) month of the date of appointment or of such creditor's entry into possession of the Site and implement full responsibility for payment of the Rent (whether due in respect of a period occurring before or after the date of liquidation or receivership or administration or entering into possession as the case may be) and for the performance of all other obligations of the Tenant under the Lease from the date of liquidation or receivership or administration or the date of such creditor's entry into possession as the case may be to the date of disposal or termination of the Lease including settlement of any arrears of the

rents and the performance of any outstanding obligations which may subsist at the date of liquidation or receivership or administration or such creditor's entry into possession as the case may be and will if requested by the Landlord find caution for such payment and performance in an amount acceptable to the Landlord. And it is hereby declared that the Landlord will deal with any request for consent to assign the Lease made by such liquidator, administrative receiver, administrator or creditor as the case may be in the same manner as if the request had been made by the Tenant. The provisions relating to a liquidator, administrative receiver or administrator hereinbefore narrated will apply mutatis mutandis to a trustee in sequestration and a trustee under a trust deed for the benefit of creditors if the Tenant is an individual or individuals or a partnership or an unincorporated body.

6 Tenant's Right of Termination

- 6.1 The Tenant may terminate this Lease after the Works Completion Date and after a Break Event occurs on not less than twelve (12) months and not more than five (5) years written notice given to the Landlord within twelve (12) months after the Break Event occurs and specifying the date on which the Tenant intends this Lease to terminate (**Intended Date of Termination**).
- 6.2 The Tenant may terminate this Lease on or at any time after the 22nd anniversary of the Works Completion Date but in any event before the 37th anniversary of the Works Completion Date by serving on the Landlord not more than 5 years and not less than 2 years written notice which may be served on or at any time after the 20th anniversary of the Works Completion Date but must always be served before the 35th anniversary of the Works Completion Date specifying the proposed date of termination (**Intended Date of Termination**) but such Intended Date of Termination shall never be earlier than the 22nd anniversary of the Works Completion Date.
- 6.3 This Lease shall only terminate as a result of notice given by the Tenant under clause 6.1 or 6.2 on the date specified in the notice as the Intended Date of Termination if on that Intended Date of Termination the Tenant has:
- 6.3.1 paid all Rent due under this Lease up to (and including) the Intended Date of Termination;
- 6.3.2 complied with clauses 3.16.1 and 3.16.2 in all material respects;
- 6.3.3 given vacant possession of the Site to the Landlord; and
- 6.3.4 in respect of any termination of this Lease pursuant to Clause 6.2, the Tenant has paid (in cleared funds) the Break Fee to the Landlord on or before the Intended Date of Termination.
- 6.4 Any Break Fee under this Lease shall be calculated in accordance with the following formula:

$$BF = (5-N) \times \text{Minimum Rent}$$

Where

BF = Break Fee

N = Notice Period; and

Minimum Rent = means the net present value of the annual rent calculated and based upon the Rent payable by the Tenant in the Generation Period immediately preceding the date of the notice served by the Tenant pursuant to clause 6.2 assuming that the Output is twenty five per cent (25%) of the Minimum Output (as defined in Schedule Part 4) and which may be expressed as (Rent for that Generation Period x 4) with such aggregate sum being discounted by five per cent (5%) per annum per year of Minimum Rent

calculated pursuant to this Clause 6.4 and payable by the Tenant pursuant to Clause 6.3.4. Schedule Part 7 (*Break Fee – Worked Example*) provides worked examples showing how the Break Fee will be calculated

- 6.5 If a valid notice is given by the Tenant under clause 6.1 or 6.2 and this Lease does not determine on the Intended Date of Termination specified in the notice because of the Tenant's failure to comply with any of the conditions set out in clause 3 then:
 - 6.5.1 the Tenant may determine this Lease on giving written notice to the Landlord at any time after the Intended Date of Termination specifying a revised intended date of termination (**Revised Intended Date of Termination**) (which notice is not required to be of any particular length) but this Lease shall only determine as a result of notice given by the Tenant under this clause 6.5.1 if on the Revised Intended Date of Termination the Tenant has paid all Rent due under this Lease up to the Revised Intended Date of Termination and has complied with the conditions set out in clauses 6.3.2 and 6.3.3; and
 - 6.5.2 the Landlord may terminate this Lease with immediate effect on giving written notice to the Tenant at any time after the Intended Date of Termination specified in a notice given by the Tenant under clause 6.1 or 6.2.
- 6.6 The Landlord may in its absolute discretion waive compliance with all or any of the conditions or obligations set out in clause 6.2 but unless otherwise expressly agreed in writing such waiver shall not release the Tenant from liability to comply with the relevant condition or obligation.
- 6.7 Upon termination of this Lease under this clause 6 the Term shall cease and determine but without prejudice to either party's rights and remedies in respect of any antecedent breach by the other of this Lease and the continuing operation of any provision of this Lease which is expressed to continue to apply or remain in force and effect after or notwithstanding Termination of the Term.
- 6.8 Any notice given under this clause 6 shall be irrevocable.
- 6.9 Time is of the essence in respect of this clause 6.

7 Landlord's Right of Termination for Oil and Gas Works

- 7.1 The Landlord may at any time and from time to time during the Term terminate this Lease in respect of the Site or any part or parts of it by giving reasonable prior written notice to the Tenant specifying the Site or the part or the parts of it in respect of which the notice is given.
- 7.2 The Landlord shall not give notice under clause 7.1 unless the Secretary of State for the purposes of the Petroleum Act 1998 has requested the Landlord to determine this Lease in respect of the Site or the part or parts of it specified in the notice because the Site or the part or parts of it specified in the notice are required for Oil and Gas Works or rights are required over the Site or the part or parts of it specified in the notice in connection with Oil and Gas Works.
- 7.3 If notice is given under clause 7.1 in respect of the whole Site then upon the expiry of that notice this Lease shall determine but without prejudice to the rights and remedies of the Landlord in respect of any antecedent breach by the Tenant of its obligations under this Lease.
- 7.4 If notice is given under clause 7.1 in respect of a part or parts of the Site then upon expiry of that notice:
 - 7.4.1 this Lease shall terminate in respect of the part or parts of the Site specified in the notice;
 - 7.4.2 this Lease shall from that date take effect as if the part or parts of the Site specified in the notice were no longer part of the Site and/or REZ Site (as the case may be); and

7.4.3 such termination shall be without prejudice to:

- (a) the rights and remedies of the Landlord in respect of any antecedent breach by the Landlord of its obligations under this Lease in respect of the part or parts of the Site specified in the notice; and
- (b) the continuing operation of this Lease in respect of the remainder of the Site.

