



AQUIND Limited

AQUIND INTERCONNECTOR

Signed Legal Agreement with Hampshire
County Council in respect of the Development
Consent Obligation

The Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009 Regulation 5(2)(c)

Document Ref: 7.5.25

PINS Ref.: EN020022

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PINS REF.: EN020022

DOCUMENT: 7.5.25

DATE: 05 MARCH 2021

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DOCUMENT

Document	7.5.25 Signed Legal Agreement with Hampshire County Council in respect of the Development Consent Obligation
Revision	001
Document Owner	WSP
Prepared By	HSF
Date	05 March 2021
Approved By	HSF
Date	05 March 2021

DATED 3 MARCH **2021**

(1) AQUIND LIMITED

(2) HAMPSHIRE COUNTY COUNCIL

LEGAL AGREEMENT

made pursuant to section 111
Local Government Act 1972
relating to the AQUIND Interconnector

Herbert Smith Freehills LLP

TABLE OF CONTENTS

Clause	Headings	Page
1.	DEFINITIONS AND INTERPRETATION	1
2.	LEGAL EFFECT.....	3
3.	CONDITIONALITY	3
4.	OBLIGATIONS IN RELATION TO EXECUTION OF THE DEVELOPMENT CONSENT OBLIGATION	4
5.	RELEASE AND EXPIRY.....	4
6.	RESOLUTION OF DISPUTES.....	4
7.	NOTICES	5
8.	NO FETTER ON DISCRETION	6
9.	GOOD FAITH, GOOD PRACTICE AND REASONABLENESS	6
10.	LEGAL FEES AND COSTS	6
11.	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999.....	6
12.	JURISDICTION.....	6
13.	COUNTERPARTS	6
14.	DATE OF DELIVERY.....	6
	APPENDIX 1	8

THIS DEED made on
BETWEEN:

3 MARCH

2021

- (1) **AQUIND LIMITED** (company registration number 06681477) whose registered office is at OGN House, Hadrian Way, Wallsend NE28 6HL (the "**Undertaker**"); and
- (2) **HAMPSHIRE COUNTY COUNCIL** of Hampshire County Council, the Castle, Winchester, SO23 8UJ (the "**County Council**")

WHEREAS:

- (A) The Undertaker has made the Application.
- (B) The terrestrial elements of the Project in the UK are to be located between Eastney, Portsmouth and the National Grid Substation at Lovedean, being part of the Project comprising a high voltage direct current electrical interconnector between France and the UK.
- (C) The County Council is a local highway authority and lead local flood authority for the area within which the DCO Land is situated. The County Council is also a local planning authority with the capacity to enter into planning obligations in accordance with section 106 of the 1990 Act.
- (D) The Undertaker will be the undertaker for the purposes of the Development Consent Order. The Undertaker intends to construct, operate and maintain the Development as authorised by the Development Consent Order.
- (E) If the Development Consent Order is granted in the final form proposed by the Undertaker, the Undertaker will be deemed to be a person interested in the DCO Land in accordance with Article 8(4)(a) of the Development Consent Order, and by virtue of Article 50 will not be authorised to commence the Development until a development consent obligation with the County Council has been completed in the form certified by the Secretary of State pursuant to the Development Consent Order.
- (F) The County Council and the Undertaker have agreed to enter into this Deed in order to provide mutual assurance that they will execute and authorise completion of a development consent obligation in the certified form at the Undertaker's request following the granting of the Development Consent Order.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed (which includes the Recitals to it) the following words and expressions have the following meanings unless the context otherwise requires:

" 1990 Act "	means the Town and Country Planning Act 1990;
" 2008 Act "	means the Planning Act 2008;
" Application "	means the application for the DCO submitted to the Secretary of State for the Development and accepted by the Planning Inspectorate on 12 December 2019 with reference EN020022;

“Certified Form”	means the form set out in Appendix 1 to this Deed;
“Commencement”	means the carrying out of a material operation as defined in section 155 of the 2008 Act comprised in the Development and the words "Commence" and "Commenced" and cognate expressions shall be construed accordingly;
“County Council”	means Hampshire County Council including successors to its statutory functions as the lead flood authority, local highway authority and local planning authority;
“DCO Land”	means so much of the land within the Order limits of the Development Consent Order as is within the administrative boundary of the County Council;
“Development”	means those elements of the Project located onshore in the UK for which the DCO is granted;
“Development Consent Obligation”	means an agreement pursuant to section 106 of the 1990 Act between the Undertaker and the County Council in the Certified Form, subject only to such minor changes to references etc. as are necessary to reflect the Development Consent Order as granted;
“Development Consent Order”	means the development consent order to be made pursuant to the Application and references to “DCO” shall be construed accordingly;
“Dispute”	means any dispute, issue, difference or claim as between the parties in respect of any matter contained in or arising from or relating to this Deed or the parties' obligations and rights pursuant to it (other than in respect of any matter of law);
“Expert”	means an independent person appointed in accordance with the provisions of clause 7 to determine a Dispute between the parties to this Deed;
“Project”	means AQUIND Interconnector a new 2,000 MW subsea and underground High Voltage Direct Current ('HVDC') bi-directional electric power transmission link between the South Coast of England and Normandy in France;
“Request”	means a written request from the Undertaker to the County Council to execute the Development Consent Obligation;
“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; and
“Undertaker”	means AQUIND Limited or any person to whom the benefit of the Development Consent Order is lawfully transferred pursuant to powers in the Development Consent Order;

1.2 In this Deed, unless stated otherwise:

1.2.1 reference to the masculine feminine and neuter genders shall include other genders;

- 1.2.2 reference to the singular include the plural and vice versa unless the contrary intention is expressed;
- 1.2.3 references to natural persons include firms, companies, corporations, and vice versa;
- 1.2.4 a reference to a clause, sub-clause, Schedule, recital or appendix is (unless the context otherwise requires) a reference to the relevant clause, sub-clause, Schedule, recital or appendix to this Deed;
- 1.2.5 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
- 1.2.6 references in this Deed to any statute or statutory provision include references to:
 - (A) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Deed;
 - (B) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
 - (C) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
- 1.2.7 where in this Deed the County Council is required to give any approval, consent or agreement then such approval, consent or agreement by the County Council shall not be deemed to have been given unless given in writing;
- 1.2.8 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected, impaired or called into question;
- 1.2.9 the recitals, table of contents and headings in this Deed are for convenience only and shall not affect its construction, interpretation or otherwise have any binding legal effect;
- 1.2.10 in the event of any conflict between the terms, conditions and provisions of this Deed and of any document appended hereto or referred to herein, the terms, conditions and provisions of this Deed shall prevail;
- 1.2.11 reference to "the parties" shall mean the parties to this Deed and reference to a "party" shall mean any one of the parties;
- 1.2.12 references to "notice" shall mean notice in writing;
- 1.2.13 references to "including" shall mean "including without limitation or prejudice to the generality of any description, defining terms or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly; and
- 1.2.14 the Interpretation Act 1978 shall apply to this Deed;

2. **LEGAL EFFECT**

- 2.1 This Deed is made pursuant to section 111 of the Local Government Act 1972 and all other powers so enabling.

3. **CONDITIONALITY**

- 3.1 The parties agree that the terms, conditions and provisions of this Deed shall have immediate operative effect when dated.

4. **OBLIGATIONS IN RELATION TO EXECUTION OF THE DEVELOPMENT CONSENT OBLIGATION**

- 4.1 The Undertaker covenants with the County Council to lawfully execute in duplicate the Development Consent Obligation and to issue the Development Consent Obligation duly executed by the Undertaker to the County Council together with a Request within not more than ten (10) Working Days of the date of the Development Consent Order being made by the Secretary of State.
- 4.2 The County Council covenants with the Undertaker to lawfully execute and complete the Development Consent Obligation within ten (10) Working Days of receipt of the Request.
- 4.3 The Undertaker confirms that the County Council has its irrevocable authority to complete the Development Consent Obligation following receipt of the Development Consent Obligation duly executed by the Undertaker.
- 4.4 The County Council covenants to provide the Undertaker with a completed part of the Development Consent Obligation within five (5) Working Days of completion of the Development Consent Obligation.
- 4.5 The Undertaker covenants with the County Council not to Commence the Development unless and until the Development Consent Obligation has been completed.

5. **RELEASE AND EXPIRY**

- 5.1 Upon service by the County Council of confirmation to the Undertaker that the Development Consent Obligation has been completed, performance discharge or other fulfilment of the obligations of the County Council or the Undertaker under the terms of this Deed shall absolutely cease and determine save in respect of any antecedent breach.

6. **RESOLUTION OF DISPUTES**

- 6.1 In the event of any Dispute arising between the parties then the parties will attempt to resolve that Dispute amicably including holding a meeting attended by at least 3 representatives from each party.
- 6.2 If the parties are unable to resolve the Dispute amicably pursuant to clause 6.1, one party may by serving notice on all the other parties (the "Notice") refer the Dispute to an Expert for determination.
- 6.3 The Notice must specify:
 - 6.3.1 the nature, basis and brief description of the Dispute;
 - 6.3.2 the clause or paragraph of this Deed pursuant to which the Dispute has arisen; and
 - 6.3.3 the proposed Expert.
- 6.4 In the event that the parties are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either party may request the President of the Law Society to nominate the Expert at their joint expense, and the parties shall request that such nomination shall be made within 10 Working Days of the request, and any failure for such nomination to be made within 10 Working Days shall entitle any party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England and Wales instead.
- 6.5 If the appointed Expert is or becomes unable or unwilling to act, any party may within 5 Working Days of the Expert being or becoming unable or unwilling to act, serve a notice on all the other parties proposing a replacement Expert and the parties will follow the process at Clause 7.4 to settle the appointment of the replacement Expert.
- 6.6 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.

- 6.7 The Expert is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision.
- 6.8 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 30 Working Days from the date of his appointment to act.
- 6.9 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 10 Working Days in respect of any such submission and material.
- 6.10 Nothing in this Deed shall fetter any party's right to bring an action in Court.

7. NOTICES

- 7.1 Any notice, consent or approval or other communication required to be given under or in connection with this Deed to or upon the parties must be in writing and shall be addressed as provided for in clause 7.3.
- 7.2 Any such notice must be delivered by hand (including by courier or process server) or by pre-paid recorded delivery post and shall conclusively be deemed to have been received:
 - 7.2.1 if delivered by hand, upon delivery at the relevant address; and
 - 7.2.2 if sent by first class post, at 9:00 a.m. on the second Working Day after the date of posting,

except that where any such notice or other communication is or would be deemed to be received after 5:30 p.m., such notice shall be deemed to be received at 9:00 a.m. on the next Working Day.

- 7.3 Subject to clause 8.4, the address, relevant addressee and reference for each party are:

- 7.3.1 in the case of the County Council:

Address: Hampshire County Council, Law and Governance Department, The Castle, Winchester, SO23 8UJ with a copy also sent by e-mail to HLS@hants.gov.uk.

Relevant addressee: David Kelly – Head of Legal Services

Reference: Aquind Interconnector s106/135915

- 7.3.2 For the Undertaker:

Address: AQUIND Limited, 78 Pall Mall, London, SW1Y 5ES with a copy also sent by e-mail to kirill.glukhovskoy@aquind.co.uk.

Relevant addressee: Kirill Glukhovskoy – Managing Director

Reference: AQUIND Interconnector S106

- 7.4 Any party may give notice of a change to its name, address, or relevant addressee for the purposes of this clause provided that such notification shall only be effective on:

- 7.4.1 the date specified in the notification as the date on which the change is to take place; or

- 7.4.2 if no date is specified or the date specified is less than five clear Working Days after the date on which the notice is received or deemed to be received, the fifth Working Day after the notice of any such change is given.

8. NO FETTER ON DISCRETION

8.1 Save as provided for in Clause 4 nothing herein contained or implied shall prejudice or affect the discretionary powers, duties and obligations of the County Council under all statutes, by-laws, instruments, orders and regulations in the exercise of its statutory functions.

8.2 Nothing in this Deed shall be taken to operate so as to fetter or prejudice the statutory rights, powers, discretions or duties of the County Council or the Undertaker.

9. GOOD FAITH, GOOD PRACTICE AND REASONABLENESS

9.1 The parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations in this Deed.

9.2 Unless expressly stated otherwise where under this Deed any approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response is required to be given by or reached or taken by any party or any response is requested by any such approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response, it will not be unreasonable or unreasonably withheld or delayed and the parties will act reasonably at all times.

10. LEGAL FEES AND COSTS

10.1 The Undertaker shall pay on the date of this Deed to the County Council its reasonable legal costs up to the amount of £20,000 and development control costs up to the amount of £5,000 properly incurred in the negotiation and completion of this Deed.

11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

11.1 No person other than the Undertaker or the County Council (which for the avoidance of doubt shall include their successors) has any right to enforce any term of this Deed under the Contract (Rights of Third Parties) Act 1999.

12. JURISDICTION

12.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

12.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

13. COUNTERPARTS

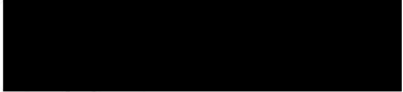
13.1 This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.

14. DATE OF DELIVERY

14.1 This Deed is delivered on the date of this Deed.

IN WITNESS whereof this Deed has been duly executed by the parties to this Deed on the date which appears at the head of this document.

