



Registration of a Charge

Company name: **SIMEC GHR SHENVAL HYDRO LIMITED**

Company number: **SC489744**



X7FVGM23

Received for Electronic Filing: **04/10/2018**

Details of Charge

Date of creation: **24/09/2018**

Charge code: **SC48 9744 0005**

Persons entitled: **WYELANDS BANK PLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BRODIES LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 489744

Charge code: SC48 9744 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 24th September 2018 and created by SIMEC GHR SHENVAL HYDRO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th October 2018 .

Given at Companies House, Edinburgh on 5th October 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED 24 SEPTEMBER 2018

ASSIGNMENT AND CHARGE

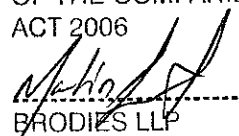
between

SIMEC GHR SHENVAL HYDRO LIMITED
(as Assignor)

and

WYELANDS BANK PLC
(as Lender)

CERTIFIED A TRUE
COPY SAVE FOR THE
MATERIAL REDACTED
PURSUANT TO S859G
OF THE COMPANIES
ACT 2006


BRODIES LLP
Solicitors

2/10/2018

Ref: WYE3.1/
MGES

Brodies LLP
15 Atholl Crescent
Edinburgh EH3 8HA
T: 0131 228 3777
F: 0131 228 3878
Ref: MPST.WGJK.WYE3.1

THIS DEED is made on 24 SEPTEMBER 2018

BETWEEN

- (1) **SIMEC GHR SHENVAL HYDRO LIMITED**, a company incorporated in Scotland with company number SC489744 and whose registered office is at Inveralmond Road, Inveralmond Industrial Estate, Perth, PH1 3TW (the "Assignor")
- (2) **WYELANDS BANK PLC**, a company incorporated in England and Wales with Company Number 01536428 and having its registered office at 7 Hertford Street, London, United Kingdom, W1J 7RH (the "Lender")

RECITALS

- (A) The Lender has agreed to make a credit facility available on the terms of the Facility Agreement.
- (B) The Assignor has agreed to provide Security to the Lender to secure the payment and discharge of the Secured Obligations.

IT IS AGREED as follows -

1 Definitions and Interpretation

1.1 In this Deed:-

- 1.1.1 "Accounts" means any bank accounts opened after the date of this Deed designated as an Account (for the purposes of the Facility Agreement) and all moneys from time to time standing to the credit (including any interest thereon) of such accounts;
- 1.1.2 "Charged Property" means all the property, assets and undertaking of the Assignor which from time to time are, or are expressed to be, the subject of the Security created in favour of the Lender by or pursuant to this Deed;
- 1.1.3 "Default Rate" means the rate of interest specified in, and calculated in accordance with, clause 10.3 of the Facility Agreement;
- 1.1.4 "Facility Agreement" means the agreement so called, dated on or around the date of this Deed entered into among, *inter alios*, the Assignor and the Lender, as amended, supplemented, novated, extended or restated from time to time;
- 1.1.5 "Insurances" means all policies or contracts of insurance or assurance now or hereafter effected by the Assignor or on its behalf or in which it may have an interest which are governed by English law;
- 1.1.6 "LPA" means the Law of Property Act 1925;
- 1.1.7 "Party" means a party to this Deed;

1.1.8 **"Receiver"** means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property;

1.1.9 **"Related Rights"** means in relation to any Charged Property:

1.1.9.1 the proceeds of sale of any part of that Charged Property;

1.1.9.2 all rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that Charged Property; and

1.1.9.3 any moneys and proceeds paid or payable in respect of that Charged Property;

1.1.10 **"Schedule"** means the Schedule annexed as relative to this Deed;

1.1.11 **"Secured Obligations"** means all the liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by the Assignor to any Secured Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

1.2 Facility Agreement definitions

In this Deed, unless the context requires otherwise terms defined in clause 1.1 (*Definitions*) of the Facility Agreement shall have the same meaning in this Deed.

1.3 Interpretation

In this Deed unless the context requires otherwise:-

1.3.1 words importing the singular shall include the plural and vice versa;

1.3.2 references to this Deed or any other document shall be construed as references to this Deed or such other document as amended, supplemented, novated, extended or restated from time to time;

1.3.3 references to any statute or statutory provision (including any subordinate legislation) shall include any statute or statutory provision for the time being in force which amends, extends, consolidates or replaces the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision;

1.3.4 references to a "person" shall include any individual, firm, company, corporation, body, trust or foundation, or any association, partnership or unincorporated body (whether or not having separate legal personality); and

1.3.5 any reference to the Lender includes its permitted successors, transferees and assignees.