7.5 The Tenant shall comply with the obligations under clauses 3.16.1 and 3.16.2 in respect of the Site or such part or parts of it as are specified in a notice given under clause 7.1 prior to the expiry of that notice.

7.6 Except as provided in clause 7.7 termination under this clause 7 does not give rise to any abatement of the Rent or liability of the Landlord to pay compensation to the Tenant for such termination.

7.7 Upon termination of this Lease in respect of a part or parts of the Site pursuant to a notice given under this clause 7 the Minimum Output shall be reduced by such proportion as shall be fair and reasonable (if any) having regard to the proportion of the Tenant's Works which the Tenant is required to remove as a consequence of that notice and the proportion of the Tenant's Works remaining.

7.8 Any difference arising between the Landlord and the Tenant as to the reduction in the Minimum Output pursuant to clause 7.7 may be referred by either the Landlord or the Tenant on notice to the other for determination by an independent electrical engineer acting as an expert as provided in clause 10.2 and who shall be nominated by the Landlord and approved by the Tenant (such approval not to be unreasonably withheld) or in default of agreement be nominated by the President of the Institution of Engineering and Technology or other acting chief officer for the time being on the application of either the Landlord or the Tenant.

7.9 The Tenant shall enter into such deeds and documents as the Landlord may reasonably require to give effect to any notice given under clause 7.1.

8 Replacement Security Document

8.1 On each anniversary of the Commencement Date the Tenant shall (if requested by the Landlord) deliver evidence in a form satisfactory to the Landlord (acting reasonably) that the Security Provider continues to have an Acceptable Covenant.

8.2 If a Security Document ceases to be valid, binding or enforceable for any reason or the Security Provider ceases to have an Acceptable Covenant then the Tenant shall provide the Landlord with a replacement Security Document (which shall be subject to a maximum value or cap on liability no less than the Cap) within thirty (30) Working Days of any Security Document ceasing to be valid, binding or enforceable or the Security Provider ceasing to have an Acceptable Covenant.

9 Indexation

9.1 Where in this Lease an amount is to be increased by **Indexation** or **Indexed** the amount shall be that amount multiplied by $(CPI1 \div CPI2)$, where:

CPI1 is the higher of:

- (a) the value of the Index published in respect of the month two (2) months prior to the relevant calculation date; and
- (b) the highest value of the index published after the date of this Lease; and

CPI2 is [*to be the same as CPI2 in the Option Agreement*]

9.2 If the reference base used to compile the Index changes after the date of this Lease the figure taken to be shown in the Index after the change is to be the figure that would have been shown in the Index if the reference base current at the date of this Lease had been retained.

9.3 If after the date of this Lease:

9.3.1 the Index ceases to be published; or

9.3.2 it otherwise becomes impossible to operate the formula in clause 9.1 by reference to the Index

the Landlord and Tenant shall consult together with a view to agreeing an alternative index or method of adjusting the amounts stated to Indexed which as closely as possible gives effect to the purpose and intent of the parties as set out in this Agreement but in the event of any failure to agree or if any other dispute or difference arises between the Landlord and Tenant with respect to the calculation of the amounts stated to Indexed either party may require the matter to be determined by an expert to be appointed either by agreement between the parties or, in the absence of agreement, by the President of the Royal Institution of Chartered Surveyors (or the next senior officer).

10 Miscellaneous

10.1 Except where and to the extent that any statutory provision prohibits the Tenant's right to compensation being reduced or excluded by agreement the Tenant shall not be entitled on quitting the Site to claim any compensation from the Landlord on any ground.

10.2 If there is any dispute or matter in this Lease expressed to be referable to an expert for determination:

10.2.1 the relevant expert shall be instructed to accept written representations and counter representations within such time as he shall direct as being reasonable having regard to the nature of the dispute or matter and the need for its timely resolution and in any event shall be instructed to seek to reach his decision within twenty eight (28) days (or such further time as he shall determine to be reasonable having regard to the nature of the dispute or matter) of his appointment;

10.2.2 the costs of the reference to the relevant expert and of his determination (including his own fees and expenses the fees and expenses of any other professional consulted in accordance with clause 10.2.3 and the costs of the Landlord and the Tenant) shall lie in his award;

10.2.3 the relevant expert shall be entitled to seek the opinion of another professional of an appropriate different experience and qualification if he shall be concerned that he lacks relevant or sufficient experience or expertise;

10.2.4 the relevant expert shall be required to give reasons for his decision and his decision will be final and binding save in case of manifest error; and

10.2.5 if a relevant expert shall die or otherwise be incapable of resolving the dispute either the Landlord or the Tenant may request (in default of agreement) a replacement person and the foregoing will apply.

10.3 The following provisions apply in respect of the Tenant's Works:

10.3.1 the Tenant's Works are the property of the Tenant and shall remain the property of the Tenant notwithstanding Termination of the Term; and

10.3.2 where any of the Tenant's Works remain on in or under the Site and/or the Cable Corridor after the Termination of the Term (whether or not in breach of clause 3.16) the Landlord may (save where prohibited by a Statutory Decommissioning Programme) in its absolute

discretion retain remove and dispose of those Tenant's Works as it sees fit without any liability whatsoever to the Tenant and without prejudice to the Landlord's rights and remedies in respect of any breach by the Tenant of clause 3.16 and the continuing operation of clause 3.11.

