

From: [Kirstin Gardner](#)
To: [Jones, Hefin](#); [Abergelli Power](#)
Cc: [Stephens, Jake](#); [Neil Riley](#)
Subject: EN010069 Abergelli Power
Date: 09 April 2019 11:55:16
Attachments: [EN010069 Abergelli Power S106 agreement \(undated\) - signed by APL and CCS.PDF](#)

Dear Hefin,

Attached is a copy of the section 106 agreement, signed by the City and County of Swansea and the Applicant. The document is currently with the land owner for execution, and completion will then take place. The attached document is submitted as the Applicant does not anticipate having the completed document prior to the end of the Examination. The Applicant will submit a copy of the completed agreement as soon as possible, which the Secretary of State will be able to take into account when considering whether to grant development consent.

Please get in touch if you have any queries. I can be reached on my [REDACTED]

Kind regards,

Kirstin

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DATED _____ **2019**

(1) THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA

(2) ABERGELLI POWER LIMITED

(3) SARAH ANN MARINA LLEWELLYN

DEED OF DEVELOPMENT CONSENT OBLIGATIONS

**pursuant to Section 106 of the Town and Country
Planning Act 1990 (as amended)
relating to the
Abergelli Power Project in Swansea**



Pinsent Masons

THIS DEED is made on

2019

BETWEEN:

- (1) **THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA** of Civic Centre, Oystermouth Rd, Swansea SA1 3SN (the "**Council**");
- (2) **ABERGELLI POWER LIMITED** of Drax Power Station, Drax, Selby, United Kingdom, YO8 8PH (the "**Developer**");
- (3) **SARAH ANN MARINA LLEWELLYN** of Abergelli Fach Farm, Felindre, Swansea, SA5 7NN (the "**Owner**").

WHEREAS:

- (A) The Council is the local planning authority for the Site and can enforce the obligations contained in this Deed.
- (B) The Owner is the freehold owner of the Land.
- (C) The Developer has an equitable interest in the Land under an option agreement dated 26 June 2014 and made between (1) Sarah Ann Marina Llewellyn (2) Sarah Ann Marina Llewellyn, Meidwen May Thomas, Bryan Emyr Llewellyn and Eric Davies as trustees of the Abergelli Fach Settlement 2014 and (3) Abergelli Power Limited.
- (D) On 25 May 2018 the Developer submitted the Application to the Secretary of State for development consent to construct and operate the Project. The Application was accepted for examination by the Secretary of State on 21 June 2018.
- (E) It is intended that the Developer will be the undertaker for the purposes of the Development Consent Order and the Developer intends to construct and operate the Project as authorised by the Development Consent Order.
- (F) The Council and the Developer have agreed to enter into this Deed as a development consent obligation under the 1990 Act in order to secure the planning obligations contained in this Deed which are necessary to mitigate the impacts of the Project and to make the Project acceptable in planning terms.
- (G) The Council, the Owner and the Developer have given due consideration to the requirements of paragraph 4.1.8 of the Overarching National Policy Statement for Energy (EN-1) and agree that the development consent obligations contained in this Deed are:
 - (i) relevant to planning;
 - (ii) necessary to make the Project acceptable in planning terms;
 - (iii) directly related to the Project;
 - (iv) fairly and reasonably related in scale and kind to the Project; and
 - (v) reasonable in all other respects

2. DEFINITIONS AND INTERPRETATION

- 2.1 Where in this Deed the following defined terms and expressions are used, they shall have the following respective meanings unless otherwise stated:

"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"Application"	means the application for a development consent order under section 37 of the Planning Act 2008 in relation to the Project and submitted to the Secretary of State on 25 May 2018 and given reference number EN010069;
"Beyond Bricks and Mortar "	means the Council's initiative of the same name or such local business and employment initiative as may replace it from time to time
"Commence"	has the same meaning as in Article 2 of the Development Consent Order and the words " Commencement " and " Commenced " and cognate expressions are to be construed accordingly;
"Construction Period"	means the period from Commencement until the Date of Final Commissioning (inclusive);
"Date of Final Commissioning"	has the same meaning as in Article 2 of the Development Consent Order;
"Deed"	means this deed;
"Developer's Group"	means companies and organisations which are a "group company" (such expression being as defined in section 479 of the Companies Act 2006) of the Developer
"Development Consent Order"	means the development consent order to be made pursuant to the Application;
"Education Scheme"	means an education scheme within the Council's administrative area and which will encompass the production of a digital teacher's resource pack focusing on different stages of the science, technology, engineering and maths (" STEM ") curriculum; production of the resource pack through working with a local college and or schools; and supporting teachers with the aim of explaining the Project and how such a facility fits within the provision of energy for the United Kingdom;
"EPC Contracts"	means the main contracts for the design, engineering, procurement, construction, installation, completion, commissioning and testing of the Project;
"Excluded Contracts"	means Tier 1 Contractors in the Developer's supply chain including: <ul style="list-style-type: none"> (a) the EPC Contracts; (b) the LTSA Contract; (c) any contract to be let to a company within the Developer's Group; (d) any framework contract which is already in place in relation to goods or services required

both for the Project and other projects proposed by a company in the Developer's Group; and

- (e) any contract for works undertaken by NGET, NGG or another statutory undertaker.

"Expert"	means an independent person of at least 10 years standing in the area of expertise relevant to the dispute to be agreed between the Parties or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society.
"First Footpath Contribution"	means the sum of £10,000 (ten thousand pounds) to be used by the Council for the purposes set out in Schedule 3
"Footpath Improvements"	means works to upgrade footpath 35 to create a 2.1 kilometre long bridleway along an existing track to enable safe cycling from Felindre Road to Lliw Reservoirs and works to open up and divert footpath 34 from Pen-y-waun-fach Cottage to Burma Road, such works being indicatively shown on Plan 3, or such other improvements to public rights of way in the vicinity of the Project as may be agreed between the Developer and the Council
"Land"	means the land to be bound by the development consent obligations in this deed, which is registered at the Land Registry under title number WA710190 and shown edged in blue on Plan 2.
"Local Organisations"	means businesses located within the administrative area of the Council or the South West Wales Region;
"LTSA Contract"	means the main contract for the provision of long term maintenance services consisting of parts, scheduled outage services and unscheduled outage services in respect of the Project;
"NGET"	means National Grid Electricity Transmission plc (Company Registration Number 02366977) whose registered office is at 1 to 3 Strand, London, WE2N 5EH;
"NGG"	means National Grid Gas plc (Company Registration Number 02006000) whose registered office is at 1 to 3 Strand, London WC2N 5EH;
"Operational Period"	means the period from the Date of Final Commissioning to when the Project is decommissioned in accordance with requirement 27 of Schedule 2 of the Development Consent Order;
"Parties"	means the Council, Owner and the Developer and "Party" means any one of them as the context so requires;
"Plan 1"	means the plan attached to this Deed marked "Plan 1" showing the Site;
"Plan 2"	means the plan attached to this Deed marked "Plan 2" showing the Land;

"Plan 3"	means the plan attached to this Deed marked "Plan 3" showing the Footpath Improvements;
"Project"	means the "authorised development" as defined in Article 2 and Schedule 1 of, and to be authorised by, the Development Consent Order which is to be located on the Site;
"Second Footpath Contribution"	means the sum of £20,000 (twenty thousand pounds) to be used by the Council for the purposes set out in Schedule 3;
"Secretary of State"	means the Secretary of State for Business, Energy and Industrial Strategy or such other Secretary of State of Her Majesty's Government that has the responsibility for determining projects relating to energy development;
"Site"	means the Order Limits (as defined in the Application), shown for the purposes of identification edged in red on Plan 1;
"South West Wales Region"	means the areas of Wales which have a postcode starting with the letters "SA";
"Supply Chain Initiative"	means a scheme setting out the details and mechanisms for securing potential opportunities for local contractors and suppliers, where appropriate, making visible any sub-contract opportunities to local organisations and small and medium size enterprises during the Construction Period and the Operational Period;
"Tier 1 Contractor"	means a contractor directly engaged by the Developer;
"Tier 2 Sub-contractor"	means a sub-contractor directly engaged by a Tier 1 Contractor;
"Tier 3 Sub-contractor"	means a sub-contractor directly engaged by a Tier 2 Sub-Contractor;
"Utilities"	means main services including gas, electricity, potable water and telecommunications;
"Working Day"	means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are open in England for the transaction of ordinary business.