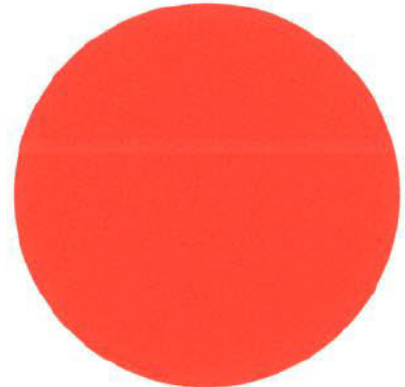
EXECUTED as a DEED by)
affixing the common seal of)
HAMPSHIRE COUNTY)
COUNCIL in the presence of: -)



Authorised signatory

Name PAUL HODGSON

Position DEPUTY HEAD OF WCTA

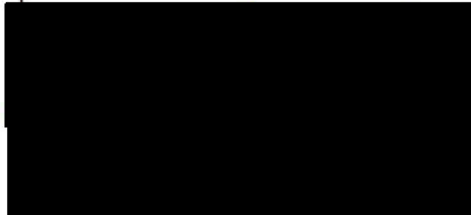


37/6396

SIGNED as a DEED by)
AQUIND LIMITED)
acting by two directors or one director)
and the company secretary:)

Director

Director/~~Secretary~~



GLUKHOVSKOY

RICHARD D. GLASSPOOL

APPENDIX 1
CERTIFIED FORM OF DEVELOPMENT CONSENT OBLIGATION

DATED

202[X]

(1) AQUIND LIMITED

(2) HAMPSHIRE COUNTY COUNCIL

**DEED OF DEVELOPMENT CONSENT
OBLIGATIONS**

pursuant to section 106 of
the Town and Country Planning Act 1990
relating to the AQUIND Interconnector

Herbert Smith Freehills LLP

TABLE OF CONTENTS

Clause	Headings	Page
1.	DEFINITIONS AND INTERPRETATION	1
2.	LEGAL EFFECT	9
3.	LAND BOUND	9
4.	BINDING FURTHER INTERESTS	9
5.	CONDITIONALITY	10
6.	OBLIGATIONS OF THE UNDERTAKER	10
7.	OBLIGATIONS OF THE COUNTY COUNCIL	11
8.	RELEASE AND EXPIRY	11
9.	LOCAL LAND CHARGES	11
10.	WAIVER	11
11.	REMEDIES	11
12.	CERTIFICATES OF COMPLIANCE	12
13.	RESOLUTION OF DISPUTES	12
14.	NOTICES	12
15.	NO FETTER ON DISCRETION	13
16.	GOOD FAITH, GOOD PRACTICE AND REASONABLENESS	13
17.	COMMUNITY INFRASTRUCTURE LEVY	13
18.	LEGAL FEES AND COSTS	14
19.	INDEXATION	14
20.	INTEREST ON LATE PAYMENTS	14
21.	VAT	14
22.	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	14
23.	JURISDICTION	15
24.	COUNTERPARTS	15
25.	DATE OF DELIVERY	15
	SCHEDULE 1	16
	SCHEDULE 2	19
	SCHEDULE 3	22
	APPENDIX 1	28
	APPENDIX 2	29
	APPENDIX 3	30

APPENDIX 4	31
APPENDIX 5	32
APPENDIX 6	33
APPENDIX 7	34
APPENDIX 8	35
APPENDIX 9	36

THIS DEED made on

202[X]

BETWEEN:

- (1) **AQUIND LIMITED** (company registration number 06681477) whose registered office is at OGN House, Hadrian Way, Wallsend NE28 6HL (the "**Undertaker**"); and
- (2) **HAMPSHIRE COUNTY COUNCIL** of Hampshire County Council, The Castle, Winchester, SO23 8UJ (the "**County Council**")

WHEREAS:

- (A) On [XXX] the Secretary of State for Business, Energy and Industrial Strategy made the Development Consent Order.
- (B) The terrestrial elements of the Project in the UK are to be located between Eastney, Portsmouth and the National Grid Substation at Lovedean, being part of the Project comprising a high voltage direct current electrical interconnector between France and the UK.
- (C) The County Council is a local highway authority and lead local flood authority for the area within which the DCO Land is situated. The County Council is also a local planning authority with the capacity to enter into planning obligations in accordance with section 106 of the 1990 Act.
- (D) The Undertaker is the undertaker for the purposes of the Development Consent Order. The Undertaker intends to construct, operate and maintain the Development as authorised by the Development Consent Order and is deemed to be a person interested in the DCO Land in accordance with Article 8(4)(a) of the Development Consent Order.
- (E) The Undertaker intends to acquire freehold and/or leasehold interests in the DCO Land in the future in connection with the Development (whether compulsorily or by agreement).
- (F) The Parties to this Deed have agreed to enter into this Deed in order to secure the performance of the development consent obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other enabling powers.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed (which includes the Recitals to it) the following words and expressions have the following meanings unless the context otherwise requires:

"1990 Act"	means the Town and Country Planning Act 1990;
"2008 Act"	means the Planning Act 2008;
"Access and Rights of Way Plans"	means the plans certified as the access and rights of way plans by the Secretary of State under article 43 (Certification of plans and documents, etc.) and identified in Schedule 6 to the DCO;
"Account"	means an interest bearing account of the County Council into which the Bus Delay Mitigation Fund the Bus Delay Mitigation Contingency Fund and the Patronage Marketing Contribution

shall be held by the County Council and from which the County Council may draw down sums in accordance with Schedule 3;

"AIL Street Works"	means temporary works to streets and street furniture for which the County Council is responsible to facilitate the movement of abnormal indivisible loads in connection with the construction of the Development;
"Application"	means the application for the DCO submitted to the Secretary of State for the Development and accepted by the Planning Inspectorate on 12 December 2019 with reference EN020022;
"Baseline Condition"	means the average journey time between the relevant bus stops for the relevant Specified Route for the relevant month in the Baseline Year;
"Baseline Year"	means January 2019 – January 2020;
"Bus Delay Mitigation Contingency Fund"	means the sum of £275,517.50 (two hundred and seventy five thousand five hundred and seventeen pounds and fifty pence) (Index Linked) which once paid is to be drawn down by the County Council to be paid to the relevant Bus Operator in respect of the cost of the provision of an additional bus(es) on the Specified Route in arrears;
"Bus Delay Mitigation Fund"	means the sum of £1,102,070 (one million one hundred and two thousand and seventy pounds) (Index Linked) which once paid is to be drawn down by the County Council to be paid to the relevant Bus Operator in respect of the cost of the provision of an additional bus(es) on the Specified Route in arrears;
"Bus Delay Mitigation Request"	means a written request from a Bus Operator in respect of a Specified Route which includes the following information: <ul style="list-style-type: none">a) the Specified Route Baseline for the Specified Route;b) the percentage decrease in Start Point Compliance for the Specified Route prior to the provision of an additional bus;c) actual journey time point to point data identifying all delays experienced by the Specified Route;d) actual journey time point to point data identifying delays experienced by the Specified Route in connection with Traffic Management;e) Scheduled Journey Time;f) Traffic Management Journey Time; andg) evidence that an additional bus has been provided on the Specified Route;
"Bus Operators"	means First Bus and Stagecoach (respectively) or any successor operator in respect of a Specified Route;
"CAVAT Assessment"	means the assessment of the value of any Highways Tree to be removed in connection with the construction of the Development to be undertaken in accordance with the

	CAVAT Assessment Methodology and which shall calculate the CAVAT Compensation Amount for the Highways Tree to be removed;
"CAVAT Assessment Methodology"	means the Capital Asset Value of Amenity Trees methodology produced by the London Tree Officers Association dated January 2020 or any replacement thereof;
"CAVAT Compensation Amount"	means the compensation to be paid to the County Council in connection with the removal of any Highways Tree which is to be determined in accordance with the CAVAT Assessment and which is to be applied by the County Council towards the provision of replacement trees;
"Commencement"	means the carrying out of a material operation as defined in section 155 of the 2008 Act comprised in the Development on the DCO Land other than operations consisting of Onshore Site Preparation Works and the words "Commence" and "Commenced" and cognate expressions shall be construed accordingly;
"Commencement Date"	means the date of Commencement;
"Completion of Construction"	means the date of service of a notice on the County Council by the Undertaker stating that the construction of the Development is complete prior to commissioning;
"Completion of HCC Highway Works"	means the date of service of a notice on the County Council by the Undertaker stating that the construction of all parts of Work No.4 as are located on the highway within the DCO Land is complete;
"Completion of Work No.4"	means the completion of the construction of all parts of Work No.4 which are located on the public highway;
"Control Routes"	means: <ul style="list-style-type: none"> a) in relation to any Patronage Marketing Contribution Request by First Bus bus route no. X5 and 9; or b) in relation to any Patronage Contribution Request by Stagecoach bus route no. 1 (Aldershot) and Pulse (Worthing);
"Converter Station"	means the converter station and associated electrical equipment to be constructed as part of the Development and which comprises Work No.2;
"Converter Station Access Works"	means the permanent access junction and associated gated highway link to be constructed as part of the Development and which comprises Work No.2 (bb) in general accordance with drawing number AQD-WSP-UK-OS-DR-Z-200215 Rev 05 located at Appendix 2 together with the 4 no. passing places to be constructed on Day Lane in connection with the construction of the Development;
"Converter Station Access Works Completion Certificate"	means a certificate to be issued by the County Council pursuant to the Converter Station Access Works Highways Agreement to denote the completion of the Converter Station Access Works to the satisfaction of the County Council;

“Converter Station Access Works Highways Agreement”	means an agreement to be entered into between the Undertaker and the County Council pursuant to section 278 of the Highways Act 1980 in relation to the delivery of the Converter Station Access Works substantially in the form located at Appendix 3;
“County Council”	means Hampshire County Council;
“DCO Land”	means so much of the land within the Order limits as is within the administrative boundary of Hampshire County Council as shown shaded and edged red on the DCO Land Plan;
“DCO Land Plan”	means the plan located at Appendix 1 of this Deed;
“Development”	means those elements of the Project located onshore in the UK and for which the DCO is granted;
“Development Consent Order”	means the AQUIND Interconnector Order 202[X] made by the Secretary of State for Business, Energy and Industrial Strategy on [XXX] and references to “DCO” shall be construed accordingly;
“Dispute”	means any dispute, issue, difference or claim as between the parties in respect of any matter contained in or arising from or relating to this Deed or the parties’ obligations and rights pursuant to it (other than in respect of any matter of law);
“Expert”	means an independent person appointed in accordance with the provisions of clause 13 to determine a Dispute between the parties to this Deed;
“First Bus”	means First Hampshire & Dorset Limited of Empress Road, Southampton SO14 0JW with company registration number 01999120 and any Group Company of the same;
“Group Company”	means any connected person (as defined in by Section 122 of the Corporation Tax Act 2010);
“Highways Tree”	means a tree which is located on the public highway within the DCO Land and which is in the ownership of the County Council;
“Index”	means the Retail Price Index published by the Office for National Statistics or any successor or amending body;
“Index Linked”	means increased (if applicable) in accordance with clause 19;
“Ladybridge Roundabout Development Works”	means the works for the realignment improvement and widening of the existing roundabout at the junction of London Road and Ladybridge Road and re-alignment of Purbrook Heath Road and provision of a toucan crossing on London Road south of the existing roundabout shown indicatively on the Ladybridge Roundabout Development Works Plan which are to be undertaken by or on behalf of the County Council as required in accordance with the Section 106 Agreement dated 30 March 2012 entered into in connection with the planning permission with reference 10/02868/OUT dated 30 March 2012 issued by Winchester City Council;

“Ladybridge Roundabout Development Works Plan”	means the plan located at Appendix 6 of this Deed;
“Ladybridge Roundabout Highway Works”	means such parts of Work No.4 as overlap with the Ladybridge Roundabout Development Works;
“Monitoring Fee”	means the sum of £2,000;
“Onshore Cable Route”	means any part of Work No.4 which is located on the public highway;
“Onshore Site Preparation Works”	<p>means operations consisting of:</p> <ul style="list-style-type: none"> a) pre-construction archaeological investigations; b) environmental surveys and monitoring; c) site clearance; d) removal of hedgerows, trees and shrubs (excluding any Highways Tree); e) investigations for the purpose of assessing ground conditions; f) remedial work in respect of any contamination or adverse ground conditions; g) receipt and erection of construction plant and equipment; h) the temporary display of site notices and advertisements; i) erection of temporary buildings, structures or enclosures; and j) Work No.2 (bb) (access junction and associated gated highway link);
“Order Limits”	has the same meaning as is given in the DCO;
“Patronage Marketing Contribution”	means the sum of £290,000 (two hundred and ninety thousand pounds) (Index Linked) which once paid is to be drawn down by the County Council and paid to the Bus Operators towards costs incurred in respect of pro-bus marketing campaigns following the Completion of Work No.4 in accordance with the provisions of paragraph 2 of Schedule 3;
“Patronage Marketing Contribution Request”	<p>means a request from a Bus Operator which includes the following information:</p> <ul style="list-style-type: none"> a) the percentage increase in bus patronage for the Specified Routes of the relevant Bus Operator for the period between the date of the payment of the Bus Delay Mitigation Fund into the Account and the date of confirmation of the Completion of Work No.4; and b) the percentage increase in patronage for the Control Routes for the period between the date of the

payment of the Bus Delay Mitigation Fund into the Account and the date of confirmation of the Completion of Work No.4;

"Project"	means AQUIND Interconnector a new 2,000 MW subsea and underground High Voltage Direct Current ('HVDC') bi-directional electric power transmission link between the South Coast of England and Normandy in France;
"Qualifying Interest"	means such interest in the land sufficient to meet the requirements of Section 106(1) of the 1990 Act which shall include the Undertaker's status as undertaker for the purposes of the DCO in accordance with the provisions of article 8(4)(a) of the DCO whereby the undertaker is deemed to be a person interested in the DCO Land for the purposes of Section 106(1) of the 1990 Act;
"Scheduled Journey Time"	means the journey time for a bus to travel between the bus stop before the Traffic Management and first bus stop following the Traffic Management in the Baseline Condition;
"Specified Routes"	means the following bus routes operating within the Order limits: <ul style="list-style-type: none">a) First Bus bus route No.7b) First Bus bus route No.8c) First Bus bus route No. 13d) First Bus bus route No. D1e) First Bus bus route No. D2f) Stagecoach bus route No. 20g) Stagecoach bus route No. 21h) Stagecoach bus route No. 23i) Stagecoach bus route No. 37j) Stagecoach bus route No. 39
"Specified Route Baseline"	means the percentage of Start Point Compliance for the relevant Specified Route within the relevant month of the Baseline Year;
"Stagecoach"	means Stagecoach (South) Limited of Stagecoach Shared Service Centre, One Stockport Exchange, 20 Railway Road, Stockport SK1 3SW with company registration number 1673542 and any Group Company of the same;
"Start Point Compliance"	means where a bus on a Specified Route leaves its first stop not more than 4 minute and 59 seconds after the scheduled start time;
"Successor"	means any person deriving title from the Undertaker in respect of its Qualifying Interest and for the purposes of Section 106(3)(b) of the 1990 Act shall include any person to whom powers are transferred further to Article 7 of the DCO;
"Supplemental Deed"	means a supplemental deed substantially in the form attached at Appendix 9;