- 10.4 The Landlord shall incur no liability to the Tenant by reason of any approval given to or inspection made of the Tenant's Works or any drawing plan or specification of them nor shall any such approval or inspection in any way relieve the Tenant from its obligations under this Lease.
- 10.5 Any notice must be in writing and will be properly given if sent by Recorded Delivery or Registered post in the case of a notice by the Tenant to the Landlord addressed to them at Quartermile Two, 2nd Floor, 2 Lister Square, Edinburgh EH3 9GL (or at such other address as the Landlord may from time to time intimate in writing to the Tenant) and in the case of the Tenant and any Security Provider to its registered office or last known place of business if such registered office or last known place of business is Scotland, England or Wales or otherwise and in the case of the Security Provider only to any agent specified in the relevant Security Document declaring that all notices will be deemed to be received at the same time two (2) Working Days after posting and any omission to send by recorded delivery or registered post will not be pleadable where the notice has received an acknowledgement.
- 10.6 Nothing contained or implied in this Lease gives the Tenant the benefit of or the right to enforce or prevent the release or modification of any covenant agreement or condition relating to other premises.
- 10.7 It is not intended that any third party shall be entitled to enforce any term of this Lease pursuant to the Contracts (Rights of Third Parties) (Scotland) Act 2017.

11 Supply Chain and Contracted Position Statement

Supply Chain

- 11.1 In order to maximise efficiencies in the supply chain (whether on a local or national basis) required for the construction and subsequent maintenance and operation of the Tenant's Works to be constructed in terms of this Lease, the Tenant (whether alone or in partnership with other offshore wind farm developers) shall
- 11.1.1 use reasonable endeavours to engage with and meet regularly local and national business forums relevant supply chain organisation(s) and relevant economic development agencies with a view to ensuring their requirements for the efficient facilitation of the construction and subsequent maintenance and operation of the Tenant's Works are understood by such forums and organisations and to inform them of progress, concerns and opportunities regarding their region or companies which they account manage; and
- 11.1.2 advertise all opportunities for sub-contractors and suppliers in a way which ensures suppliers for which the opportunities may be relevant, are aware of procurement activities related to the Development.
- 11.2 Where applicable, the Tenant shall provide the Landlord with all Supply Chain Plan information at the time it is submitted as part of the Contract for Difference eligibility process.

Contracted Position Statement

- 11.3 Within two (2) weeks of every 2nd anniversary of the Commencement Date until the 6th anniversary thereof, the Tenant shall provide the Landlord with a written report on the delivery of the CPS Commitments contained within the CPS and thereafter the Tenant

shall provide such written report every five (5) years commencing on the 10th anniversary of the Commencement Date.

11.4 The report referred to in clause 11.3 shall be in a form approved by the Landlord and which aligns with other relevant supply chain measures across the UK, such as supply chain plans linked to Contracts for Difference (as defined in Schedule Part 4) and the Offshore Wind: Sector Deal published by the Department for Business, Energy & Industrial Strategy on 7 March 2019.

11.5 The Landlord may publish information from the report referred to in clause 11.3 as the Landlord considers appropriate.

12 Proper Law

12.1 This Lease shall be governed by and construed in accordance with the Laws of Scotland and the Site is to be regarded as if it were incorporated in the body of a county of Scotland.

12.2 The Tenant irrevocably agrees for the exclusive benefit of the Landlord that the courts of Scotland shall have jurisdiction over any claim or matter arising under or in connection with this Lease and that accordingly any proceedings in respect of any such claim or matter may be brought in such courts. Nothing in this clause shall limit the right of the Landlord to take proceedings against the Tenant in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction or jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction or jurisdictions.

13 Further Assurance

The Parties agree that each shall and shall use reasonable endeavours to procure that any third party shall execute such documents and perform such acts as may be required to implement the OFTO regime or any equivalent replacement regime.

14 Direct Agreement

14.1 The Landlord acknowledges that the Tenant may require funding from a Funder to implement the Development and in arranging such finance a Funder may require, as a condition of the availability of that finance to enter into a direct agreement with the Landlord to cover (without limitation) the following principal matters:

14.1.1 an acknowledgement by the Landlord of any security taken by the Funders over the Tenant and its assets (including over the Lease);

14.1.2 an obligation to give notice to the Funder in the terms of clause 5.1 of the Lease;

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

14.1.4 a step in right (without giving rise to any express or implied assignment) to allow the Funder to ensure that the obligations of the Tenant are complied with as to prevent any circumstances arising under which the Landlord could seek to determine) the Lease; and

14.1.5 provisions regulating the application of insurance proceeds in the event that all or part of the Tenant's Works is destroyed or damaged which provisions will permit the Funder to recalculate financial ratios and conduct other economic tests (in respect of which the Funder will take account of the Landlord's reasonable representations) relating to the fundamental financial viability of the Development and fundamental ability of the Development to meet debt service after the occurrence of a major insurable event and will further provide that if the specified economic tests are not satisfied, then any insurance proceeds received in respect of such insurable event shall be applied in

repayment of amounts owing under any funding agreements rather than reinstatement of the relevant part or parts of the Tenant's Works.

- 14.2 The Landlord further acknowledges that they will act in good faith (at the cost and expense of the Tenant) to negotiate such a direct agreement where reasonably requested by the Tenant.

15 Consent to Registration

The parties hereto consent to registration hereof for preservation and execution: IN WITNESS WHEREOF these presents consisting of this and the preceding pages together with the Schedule attached are executed as follows:

They are subscribed for and on behalf of Crown Estate Scotland

At.....

On

By

.....Authorised Signatory

.....Full Name

before this witness

.....Witness Signature

.....Witness Full Name

.....Witness Address

.....

And they are subscribed for and on behalf of the said []

At.....

On

By

.....Director Signature

.....Director Full Name

.....Witness

..... Full Name

..... Witness Address

.....