2.2 In this Deed, unless otherwise indicated, reference to any:-

- i. Recital, Clause, sub-clause, paragraph number, Schedule, Appendix or plan is a reference to a Recital, Clause or sub-clause of, paragraph number of, Schedule to, Appendix to or plan annexed to this Deed;
- ii. words importing the singular meaning include the plural meaning and vice versa;
- iii. words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, other corporate bodies,

firms or legal entities and all such words shall be construed interchangeably in that manner; and

- iv. Act of Parliament shall include any amendment, modification, extension, consolidation or re-enactment of that Act for the time being in force and in each case shall include all statutory instruments, orders, regulations and directions for the time being made, issued or given under that Act or deriving validity from it.

2.3 Headings where they are included are for convenience only and are not intended to influence the construction and interpretation of this Deed.

2.4 Any notice, notification, consent, approval, agreement, request or statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing.

2.5 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.

2.6 Each of the Parties to this Deed shall act in good faith and shall co-operate with each of the other Parties to facilitate the discharge and performance of all obligations on them contained in this Deed and Developer shall comply with any reasonable requests of the Council to provide documentation within its possession (such documentation to be provided by the developer at its own expense) for the purposes of monitoring compliance with the obligations contained in this Deed.

3. **LEGAL EFFECT**

3.1 This Deed is made pursuant to:

- i. section 106 of the 1990 Act; and
- ii. section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers that may be relevant to the enforcement of the obligations contained in this Deed.

3.2 The obligations, covenants and undertakings on the part of the Owner and the Developer in this Deed are development consent obligations for the purposes of section 106 of the 1990 Act and so bind the Land. Subject to Clause 8, the obligations, covenants and undertakings on the part of the Owner and the Developer are entered into with the intent that they shall be enforceable by the Council not only against the Owner and the Developer but also against any person deriving title in the Land or any part of it from the Owner or the Developer as if that person had been an original covenanting party in respect of the interest for the time being held by it.

3.3 Insofar as any obligations, covenants and undertakings in Clause 3.2 are not capable of falling within section 106 of the 1990 Act they are entered into in pursuance of the relevant powers referred to in Clause 3.1ii.

3.4 So far as the obligations, covenants and undertakings in this Deed are given by or to the Council, they are entered into under the relevant powers referred to in Clause 3.1 and those obligations, covenants and undertakings are enforceable by or against the Council.

3.5 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, duties, functions or discretions in relation to the Land or otherwise.

4. **CONDITIONALITY**

- 4.1 Subject to Clause 4.2, the Parties agree that:
- i. Clauses 2, 3, 4, 5, 8, 9, 10, 13, 14, 15, 16, 17, 18, and 19 shall have operative effect upon the date of this Deed; and
 - ii. Clauses 6, 7, 11 and 12 shall not have operative effect unless and until the Development Consent Order has come into force.
- 4.2 Where the Development Consent Order becomes the subject of any judicial review proceedings:
- i. until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operative effect unless the Project has been Commenced; and
 - ii. if following the final determination of such proceedings the Development Consent Order is capable of being Commenced, then this Deed will take effect in accordance with its terms.
- 4.3 Wherever in this Deed reference is made to the final determination of judicial review proceedings (or cognate expressions are used), the following provisions will apply:
- i. proceedings by way of judicial review are finally determined:
 - (a) when permission to bring a claim for judicial review has been refused and no further application may be made;
 - (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
 - (c) when any appeal is finally determined and no further appeal may be made.

5. DURATION

- 5.1 This Deed will end (to the extent it has not already been complied with), if the Development Consent Order:-
- i. is quashed, revoked or otherwise withdrawn at any time so as to render this Deed or any part of it irrelevant, impractical or unviable; or
 - ii. expires before Commencement.

- 5.2 Where this Deed ends the Council must remove all entries made in the Register of Local Land Charges in respect of this Deed within 20 Working Days ceasing to have effect.

6. OWNER AND DEVELOPER'S DEVELOPMENT CONSENT OBLIGATIONS

The Owner and the Developer covenant with the Council so as to bind their respective interests in the Land to observe and perform the obligations undertakings covenants and agreements in Schedule 1, Schedule 2 and Schedule 3.