"TCF Works"	means the works to be undertaken by the County Council to deliver highway improvements pursuant to funding secured from the government's Transforming Cities Fund to introduce a northbound bus gate to the south of Ladybridge Roundabout and reactivation of the southbound bus gate 570m to the north of the roundabout along with on carriageway cycle priority for northbound movements through the bus gate shown on the TCF Works Plan;
"TCF Works Plan"	means the plan located at Appendix 5 of this Deed;
"TD Plan Monitoring Annual Fee"	means the sum of £3,000 per annum until the Completion of HCC Highway Works payable by the Undertaker and to be applied towards the monitoring and evaluation of the TD Plan;
"TD Plan"	means the travel demand plan submitted to and approved by the County Council pursuant to Requirement 25 of the DCO;
"Temporary Construction Access"	means such new temporary means of access or improved existing means of access within the DCO Land (including in the locations identified on the Access and Rights of Way Plans) as the Undertaker reasonably requires for the purposes of the construction of the Development and which for the avoidance of doubt excludes the permanent access junction comprised in the Converter Station Access Works and the typical layout for which is shown on the Temporary Construction Access Typical Layout Drawing;
"Temporary Construction Access Completion Certificate"	means a certificate to be issued by the County Council pursuant to a Temporary Construction Access Highways Agreement to denote the completion of a Temporary Construction Access to the satisfaction of the County Council;
"Temporary Construction Access Highways Agreement"	means an agreement to be entered into between the Undertaker and the County Council pursuant to section 278 of the Highways Act 1980 in relation to the delivery of any Temporary Construction Access substantially in the form located at Appendix 4;
"Temporary Construction Access Typical Layout Drawing"	means the drawing located at Appendix 7 of this Deed;
"Traffic Management"	means traffic management associated with the construction of the Onshore Cable Route;
"Traffic Management Journey Time"	means the actual journey time between the bus stop before the Traffic Management and the first bus stop following the Traffic Management;
"Travel Plan"	means any and all travel plans for the contractor's workforce submitted to and approved by the County Council pursuant to Requirement 21 of the DCO;

"Travel Plan Monitoring Annual Fee"	means the sum of £3,000 per annum until the Completion of Construction payable by the Undertaker and to be applied towards the auditing and monitoring of the Travel Plan;
"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; and
"Undertaker"	means AQUIND Limited and any Successors;

1.2 In this Deed, unless stated otherwise:

- 1.2.1 reference to the masculine feminine and neuter genders shall include other genders;
- 1.2.2 reference to the singular include the plural and vice versa unless the contrary intention is expressed;
- 1.2.3 references to natural persons include firms, companies, corporations, and vice versa;
- 1.2.4 references to the County Council include the successors to the County Council's statutory functions as the lead flood authority, local highway authority and local planning authority;
- 1.2.5 references to the Undertaker shall include its Successors and its respective successors in respect of its Qualifying Interest (except where the contrary is expressly provided);
- 1.2.6 references to "Work Nos." or to a "Work No." are references to the works forming part of the Development listed in Schedule 1 to the DCO;
- 1.2.7 a reference to a clause, sub-clause, paragraph, sub-paragraph, Schedule, recital or appendix is (unless the context otherwise requires) a reference to the relevant clause, sub-clause, paragraph, sub-paragraph, Schedule, recital or appendix to this Deed;
- 1.2.8 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
- 1.2.9 references in this Deed to any statute or statutory provision include references to:
 - (A) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Deed;
 - (B) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
 - (C) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
- 1.2.10 where in this Deed the County Council is required to give any approval, consent or agreement then such approval, consent or agreement by the County Council shall not be deemed to have been given unless given in writing;
- 1.2.11 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected, impaired or called into question;

- 1.2.12 the recitals, table of contents and headings in this Deed are for convenience only and shall not affect its construction, interpretation or otherwise have any binding legal effect;
- 1.2.13 in the event of any conflict between the terms, conditions and provisions of this Deed and of any document appended hereto or referred to herein, the terms, conditions and provisions of this Deed shall prevail;
- 1.2.14 reference to "the parties" shall mean the parties to this Deed and reference to a "party" shall mean any one of the parties;
- 1.2.15 references to "notice" shall mean notice in writing;
- 1.2.16 references to "including" shall mean "including without limitation or prejudice to the generality of any description, defining terms or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;
- 1.2.17 the Interpretation Act 1978 shall apply to this Deed; and
- 1.2.18 where any payment in this Deed is expressed to be payable before an event or activity that event or activity shall not commence until the relevant payment has been made.

2. **LEGAL EFFECT**

- 2.1 This Deed contains planning obligations that are development consent obligations for the purposes of section 106 of the 1990 Act and is also entered into pursuant to section 1 of the Localism Act 2011, section 111 of the Local Government Act 1972 and all other powers so enabling.
- 2.2 The planning obligations contained within this Deed are enforceable by the County Council as local planning authority in accordance with section 106(3) of the 1990 Act against:
 - 2.2.1 the Undertaker in respect of its Qualifying Interest in the DCO Land as bound under clause 3;
 - 2.2.2 the Undertaker's Successors to its Qualifying Interest in the DCO Land as bound under clause 3.

3. **LAND BOUND**

- 3.1 Subject to clause 5 (Conditionality) and clause 8 (Release and Expiry) the planning obligations in this Deed bind the DCO Land.
- 3.2 The parties agree that the planning obligations contained in this Deed will not be enforceable against any other owner of any land interest in the DCO Land who is not a party to this Deed nor against any successors in title to or any person claiming through or under the other such owner's interest in the DCO Land (save for the Undertaker) unless that person itself undertakes any part of the Development.
- 3.3 The parties agree that the planning obligations contained in this Deed shall not be enforceable against any mortgagee or chargee of the whole or any part of the DCO Land from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the DCO Land (or any part thereof to which such obligation relates) in which case it will be bound by the obligations as a person deriving title from the Undertaker PROVIDED THAT neither any mortgagee or chargee or person deriving title through such mortgagee or chargee will be liable for any breach of the obligations contained in this Deed unless committed at a time when that person is in possession of the DCO Land (or any part thereof to which such obligation relates).

4. **BINDING FURTHER INTERESTS**

- 4.1 If and to the extent that the Undertaker acquires any freehold interest or leasehold interest of seven years or more in respect of any part of the DCO Land the Undertaker covenants

to notify the County Council in writing of each and every such acquisition within three (3) Working Days of the same occurring and to promptly enter into and deliver to the County Council an executed agreement substantially in the form of the Supplemental Deed so as to bind and make such interests subject to the obligations, covenants and conditions contained in this Deed in so far as they relate to such interests and/or parts of the DCO Land and remain to be observed, performed and/or complied with.

5. CONDITIONALITY

- 5.1 Subject to clauses 5.2 and 5.3, the parties agree that, save for the covenant in clause 18.1, none of the terms, conditions or provisions of this Deed shall have operative effect unless and until the Development has been Commenced.
- 5.2 Where the Development Consent Order becomes the subject of any judicial review proceedings:
- 5.2.1 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 Development has been Commenced;
 - 5.2.2 if following the final determination of such proceedings the Development Consent Order is quashed and, in the event that the court orders the Application to be remitted to the Secretary of State, the Application is subsequently refused, this Deed will cease to have any further effect and any money paid to the County Council pursuant to Schedule 1 or Schedule 3 and not spent or committed by the County Council shall be repaid in full within 20 Working Days of the final determination of such proceedings; and
 - 5.2.3 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.
- 5.3 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:
- 5.3.1 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.

6. OBLIGATIONS OF THE UNDERTAKER

- 6.1 The Undertaker covenants with the County Council to observe and perform or cause to be observed and performed the obligations on the part of the Undertaker contained in Schedule 1 and Schedule 3 at the times and in the manner provided therein.
- 6.2 The Undertaker covenants with the County Council to serve written notice to the County Council at least twenty Working Days in advance of the proposed Commencement Date.
- 6.3 Where the proposed Commencement Date provided in clause 6.2 does not take place, the Undertaker shall provide written notice to the County Council of the revised date as soon as is reasonably practicable and in any event at least 10 Working Days in advance of the revised date.
- 6.4 The Undertaker covenants with the County Council to serve written notice to the County Council notifying of the Completion of Construction as soon as reasonably practicable following the Completion of Construction.

- 6.5 The Undertaker covenants with the County Council to serve written notice to the County Council notifying of the Completion of HCC Highway Works as soon as reasonably practicable following the Completion of HCC Highway Works.
- 7. OBLIGATIONS OF THE COUNTY COUNCIL**
- 7.1 The County Council covenants with the Undertaker to observe and perform or cause to be observed and performed the obligations on the part of the County Council contained in Schedule 2 and Schedule 3 at the times and in the manner provided therein.
- 8. RELEASE AND EXPIRY**
- 8.1 The Undertaker shall not be liable for a breach of any of its obligations under this Deed after it has parted with all of its interests in the DCO Land (including Qualifying Interests) or the part in respect of which the breach arises (as the case may be) save in either case for antecedent breaches.
- 8.2 If the Development Consent Order expires without having been Commenced or is revoked prior to the Commencement Date then this Deed shall forthwith determine and cease to have effect.
- 8.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the DCO Land in accordance with a planning permission or development consent order or other statutory authority (other than the DCO) granted (whether or not on appeal) after the date of this Deed.
- 8.4 No Successor to the Undertaker shall be liable for any breach of any obligation which occurs in relation to any area of the DCO Land which that Successor does not own or control or which is carried out by any person other than that Successor.
- 8.5 Upon the performance discharge or other fulfilment of the covenants and obligations (or any of them) of the Undertaker, any Successor, or the County Council under the terms of this Deed such covenant, obligation or obligations shall absolutely cease and determine save in respect of any antecedent breach.
- 9. LOCAL LAND CHARGES**
- 9.1 This Deed is a local land charge and may be registered as such by the County Council.
- 10. WAIVER**
- 10.1 No waiver (whether express or implied) by the County Council of any breach or default by the Undertaker in performing or observing any of the obligations, covenants or conditions on the Undertaker's part contained in this Deed shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the said obligations, covenants and conditions or from acting upon any subsequent breach or default in respect thereof by the Undertaker.
- 11. REMEDIES**
- 11.1 Where the County Council becomes aware of a breach or non-compliance with a provision of this Deed by the Undertaker, the County Council may serve notice of such breach upon the Undertaker and the notice of breach shall state the nature of the breach, the steps reasonably required to remedy the breach and a reasonable timescale for remedying the breach.
- 11.2 The Undertaker shall within 10 Working Days of receiving a notice served pursuant to clause 11.1 give written notification to the County Council of its response to the notice including any claim that it will remedy the breach within the stated timescale, that the timescale is too short or that that it rejects the notice for the reason that no breach has occurred.
- 11.3 The County Council and the Undertaker shall hold discussions about the notice of the breach where either party so requests.

- 11.4 In the event of a dispute arising regarding any notice of breach served pursuant to clause 11.1, the matter shall be determined under clause 13.
- 12. CERTIFICATES OF COMPLIANCE**
- 12.1 The County Council will without delay upon request by the Undertaker certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed.
- 13. RESOLUTION OF DISPUTES**
- 13.1 In the event of any Dispute arising between the parties then the parties will attempt to resolve that Dispute amicably including holding a meeting attended by at least 3 representatives from each party unless expressly stated otherwise.
- 13.2 If the parties are unable to resolve the Dispute amicably pursuant to clause 13.1, one party may by serving notice on all the other parties (the "Notice") refer the Dispute to an Expert for determination.
- 13.3 The Notice must specify:
- 13.3.1 the nature, basis and brief description of the Dispute;
 - 13.3.2 the clause or paragraph of this Deed pursuant to which the Dispute has arisen; and
 - 13.3.3 the proposed Expert.
- 13.4 In the event that the parties are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either party may request the President of the Law Society to nominate the Expert at their joint expense, and the parties shall request that such nomination shall be made within 10 Working Days of the request, and any failure for such nomination to be made within 10 Working Days shall entitle any party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England and Wales instead.
- 13.5 If the appointed Expert is or becomes unable or unwilling to act, any party may within 5 Working Days of the Expert being or becoming unable or unwilling to act, serve a notice on all the other parties proposing a replacement Expert and the parties will follow the process at clause 13.4 to settle the appointment of the replacement Expert.
- 13.6 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.
- 13.7 The Expert is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision.
- 13.8 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 30 Working Days from the date of his appointment to act.
- 13.9 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 10 Working Days in respect of any such submission and material.
- 13.10 Nothing in this Deed shall fetter any party's right to bring an action in Court.
- 14. NOTICES**
- 14.1 Any notice, consent or approval or other communication required to be given under or in connection with this Deed to or upon the parties must be in writing and shall be addressed as provided for in clause 14.3.