This is the Schedule referred to in the foregoing Lease by Crown Estate Scotland in favour [] of the wind farm site on seabed at []

Schedule Part 1 - Rights

- 1 The following rights are granted to the Tenant:
 - 1.1 the exclusive right to install use operate inspect maintain repair renew and remove Tenant's Works within the Site together with such ancillary rights as may be necessary to enable the Tenant to comply with its obligations under this Lease in respect of the Site;
 - 1.2 the rights granted under paragraph 1.1 in respect of the REZ Site shall not exceed the rights exercisable by virtue of any Order or Orders in Council from time to time made pursuant to Section 84(4) Energy Act 2004 designating the Renewable Energy Zone in which the REZ Site is located;
 - 1.3 to install Generator Cables and to use inspect maintain repair renew and remove Generator Cables from time to time laid by the Tenant on in under or over the Site and to divert any Generator Cables from time to time laid by the Tenant where entitled to do under this Lease; and
 - 1.4 to connect any Generator Cables to any transmission or substation equipment within the Site and to inspect maintain repair renew and remove any such connection for the purposes of carrying out any routine maintenance or repair work.

Schedule Part 2 - Exceptions and Reservations

- 1 The following are excepted and reserved to the Landlord and all others from time to time authorised by the Landlord (including, without limitation, any OFTO) or otherwise entitled:
 - 1.1 all mines minerals and mineral substances within the Site;
 - 1.2 the right to install and use (without interruption or interference save for routine maintenance or repair work) within the Site one or more substations (or supporting platforms including the footings of any such platform to accommodate any substation) and Supply Cables and any required Conduits for the purposes of transmitting electricity generated by the Tenant's Works or by any other wind farm or otherwise and to connect into and use any Conduits belonging to the Tenant and to use connect into inspect maintain repair renew and remove any such substations, Supply Cables and Conduits (not forming part of the Tenant's Works); and
 - 1.3 the rights to:
 - 1.3.1 enter the Site to exercise the rights referred to in paragraphs 1.2, 1.3.2 and 1.3.3;
 - 1.3.2 inspect the Site and the Tenant's Works; and
 - 1.3.3 carry out scientific research within the Site.
 - 1.4 the right to install works on the seabed outside the Site in such manner as it sees fit irrespective of whether the works affect or diminish the light air or wind which may now or at any time be enjoyed by the Site or the Tenant's Works subject only to the Landlord complying with the obligations under clause 4 (where relevant) provided that the Landlord will not install or suffer or permit the installation of any wind farm within an area of 2.5 km from the boundary of the Tenant's Works as shown on the plan provided pursuant to clause 8.1 of the Option Agreement (the **Exclusion Zone**) and where there is to be an adjacent wind farm the Landlord shall procure that a similar exclusion zone be included for such wind farm so that the total exclusion zone is 5 km provided further that this exclusion shall not apply where the Landlord, the Tenant and any relevant third party agree an alternative arrangement which would permit such use of the Exclusion Zone.
- 2 The rights granted under paragraphs 1.1 and 1.3 of Schedule Part 1 are subject to the following:
 - 2.1 the right of the Landlord to carry out and grant leases licences and consents for the carrying out of works on in over or under the Site are subject only to the Landlord complying with the obligations under clause 4 (where relevant);
 - 2.2 the rights of the Landlord under paragraph 3;
 - 2.3 the Tenant complying with its obligations under clauses 3.2, 3.3 and 3.5; and
 - 2.4 where the relevant works are not carried out by or on behalf of the OFTO for the purpose of accepting and transmitting electricity generated by the Tenant's Works, the Landlord shall pay to the Tenant reasonable compensation for any loss of income which the Tenant sustains as a direct consequence of such works and which could not have reasonably been avoided
 - 2.5 The Landlord's rights under paragraph 3 of this Part of the Schedule
- 3 The Landlord may from time to time upon giving at least twelve (12) months' notice to the Tenant:

- 3.1 require the Tenant to divert any or all Generator Cables and Conduits within the Site to such alternative position or positions within the Site as the Landlord may reasonably require; and/or
- 3.2 require the OFTO to divert any or all Supply Cables and Conduits within the Site (and the Cable Corridor) to such alternative position or positions within the Site (and the Cable Corridor) as the Landlord may reasonably require; and/or
- 3.3 require the OFTO to alter the position of the Site (and the Cable Corridor) and divert the Conduits and Supply Cables within it to such alternative positions within the Site (and the new Cable Corridor) as the Landlord may reasonably require.
- 4 Where the Landlord exercises its rights under paragraph 3:
 - 4.1 the Tenant shall carry out the diversion required under paragraph 3 prior to expiry of the notice given under paragraph 3; and
 - 4.2 the Landlord shall pay to the Tenant the costs and expenses reasonably incurred by the Tenant in carrying out such diversion under paragraph 3 and reasonable compensation for any loss of income which the Tenant sustains as a direct consequence of any such diversion and which could not have reasonably been avoided.
- 5 The exceptions and reservations under paragraph 1 are subject to the following terms:
 - 5.1 in exercising the rights under paragraph 1.3 and/or 1.4, the Landlord shall take all reasonable steps not to interrupt the operation of the Tenant's Works and shall make good any damage caused to the Tenant's Works in the exercise of the rights as soon as reasonably practicable and to the reasonable satisfaction of the Tenant or if the Tenant shall reasonably require the Tenant may after giving written notice to the Landlord make good the damage to the Tenant's Works caused by the exercise of the rights under paragraph 1.3 or 1.4 and the Landlord shall reimburse the Tenant for all reasonable costs and expenses incurred by the Tenant in making good the damage to the Tenant's Works;
 - 5.2 when exercising the right under paragraph 1.3.2, the Landlord shall where it is reasonably practical to do so take reasonable steps to enable the Tenant to provide a representative in whose presence the inspection is to be carried out;
 - 5.3 when exercising the right under paragraph 1.3.2, the Landlord shall where it is reasonably practical to do so engage for the purpose one of the contractors on the approved list of contractors from time to time supplied by the Tenant to the Landlord or (where it is not practicable to do so or no list is provided) use all reasonable endeavours to engage a contractor experienced in offshore wind farm developments for the purpose;
 - 5.4 the Landlord shall exercise the rights under paragraph 1.3.3 in accordance with a method statement which has been approved by the Tenant (such approval not to be unreasonably withheld); and
 - 5.5 where the rights referred to in paragraph 1.3.1 are exercised in respect of a Conduit installed pursuant to a consent under clause 4.1.1 then the terms of the consent shall apply in place of paragraph 1.2.