7. COUNCIL'S OBLIGATIONS

The Council covenants with the Owner and the Developer to observe and perform the covenants and obligations on their part contained in Schedule 1, Schedule 2 and Schedule 3.

8. SUCCESSORS IN TITLE AND RELEASE

- 8.1 References in this Deed to the Council include the successors to its respective statutory functions.
- 8.2 Subject to Clause 8.3, references to the Owner or Developer respectively include persons deriving title from them.
- 8.3 The obligations in this Deed are not binding or enforceable against any statutory undertaker or other person who owns or acquires any part of the Site or any interest in it for the purposes of supplying or operating Utilities or public transport services.
- 8.4 Nothing in this Deed will prevent compliance with any obligation under it before that obligation comes into effect and early compliance will not amount to a waiver of the effect of this Clause 8.

9. **FURTHER PLANNING PERMISSIONS AND DEVELOPMENT CONSENT ORDERS**

Nothing in this Deed shall be construed as prohibiting or limiting rights to use or develop any part of the Site in accordance with and to the extent permitted by a certificate of lawful use, planning permission, development consent order or other statutory authority granted either before or after the date of this Deed, other than the Development Consent Order.

10. **APPROVALS**

Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

11. **GOOD FAITH**

The Parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

12. **CERTIFICATES OF COMPLIANCE**

The Council shall upon written request certify compliance with the development consent obligations in this Deed.

13. **DISPUTE RESOLUTION**

- 13.1 If a dispute between the Parties persists beyond 10 Working Days and relates to any matter contained in this Deed, the dispute may be referred to the Expert by any Party. The Expert will act as an expert and not as an arbitrator. His decision shall be final and binding on the Parties.
- 13.2 Each Party will bear its own costs and the Expert's costs will be paid as determined by him.
- 13.3 The Expert will be appointed subject to an express requirement that he must reach his decision and communicate it to the Parties within the minimum practical timescale allowing for the nature and complexity of the dispute, and in any event not more than 20 Working Days from the date of his appointment to act. His decision will be given in writing with reasons and in the absence of manifest error will be binding on the Parties.
- 13.4 The Expert will be required to give notice to each of the Parties, inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to the Parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.

14. **COSTS**

On completion of this Deed the Developer will pay to the Council the reasonable legal costs incurred in the preparation, negotiation and execution of this Deed in the sum of £500 (five hundred pounds).

15. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

Nothing in this Deed will create any rights in favour of or be enforceable by any person who is not a party to this Deed under the Contracts (Rights of Third Parties) Act 1999.

16. **NOTICES**

16.1 Any notice or other written communication to be served on a Party or given by one Party to any other under the provisions of this Deed will be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party on whom it is to be served or to whom it is to be given and will conclusively be deemed to have been received on:-

- i. if delivered by hand, the next Working Day after the day of delivery;
- ii. if sent by post, the day 2 Working Days after the date of posting; or
- iii. if sent by recorded delivery, at the time delivery was signed for.

16.2 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

16.3 The address for any notice or other written communication shall be within the United Kingdom.

16.4 A notice or communication will be served or given:-

- i. on the Council at its address given above or such other address for service as shall have been previously notified in writing to the other Parties and any such notice shall be marked for the attention of Director of Place, Civic Centre, Oystermouth Road, Swansea SA1 3SN;
- ii. on the Developer at its address given above or such other address for service as shall have been previously notified in writing to the other Parties and any such notice shall be marked for the attention of the Company Secretary and copied by electronic mail to Legal.Notices@Drax.com; and
- iii. on the Owner at its address given above or such other address for service as shall have been previously notified in writing to the other Parties.

16.5 Any notice or written communication to be given by the Council will be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

17. **LOCAL LAND CHARGE**

17.1 The Council must register this Deed as a local land charge immediately after the date of this Deed.

17.2 The Council must cancel all entries made in the Register of Local Land Charges relating to this Deed as soon as all obligations under this Deed have been satisfied.