- 14.2 Any such notice must be delivered by hand (including by courier or process server) or by pre-paid recorded delivery post and shall conclusively be deemed to have been received:
- 14.2.1 if delivered by hand, upon delivery at the relevant address; and
- 14.2.2 if sent by first class post, at 9:00 a.m. on the second Working Day after the date of posting,
- except that where any such notice or other communication is or would be deemed to be received after 5:30 p.m., such notice shall be deemed to be received at 9:00 a.m. on the next Working Day.
- 14.3 Subject to clause 14.4, the address, relevant addressee and reference for each party are:
- 14.3.1 in the case of the County Council:
- Address: Hampshire County Council, Legal Services, The Castle, Winchester, SO23 8UJ with a copy also sent by e-mail to HLS@hants.gov.uk.
- Relevant addressee: David Kelly – Head of Legal Services
- Reference: Aquind Interconnector s106/135915
- 14.3.2 For the Undertaker:
- Address: AQUIND Limited, 78 Pall Mall, London, SW1Y 5ES with a copy also sent by e-mail to kirill.glukhovskoy@aquind.co.uk.
- Relevant addressee: Kirill Glukhovskoy – Managing Director
- Reference: AQUIND Interconnector S106
- 14.4 Any party may give notice of a change to its name, address, or relevant addressee for the purposes of this clause 14 provided that such notification shall only be effective on:
- 14.4.1 the date specified in the notification as the date on which the change is to take place; or
- 14.4.2 if no date is specified or the date specified is less than five clear Working Days after the date on which the notice is received or deemed to be received, the fifth Working Day after the notice of any such change is given.
15. **NO FETTER ON DISCRETION**
- 15.1 Nothing in this Deed shall be taken to operate so as to fetter or prejudice the statutory rights, powers, discretions or duties of the County Council or the Undertaker.
16. **GOOD FAITH, GOOD PRACTICE AND REASONABLENESS**
- 16.1 The parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations in this Deed.
- 16.2 Unless expressly stated otherwise where under this Deed any approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response is required to be given by or reached or taken by any party or any response is requested by any such approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response, it will not be unreasonable or unreasonably withheld or delayed and the parties will act reasonably at all times.
17. **COMMUNITY INFRASTRUCTURE LEVY**
- 17.1 The Parties agree that the planning obligations contained in the Schedules to this Deed are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the

Development and thus satisfy the three tests set out in regulation 122(2)(a) – (c) of the Community Infrastructure Regulations 2010.

18. LEGAL FEES AND COSTS

- 18.1 The Undertaker shall pay on the date of this Deed to the County Council its reasonable legal costs properly incurred in the negotiation and completion of this Deed and the Monitoring Fee.

19. INDEXATION

- 19.1 Any sum which is referred to in this Deed as Index Linked and required to be paid by the Undertaker to the County Council shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable in accordance with the following formula:

$$A \times (B/C) = D$$

Where:

A is the amount of money to be paid pursuant to this Deed

B is the figure shown in the relevant index for the period immediately prior to the date on which the sum concerned is due to be paid in accordance with the provisions in this Deed;

C is the figure shown in the relevant index for the period immediately prior to the date the Development Consent Order is made unless expressly stated otherwise; and

D is the amount of money required to be paid

PROVIDED THAT if the relevant index is no longer maintained then the above formula will be applied mutatis mutandis (so far as it relates to periods after it ceases to be do maintained) by reference to such other publication or index as may be agreed from time to time between the Parties or determined by an Expert pursuant to clause 13.

20. INTEREST ON LATE PAYMENTS

- 20.1 Without prejudice to any other right remedy or power herein contained or otherwise available to the County Council if any payment of any sum referred to herein shall have become due but shall remain unpaid for a period exceeding 5 Working Days the Undertaker shall pay on demand to the County Council interest thereon at the interest rate of four percent per annum above the base lending rate of National Westminster Bank plc from the date when the same became due until payment thereof.

21. VAT

- 21.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.
- 21.2 The Undertaker acknowledges and agrees that if at any time VAT is required to be paid in respect of any of the payments made under this Deed then to the extent that VAT had not been previously charged in respect of that payment the County Council shall have the right to issue a VAT invoice to the Undertaker in respect of any vatatable supplies properly incurred under this Deed and the VAT shall be paid by the Undertaker accordingly following the receipt of a valid VAT invoice.

22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 22.1 Without prejudice to clauses 1.2.4 and 1.2.5, a person who is not a party to this Deed does not have any right to enforce any term of this Deed under the Contract (Rights of Third Parties) Act 1999.

23. **JURISDICTION**

- 23.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 23.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

24. **COUNTERPARTS**

- 24.1 This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.

25. **DATE OF DELIVERY**

- 25.1 This Deed is delivered on the date of this Deed.

SCHEDULE 1

UNDERTAKER OBLIGATIONS

1. CONVERTER STATION ACCESS WORKS

- 1.1 The Undertaker shall not Commence the Development unless and until it has:
- 1.1.1 provided evidence of ownership of the land that is to be dedicated as highway in accordance with the Converter Station Access Works Highways Agreement or of the agreement of all persons with ownership of that land to the dedication of that land in the future to the satisfaction of the County Council prior to entering into the Converter Station Access Works Highways Agreement with the County Council referred to in paragraph 1.1.2 below; and
 - 1.1.2 entered into the Converter Station Access Works Highways Agreement with the County Council.
- 1.2 The Undertaker shall not Commence the Development unless and until the Converter Station Access Works have been completed and the County Council has issued the Converter Station Access Works Completion Certificate in respect of the whole of the Converter Station Access Works.

2. TEMPORARY CONSTRUCTION ACCESSES

- 2.1 The Undertaker shall not Commence the construction of any Temporary Construction Access unless and until it has entered into a Temporary Construction Access Highways Agreement with the County Council in relation to that Temporary Construction Access.
- 2.2 The Undertaker shall not permit the use of any Temporary Construction Access for the purposes of constructing the Development on the DCO Land unless and until that Temporary Construction Access has been completed and the County Council has issued the Temporary Construction Access Completion Certificate in relation to it.

3. HIGHWAY WORKS DESIGN CONSULTATION

- 3.1 Not less than two months prior to the anticipated date of the submission for approval of any Ladybridge Roundabout Highway Works and any parts of Work No.4 which overlap with the TCF Works pursuant to the requirements of the DCO, the Undertaker must issue to the County Council the proposed design details for Ladybridge Roundabout Highway Works and any parts of Work No.4 which overlap with the TCF Works, such design details to include:
- 3.1.1 proposed layout of the onshore HVDC cables;
 - 3.1.2 proposed depth of installation of the onshore HVDC cables; and
 - 3.1.3 indicative location of any joint bays, link boxes and link pillars
- and following submission of the relevant design details, the Undertaker shall use reasonable endeavours to discuss the design details and how they relate to the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) with the County Council to agree how those design details and the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) may be revised having regard to:
- 3.1.4 the respective project requirements for the Undertaker and the County Council in relation to the delivery of:
 - (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; and
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works;
 - 3.1.5 the need for:

- (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; and
 - (B) The TCF Works and any parts of Work No.4 which overlap with the TCF Works;
- to be delivered in a timely manner;
- 3.1.6 the nature and location of the constraints associated with:
- (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works;
- 3.1.7 the anticipated sequence of the delivery of:
- (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
 - (B) the TCF Works any parts of Work No.4 which overlap with the TCF Works;
- and;
- 3.1.8 the desire to avoid the design of:
- (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works,
- increasing the cost of the delivery of Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works or the TCF Works and any parts of Work No.4 which overlap with the TCF Works (as is relevant) and the costs for the County Council associated with the future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant).
- 3.2 Following the receipt of any comments from the County Council in accordance with paragraph 3.2 of Schedule 2 in relation to the design details submitted to the County Council by the Undertaker, the Undertaker shall have regard to those comments and use reasonable endeavours to amend the relevant design details to minimise any additional cost to the County Council in respect of the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant in the circumstances) prior to the submission for approval of any Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works pursuant to the requirements of the DCO (as is relevant in the circumstances) and where the County Council do not provide comments within the time period provided for within paragraph 3.2 of Schedule 2 the Undertaker shall not be required to amend the relevant design details and the County Council shall not be able to seek the payment of any additional costs in relation to such works.
- 3.3 The Undertaker shall following receipt from the County Council of the estimated amount of any additional costs to the County Council in undertaking the delivery and the future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant in the circumstances) solely as a consequence of the approved design of the Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works, use reasonable endeavours to agree the amount of such additional costs and the phasing for the payment of any such amount with the County Council as soon as reasonably practicable and the Undertaker may refer the matter to be determined in accordance with clause 13 where not agreed within three months of the County Council providing to the Undertaker the estimate of any additional costs in accordance with paragraph 3.3 of Schedule 2.

- 3.4 The Undertaker covenants to pay to the County Council the amount of any additional costs agreed with the County Council in accordance with paragraph 3.3 of this Schedule 1 or otherwise determined in accordance with clause 13 in accordance with the phasing for the payment of any such amount agreed with the County Council or otherwise determined in accordance with clause 13.

4. **HIGHWAYS TREES**

- 4.1 The Undertaker shall not remove any Highways Tree in connection with the construction of the Development on the DCO Land unless and until:

- 4.1.1 the Undertaker has submitted to the County Council a CAVAT Assessment for that Highways Tree for agreement; and
- 4.1.2 the CAVAT Assessment for that Highways Tree has been agreed by the County Council and the Undertaker.

- 4.2 The Undertaker must within not more than 20 Working Days of the date of removal of any Highways Tree on the DCO Land pay to the County Council the CAVAT Compensation Amount in accordance with the CAVAT Assessment agreed between the Undertaker and the County Council for that Highways Tree pursuant to paragraph 4.1.2 of this Schedule.

5. **TRAVEL PLAN AND TD PLAN MONITORING FEES**

- 5.1 The Undertaker must pay to the County Council the Travel Plan Monitoring Annual Fee and the TD Plan Monitoring Annual Fee prior to the Commencement of the Development and shall not Commence the Development unless and until such time as the Travel Plan Monitoring Fee and the TD Plan Monitoring Annual Fee has been paid to the County Council.
- 5.2 The Undertaker must pay to the County Council the Travel Plan Monitoring Annual Fee within not more than 20 Working Days following each anniversary of the Commencement Date until the Completion of Construction.
- 5.3 The Undertaker must pay to the County Council the TD Plan Monitoring Annual Fee within not more than 20 Working Days following each anniversary of the Commencement Date until the Completion of HCC Highways Works.

6. **AIL STREET WORKS**

- 6.1 The Undertaker covenants with the County Council not to undertake any AIL Street Works unless and until a minor works agreement pursuant to section 278 of the Highways Act 1980 has been entered into with the County Council in relation to those AIL Street Works.

SCHEDULE 2

COUNTY COUNCIL'S OBLIGATIONS

1. **USE OF CONTRIBUTIONS**
- 1.1 The County Council shall use the Travel Plan Monitoring Annual Fee, the TD Plan Annual Monitoring Fee and any CAVAT Compensation Amount paid to the County Council for the purposes for which they are paid only.
2. **HIGHWAYS AGREEMENTS**
- 2.1 The County Council covenants with the Undertaker to use reasonable endeavours to enter into:
 - 2.1.1 the Converter Station Access Works Highways Agreement;
 - 2.1.2 any and all Temporary Construction Access Highways Agreements;
 - 2.1.3 any and all minor works agreement pursuant to section 278 of the Highways Act 1980 in respect of ALL Street Works.
3. **HIGHWAY WORKS DESIGN CONSULTATION**
- 3.1 Following the receipt of any design details from the Undertaker in accordance with paragraph 3.1 of Schedule 1, the County Council shall use reasonable endeavours to discuss those design details and how they relate to the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) with the Undertaker within not more than 20 Working Days to agree how those design details and the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) may be revised having regard to:
 - 3.1.1 the respective project requirements for the Undertaker and the County Council in relation to the delivery of:
 - (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; and
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works;
 - 3.1.2 the need for:
 - (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; and
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works ;to be delivered in a timely manner;
 - 3.1.3 the nature and location of the constraints associated with:
 - (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works;
 - 3.1.4 the anticipated sequence of the delivery of the:
 - (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
 - (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works;and;
 - 3.1.5 the desire to avoid the design of:

- (A) the Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works; or
- (B) the TCF Works and any parts of Work No.4 which overlap with the TCF Works

increasing the cost of the delivery of Ladybridge Roundabout Highway Works and the Ladybridge Roundabout Development Works or the TCF Works and any parts of Work No.4 which overlap with the TCF Works (as is relevant) and the costs for the County Council associated with the future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant).

- 3.2 Following the discussion with the Undertaker in relation to the design details and how they relate to the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) in accordance with paragraph 3.1 of this Schedule 2, the County Council shall provide the Undertaker with comments in relation to the design details submitted to the County Council by the Undertaker within not more than 30 Working Days of the date of the submission of the relevant design details by the Undertaker to the County Council pursuant to paragraph 3.1 of Schedule 1 to confirm the amendments that are reasonably considered to be required to minimise any additional cost to the County Council in respect of the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant in the circumstances) having regard to the amendments that may reasonably be made to the design of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) to minimise any additional cost to the County Council in respect of the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works and where the County Council do not provide comments to the Undertaker within the time period provided for within this paragraph 3.2 the Undertaker shall not be required to amend the relevant design details and the County Council shall not be able to seek the payment of any additional costs in relation to such works.
- 3.3 Following the approval of any Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works pursuant to the requirements of the DCO (as is relevant in the circumstances) the County Council shall within not more than 30 Working Days provide to the Undertaker an estimate of any additional costs to the County Council in undertaking the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant in the circumstances) solely as a consequence of the approved design of the Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works **SUBJECT ALWAYS** to the need to take into account the amendments that may have reasonably been made to the design of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant) to minimise any additional cost to the County Council in respect of the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works.
- 3.4 The County Council shall use reasonable endeavours to agree with the Undertaker the amount of the additional costs to the County Council in undertaking the delivery and future maintenance of the Ladybridge Roundabout Development Works or the TCF Works (as is relevant in the circumstances) solely as a consequence of the approved design of the Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works and the phasing for the payment of any such amount with the Undertaker as soon as reasonably practicable and the County Council may refer the matter to be determined in accordance with clause 13 where not agreed within three months of the County Council providing to the Undertaker the estimate of any additional costs in accordance with paragraph 3.3 of this Schedule 2.
- 3.5 The County Council covenants to keep the Undertaker informed of the progress made in relation to the design and proposed delivery of the Ladybridge Roundabout Development Works and the TCF Works prior to the submission of all design details by the Applicant in relation to the Ladybridge Roundabout Highway Works or any part of Work No.4 which overlaps with the TCF Works (as is relevant) and the County Council shall provide to the

Undertaker details of the proposed design for the Ladybridge Roundabout Development Works or any of the TCF Works not less than three months before such design details are anticipated to be approved and shall use reasonable endeavours to agree how those design details and the Ladybridge Roundabout Highway Works or any parts of Work No.4 which overlap with the TCF Works (as is relevant) may be revised having regard to the matters listed in paragraph 3.1 prior to the approval of those design details.