Schedule Part 3 - Title Matters

Part 1

The following are licences and leases granted by the Landlord where the Landlord have given undertakings to obtain the consent of the licensee/tenant specified below or where agreement with an existing tenant or licensee (in a form reasonably acceptable to the Landlord (acting reasonably) is required to allow co-location of uses or rights (each such consent being a Necessary Consent for the purpose of this Agreement):

Date	Tenant/Licensee	Works

Part 2

The following are licences and leases granted by the Landlord where no consent need be obtained from the licensee/tenants specified below before the Specified Works are carried out in the vicinity of the works specified below:

Date	Tenant/Licensee	Works

Part 3

The following are works that are not authorised by the Landlord to the extent that they lie outside the Territorial Limit of the United Kingdom but of which the Landlord are aware and in respect of which consent from the owners and/or operators of such works may need to be obtained:

[]

Schedule Part 4 - Rent

1 Definitions and Interpretation

In this part of the Schedule:

Contract for Difference means a Contract for Difference which is entered into pursuant to a direction made by the Secretary of State under Section 10 of the Energy Act 2013 (or any replacement support scheme which may be receivable by the Tenant);

Fee means the sum of £1.07 (Indexed on the Commencement Date and each anniversary of that date thereafter);

Forecasted Output means the anticipated Output in megawatt hours of electricity that may be generated by the Tenant's Works in each Forecast Year (or part thereof);

Forecast Year means each year of the Term commencing on 1 April

Generation Certificate means a certificate signed by a duly authorised officer of the Tenant addressed to the Landlord certifying for the relevant Generation Period:

1. the Output; and
2. the Output Rent payable

Generation Date means the date on which the Tenant's Works or any part of them first commence to generate and export electricity;

Generation Period means a period of 3 months commencing on (and including) 1 January, 1 April, 1 July and 1 October in each year provided that:

1. the first Generation Period shall be the period commencing on (and including) the Generation Date up to following first following 1 January, 1 April, 1 July or 1 October; and
2. the last Generation Period shall be the period commencing on (and including) the last 1 January, 1 April, 1 July or 1 October during the Term up to the Termination of the Term;

Minimum Output means (subject to paragraph 4 [●]) [*Note: this will be seventy per cent (70%) of the annual Projected Output fixed under clause [8.5 and 8.6] of the Option Agreement*] megawatt hours as revised from time to time under paragraph 4;

Output means the greater of:

1. either the amount in megawatt hours of Loss Adjusted Metered Output (as reported by Elexon) generated by the Tenant's Works during the relevant Generation Period or, where there is no Contract for Difference receivable by the Tenant in respect of the Tenant's Works, the amount of Net Electrical Output during the relevant Generation Period; and
2. twenty-five per cent (25%) of the Minimum Output;

Net Electrical Output means the amount in megawatt hours of electricity generated by the Tenant's Works during the relevant Generation Period less the amount in megawatt hours of electricity generated by the Tenant's Works but used by the Tenant in the operation of the Tenant's Works;

Output Rent means, for each Generation Period the sum calculated by the formula:

$R = \text{Fee} \times \text{Output}$

Output Rent Commencement Date means the date forty eight (48) months after the Commencement Date

Payment Date means (subject to paragraphs 2.3 and *[link to review if reviewed]*) the date fourteen (14) days after the end of each Generation Period;

Records means all meter readings and other documents and records (including computer tapes discs and other storage systems) which are or ought in the reasonable opinion of the Landlord to be kept by the Tenant or its predecessors in title for the purpose of ascertaining the Output or that are or may in the reasonable opinion of the Landlord be relevant for that purpose;

Review Date means the date of the end of the Generation Period in which the thirtieth (30th) anniversary of the Commencement Date occurs

2 Output Rent

The Output Rent shall be ascertained and paid as provided in this paragraph 2;

- 2.1 From the Commencement Date, the Tenant shall pay to the Landlord rent in the sum of £1 per annum (if demanded).
- 2.2 From the earlier of (i) the Generation Date and (ii) the Output Rent Commencement Date up to (but excluding) the Review Date, the Tenant shall pay the Output Rent for each Generation Period in arrears on the Payment Date immediately following the relevant Generation Period.
- 2.3 The following provisions apply to the calculation and payment of the Output Rent for the last Generation Period (whether at expiry or earlier termination of this Lease or the Landlord electing to review the rent in accordance with paragraph 7):
 - 2.3.1 where the first and/or last Generation Periods are not a period of three months (3), the Minimum Output shall be the figure which bears the same proportion to the figure stated in the definition of Minimum Output above (as revised from time to time under paragraph 4) as the number of days in the first and/or last Generation Periods (as the case may be) bears to 91.25; and
 - 2.3.2 for the last Generation Period (where it is not a period of three (3) months), the Payment Date shall be the last day of that Generation Period.

3 Certificates and Records of Output

- 3.1 The Tenant shall notify the Landlord immediately that the Generation Date has occurred and provide such evidence as the Landlord may reasonably require to prove that it occurred on the date so notified.
- 3.2 On or before each Payment Date the Tenant shall deliver to the Landlord a Generation Certificate for the Generation Period which has just ended.
- 3.3 The Tenant warrants to the Landlord that each Generation Certificate will be true and accurate in all respects.
- 3.4 The Tenant shall maintain the Records fully and accurately throughout the Term and shall make them available for inspection at all reasonable times by an employee of the Landlord.
- 3.5 The Landlord may at its discretion cause an audit of the Records to be made by a professionally qualified person appointed by the Landlord and if it is established by such

audit that the Output for any Generation Period or the Gross Revenue for any Period has been understated then the cost of the audit shall be borne by the Tenant.