1.4 **Conflict**

If there is any conflict between the provisions of this Deed and the provisions of the Facility Agreement, the relevant provisions of the Facility Agreement shall prevail.

1.5 **Effect as a deed**

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Lender.

1.6 **Third party rights**

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

1.6.1 Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.

1.6.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2 **Covenant to Pay**

The Assignor covenants that it will on demand pay and discharge any or all of the Secured Obligations when due in accordance with the Facility Agreement and the other Finance Documents.

3 **Security**

3.1 As a continuing security for payment of the Secured Obligations, the Assignor with full title guarantee:-

3.1.1 charges by way of first fixed charge (i) all amounts standing to the credit of the Accounts; and (ii) all Related Rights under or in connection with the Accounts;

3.1.2 assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Obligations (i) all its right, title and interest in the Insurances; and (ii) all Related Rights under or in connection with the Insurances;

3.2 **Dealings**

3.2.1 Until an Event of Default occurs and is continuing, but subject always to Clauses 4 (*Undertakings*) and 5 (*Restrictions and Further Assurance*), the Assignor may continue to deal with each counterparty in relation to the the Insurances and the Accounts.

3.2.2 Upon the occurrence of an Event of Default which is continuing, the Assignor shall have no further right to deal with each counterparty and the Lender may notify each counterparty that it should deal only with the Lender.

3.3 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Assignor shall hold it on trust for the Lender.

4 Undertakings and acknowledgement

4.1 Within twenty Business Days of the date of this Deed (and within three Business Days of obtaining any Insurances after the date of this Deed), the Assignor shall deliver a duly completed notice of assignment to each other party to the Insurances in the form set out in Schedule 2 (*Form of Notice of Assignment And Acknowledgement For Insurance Policies*) or in such other form as reasonably agreed to by the Lender and shall use reasonable endeavours to procure acknowledgement of such notice.

4.2 Within three Business Days of the opening of any Account after the date of this Deed, the Assignor shall deliver a duly completed notice of assignment to each other party to the Account Bank in the form set out in Schedule 1 (*Form of Notice of Assignment And Acknowledgement For Accounts*) or in such other form as reasonably agreed to by the Lender and shall use reasonable endeavours to procure acknowledgement of such notice.

5 Restrictions and Further Assurance

5.1 Restrictions

Save as otherwise provided in the Facility Agreement, the Assignor shall not create or permit to subsist any Security over any Charged Property, nor do anything else prohibited by clause 23.15 (*Negative pledge*) of the Facility Agreement.

5.2 Further Assurance

The Assignor shall promptly do whatever the Lender requires:-

5.2.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or

5.2.2 to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Lender or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Lender or its nominees or otherwise), making any registration and giving any notice, order or direction.

6 Demand and Enforcement

6.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 6.1.1 the occurrence of an Event of Default which is continuing; or
- 6.1.2 any request being made by the Assignor to the Lender for the appointment of a Receiver or an administrator, or for the Lender to exercise any other power or right available to it.

6.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Lender may (without prejudice to any other rights and remedies and without notice to the Assignor) do all or any of the following:-

- 6.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 6.2.2 apply any sums payable under the Insurances or the Accounts in or towards satisfaction of the Secured Obligations;
- 6.2.3 exercise all the powers and rights of the Assignor under the Insurances; and
- 6.2.4 subject to Clause 7.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property.

6.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 6.2 (*Powers on enforcement*), the Lender or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

6.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Lender or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Lender shall have taken possession or appointed a Receiver of the Charged Property.

6.5 Delegation

The Lender may delegate in any manner to any person any rights exercisable by the Lender under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub delegate) as the Lender thinks fit.

7 Receivers

7.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Lender under this Deed shall be in writing under the hand of any officer or manager of the Lender (subject to any requirement for a court order in the case of the removal of an administrative receiver).

7.2 Removal

The Lender may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

7.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- 7.3.1 of the Lender under this Deed;
- 7.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 7.3.3 of an administrative receiver set out in Schedule 1 to the insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 7.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and
- 7.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

7.4 Receiver as agent

The Receiver shall be the agent of the Assignor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Assignor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Assignor.

7.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

7.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Lender and the maximum rate specified in section 109(6) of the LPA shall not apply.