18. **JURISDICTION AND LEGAL EFFECT**

- 18.1 This Deed will be governed by and interpreted in accordance with English Law.
- 18.2 If any provision of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not affect the validity or enforceability of the remaining provisions of this Deed

19. **WAIVER**

No waiver (whether expressed or implied) by any Party of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the relevant Party from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

SCHEDULE 1

THE EDUCATION SCHEME

1. Prior to the Commencement of the Project, the Developer shall deliver an Education Scheme to the Council for approval.
2. The Developer and the Council shall work together to establish the initiatives set out within the approved Education Scheme.
3. The Developer shall not Commence the Project until the Education Scheme has been approved in writing by the Council and the Developer shall thereafter carry out the approved Education Scheme for a period of five years from the date of Commencement of the Project.
4. The Developer shall be entitled to submit requests to vary the Education Scheme to the Council for approval.
5. The Education Scheme shall include a programme of visits to local colleges and or schools located within Swansea administrative area to be made by APL for a period of five years from the commencement of construction.
6. The Education Scheme shall also support selected teachers through partnering up with projects for teacher/industrial placement organisations, subject to such organisations' availability.

SCHEDULE 2

SUPPLY CHAIN INITIATIVE

1. The Developer through its supply chain will require Tier 2 Sub-contractors and Tier 3 Sub-contractors, local contractors and suppliers to collaborate with Beyond Bricks & Mortar, so far as is practicable, having due regard to the need and availability for specialist skills and trades and the programme for constructing the Project, to enable job and training opportunities for unemployed, economically inactive or young persons who are or are at risk of being 'Not in Employment, Education, or Training'.
2. The Supply Chain Initiative shall include:
 - 2.1 the measures that the Developer will take in order to ensure that opportunities for Local Organisations to bid for contracts are advertised locally during the Construction Period and during the Operational Period (for example for maintenance, waste, cleaning or security services);
 - 2.2 a requirement for the Developer (through its supply chain Tier 2 Sub-contractors and Tier 3 Sub-contractors) to notify the Council when the procurement process for any construction contracts required during the Construction Period is due to begin in order to allow the Council to advertise opportunities via any brokerage scheme (such as the Chamber of Commerce) that it may run, whilst maintaining a level playing field for fair market competition;
 - 2.3 the measures that the Developer (through its supply chain Tier 2 Sub-contractors and Tier 3 Sub-contractors) will take in order to ensure requirements to offer job and training opportunities aimed at unemployed and economically inactive people in Swansea are included in all sub-contracts and local contractors working on the Project work with the Council (via their Beyond Bricks & Mortar team) to identify and advertise opportunities; and
 - 2.4 a procedure for monitoring the Supply Chain Initiative and reporting the results of such monitoring to the Council, including details of the origins, qualifications, numbers and other relevant details of candidates on the condition that such reports are anonymous and statistical and do not identify a living individual.
3. Prior to Commencement of the Project, the Developer shall submit the Supply Chain Initiative to the Council for approval.
4. The Developer and the Council agree that the Excluded Contracts as they relate to the Tier 1 Contractor will not be included within the Supply Chain Initiative.
5. The Developer and the Council (through its Beyond Bricks and Mortar initiative and team) shall work together to establish the initiatives set out within the approved Supply Chain Initiative, such initiatives to be aimed at unemployed and economically inactive people in Swansea (such people to be identified by Beyond Bricks and Mortar). The Developer or any contractors are under no obligation to employ, recruit or train any individual who in the opinion of the Developer or any contractor does not meet the educational, competency, or behavioural requirements for a job role, such competencies and requirements to be reasonably set.
6. The Developer shall not Commence the Project until the Supply Chain Initiative has been approved by the Council.
7. The Parties agree that the contractors engaged in the construction of the Project will be obliged to comply with the terms of this Schedule 2 through an obligation to be imposed on them to comply with the relevant parts of this Agreement (known as the 'third party

contracts') and the Developer will use reasonable endeavours to procure that contractors engaged in the construction of the Project assist in the implementation of the Supply Chain Initiative.