- 3.6 If it shall appear from any such inspection or audit or from any other circumstances that any further Output Rent for a Generation Period (or the Revenue Rent if applicable in terms of paragraph 7 below) for any Period is payable then such Output Rent shall be paid by the Tenant on demand and for the purpose of clause 3.1.3 of the foregoing Lease, such further Output Rent (or Revenue Rent if applicable) shall be deemed to have been due on the Payment Date (or Revenue Rent Payment Date if applicable) immediately following the Generation Period for which such further Output Rent (or Period for which such further Revenue Rent if applicable) should have been paid.
- 3.7 If any dispute or question shall arise between the Landlord and the Tenant with respect to the amount of the Output Rent (or Revenue Rent), either of them may by notice to the other require the matter in dispute to be determined by an independent chartered accountant acting as an expert as provided in clause 10.2 and who shall be nominated by the Landlord and approved by the Tenant (such approval not to be unreasonably withheld) or in default of agreement be nominated by the President of the Institute of Chartered Accountants of Scotland or other acting chief officer for the time being on the application of either the Landlord or the Tenant

4 Increase in Minimum Output

- 4.1 If and each time the Tenant carries out any alterations or additions to the Tenant's Works the Minimum Output shall be revised in accordance with this paragraph 4.
- 4.2 The Minimum Output figure used in calculating the Rent for each Generation Period commencing after the carrying out of the alteration or addition shall be the Minimum Output figure applying immediately prior to the carrying out of those alterations or additions or (if greater) seventy per cent (70%) of the anticipated annual electricity production of the Tenant's Works following the carrying out of the alteration or addition expressed in megawatt hours.
- 4.3 The Tenant shall provide to the Landlord such evidence and analysis of that evidence of the anticipated annual electricity production of the Tenant's Works following the carrying out of the alterations or additions to the Tenant's Works as the Landlord reasonably requires.
- 4.4 Any difference arising between the Landlord and the Tenant as to the anticipated annual electricity production of the Tenant's Works following the carrying out of the alterations or additions may be referred by either the Landlord or the Tenant on notice to the other for determination by an independent electrical engineer acting as an expert as provided in clause 10.2 and who shall be nominated by the Landlord and approved by the Tenant (such approval not to be unreasonably withheld) or in default of agreement be nominated by the President of the Institute of Engineering and Technology or other acting chief officer for the time being on the application of either the Landlord or the Tenant.

- 4.5 This paragraph 4 does not apply to any removal of the Tenant's Works or part of them required pursuant to clause 3.16.

5 Late Ascertainment of Output Rent (or Revenue Rent if applicable)

Where the Output Rent or Revenue Rent applicable to any Generation Period or Period (as applicable) is not ascertained before the relevant Payment Date or Revenue Rent Payment Date (as applicable), interest shall be paid on any Output Rent or Revenue Rent Payment Date (as applicable) payable in accordance with clause 3.1.3 of the foregoing Lease from the due date until actual receipt by the Landlord.

6 Forecasted Output

- 6.1 At least eighteen (18) months prior to the date on which, in the Tenant's reasonable opinion the Generation Date will fall, the Tenant shall provide to the Landlord a written estimate of the Forecasted Output calculated on a month to month basis for the period commencing on the anticipated Generation Date to the following 31 March;

- 6.2 On or prior to 1 August in every year throughout the Term commencing in the year the Generation Date is forecasted to occur in terms of paragraph 6.1, the Tenant shall provide to the Landlord a written estimate of the Forecasted Output calculated on a month to month basis for the immediately following Forecast Year (or part thereof in the final year of the Lease if applicable).

7 Rent Review

- 7.1 In this paragraph 7:

Base Rent means the average of the Output Rent payable by the Tenant in the 5 calendar years immediately preceding the Review Date (apportioned on an annual/daily basis if necessary for any such year) as agreed between the Landlord and the Tenant or in the event of dispute with respect to the calculation of the Base Rent either of them may by notice to the other require the matter to be determined by an independent chartered accountant acting as an expert as provided in clause 10.2 and who shall be nominated by the Landlord and approved by the Tenant (such approval not to be unreasonably withheld) or in default of agreement be nominated by the President of the Institute of Chartered Accountants of Scotland or other acting chief officer for the time being on the application of either the Landlord or the Tenant

Base Rent Commencement Date means in the event of the Landlord electing to review the Rent in accordance with this paragraph 7, the Review Date;

Base Rent Payment Dates means [], [], [] and [] *[insert dates every 3 months starting on the Review Date]* commencing on the Base Rent Commencement Date;

Certificate means, in relation to each Period, a certificate of Gross Revenue for that Period;

Gross Revenue means the gross income received or receivable by Tenant during the relevant Period for the electricity generated by the Tenant's Works and/or at the Site including but not limited to income received from (i) a Contract for Difference or any replacement support scheme which is received by the Tenant in respect of the Tenant's Works from time to time and/or (ii) the sale of electricity, (less any sum which the Tenant is obliged to pay to (a) the relevant counterparty under a Contract for Difference or (b) any other party under any replacement support scheme which is received by the Tenant in respect of the Tenant's Works from time to time) (iii) in the event of cessation of or constraint on the generation of electricity by the Tenant's Works (either partial or complete) as a direct consequence of the Tenant complying with a request made by National Grid Electricity Transmission plc or their successors ("NGET") to cease or constrain the generation of electricity by the Wind Farm in accordance with NGET's or their foresaids' role in procuring balancing services or equivalent replacement or similar

scheme that provides income to the Tenant, any income received by the Tenant to the extent directly attributable to the cessation or constraint on the generation of electricity by the Tenant's Works as a result of such request by NGET or their foresaids less (a) any VAT and (b) the cost of any electricity imported to the Tenant's Works and (iv) the storage of electricity at the Site;