8 Application of Proceeds

All amounts from time to time received or recovered by the Lender and/or any Receiver pursuant to or in connection with the realisation or enforcement of all or any part of this Deed shall, subject always to Clause 13.5.2 (*Appropriations*) and Clause 14.1 (*Release*), the claims of creditors ranking in priority to or pari passu with the claims of the Lender under this Deed shall be held by the Lender and/or any Receiver on trust to apply them at any time as the Lender and/or any Receiver (in their discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 8), in the following order of priority:

- 8.1 in discharging any sums owing to any Receiver;
- 8.2 in discharging all costs and expenses incurred by the Lender or any Receiver in connection with any realisation or enforcement of this Deed taken in accordance with the terms of this Deed;
- 8.3 for application towards the discharge of the Secured Obligations (in accordance with the terms of the Finance Documents);
- 8.4 if the Assignor is under no further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Lender is obliged to pay or distribute in priority to the Assignor; and
- 8.5 the balance, if any, in payment or distribution to the Assignor.

9 Power of Attorney

9.1 Appointment

The Assignor hereby irrevocably appoints the Lender as its attorney on its behalf and in its name or otherwise, at such times and in such a manner as the attorney may think fit:

- 9.1.1 to do anything which the Assignor is obliged to do (but has not done) under this Deed including, without limitation, to execute further securities, transfers or assignments of and other instruments relating to, the Charged Property; and

9.1.2 generally to exercise all or any of the rights, powers and discretions conferred on the Lender in relation to the Charged Property under this Deed.

9.2 Ratification

The Assignor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 9.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in 9.1 (*Appointment*).

9.3 Exercise of Power

The appointment effected under Clause 9.1 (*Appointment*) shall take effect immediately, but the powers conferred shall only become exercisable upon the occurrence of an Event of Default which is continuing or if the Assignor does not fulfil any of its obligations under Clause 5.2 (*Further assurance*) within three Business Days of notice from the Lender to do so.

10 Protection of Third Parties

10.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Lender, as varied and extended by this Deed, and all other powers of the Lender, shall be deemed to arise (and the Secured Obligations shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

10.2 Purchasers

No purchaser from or other person dealing with the Lender, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

10.2.1 to enquire whether any of the powers which the Lender or a Receiver have exercised has arisen or become exercisable;

10.2.2 to enquire whether the Secured Obligations remain outstanding or whether any event has happened to authorise the Receiver to act; or

10.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

10.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing

from or dealing with the Lender, any Receiver or any person to whom any of them have delegated any of their powers.

11 Protection of The Finance Parties and any Receiver

11.1 No obligation

Notwithstanding any other term of this Deed no Finance Party shall have any obligation or liability under any of the Insurances by reason only of this Deed to:-

- 11.1.1 perform any of the obligations or duties of the Assignor under any of the Insurances;
- 11.1.2 make any payment under any of the Insurances;
- 11.1.3 present or file any claim or take any other action to collect or enforce any claim for the payment of any sum payable under any Contract; or
- 11.1.4 make any enquiries as to the nature or sufficiency of any payments received by it under this Deed.

11.2 No liability

None of the Lender, the other Finance Parties, any Receiver or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed, except to the extent caused by the fraud, gross negligence, wilful neglect or default of the Lender, the other Finance Parties or any of their respective officers, employees or delegates.

11.3 Continuing protection

The provisions of this Clause 11 (*Protection of the Finance Parties and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

12 Provisions relating to the Lender

12.1 Powers and discretions

The rights, powers and discretions given to the Lender in this Deed:-

- 12.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;
- 12.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 12.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

12.2 Trusts

The perpetuity period for any trusts constituted by this Deed shall be 125 years.

13 Preservation of Security

13.1 Continuing Security

This Deed shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of account or other matter or thing whatsoever. The Lender shall promptly provide notice in writing to the Assignor upon the Secured Obligations being fully and unconditionally paid and discharged.

13.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Obligations.

13.3 Waiver of Defences

Neither the Security created by this Deed nor the obligations of the Assignor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender or any other Finance Party including:-

- 13.3.1 any time, waiver or consent granted to, or composition with, the Assignor or other person;
- 13.3.2 the release of the Assignor or any other person under the terms of any composition or arrangement with any person;
- 13.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Assignor or other person or any non- presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 13.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Assignor or any other person;
- 13.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;

13.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or

13.3.7 an insolvency, liquidation, administration or similar procedure.

13.4 Immediate recourse

The Assignor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Assignor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

13.5 Appropriations

Any Finance Party may:-

13.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or, subject to Clause 8 (*Application of proceeds*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and the Assignor shall not be entitled to the same; and

13.5.2 hold in an interest-bearing suspense account any moneys received from the Assignor on or account of the Secured Obligations without any obligation to apply the same or any part thereof in or toward the discharge of the Secured Obligations provided that if the aggregate of such monies so placed to the credit of such suspense account or accounts shall equal or exceed the Secured Obligations, the Receiver and/or the Lender shall, subject always to Clause 14 (*Release*), forthwith apply the same towards settlement of the Secured Obligations.