8. For the avoidance of doubt, the Supply Chain Initiative shall not require the Developer or any contractors to award any contract during or for the construction or operation of the Project to any specific company.
9. The Developer shall implement the Supply Chain Initiative until the end of the Operational Period PROVIDED THAT the Developer may from time to time seek approval for revisions to the Supply Chain Initiative from the Council.
10. The Supply Chain Initiative shall include targets for the recruitment, employment and training of unemployed people (such targets to be agreed between the Developer (through its supply chain Tier 2 Sub-contractors & Tier 3 Sub-contractors) and the Council (through its Beyond Bricks and Mortar team) and the Developer (through its supply chain Tier 2 Sub-contractors and Tier 3 Sub-contractors) shall interview and only if appropriate recruit suitably qualified and competent applicants (such competencies and requirements to be reasonably set) as part of the Supply Chain Initiative.
11. The Developer and any contractors are under no obligation to employ, recruit or train any individual who in the opinion of the Developer or the contractor does not meet the educational, competency or behavioural requirements for a job or role, such competencies and requirements to be reasonably set.
12. The Developer (through its Tier 2 Sub-contractors and Tier 3 Sub-contractors) shall:
 - (i) advertise invitations to tender for all contracts for the provision of services and materials to the Project including by posting on the Sell2Wales website (www.sell2wales.gov.uk, or such website as may replace it from time to time); and
 - (ii) invite up to two companies who have responded to an advertisement published in accordance with paragraph 12(i) of this Schedule 2, who meet the procurement selection criteria of the Developer, Tier 1 Contractor, Tier 2 Sub-contractor or Tier 3 Sub-contractor, and whose principal offices are located within the South West Wales Region, to tender for each contract in relation to the construction of the Project including in relation to the supply of materials and services,

PROVIDED THAT nothing in this paragraph shall require the Developer or the relevant contractor to award any contract or recruit an individual for the construction or operation of the Project to any such company.

13. The Council (through its Beyond Bricks and Mortar team) will provide assistance to the Developer's supply chain Tier 2 Sub-contractors and Tier 3 Sub-contractors in relation to the obligations in paragraph 12 above.
14. The Developer shall be under no obligation in respect of paragraph 12 of this Schedule 2 to invite any company or advertise any contract for the provision of services and materials where, to the Developer's knowledge, there is no company within the South West Wales Region that is capable of fulfilling any such contract **PROVIDED THAT** it notifies the Council of the contracts to which this paragraph 14 applies.

SCHEDULE 3

THE FOOTPATH IMPROVEMENTS

1. The Developer covenants to pay the First Footpath Contribution to the Council on Commencement of the Project.
2. Following:
 - (i) Commencement of the Project; and
 - (ii) notice and evidence being given to the Developer by the Council that all relevant land rights and consents required to undertake the works referred to in paragraph 3(ii) below

the Developer shall pay the Second Footpath Contribution to the Council.

3. The Council covenants to:
 - (i) use the First Footpath Contribution for the purposes of liaising with land owners and obtaining the relevant consents required to undertake the works referred to in paragraph (ii) below, and for undertaking any of the Footpath Improvements which can be undertaken without the need for any additional land rights or consents; and
 - (ii) use the Second Footpath Contribution for the purpose of implementing the Footpath Improvements (as have not already been carried out pursuant to paragraph (i) above);
 - (iii) include the Developer's name or logo (as provided by the Developer) on signs and any materials relating to or at the Footpath Improvements;
 - (iv) on receipt of the First Footpath Contribution and the Second Footpath Contribution to place each of them in an interest bearing account; and
 - (v) repay any part of the Footpath Contribution (plus interest received) to the Developer which remains unspent at the date which is 5 (five) years after the date the relevant monies were paid to the Council.

EXECUTED AS A DEED by the parties on the date which first appears in this Deed.

The COMMON SEAL of CITY AND
COUNTY OF SWANSEA COUNCIL was
hereunto affixed in the presence of:

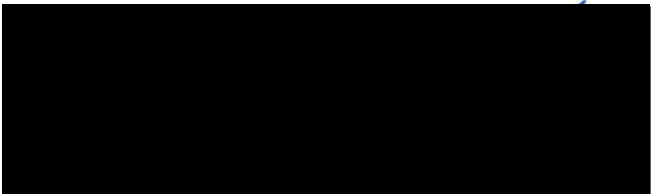
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~~Legal, Democratic Services and
Business Intelligence~~ / Authorised signatory

110,267

EXECUTED as a DEED by ABERGELLI
POWER LIMITED



acting by two directors or one director and
the company secretary:

Director

Director / Secretary

EXECUTED as a DEED by SARAH ANN
MARINA LLEWELLYN

)
)

In the presence of

.....
Witness

.....
Full name

.....
Address