Gross Revenue Certificate means a certificate prepared by the Tenant or auditors of the Tenant and furnished by the Tenant to the Landlord specifying the amount of and giving all relevant details of the Gross Revenue and the Revenue Rent payable in respect of the relevant Period which certificate shall contain all reasonably necessary information as the Landlord and his professional advisors may reasonably require to enable the Landlord to cross check and calculate the Gross Revenue and the Revenue Rent payable and how same has been attained and calculated;

Period means each year of this Lease, starting on the Base Rent Commencement Date, except that the last Period shall start on the relevant anniversary of the Rent Commencement Date and end on the last day of this Lease;

Revenue Rent means, for each Period, the greater of (i) £1 and (ii) two per cent (2%) of the Gross Revenue for the relevant Period, less the Base Rent paid for that Period;

Revenue Rent Payment Date means the date [20] Working Days after the end of each Period;

Records means all documents and records (including computer tapes discs and other storage systems) which are or ought in the reasonable opinion of the Landlord to be kept by the Tenant or its predecessors in title for the purpose of ascertaining the Gross Revenue or that are or may in the reasonable opinion of the Landlord be relevant for that purpose.

- 7.2 At least six (6) months prior to the Review Date the Tenant shall provide to the Landlord a statement setting out the Tenant's projection of the Revenue Rent ("Revenue Rent Statement") containing such information as is reasonably required by the Landlord to allow the Landlord to reach a decision as to whether to continue to receive the Output Rent or to change to the Revenue Rent. The Tenant shall act reasonably and diligently in preparing such Revenue Rent Statement.
- 7.3 Within three (3) months of the Review Date (or if later within three months of receipt by the Landlord of the Revenue Rent Statement) the Landlord shall give written notice to the Tenant as to whether it elects to receive the Output Rent or the Revenue Rent in respect of the period from the Review Date for the remainder of the Term. In the event that the Landlord does not give written notice to the Tenant as aforesaid, provided that the Tenant has provided the Revenue Rent Statement timeously, the Landlord shall be deemed to have elected to continue to receive the Output Rent for the remainder of the Term.
- 7.4 If the Landlord has elected (or is deemed to have elected) to receive the Revenue Rent from the Review Date then the Tenant shall pay the Base Rent quarterly in advance in equal instalments on the Base Rent Payment Dates commencing on the Base Rent Commencement Date.
- 7.5 Within twenty (20) Working Days of the end of each Period the Tenant shall provide a Gross Revenue Certificate to the Landlord and if the Revenue Rent for the relevant Period exceeded the Base Rent then the Tenant shall pay to the Landlord a sum which represents the amount by which the Revenue Rent exceeded the Base Rent for relevant Period within forty (40) Working Days of the end of the relevant Period. Any payments received or receivable by the Tenant following termination of the Lease will be treated as having been received in the last year of the Lease and the Tenant shall account to the Landlord for any additional Revenue Rent arising as a result of such payments.
- 7.6 The Tenant warrants to the Landlord that each Gross Revenue Certificate will be true and accurate in all respects.

8 Miscellaneous

- 8.1 Time shall not be of the essence for the purposes of this Part of the Schedule unless otherwise expressly stated.
- 8.2 The provisions of this Part of the Schedule shall continue to apply notwithstanding the expiry or earlier termination of the Lease
- 8.3 All figures stated in this Part of the Schedule are exclusive of VAT which shall, if appropriate, be payable in addition thereto in exchange for a valid VAT invoice.

Schedule Part 5 - Determination and Review of Estimated Maximum Losses

2 Initial Estimated Maximum Losses under this Lease

- (a) Within fourteen (14) days of the Commencement Date the Tenant shall appoint an EML Consultant to perform an EML Study in order to derive the Estimated Maximum Loss and the Terrorism Estimated Maximum Loss. The Tenant shall deliver the completed EML Study to the Landlord.
- (b) The appointment of an EML Consultant and any EML Study delivered by the EML Consultant will not discharge the Tenant's obligations under paragraph 1(a) unless the identity of the EML Consultant and his terms of appointment have been approved by the Landlord (such approval not to be unreasonably withheld).
- (c) In performing the EML Study the EML Consultant shall be required to:
 - (i) act impartially;
 - (ii) have due regard to the Tenant's Works and the location of the Tenant's Works;
 - (iii) use the "as low as reasonably practicable principle";
 - (iv) have due regard to "Sue and Labour", "Removal of Wreck" and "Vessel Costs"; and
 - (v) include all ancillary costs, professional fees and VAT.
- (d) The Estimated Maximum Loss and Terrorism Estimated Maximum Loss as derived from an EML Study shall be final and binding upon the Tenant and the Landlord save in the case of manifest error or fraud.
- (e) The cost of appointing the EML Consultant under this paragraph 2 shall be borne solely by the Tenant.
- (f) Following a determination under this paragraph 2, the Estimated Maximum Loss and Terrorism Estimated Maximum Loss for the purposes of clause 3.13.1(a) shall be the amount so determined by the EML Consultant.

3 Reviewing the Estimated Maximum Losses

- (a) On one occasion during each five (5) year period during the Term, either party may by notice to the other propose that an EML Consultant is appointed to perform a further EML Study to assess the Estimated Maximum Loss and Terrorism Estimated Maximum Loss at that time.
- (b) Any notice under paragraph 2(a) shall propose the identity of the EMC Consultant and the terms of appointment of the EMC Consultant.
- (c) Within thirty (30) days of such request (save where there is a dispute concerning the identity and/or terms of the appointment), the Tenant shall appoint the EML Consultant to perform a further EML Study. In performing that EML Study the EML Consultant shall be required to act in the same manner as that set out in paragraph 1(c)(i) to paragraph 1(c)(v) (inclusive).
- (d) The Estimated Maximum Loss and Terrorism Estimated Maximum Loss as derived from that EML Study shall be final and binding on the Landlord and the Tenant, save in the case of manifest error or fraud.