13.6 New Accounts

At any time after the Lender has received or is deemed to be affected by notice (whether actual or otherwise) of the creation of any subsequent security, charge or encumbrance over or affecting any part of the Charged Property or the proceeds of realisation, the Lender may open a new account or accounts with the Assignor. If the Lender does not open a new account or accounts it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice and as from that time all payments made to the Lender shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount covered by this Deed.

13.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Lender confirms on behalf of the Lenders that the Lenders shall make further advances to the Borrower on the terms and subject to the conditions of the Finance Documents.

14 Release**14.1 Release**

When the Secured Obligations have been fully and unconditionally paid or discharged the Lender shall at the Assignor's request, and at its expense, discharge this Deed. Any payment or realisation in respect of the Secured Obligations which in the reasonable opinion of the Lender is liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably settled or discharged until the expiry of the period during which it may be challenged on any such ground.

14.2 Reinstatement

If any payment or realisation in respect of the Secured Obligations is, in the Lender's reasonable opinion, liable to be avoided, reduced or invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, the Lender shall be entitled to retain this Deed undischarged until the expiry of the period during which it may be challenged on any such ground.

14.3 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

15 Miscellaneous Provisions**15.1 Severability**

The provisions of this Deed shall be severable and distinct from one another and if at any time one or more of such provisions is or becomes or is declared void, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.

15.2 Non impairment

The Assignor agrees that none of its obligations or the Lender's rights, powers and discretions under this Deed shall be reduced, discharged or otherwise adversely affected by:-

- 15.2.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any security or any right or remedy which the Lender may have now or in the future from or against the Assignor or any other person in respect of any of the Secured Obligations; or

- 15.2.2 any failure, act or omission by the Lender or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Assignor or any other person in respect of the Secured Obligations; or
- 15.2.3 any increase in or waiver or discharge of the Secured Obligations or any termination, amendment, variation, supplement, restatement, novation or replacement of the Facility Agreement or any Finance Document (in each case, however fundamental or of whatever nature); or
- 15.2.4 any grant of time, indulgence, waiver or concession to the Assignor or any other person; or
- 15.2.5 any of the administration, receivership, liquidation, winding-up, insolvency, bankruptcy, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name or style of the Assignor or any other person; or
- 15.2.6 any invalidity, illegality, unenforceability, irregularity or frustration of the Secured Obligations; or
- 15.2.7 anything done or omitted to be done by the Lender or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Assignor under this Deed.

15.3 Assignment

- 15.4 The Lender may at any time (without notice or consent) assign the benefit of this Deed or any of its rights or obligations hereunder in accordance with the Facility Agreement.
- 15.5 The Assignor may not assign, transfer or otherwise deal with the benefit or burden of this Deed or any of its rights or obligations hereunder.

15.6 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

16 Notices

The provisions of Clause 32 (Notices) of the Facility Agreement shall apply mutatis mutandis to this Deed as if set out in full herein.

17 Governing Law

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

18 Enforcement

- 18.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").
- 18.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 18.1.3 This Clause 18 (Enforcement) is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

EXECUTED as a **DEED** and delivered on the date appearing at the beginning of this Deed.

SCHEDULE 1 - FORM OF NOTICE OF ASSIGNMENT AND ACKNOWLEDGEMENT FOR ACCOUNTS

To: [Account Bank]

Date: [●]

Dear Sirs

Notice of Assignment and Charge

- 1 We give you notice that, under an assignment and charge dated [●] entered into by us (and others) in favour of [●] (the **Lender**), we have charged to the Lender by way of first fixed charge all of our rights in the following accounts maintained with you (the **Accounts**):

[Insert details of accounts]

- 2 We have agreed with the Lender not to close the Accounts or to amend or waive any of their material terms except as permitted by the Finance Documents.
- 3 We instruct you[:
- (a) to honour withdrawals from an Account if requested by the Lender;
 - (b) not to honour any withdrawals from an Account if requested by us, unless our instructions are countersigned by the Lender; and
 - (c) ¹disclose to the Lender, without further approval from us, such information regarding the Accounts as the Lender may from time to time request.
- 4 These instructions cannot be varied or terminated without the consent of the Lender.
- 5 Please sign the enclosed acknowledgement and return it to the Lender at [address] marked for the attention of [●].

.....
for and on behalf of
[Assignor]

¹ To be included in any notice if the relevant account is required to be operated as a blocked account.

