

MINUTE OF AGREEMENT

between

St ANDREWS and DEERNESS
COMMUNITY COUNCIL and

AYREENERGY LIMITED

2012

Lows Orkney Ltd, Solicitors
5 Broad Street
Kirkwall
Orkney KW15 1DH

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MINUTE OF AGREEMENT

between

St ANDREWS and DEERNESS COMMUNITY COUNCIL, established under the scheme adopted by Orkney Islands Council in accordance with the terms of section 22 of the Local Government (Scotland) Act 1994 (hereinafter referred to as "SA.D.C.C.")

and

AYREENERGY LIMITED incorporated under the Companies Act (Company No. SC363794) and having its Registered Office at Barns of Ayre, Deerness, Orkney, KW17 2QJ (hereinafter referred to as "the Company")

WHEREAS the Company is or is to become the tenant under a lease and will be the operator of Barns of Ayre Wind Farm, Deerness, Orkney, the extent of which is shown delineated in pink on the plan annexed and executed as relative hereto ("the Wind Farm") and has agreed to provide during the operation of the Wind Farm certain funds for the benefit of the residents of the Parishes of St Andrews and Deerness, Orkney but that only on certain terms and conditions and it is appropriate that such agreement be properly documented and that the Company enters into an agreement with SA.D.C.C. as the appropriate body to administer the said funds on behalf of the residents of the Parishes of St Andrews and Deerness: THEREFORE the parties hereby Have Agreed and Do Hereby AGREE as follows:-

1. The Company shall make an initial capital payment ("the Capital Payment") of TEN THOUSAND POUNDS (£10,000.00) to SA.D.C.C. and that within twenty eight days after the time of the start of commercial operations of the wind farm. It is acknowledged by the Parties that the Capital Payment is, in part, being/

being paid in recognition that the Company and/or its contractors will be carrying out construction and engineering activities within St Andrews and Deerness.

2. The Company shall, subject to SA.D.C.C. adhering to the provisions of this Agreement, pay to SA.D.C.C. an annual sum ("the Annual Sum") of TEN THOUSAND POUNDS (£10,000.00) with such sum being increased or decreased as may be appropriate pro rata if the Installed Capacity of the Wind Farm is altered at any time during the period of operation of the Wind Farm. The Capital Payment and the Annual Sum will be used solely for purposes that meet the requirements specified in Clauses 5 and 6 hereof.
3. The first Annual Sum will be payable by the Company to SA.D.C.C. on the (6th April or 1st working day thereafter) [TBC] and the Annual Sum will thereafter be paid on each subsequent anniversary thereof while the Wind Farm continues to export electricity to the United Kingdom electricity grid or any alternative end user. No further Annual Sums will be paid to SA.D.C.C. after the date when the company notifies SA.D.C.C. that the Wind Farm has ceased permanently to generate electricity, on which date this Agreement will be deemed to have terminated. The Annual Sum shall only fall to be paid insofar as the Company or its permitted successors is able to continue to export generated electricity to the United Kingdom Energy Grid or an alternative end user and on such commercial terms as the Company shall in its sole discretion see fit to enter into. For the strict avoidance of doubt if the Company is unable to export electricity in terms satisfactory to the Company and which will include, but not be limited to the actions of any Third Party, National or Local Government or governmental agency, or otherwise by force of Law or by administrative action then the Company shall thereafter cease to be under any obligation to pay the Annual Sum or any portion thereof.
4. SA.D.C.C. undertakes to deposit each Annual Sum in a bank or similar account for the purposes as set out in Clause 5 below and to maintain proper and auditable records of the payments into and out of the account and to use such sums wholly in accordance with the provisions of this Agreement.

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5. SA.D.C.C. acknowledges to the Company that the Capital Payment and the Annual Sum together represent an appropriate and meaningful contribution by the Company to the local community. SA.D.C.C. also acknowledges to the Company that in its view there is a reasonable relationship between the undertaking to pay the Capital Payment and the Annual Sum and the Wind Farm development and that the amounts of the Capital Payment and the Annual Sum are fairly and reasonably related to the scale of the development. SA.D.C.C. further acknowledges to the company that it understands that the use of the Capital Payment and the Annual Sum should follow the guidance given by the Government (in particular all relevant Department of Energy and Climate Change circulars) and the Courts and therefore understands that the Company's preference will be for proposals of an environment, energy efficiency, educational, tourism, recreation and local amenity nature within the St Andrews and Deerness Parish areas, including also any charitable purposes within the meaning of the charities legislation, provided that all sums expended are so expended within, and for the benefit of, the St Andrews and Deerness Parishes. Funds shall not be expended on any activity which would ultra vires of SA.D.C.C. or illegal, unlawful or likely to bring the Company's name into disrepute.
6. SA.D.C.C. undertakes not to use or release any of the funds paid to it by the Company under the terms of this Agreement for any purpose which adversely or may adversely affects or works against the interests of the Wind Farm or the owner of the land on which the Wind Farm is constructed or the Company (or any of its subsidiary or related companies).
7. On or before 31 December in each year during the terms of this Agreement SA.D.C.C. shall provide a written report to the Company (in such format as the Company may reasonably require) detailing how the monies paid by the Company to SA.D.C.C. in terms of this Agreement have been expended in the previous financial year, identifying all awards made in that year including details of recipients of funds, the projects for which funds have been awarded and evidence of payments and receipts for payments. SA.D.C.C. shall not be obliged to expend each Annual Sum during the operational period/

period during which it is paid in and SA.D.C.C. may carry forward unexpended sums towards future intended expenditure.

8. SA.D.C.C. shall co-operate with the Company (but without any obligation to incur costs) concerning any public relations or media coverage of the Annual sums paid hereunder or the uses to which they are applied. SA.D.C.C. and its representatives shall not however make any statements to the media or issue press releases concerning the Annual Sums paid in terms of this Agreement other than with the prior written agreement of the Company.
9. In the event of ownership or control of the Wind Farm passing from the Company to any other party (whether by assignation or otherwise) the Company will use all reasonable endeavours to oblige their successors in any such transfer agreement to enter into a similar agreement to this present agreement with SA.D.C.C. or its successors but shall not be under any binding obligation.
10. Where any payment(s) due by the Company in terms of this Agreement are unpaid more than twenty eight days following the date when same should otherwise have been paid, Interest (as hereinafter defined) shall be payable on the sum outstanding (or part thereof in the case of part payment only) from the date when payment was due until such time as the debt is satisfied in full; Interest accruing from the date on which the payment is due shall be calculated on a day to day basis at a rate equal to 2% per annum above the base rate of the Royal Bank of Scotland plc without compounding or, in the event that such base rate shall cease to exist, such analogous rate of interest as may be established.
11. The Company shall pay the reasonable legal expenses of SA.D.C.C. in connection with the negotiation and execution of this Agreement but that up to a maximum of Five hundred pounds (£500) and any Value Added Tax thereon.
12. Nothing in this Agreement shall be deemed to create any partnership or joint venture relationship as between the parties.
13. This Agreement shall be governed by and construed in accordance with the Laws/

Laws of Scotland and the parties hereto consent to the registration hereof for preservation and execution: **IN WITNESS WHEREOF**