4. **HIGHWAYS TREES**

4.1 Where the County Council is requested to provide agreement of a CAVAT Assessment pursuant to paragraph 4.1.1 of Schedule 1 the County Council shall use reasonable endeavours within 10 Working Days of that request from the Undertaker to:

4.1.1 confirm the agreement of the CAVAT Assessment in writing to the Undertaker; or

4.1.2 give notice in writing to the Undertaker of the reasons why CAVAT Assessment cannot be agreed to by the County Council including any further information that it may require from the Undertaker

and where the County Council is unable to satisfy the requirements of paragraph 4.1.1 or paragraph 4.1.2 within 10 Working Days it shall provide the Undertaker with a reasonable explanation of the reasons for not being able to do so.

4.2 The procedure set out in paragraph 4.1 above shall be repeated following the provision of any updated CAVAT Assessment or the provision of any further information in relation to any CAVAT Assessment to address the reasons specified in the notice given by the County Council pursuant to paragraph 4.1.2 SAVE THAT nothing in this paragraph 4 shall restrict the ability of either party to refer any Dispute in respect of the CAVAT Assessment (including the CAVAT Compensation Amount) to an Expert for determination in accordance with clause 13.

SCHEDULE 3
BUS MITIGATION

1. **BUS DELAY MITIGATION FUND**
- 1.1 The Undertaker covenants not to Commence any part of the Onshore Cable Route unless and until it has paid the Bus Delay Mitigation Fund to the County Council and it shall notify the County Council in writing on the date of payment that such payment has been made whereupon the County Council shall pay the Bus Delay Mitigation Fund into the Account and provide the Undertaker with written notice of receipt and acknowledgement in the form attached at Appendix 8 to this Deed.
- 1.2 Following the receipt of a Bus Delay Mitigation Request from a Bus Operator the County Council must verify the Bus Delay Mitigation Request to confirm whether a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management.
- 1.3 Where the County Council following the verification of a Bus Delay Mitigation Request confirm a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management the County Council shall provide a copy of the verified Bus Delay Mitigation Request to the Undertaker and the Undertaker may dispute the Bus Delay Mitigation Request within a period of 5 Working Days following the receipt of the verified Bus Delay Mitigation Request.
- 1.4 Where following the receipt of a verified Bus Delay Mitigation Request from the County Council the Undertaker disputes that a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management it shall inform the County Council in writing providing reasons for the dispute and the parties shall use reasonable endeavours to resolve that dispute amicably within not more than 5 Working Days and only where the dispute is not resolved between the parties within 5 Working Days may either party refer dispute to the Expert for determination in accordance with clause 13.
- 1.5 Where following the receipt of a verified Bus Delay Mitigation Request from the County Council:
 - 1.5.1 the Undertaker confirms this is not disputed or otherwise does not dispute the Bus Delay Mitigation Request within a period of 5 Working Days following the receipt of the verified Bus Delay Mitigation Request from the County Council;
 - 1.5.2 the Undertaker does dispute in accordance with paragraph 1.3 but that dispute is resolved between the parties in accordance with paragraph 1.4 confirming a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management; or
 - 1.5.3 the Expert determines that a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management;the County Council may draw down the amount of £2,885 from the Account (provided the Account is in credit to that sum) and provide those monies to the Bus Operator which is equivalent to the cost of providing an additional bus on the Specified Route for a period of 7 days.
- 1.6 Following the verification by the County Council of a Bus Delay Mitigation Request which confirms a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline as a result of Traffic Management and which:
 - 1.6.1 the Undertaker does not dispute in accordance with paragraph 1.3;
 - 1.6.2 the Undertaker does dispute in accordance with paragraph 1.3 but that dispute is resolved between the parties in accordance with paragraph 1.4 confirming a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management; or

1.6.3 the Expert determines in relation to that Bus Delay Mitigation Request that a decrease in Start Point Compliance of 3 percent or more against the Specified Route Baseline is as a result of Traffic Management;

the County Council will provide to the undertaker the information provided to them by the Bus Operator evidencing in respect of each 7 day period that:

1.6.4 the Traffic Management Delay Journey Time exceeds the Scheduled Journey Time; and

1.6.5 an additional bus has been provided on the Specified Route as a result of the increase in journey time between the Traffic Management Journey Time and the Scheduled Journey Time,

and the Undertaker may dispute the information provided within a period of 5 Working Days following the receipt from the County Council and **FOR THE AVOIDANCE OF DOUBT** the information to be provided may relate to any period of time which is in excess of 7 days.

1.7 Where following the receipt of the information from the County Council pursuant to paragraph 1.6 the Undertaker disputes that information it shall inform the County Council in writing providing reasons for the dispute and the parties shall use reasonable endeavours to resolve that dispute amicably within not more than 5 Working Days and only where the dispute is not resolved between the parties within 5 Working Days may either party refer dispute to the Expert for determination in accordance with clause 13.

1.8 Where following the receipt of the information from the County Council pursuant to paragraph 1.6:

1.8.1 the Undertaker confirms this is not disputed or otherwise does not dispute information within a period of 5 Working Days following the receipt of the information from the County Council;

1.8.2 the Undertaker does dispute the information in accordance with paragraph 1.6 but that dispute is resolved between the parties in accordance with paragraph 1.7 confirming the 7 day periods where the Traffic Management Delay Journey Time exceeds the Scheduled Journey Time and an additional bus has been provided on the Specified Route as a result of the increase in journey time between the Traffic Management Journey Time and the Scheduled Journey Time; or

1.8.3 the Expert determines in relation to that information the 7 day periods where the Traffic Management Delay Journey Time exceeds the Scheduled Journey Time and an additional bus has been provided on the Specified Route as a result of the increase in journey time between the Traffic Management Journey Time and the Scheduled Journey Time,

the County Council may draw down the amount of £2,885 from the Account in respect of each 7 day period that is confirmed (provided the Account is in credit to that sum):

1.8.4 the Traffic Management Delay Journey Time exceeds the Scheduled Journey Time; and

1.8.5 an additional bus has been provided on the Specified Route as a result of the increase in journey time between the Traffic Management Journey Time and the Scheduled Journey Time,

and provide those monies to the relevant Bus Operator.

1.9 The County Council will promptly provide to the Undertaker a statement each six months following the payment of the Bus Delay Mitigation Fund and otherwise on reasonable written request to confirm the payments made out of the Account and the amount which is remaining in the Account (including the amount of any accrued interest).

1.10 The County Council shall notify the Undertaker where the amount Bus Mitigation Delay Fund held in the Account is an amount which is less than 10 percent of the full amount of the Bus Delay Mitigation Fund and the Undertaker shall in those circumstances pay the

Bus Delay Mitigation Contingency Fund to the County Council within 20 Working Days following the receipt of the notification from the County Council whereupon the County Council shall pay the Bus Delay Mitigation Contingency Fund into the Account provide the Undertaker with written notice of receipt and acknowledgement in the form attached at Appendix 8 to this Deed.

- 1.11 The Undertaker shall notify the County Council of the Completion of Work No.4 and the County Council shall:
 - 1.11.1 confirm their agreement that the Completion of Work No.4 has occurred; or
 - 1.11.2 dispute that the Completion of Work No.4 has occurred,within not more than 10 Working Days following the receipt of the notification from the Undertaker.
- 1.12 Where the County Council dispute that the Completion of Work No.4 has occurred the parties shall use reasonable endeavours to agree whether the Completion of Work No.4 has occurred and either party may refer the dispute to be determined by the Expert in accordance with clause 13 where not agreed within 20 Working Days.
- 1.13 Within not more than 20 Working Days following:
 - 1.13.1 the County Council confirming their agreement that Completion of Work No.4 has occurred; or
 - 1.13.2 the Expert determining that the Completion of Work No.4 has occurred;and
 - 1.13.3 all claims in relation to draw down from the Account having been fully and finally settled,the County Council shall repay to the Undertaker any and all remaining amounts of the Bus Delay Mitigation Fund and/or the Bus Delay Mitigation Contingency Fund held in the Account (including any accrued interest).
2. **PATRONAGE MARKETING CONTRIBUTION**
- 2.1 Prior to the Completion of Work No.4 the Undertaker shall pay the Patronage Marketing Contribution to the County Council and shall notify the County Council in writing on the date of payment that such payment has been made whereupon the County Council shall pay the Patronage Marketing Contribution into the Account and provide the Undertaker with written notice of receipt and acknowledgement in the form attached at Appendix 8 to this Deed.
- 2.2 Where following the Completion of Work No.4 the County Council receive a Patronage Marketing Contribution Request from a Bus Operator which states that the increase in bus patronage on the relevant Specified Routes between the date of the payment of the Bus Delay Mitigation Fund into the Account and the date of the confirmation that the Completion of Work No.4 has occurred in accordance with paragraph 1.11 or 1.12 is more than 2 percent less than the increase in bus patronage on the relevant Control Routes the County Council shall notify the Undertaker of the same and provide to the Undertaker the Patronage Marketing Contribution Request.
- 2.3 The Undertaker may dispute a Patronage Marketing Contribution Request within a period of 20 Working Days following the receipt of the Patronage Marketing Contribution Request.
- 2.4 Where the Undertaker disputes a Patronage Marketing Contribution Request it shall inform the County Council in writing providing reasons for the dispute and the parties shall use reasonable endeavours to resolve that dispute amicably within not more than 20 Working Days and only where the dispute is not resolved between the parties within 20 Working Days may either party refer dispute to the Expert for determination in accordance with clause 13.
- 2.5 Where:

- 2.5.1 the Undertaker confirms this is not disputed or otherwise does not dispute a Patronage Marketing Contribution Request in accordance with paragraph 2.3; or
- 2.5.2 the Undertaker does dispute the information in accordance with paragraph 2.3 but that dispute is resolved between the parties in accordance with paragraph 2.4 confirming the increase in bus patronage on the relevant Specified Routes between the date of the payment of the Bus Delay Mitigation Fund into the Account and the date of the confirmation that the Completion of Work No.4 has occurred in accordance with paragraph 1.11 or 1.12 is more than 2 percent less than the increase in bus patronage on the relevant Control Routes; or
- 2.5.3 the Expert determines in relation to a Patronage Marketing Contribution Request that the increase in bus patronage on the relevant Specified Routes between the date of the payment of the Bus Delay Mitigation Fund into the Account and the date of the confirmation that the Completion of Work No.4 has occurred in accordance with paragraph 1.11 or 1.12 is more than 2 percent less than the increase in bus patronage on the relevant Control Routes;

the County Council may draw down the Patronage Marketing Contribution from the Account and may pay this to the relevant Bus Operator(s) towards costs incurred in respect of pro-bus marketing campaigns following the Completion of Work No.4 and the County Council covenants with the Undertaker not to use the Patronage Marketing Contribution for any other purpose.

2.6 Where:

- 2.6.1 no Patronage Marketing Contribution Request is made by a Bus Operator within 3 months of the date on which the Completion of Work No.4 is confirmed to have occurred in accordance with paragraph 1.11 or 1.12; or
- 2.6.2 Patronage Marketing Contribution Requests are made by the Bus Operators within 3 months of the date on which the Completion of Work No.4 is confirmed to have occurred in accordance with paragraph 1.11 or 1.12 but it is subsequently determined by the Expert in relation to those that the increase in bus patronage on the relevant Specified Routes between the date of the payment of the Patronage Marketing Contribution into the Account and the date on which the Completion of Work No.4 is confirmed to have occurred in accordance with paragraph 1.11 or 1.12 is not more than 2 percent less than the increase in bus patronage on the relevant Control Routes such that the Patronage Marketing Contribution is not eligible for draw down from the Account by the County Council;

the County Council shall repay to the Undertaker the Bus Patronage Contribution held in the Account (including any accrued interest) within not more than 20 Working Days of:

- 2.6.3 the date which is 3 months of the date on which the Completion of Work No.4 is confirmed to have occurred in accordance with paragraph 1.11 or 1.12; or
- 2.6.4 the date of determination by the Expert that the Patronage Marketing Contribution is not eligible for draw down in respect of all Patronage Marketing Contribution Requests made within 3 months of the of the date on which the Completion of Work No.4 is confirmed to have occurred in accordance with paragraph 1.11 or 1.12;

whichever is the later.

3. **CONFIDENTIALITY**

- 3.1 The Undertaker acknowledges that any and all information provided to the Undertaker by the County Council in relation to any Bus Delay Mitigation Request and any Patronage Marketing Contribution Request constitutes confidential information and the Undertaker covenants with the County Council that if required to do so by the County Council or the Bus Operators it shall enter into non-disclosure agreements and further covenants not to release any such information received from the County Council to any other person save

where necessary in connection with the referral of a matter for determination by an Expert in accordance with Clause 13.

IN WITNESS whereof this Deed has been duly executed by the parties to this Deed on the date which appears at the head of this document.