Acknowledgement of Charge

To: [•]
 [Address]
 Attention: [●]

- 1 We acknowledge receipt of the notice of charge dated [•] from [Assignor] in favour of [•] (the **Lender**) of all its rights in the following accounts with us (the **Accounts**).

[Insert details of accounts]

- 2 We have not received notice that any other person has an interest in the Accounts.
- 3 We will comply with the instructions in the notice.
- 4 [We will not, without the Lender's consent, permit any amount to be withdrawn from the Accounts.]²
- 5 We will not, without the Lender's consent, exercise any right of combination, consolidation or set-off which we may have in respect of any Account.

Executed as a)
 deed by).....
 [Account Bank]) Authorised signatory
 acting by:)
).....
 Authorised signatory

Date: [●]

² To be included in any notice if the relevant account is required to be operated as a blocked account.

**SCHEDULE 2 - FORM OF NOTICE OF ASSIGNMENT AND ACKNOWLEDGEMENT FOR INSURANCE
POLICIES**

To: *[insert name and address of relevant insurer]*

Copy: *[Insert name and address of relevant insurance broker]*

Date: [●]

Dear Sirs,

[DESCRIPTION OF RELEVANT INSURANCE POLIC[Y][IES] INCLUDING POLICY NUMBER] (THE "POLIC[Y][IES]") [refer to an attached schedule if there are a number of policies]

- 1 We give you notice that we have entered into an assignment and charge dated [●] in favour of [LENDER] (the "Lender") (the "Assignment and Charge").
- 2 Pursuant to the terms of the Assignment and Charge, we have assigned (and, to the extent not validly or effectively assigned, we have charged by way of fixed charge) to the Lender by way of security all of our rights, title, interest and benefits in to or in respect of the Polic[y][ies] including the benefit of all claims and returns of premiums in respect thereof to which we are or may at any time become entitled.
- 3 We irrevocably authorise and instruct you from time to time:
 - 3.1 to disclose to the Lender at our expense (without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure) such information relating to the Policies as the Lender may from time to time request;
 - 3.2 to hold all sums from time to time due and payable by you to us under the Policies to the order of the Lender;
 - 3.3 to pay or release all or any part of the sums from time to time due and payable by you to us under the Policies only in accordance with the written instructions given to you by the Lender from time to time;
 - 3.4 to comply with any written notice or instructions in any way relating to (or purporting to relate to) the Assignment and Charge, the sums payable to us from time to time under the Policies or the debts represented by them which you may receive from the Lender (without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction); and

- 3.5 to send copies of all notices and other information given or received under the Policies to the Lender.
- 4 We irrevocably instruct you, with effect from the date of this notice, to note on the relevant Policies the Lender's interest as first loss payee and as first priority assignee of the Policies and the rights, remedies, proceeds and claims referred to above.
- 5 This notice may only be revoked or amended with the prior written consent of the Lender.
- 6 Please confirm by completing the enclosed copy of this notice and returning it to the Lender (with a copy to us) that you agree to the above and that:
- 6.1 you accept the instructions and authorisations contained in this notice and you undertake to comply with this notice; and
- 6.2 you have not, at the date this notice is returned to the Lender, received notice of the assignment or charge, the grant of any security or the existence of any other interest of any third party in or to the Policies or any proceeds of them or any breach of the terms of any Policy and you will notify the Lender promptly if you should do so in future.
- 7 This notice, and any acknowledgement in connection with it, and any non-contractual obligations arising out of or in connection with any of them, shall be governed by English law.

Yours faithfully,

for and on behalf of
[Assignor]

[On copy]

To: Wyelands Bank Plc
as Lender
[ADDRESS]

Copy to: [NAME OF ASSIGNOR]

Dear Sirs

We acknowledge receipt of the above notice and consent and agree to its terms. We confirm and agree to the matters set out in paragraph [6] in the above notice.

for and on behalf of
[NAME OF INSURER]

Dated: [●]

SIGNATURES

The Assignor

EXECUTED as a Deed by SIMEC GHR
SHENVAL HYDRO LIMITED acting by a
director/authorised signatory, in the
presence of:



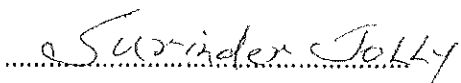
Director/Authorised Signatory

before this witness

Witness:



Full Name



Address



The Lender

EXECUTED as a Deed by WYELANDS
BANK PLC acting by an authorised
signatory/attorney, in the presence of:



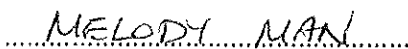
Authorised Signatory/Attorney

before this witness

Witness:



Full Name



Address