- (e) The cost of appointing the EML Consultant shall be borne by the Party which requested that the EML Study be performed.
- (f) Following a determination under this paragraph 2, the Estimated Maximum Loss and Terrorism Estimated Maximum Loss for the purposes of 3.13.1(a) shall be adjusted to the amount so determined by the EML Consultant.

Schedule Part 6 - Form of HSI Notification

Details of business or undertaking notifying the incident		
Legal name of business:		
Name of site:		
Business address:		
Contact phone number:	Work hours:	Mobile:
Business email address:		
Incident details		
Incident type		
This is to notify of :	<input type="checkbox"/> Serious Incident <input type="checkbox"/> Non-fatal RIDDOR Reportable Incident	
Provide a brief explanation of the type of incident (i.e. fall from height, vessel collision):		
Incident date, time and location		
Date of incident:	Location of incident:	
Time of incident:		
Description of the incident Please provide as much detail as possible		
Do you propose to release a press/public statement in connection with the incident? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Notifier's details		
<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms First Name: _____ Last Name: _____		
Position at workplace:		Contact phone number: _____
Email:		
Is this the person that should be contacted for further information? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, please provide the name and contact details of the appropriate person should further information be required		
<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms First Name: _____ Last Name: _____		
Position:		Contact phone number: _____

Schedule Part 7 - Break Fee Worked Example

We set out below two worked examples of how a payment will be calculated following the service of a break notice under a lease and in accordance with the following formula:

Any Break Fee under this Lease shall be calculated in accordance with the following formula:

$$BF = (5 - N) \times \text{Minimum Rent}$$

Where:

BF, **N** and **Minimum Rent** have the definitions given to them in Clause 6.

Examples:

1. If five (5) years notice is served then the break fee will be nil because:

$$BF = (5-5) \times \text{Minimum Rent}$$

$$BF = 0 \times \text{Minimum Rent}$$

2. If less than five (5) years notice is given, then a break fee will apply:

Assuming Minimum Rent (on an annual basis) at the point the Break Notice is served is £2,000,000 then, applying a five per cent (5%) discount rate yields the following Break Fees:

Notice Period (Years)	Break Fee (NPV)	Comment
5	£0	See 1. above.
4	£1,904,762	5-4 = 1 years Minimum Rent, discounted at 5% p.a.
3	£3,718,821	5-3 = 2 years Minimum Rent, discounted at 5% p.a.
2	£5,446,496	5-2 = 3 years Minimum Rent, discounted at 5% p.a.
1	£7,091,901	5-1 = 4 years Minimum Rent, discounted at 5% p.a.
0	£8,658,953	5-0 = 5 years Minimum Rent, discounted at 5% p.a.

Schedule Part 8 - Plan

Schedule Part 9 - Co-ordinates

Schedule Part 10 - Specification

Schedule Part 11 - Contracted Position Statement

Schedule Part 12 - Statement of Commitment

Dear Sirs

Statement of Commitments re: [] (“the Development”)

We,

[•] [name, company no. (if applicable) and registered office of organisation] refer to the abovementioned Development and now confirm the following to Crown Estate Scotland:

1. We are aware of, and are willing to participate in the Development which is the subject of this letter. A brief summary of our proposed involvement in the Development is [•];
2. Insofar as information provided in this letter relates to this organisation, we are aware that Crown Estate Scotland are acting in reliance on this information in assessing whether or not to consent to our proposed involvement and confirm that it is comprehensive, accurate and up to date; and
3. The acceptance of our involvement in this Development does not present a reputational risk to Crown Estate Scotland in that neither this company/organisation nor any office holder or person with powers of representation, decision or control within this company/organisation have been convicted of any of the types of unlawful conduct described in full in Appendix 1 to this letter. If at any time this company/organisation or any office holder or person with powers of representation, decision or control within this company/organisation is convicted of an offence under replacement/amendment legislation to that listed in Appendix 1, we understand that this requires to be disclosed to Crown Estate Scotland;

Yours faithfully,

Signed for and on behalf of [•] [name of company/organisation] by:

Please formally sign for and on behalf of your organisation here and provide full details of signature to confirm how your company/organisation is bound by this letter as shown at Appendix 1.

Template Letter Appendix 1 – Reputational confirmation

- i) Conspiracy relating to participation in a criminal organisation or an offence relating to involvement in/directing serious organised crime (Criminal Justice and Licensing (Scotland) Act 2010);
- ii) Corruption (within the meaning of the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1906)
- iii) Bribery or corruption (within the meaning of the Criminal Justice (Scotland) Act 2003)
- iv) Bribery (within the meaning of the Bribery Act 2010)
- v) Cheating the Revenue
- vi) Common law fraud
- vii) Common law theft/ fraud
- viii) Fraudulent trading (within the meaning of the Companies Acts 1985/ 2006)
- ix) Fraudulent evasion (within the meaning of the Customs and Excise Management Act 1979 or the VAT Act 1994)
- x) Offence re: taxation (Criminal Justice Act 1993)
- xi) Common law uttering (Scots law term for fraud)
- xii) Common law attempting to pervert the course of justice
- xiii) Offences under Counter-Terrorism Act 2008

- xiv) Money laundering (within the meaning of the Proceeds of Crime Act 2002)
- xv) Proceeds of criminal conduct (within the meaning of the Criminal Justice Act 1988)
- xvi) Human trafficking (Human Trafficking and Exploitation (Scotland) Act 2015)
- xvii) Proceeds of drug trafficking (Drug Trafficking Act 1994)

Any other offence that is set out as an exclusion ground in the Directive 2014/24/EU of the European Parliament and of the Council on public procurement or any subsequent legislation which replaces that.