EXECUTED as a **DEED** by)
affixing the common seal of)
HAMPSHIRE COUNTY)
COUNCIL in the presence of: -)

Authorised signatory

Name

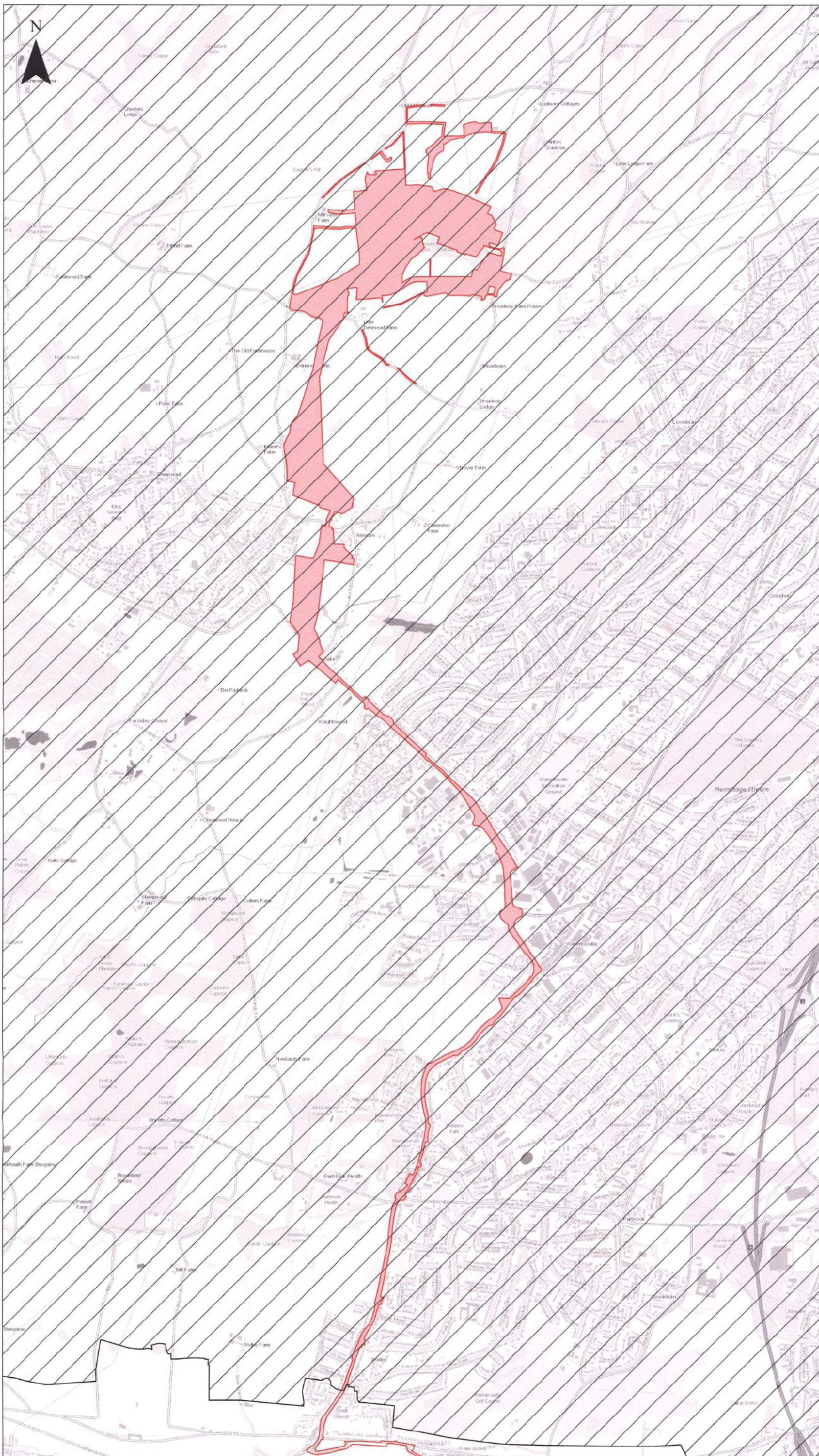
Position

SIGNED as a **DEED** by)
AQUIND LIMITED)
acting by two directors or one director)
and the company secretary:)

Director

Director/Secretary

APPENDIX 1
DCO LAND PLAN



**AQUIND Interconnector
Order Land within Hampshire County Council
Administrative Area**

- Hampshire County Council Administrative Area
- Order Limits
- Order Land within Hampshire County Council Administrative Area

0 220 440 880 Metres

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Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(i)

REV	DATE	BY	DESCRIPTION	CHK	APP
01	26/02/2021	AH	First Issue	DL	VB

FOR APPROVAL



AQUIND Interconnector

Order Land within Hampshire County Council Administrative Area
Sheet 1 of 1

SCALE AT	DRAWN	CHECKED	APPROVED
1:10,500	DL	DL	VB
PROJECT NO	DESIGNED	DRAWN	DATE
EN020022	AH	AH	26/02/2021

EN020022-EM-7.5.25.1-Sheet1 01
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APPENDIX 2
CONVERTER STATION ACCESS WORKS DRAWING

APPENDIX 3
CONVERTER STATION ACCESS WORKS HIGHWAYS AGREEMENT

202[X]

HAMPSHIRE COUNTY COUNCIL

and

AQUIND LIMITED

DEED OF AGREEMENT

in relation to Highway Works at
Broadway Lane and Day Lane
pursuant to (inter alia) S.278 and S.38 Highways
Act 1980

Herbert Smith Freehills LLP

TABLE OF CONTENTS

Clause	Headings	Page
1.	DEFINITIONS AND INTERPRETATION.....	4
2.	LEGAL EFFECT.....	7
3.	DEVELOPER'S COVENANTS.....	7
4.	INDEMNITIES.....	8
5.	SECURITY FOR THE PERFORMANCE OF THE DEVELOPER'S OBLIGATIONS.....	8
6.	PAYMENTS.....	10
7.	COUNTY COUNCIL'S COVENANTS.....	11
9.	FURTHER AGREEMENT BETWEEN PARTIES.....	13
10.	NON-COMPLIANCE.....	13
11.	ARBITRATION.....	13
12.	LAPSE OF AGREEMENT.....	14
13.	TRANSFER OF POWERS.....	14
14.	MINOR ALTERATIONS.....	14
15.	EXTENSION OF TIME TO COMPLETE THE WORKS.....	15
16.	NOTICES.....	15
17.	THIRD PARTY RIGHTS.....	15
18.	NO WAIVER.....	16
19.	GOVERNING LAW.....	16
20.	GOOD FAITH, GOOD PRACTICE AND REASONABLENESS.....	16
21.	LOCAL LAND CHARGE.....	16
	SCHEDULE 1 – DESCRIPTION OF THE WORKS.....	17
	SCHEDULE 2 – TERMS AND CONDITIONS OF WORKS.....	18

THIS AGREEMENT is made as a Deed the [] day of [] 202[X]

PARTIES:

- (1) **HAMPSHIRE COUNTY COUNCIL** of The Castle Winchester Hampshire SO23 8UJ ("**the County Council**"); and
- (2) **AQUIND LIMITED** (Company Registration Number 06681477) whose registered office is situated at OGN House, Hadrian Way, Wallsend NE28 6HL ("**the Developer**")
- (3) **[LAND OWNER'S FULL NAME]** [If individual enter full postal address for service here] [(Company Registration Number [registered number to be inserted here]) whose registered office is situated at [registered address to be inserted here]] ("**the Owner**")
- (4) **[MORTGAGEES FULL NAME]** (Company Registration Number [registered number to be inserted here]) whose registered office is situated at [registered address to be inserted here] ("**the Mortgagee**")

WHEREAS

- (A) The County Council is the Highway Authority for Hampshire.
- (B) On [xxx] 202[x] the Secretary of State granted the AQUIND Interconnector Order 202[x] (the "**Development Consent Order**") which granted development consent for the elements of AQUIND Interconnector which are located in the UK and the UK Marine Area (the "**Development**"). The Developer is the undertaker for the purposes of the AQUIND Interconnector Order 202[x] and is undertaking the construction of the Development.
- (C) The Development includes a permanent access junction to the Converter Station on Broadway Lane and an associated gated highway link between Broadway Lane and Day Lane which comprises Work No.2 (bb) as detailed in Schedule 1 to the DCO, and it is also necessary in connection with the construction of the Development for temporary passing places to be installed along Day Lane to facilitate the continued safe movement of traffic.
- (D) [The [Developer/Owner] is the registered proprietor with title absolute of the Land registered at Land Registry under Title Number(s) [HP] for the benefit of which Land the Works hereinafter referred to are carried out [subject to a Charge in favour of the Mortgagee]]
- (E) The Developer is desirous of entering into this Agreement for the purposes of securing the carrying out of the Works as defined herein and the Developer has agreed that it will pay the cost of construction, maintenance and (where relevant) the reinstatement of the Works.
- (F) The [Developer/Owner] has agreed to dedicate as public highway part of the land upon which the Works are to be constructed which does not currently form part of the public highway to ensure that visibility splays are maintained and the County Council agrees to accept such dedication and adopt that part of the land and the Works thereon as highway maintainable at public expense on the terms and conditions hereinafter contained.
- (G) The County Council is satisfied pursuant to Section 278 of the Highways Act 1980 that it will be of benefit to the public for the County Council to enter into this Agreement in relation to the execution of the Works at the expense of the Developer which Works are the subject of development consent granted by the Development Consent Order.

NOW THIS DEED OF AGREEMENT WITNESSETH as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions shall have the following meanings:

"Additional Works" a written list of any additional works required to be carried out in order to achieve the issue of a Certificate of Completion;

"Bond" means a bond in the sum [xxx(£xxx)] being the tender price of such parts of the Works as are located on the public highway and the Dedication Land [(as confirmed by the Developer and as approved by the County Council)] [plus the estimated cost of any commuted sums payable in accordance with Clause 6.1.4 hereof in both cases] as approved by the County Council together with the cost of any statutory undertakers works plus 10% thereof;

"CG300" means procedures for Technical Approval of Highway Structures published by Highways England March 2020 or any subsequent revision thereof

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

"Certificate of Completion" means a certificate issued by the County Council confirming the Works have been executed to its satisfaction and can be placed on maintenance;

"Certificate of Maintenance" means a certificate issued by the County Council in respect of the Converter Station Access Junction Works pursuant to the provisions of Clause 8.2;

"Certificate of Reinstatement" means a certificate issued by the County Council in respect of the Day Lane Passing Place Works pursuant to the provisions of Clause 8.7;

"Chartered Engineer" means a person registered as an engineer with the Engineering Council as having the technical knowledge and practical experience to satisfy its preferred requirements to be employed under an approved construction contract in accordance with Schedule 2 paragraph 7.2 and be independent of the Contractor;

"Contractor" means a contractor who complies with Section 5.2 of the Section 278 Technical Submission Requirements appointed by the Developer to undertake the Works;

"Construction Contract" means the contract between the Developer and the Contractor [incorporating the third edition of the Conditions of Contract approved by the Institution of Civil Engineers and commonly known as the NEC3 Engineering and Construction Contract Suite of Contract] approved by the County Council in accordance with Schedule 2 paragraph 1.3;

"Converter Station" means the converter station and associated electrical equipment to be constructed as part of the Development and which comprises Work No.2;

"Converter Station Access Junction Works" means the works to construct the permanent access junction and associated gated highway link to the Converter Station to be constructed as part of the Development and which comprises Work No.2 (bb) in general accordance with drawing number [xxx] located at Appendix 1 and more particularly described in Part 1 of Schedule 1;

"Converter Station Access Junction Works Maintenance Period" means a period of at least 6 months following the completion of the construction of the Converter Station or the completion of the construction of Works No. 4 (whichever shall be the later);

"Day Lane Passing Places Works" means the works to construct the 4no. passing places on Day Lane in the locations identified indicatively on drawing [xxx] located at Appendix 2 and more particularly described in Part 2 of Schedule 1;

"Day Lane Passing Places Works Maintenance Period" means from the date of the issue of the Certificate of Completion for the Works until the issue of the Certificate of Reinstatement;

"Dedication Land" means the land shaded orange and labelled **"Dedication Land"** on the Dedication Land Plan which is to be dedicated as highway and adopted as highway maintainable at the public expense by the County Council for the purpose of providing visibility splays;

"Dedication Land Plan" means the plan attached hereto at Appendix [x];

"Development" means those elements of the Project located in the UK onshore for which the DCO is granted;

"Development Consent Order" means the AQUIND Interconnector Order 202[x] and any variation properly made to that from time to time and references to **"DCO"** shall be construed accordingly;

"Director of Economy Transport and Environment" means the County Council's Director of Economy Transport and Environment or such other officer or officers as may from time to time be primarily responsible for the County Council's functions duties and responsibilities as a Highway Authority and the term **"Director"** shall be construed accordingly;

"Guidance Notes" means the **"Section 278 Technical Submission Requirements"** and **"Section 278 Guidance for Developers"** prepared by the Director of Economy Transport and Environment to inform of the processes practices and procedures required by the County Council when undertaking design and works on a highway under section 278 Highways Act 1980;

"Head of Law and Governance and Monitoring Officer" means the County Council's Head of Law and Governance and Monitoring Officer or such other officer or officers as may from time to time be primarily responsible for the provision of legal advice to the County Council;

"Highway Structure" means any structure or structures (as the context so requires) as defined in CG300;

"Interest Accrued" means the interest accrued on any Security Deposit provided to the County Council pursuant to Clause 5;

"Management Plan" means a management plan produced by the Developer showing how in the course of the planning and construction of the Works the Developer will:

- (a) minimise disruption to all types of traffic;
- (b) avoid instances of newly surfaced highway having to be re-excavated or have further works carried out on them;
- (c) minimise the number of closures/diversions required by the Works;
- (d) ensure that it takes into consideration the safety of all types of traffic that may be diverted or affected by the Works;
- (e) comply with the Hampshire County Permit Scheme (in accordance with Article [9A] of the DCO); and
- (f) prevent deposits on the highway of earth mud and subsoil;

"Programme" means the programme for the execution of the Works agreed from time to time in writing by the County Council pursuant to Schedule 2 paragraph 1.1 and shall include;

- (a) start dates, access dates, key dates and completion dates;
- (b) the order and timing of operations of the contractor employed to undertake the Works;
- (c) traffic management operations and resources to be employed;
- (d) allowances for others as required for undertaking works; and
- (e) float, time risk and weather allowances.

"Project" means AQUIND Interconnector a new 2,000 MW subsea and underground High Voltage Direct Current ('HVDC') bi-directional electric power transmission link between the South Coast of England and Normandy in France;

"Security Deposit" means a security deposit in the sum of [xxx(£xxx)] being the tender price of such parts of the Works as are located on the public highway and the Dedication Land (as confirmed by the Developer) [plus the estimated cost of any commuted sums payable in accordance with Clause 5.1.2 hereof] together with the cost of any statutory undertakers works in both cases as approved by the County Council plus 10% thereof;

"Specification" Means a specification for the Works agreed from time to time in writing by the County Council pursuant to Schedule 2 paragraph 1.1 which takes account of:

- (a) the 'Manual of contract documents for highway works: Volume 1 Specification for highway works' published by TSO in November 2009 as modified and extended by any supplements and revisions and further as modified and extended by Hampshire County Council's Model Contract Specification (available on request);
- (b) Hampshire County Council's Highway Construction Standard Details (available at www.hants.gov.uk/transport/developers/standard-details);
- (c) Hampshire County Council's Technical Guidance Notes (available at www.hants.gov.uk/transport/developers/technical-guidance); and
- (d) Hampshire County Council's Companion Document to Manual for Streets where applicable (available at http://documents.hants.gov.uk/transport/manual_for_streets.pdf),

all as in force at the date of commencement of the Works and in so far as relevant to the Works;

"TSO" means The Stationery Office Limited (03049649) and whose registered office is at 55 Wells Street London W1A 3AE being formerly Her Majesty's Stationery Office;

"Working Day" means any day Monday to Friday inclusive excluding bank holidays between the hours of 0830 and 1630 and the expression 'Working Days' shall be construed accordingly; and

"Works" means the Converter Station Access Junction Works and the Day Lane Passing Places Works described in Schedule 1 hereto.

1.2 In this Agreement unless stated otherwise:

- 1.2.1 clause, schedule and paragraph headings shall not affect the interpretation of this Agreement;
- 1.2.2 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.3 the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules;
- 1.2.4 a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.5 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.6 a reference to any party shall include that party's personal representatives, successors or permitted assigns;
- 1.2.7 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time provided that, as between the parties, no such amendment, extension or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party;

- 1.2.8 a reference to a statute or statutory provision shall include any subordinate legislation, codes of practice or other directions or given thereunder from time to time under that statute or statutory provision;
- 1.2.9 a reference to in writing or written does not include e-mail;
- 1.2.10 documents in an agreed form are documents in the form agreed by the parties and initialled by or on behalf of them for identification;
- 1.2.11 a reference to "this Agreement" or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other document or agreement as varied from time to time;
- 1.2.12 references to clauses and schedules are to the clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the relevant schedule;
- 1.2.13 an obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done;
- 1.2.14 references to "including" shall mean "including without limitation or prejudice to the generality of any description, defining terms or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;
- 1.2.15 if any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected, impaired or called into question;
- 1.2.16 where any agreement certificate or approval is to be given by the County Council under the terms of this Agreement then the same shall be in writing and not be unreasonably withheld or delayed;
- 1.2.17 references to the County Council include the successors to the County Council's statutory functions as the local highway authority;
- 1.2.18 references to the Developer shall include shall include any person to whom powers are transferred pursuant to Article 7 of the DCO in so far as relevant to the Works; and
- 1.2.19 references to "Work Nos." or to a "Work No." are references to the works forming part of the Development listed in Schedule 1 to the DCO.

2. LEGAL EFFECT

- 2.1 This Agreement is made pursuant to Sections 38 and 278 of the Highways Act 1980, Section 111 of the Local Government Act 1972, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 and all other statutory and other enabling powers and shall be enforceable accordingly including the Localism Act 2011.
- 2.2 For the purposes of Section 251 of the Highways Act 1980 the County Council certifies that this Agreement is made in connection with its functions as Highway Authority under the Highways Act 1980

3. DEVELOPER'S COVENANTS

- 3.1 The Developer hereby covenants with the County Council as follows:
 - 3.1.1 to carry out at its own expense and at no cost to the County Council the Works and any Additional Works as contractor for the County Council in a good and workman like manner and with proper materials and in accordance in all respects with the terms and conditions described in Schedule 2;
 - 3.1.2 to maintain or procure the maintenance of the Works in accordance with the terms of this Agreement;

- 3.1.3 unless otherwise agreed by the County Council (having first consulted with the South Downs National Park Authority and East Hampshire District Council) to carry out the reinstatement of the Day Lane Passing Place Works within not more than 6 months of the confirmation from the County Council that reinstatement is required in accordance with Clause 8.5;
- 3.1.4 to dedicate the Dedication Land in accordance with the terms of this Agreement; and
- 3.1.5 without prejudice to its liability under Clause [4.1] and [4.2] hereof to indemnify the County Council to be insured against public liability risks for a sum of at least £10,000,000 in respect of any one claim and shall ensure that any person or persons carrying out the Works on its behalf is similarly insured against public liability risks and the Developer or any person authorised by it to carry out the Works shall (without prejudice to the requirements of Schedule 2 paragraph [1.7] of this Agreement) on request by the County Council produce for inspection the relevant original policies of insurance together with receipts for the premiums paid.

4. INDEMNITIES

- 4.1 The Developer shall indemnify and keep indemnified the County Council in respect of all actions claims demands fees charges expenses and proceedings arising out of or in connection with or incidental to the carrying out of the Works and any works required by any statutory undertaker including (but not limited to) any costs expenses and penalties incurred by the County Council in the event the Developer exceeds the timescale specified in the Programme other than those arising under Parts I and II of the Land Compensation Act 1973 in respect of which clause 4.2 applies.
- 4.2 The Developer shall indemnify the County Council against all costs associated with its responsibilities and all claims under section 10 of the Compulsory Purchase Act 1965 and pursuant to Part I and Part II of the Land Compensation Act 1973 (as amended) and regulations made thereunder (including claims for compensation under the provisions of the Noise Insulation Regulations 1975) arising out of, or in connection with or incidental to, the carrying out of the Works and the subsequent use of such parts of the Works as are located on the public highway and the Dedication Land.
- 4.3 The indemnities provided at clauses 4.1 and 4.2 shall not apply to the extent any action, cost, claim, demand, charge or expense or any negligent or defective act, default or omission on the part of or attributable to the County Council and its employees or contractors.
- 4.4 The indemnity provided at clause 4.1 is conditional upon the cause of such liabilities, actions, costs, claims and demands occurring before the issue of the Certificate of Maintenance and/or the Certificate of Reinstatement (as is relevant in relation to the Works which give rise to such liabilities etc.).
- 4.5 Should the County Council recover (whether by payment, discount, credit, saving, relief or other benefit whatsoever) a sum that is directly attributable to a claim the County Council shall give the credit to the Developer (as appropriate) for the sum which is the lesser of (a) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any costs and expenses incurred by the County Council in recovering the same and (b) the amount paid by the Developer under the indemnities provided at Clause 4.1 and 4.2.
- 4.6 The County Council shall use reasonable endeavours to mitigate any claim.

5. SECURITY FOR THE PERFORMANCE OF THE DEVELOPER'S OBLIGATIONS

- 5.1 The Developer shall not commence the Works (or any part thereof) until it has provided to the County Council:
 - 5.1.1 a Bond by a surety acceptable to the Head of Law and Governance and Monitoring Officer to the effect that if the Developer fails at any time to carry out or observe any of the terms conditions and stipulations on its part contained in

this Agreement or in the event of the Developer becoming bankrupt or going into liquidation or entering administrative receivership or entering into a deed of arrangement for the benefit of its creditors the surety shall pay to the County Council on demand such sum as may be certified by the County Council to be required in order to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate and remedy any defects occurring or discovered during the Converter Station Access Junction Works Maintenance Period and the Day Lane Passing Places Works Maintenance Period and the cost of any other sums due under the terms of this Agreement together with such further sum as the Head of Law and Governance and Monitoring Officer may certify to be necessary to fully reimburse the County Council in respect of any costs and expenses incurred by the County Council in the enforcement of the obligations on the part of the Developer under this Agreement together with the cost to the County Council of preparing an alternative contract and of supervising the execution of this alternative contract PROVIDED THAT the sums to be paid to the County Council pursuant to the Bond shall in no circumstances exceed the amount of the Bond and PROVIDED FURTHER THAT upon issue of the Certificate of Completion the Bond will be reduced by 85% or to the sum of £5,000.00 whichever is the greater value or to such other sum as may be agreed between the parties or if the County Council has drawn down on the Bond the Bond shall be reduced to 85% of such figure remaining or to the sum of £5,000.00 whichever is the greater value or to such other sum as may be agreed between the parties and PROVIDED FURTHER THAT upon issue by the County Council of the Certificate of Maintenance and the Certificate of Reinstatement the Bond shall be fully released; or

- 5.1.2 the Security Deposit and if the Developer fails at any time to carry out or observe any of the terms conditions and stipulations on its part contained in this Agreement or in the event of the Developer becoming bankrupt or going into liquidation or entering administrative receivership or entering into a deed of arrangement for the benefit of its creditors the County Council may itself carry out and complete the Works or reinstate the highway or complete such alternative Works as the County Council considers appropriate and remedy any defects occurring or discovered during the Converter Station Access Junction Works Maintenance Period and the Day lane Passing Place Works Maintenance Period and may use the Security Deposit or any part thereof to fully reimburse the County Council in respect of any costs and expenses incurred by the County Council in doing so together with the cost to the County Council of preparing an alternative contract and of supervising the execution of this alternative contract together with the cost of any other sums due under the terms of this Agreement PROVIDED THAT the sums to be paid to the County Council shall in no circumstances exceed the amount of the Security Deposit and PROVIDED FURTHER THAT upon issue of the Certificate of Completion the County Council will pay the Security Deposit plus any Interest Accrued on the Security Deposit to the Developer so as to reduce the sum held to 85% of the Security Deposit or to the sum of £5,000.00 whichever is the greater value or to such other sum as may be agreed between the parties or if the County Council has used part of the Security Deposit in accordance with this clause then the sum held shall be reduced to 85% of such figure remaining or to the sum of £5,000.00 whichever is the greater value or to such other sum as may be agreed between the parties and PROVIDED FURTHER THAT upon issue by the County Council of the Certificate of Maintenance and the Certificate of Reinstatement the balance of such part of the Security Deposit remaining plus any Interest Accrued on the Security Deposit shall be repaid to the Developer.

- 5.2 The County Council covenants with the Developer that if the sum paid to the County Council pursuant to a Bond or drawn from the Security Deposit exceeds the cost of the County Council carrying out and completing the Works or reinstating the highway or completing such alternative works as the County Council considers appropriate (together

with the County Council's reasonable costs in connection with so doing) to repay to the surety or the Developer within 20 Working Days following the date of the Completion of the works by the County Council the amount of any excess.

6. PAYMENTS

6.1 The Developer further covenants with the County Council to pay to the County Council:

- 6.1.1 on the date hereof the whole of the reasonable and proper legal and disbursements costs and the Director's costs incurred by the County Council in connection with the preparation and completion of this Agreement;
- 6.1.2 within 20 Working Days of demand and in any event prior to commencement of the Works (or the relevant part thereof) the reasonable cost to the County Council of approving the detailed contract drawings for the Works (or such part as is relevant) including the cost of approval of preliminary design check drawings and any structural approvals (less any pre-check fees already paid to the County Council on account of such costs);
- 6.1.3 within 20 Working Days of demand and in any event prior to commencement of the Works (or the relevant part thereof) a sum equal to 5 per cent of the tender price of the Works on the public highway and the Dedication Land (or such part as is relevant) [(as confirmed by the Developer and as approved by the County Council)] or £2,000 (whichever is the greater and such sum to be paid only once) being a sum on account of the County Council's reasonable costs incurred in inspecting and administering the Works and further shall pay any additional sum incurred by the County Council in inspecting and administering the Works within 20 Working Days following receipt of an invoice from the County Council.
- 6.1.4 Prior to the issue of a Certificate of Completion and in respect of future maintenance in so far as such parts of the Converter Station Access Junction Works are located on the public highway or the Dedication Land only:-
- (A) in respect of soakaways (if any) including any rubble drains terminal soakaways or linear ditch soakaways a commuted sum of £3,500.00 per soakaway PROVIDED THAT should any soakaway have a cubic capacity exceeding 5 cubic metres an additional sum will be payable calculated pro rata in respect of any cubic capacity in excess of 5 cubic metres;
 - (B) in respect of unusual paving surfacing and high friction surfaces (if any) a commuted sum equal to the replacement cost;
 - (C) in respect of illuminated signs (if any) a commuted sum equal to the replacement cost;
 - (D) in respect of decorative (i.e. non-standard) street lighting (if any) a commuted sum equal to the replacement cost;
 - (E) in respect of landscape works (if any) a commuted sum of £40 per square metre;
 - (F) in respect of hydrobrakes petrol interceptors pebble drains linear ditches (if any) a commuted sum equal to the replacement cost per hydrobrake petrol interceptor pebble drains linear ditch; and
 - (G) in respect of water attenuation systems Sustainable Drainage Systems (SUDS) and any other drainage systems other than those referred to in Clauses 6.1.4(A) and 6.1.4(F) above (if any) a commuted sum of [Cost as identified by instructing officer and agreed between the parties] such systems being solely for the disposal of highway water,
- 6.1.5 within 20 Working Days of demand and in any event prior to the issue of a Certificate of Completion the costs of all design checks and inspections in relation to the Works (or such part as is relevant);

- 6.1.6 prior to the issue of a Certificate of Completion any sums due pursuant to Schedule 2 in relation to the Works (or such part as is relevant);
 - 6.1.7 within 20 Working Days of demand and in any event prior to the reduction of the of the Bond or Security Deposit the sum of £150 for costs incurred by the County Council in approving administering and reducing the Bond or Security Deposit as required pursuant to Clause 5;
 - 6.1.8 within 20 Working Days of demand and in any event prior to the release of the Bond or Security Deposit the sum of £150 for costs incurred by the County Council in approving administering and releasing the Bond or Security Deposit as required pursuant to Clause 5;
 - 6.1.9 within 20 Working Days of demand and in any event prior to the issue of the Certificate of Maintenance the costs of all design checks and inspections;
 - 6.1.10 prior to the issue of the Certificate of Maintenance any sums due pursuant to Schedule 2 relevant to the Converter Station Access Junction Works but not paid at that time; and
 - 6.1.11 prior to the issue of the Certificate of Reinstatement any sums due pursuant to Schedule 2 relevant to the Day Lane Passing Places Works but not paid at the time.
- 6.2 Where any payment due to the County Council under this Agreement has not been paid within the timescales provided for in this Agreement the Developer covenants with the County Council that the Developer shall pay interest at a rate of 4% per annum above the base lending rate of [the HSBC or other preferred bank] at the date on which the payment was due to be paid pursuant to this Agreement on the sum outstanding from the due date under this Agreement until the actual date of payment to the County Council.

7. COUNTY COUNCIL'S COVENANTS

- 7.1 The County Council hereby covenants with the Developer as follows:
- 7.1.1 that it hereby authorises the Developer and the Contractor to carry out the Works within the public highway subject to and strictly in accordance with the terms conditions and stipulations in Schedule 2;
 - 7.1.2 to use reasonable endeavours to approve any detailed contract drawings, Programme, Specification and traffic management measures prepared by the Developer and the form of Construction Contract for the Works submitted to the County Council within not more than 20 Working Days of the day following which they are submitted by the Developer for approval or such other timeframe as is agreed between the Developer and the County Council (save that for the avoidance of doubt nothing in this Clause 7.1.2 shall be taken to require the County Council to provide such approvals or to fetter the County Council complying with its statutory obligations in relation to the public highway);
 - 7.1.3 that as soon as reasonably practicable following the notification of the completion of the Works (or part thereof) by the Developer the County Council shall:
 - (A) inspect the Works; and
 - (B) where required provide the Developer with a written list specifying any Additional Works.
 - 7.1.4 in the event that any Additional Works are required to be undertaken by the Developer, as soon as reasonably practicable following notification of the completion of the Additional Works the County Council shall:
 - (A) inspect the Additional Works; and
 - (B) where required provide the Developer with a written list specifying any Additional Works.

and this process shall be repeated until such time as the Additional Works are complete to the reasonable satisfaction of the County Council. As soon as reasonably practicable following a satisfactory inspection of the Works (or part thereof) the County Council will issue the Certificate of Completion in respect of the Works

8. Maintenance and Dedication of the Works

- 8.1 From and including the date of a Certificate of Completion:
- 8.1.1 that part of the Works as are at the date of this Agreement within the public highway shall be open to use by vehicles and pedestrians;
 - 8.1.2 the Developer [and the [Owner] [and the Mortgagee]] agree to dedicate the Dedication Land as highway to remain open for use of the public at large but it is acknowledged by the parties to this Agreement that the Dedication Land shall not become highway maintainable at the public expense until the date of issue of the Certificate of Maintenance;
 - 8.1.3 for the duration of the Converter Station Access Junction Works Maintenance Period the Developer shall maintain the Converter Station Access Junction Works; and
 - 8.1.4 for the duration of the Day Lane Passing Places Works Maintenance Period the Developer shall maintain the Day Lane Passing Places Works.
- 8.2 The County Council shall promptly after the expiry of the Converter Station Access Junction Works Maintenance Period and PROVIDED ALWAYS that the Converter Station Access Junction Works have been fully maintained as aforesaid and that any defects appearing or safety issues identified during the Converter Station Access Junction Works Maintenance Period have been made good and all sums due under this Agreement have been paid issue the Certificate of Maintenance.
- 8.3 The [Developer/Owner] hereby dedicate the Dedication Land such dedication to take effect from the issue of the Certificate of Completion [and the Mortgagee consents to such dedication].
- 8.4 The [Developer][, the Owner] and the County Council agree that the Dedication Land shall become highway maintainable at the public expense on the grant of the Certificate of Maintenance.
- 8.5 The County Council shall within not more than 20 Working Days following a request from the Developer following the completion of the construction of the Converter Station or the completion of the construction of Works No. 4 (whichever shall be the later) confirm to the Developer whether the Day Lane Passing Places are required to be reinstated.
- 8.6 Where the County Council confirms to the Developer that the reinstatement of the Day Lane Passing Places Works is required to be undertaken pursuant to Clause 8.5 above the Developer shall notify the County Council following the reinstatement of the Day Lane Passing Places Works and the County Council shall promptly following of the receipt of notification of the reinstatement of the Day Lane Passing Places Works:
- 8.6.1 inspect the reinstatement undertaken; and
 - 8.6.2 where required provide the Developer with a written list of any works required prior to the issue of the Certificate of Reinstatement,
- and this process shall be repeated until such time as the reinstatement of the Day Lane Passing Places Works is complete to the reasonable satisfaction of the County Council.
- 8.7 Promptly following:
- 8.7.1 confirmation from the County Council that the Developer is not required to undertake the reinstatement of the Day Land Passing Places Works pursuant to Clause 8.5; or

8.7.2 a satisfactory inspection of the reinstatement of the Day Lane Passing Places Works being undertaken by the County Council'

the County Council will issue the Certificate of Reinstatement.

9. **FURTHER AGREEMENT BETWEEN PARTIES**

9.1 It is further agreed between the parties that in accordance with Regulation 4(8) of the CDM Regulations the Developer hereby elects to be the only client for the purposes of the CDM Regulations for any part of the Works as may be within the public highway and the County Council consents to such an election and for the avoidance of doubt the County Council shall have a duty only under Regulations 4(4), 8(4) and 8(6) of the CDM Regulations insofar as those duties relate to health and safety information in the County Council's possession as a Highway Authority.

9.2 If the estimated value of the contract for the Works equals or exceeds the threshold identified in Regulation 5(1) of the Public Contracts Regulations 2015 then the Developer as contractor for the County Council shall in appointing an economic operator to carry out the Works comply with the Public Contracts Regulations 2015.

9.3 If the Department for Transport Technical Design Standards or Advice is amended after the date of this Agreement the County Council shall be at liberty to review the Works and require any amendments it deems necessary to ensure that the Works comply with the revised standards and advice SAVE THAT in circumstances where detailed contract drawings have been approved in writing by the County Council and the Works are commenced then SUBJECT ALWAYS TO AND WITHOUT PREJUDICE to Schedule 2 paragraph 14 hereof the County Council shall not seek any amendments to the Works

10. **NON-COMPLIANCE**

10.1 Without prejudice to the terms hereof if the Developer fails to execute or complete the Works in accordance with its obligations hereunder the County Council shall after not less than fourteen days' notice in writing to the Developer (or immediately in any case of emergency or danger) be entitled to complete the Works or reinstate the highway or complete such alternative works as the County Council considers appropriate in default with its own employees or by contract or otherwise (entering the Land if necessary to do so) and to recover the cost as certified by the County Council from the Developer and the County Council shall have the right to enter the Dedication Land to complete the Works and in this case dedication shall be effective from the date of such entry.

10.2 In the event that the Developer fails to execute or complete the Works in accordance with the timescale set out within the notice referred to in clause 10.1 and the County Council is subsequently required to exercise its powers set down in clause 10 hereof then the authority given to the Developer under clause 7.1.1 shall be immediately revoked.

11. **ARBITRATION**

11.1 Save for matters of interpretation of this Agreement (which shall be matters for the Court) in the event of any dispute arising between the parties hereto in respect of any matter contained in this Agreement including questions of value and any question of reasonableness the same shall be referred to an expert ("**Expert**") to be agreed upon between the parties hereto or at the request and option of either of them to be nominated at their joint expense by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors and the Expert's decision shall (in the absence of manifest error) be final and binding on the parties hereto and whose costs shall be borne by the parties at his discretion.

11.2 The Expert shall:

11.2.1 have at least ten years post qualification experience in the subject matter of the dispute;

11.2.2 be appointed subject to an express requirement that he reaches a decision and communicates it to the parties within the minimum practicable timescale allowing

for the nature and complexity of the dispute and in any event in not more than 30 Working Days from the date of his appointment to act; and

11.2.3 be required to give notice to each of the parties inviting each of them to submit to him within 10 Working Days of his appointment written submissions and supporting material and shall afford to each of the parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material and the Expert shall disregard any representations made out of time and the Expert's decision shall be given in writing within 15 Working Days from receipt of any counter submissions or in the event that there are no counter submissions within 15 Working Days of receipt of the written submissions and supporting material with reasons.

11.3 It is hereby declared and agreed between the parties hereto that nothing in this Clause 11 shall be taken to fetter the ability of any party to seek legal redress of any breach of the obligations entered into by the Developer in this Agreement.

12. LAPSE OF AGREEMENT

12.1 If the Works have not commenced in accordance with the terms of this Agreement within two (2) years of the date hereof this Agreement (save always for any outstanding liabilities on the part of the Developer) shall absolutely determine and cease to have any effect unless otherwise agreed in writing and the County Council shall repay to the Developer any monies paid to the County Council pursuant to this Agreement which have not been expended at that time.

13. TRANSFER OF POWERS

13.1 In the event that:

13.1.1 any person other than the Developer is appointed as the "Undertaker" (as defined in the DCO) for the purposes of the Order in relation to the Works; and/or

13.1.2 powers of the "Undertaker" relevant to the Works are devolved to any other person,

(the 'Transferee'), the Developer will:

13.1.3 prior to the transfer of powers require the Transferee to

(A) enter into a deed of covenant in favour of County Council that the Transferee shall observe and perform the obligations covenants and restrictions on the Developer under this Agreement as they relate to the exercise of the powers which are to be transferred as though the Transferee had been an original party to this Agreement; and

(B) provide to the satisfaction of the County Council a bond acceptable to the Head of Law and Governance and Monitoring Officer or security deposit in relation to the Works for an amount equal to the amount of any Bond or Security Deposit remaining in accordance with Clause 5.1; and

13.1.4 remain liable for any breach of this Agreement relevant to such part of the Works for which the Transferee is to be the "Undertaker" or to which Transferee the powers of the Undertaker are to be devolved until the Transferee has entered into a deed of covenant in accordance with this clause.

13.2 The Undertaker shall not transfer, assign or otherwise part with the benefit of this Agreement in whole or in part without the prior written consent of the County Council (such consent not to be unreasonably withheld or delayed) and without fulfilling the provisions of Clause 13.1.3 (A) and (B) above.

14. MINOR ALTERATIONS

14.1 If the Developer wishes to amend the Specification, the Programme or the detailed contract drawings it shall submit details in writing to the County Council and no amendments or

revisions shall be implemented without the prior written approval of the County Council (such approval not to be unreasonably withheld or delayed).

15. EXTENSION OF TIME TO COMPLETE THE WORKS

- 15.1 If the Developer considers that it will be unable to complete the Works (or any part thereof) within the timeframe set out in the Programme, the Developer may request an extension of time to complete the Works and such a request must be in writing (such extension not to be unreasonably withheld or delayed).
- 15.2 Without prejudice to any remedy of the County Council, the County Council may give written notice to the Developer granting an extension of time to complete the Works (or any part thereof) (such extension not to be unreasonably withheld or delayed).

16. NOTICES

- 16.1 Any notice, consent or approval or other communication required to be given under or in connection with this Deed to or upon the parties must be in writing and shall be addressed as provided for in clause 16.3.
- 16.2 Any such notice must be delivered by hand (including by courier or process server) or by pre-paid recorded delivery post and shall conclusively be deemed to have been received:
- 16.2.1 if delivered by hand, upon delivery at the relevant address; and
- 16.2.2 if sent by first class post, at 9:00 a.m. on the second Working Day after the date of posting,

except that where any such notice or other communication is or would be deemed to be received after 5:30 p.m., such notice shall be deemed to be received at 9:00 a.m. on the next Working Day.

- 16.3 Subject to clause 16.4, the address, relevant addressee and reference for each party are:

16.3.1 in the case of the County Council:

Address: Hampshire County Council, Legal Services, the Castle,
Winchester, SO23 8UJ with a copy also sent by e-mail to
hls@hants.gov.uk.

Relevant addressee: Head of Law and Governance and Monitoring Officer

Reference: 135915/CS

16.3.2 For the Undertaker:

Address: AQUIND Limited, 78 Pall Mall, London, SW1Y 5ES with a copy
also sent by e-mail to kirill.glukhovskoy@aquind.co.uk;

Relevant addressee: Kirill Glukhovskoy – Managing Director

Reference: AQUIND Interconnector – S278

- 16.4 Any party may give notice of a change to its name, address, or relevant addressee for the purposes of this clause 16 provided that such notification shall only be effective on:

16.4.1 the date specified in the notification as the date on which the change is to take place; or

16.4.2 if no date is specified or the date specified is less than five clear Working Days after the date on which the notice is received or deemed to be received, the fifth Working Day after the notice of any such change is given.

17. THIRD PARTY RIGHTS

- 17.1 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Agreement confers or purports to confer any rights to enforce any of the terms and provisions herein on any person who is not a party hereto.

18. **NO WAIVER**

- 18.1 In no event shall any delay, neglect or forbearance on the part of the County Council in enforcing (in whole or in part) any provision of this Agreement be or be deemed to be a waiver of that provision or any other provision.

19. **GOVERNING LAW**

- 19.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 19.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

20. **GOOD FAITH, GOOD PRACTICE AND REASONABLENESS**

- 20.1 The parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations in this Agreement.
- 20.2 Unless expressly stated otherwise where under this Agreement any approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response is required to be given by or reached or taken by any party or any response is requested by any such approval, agreement, consent, certificate, confirmation or an expression of satisfaction or response, it will not be unreasonable or unreasonably withheld or delayed and the parties will act reasonably at all times.

21. **LOCAL LAND CHARGE**

- 21.1 As soon as practicable following the date of completion of this Agreement the Council shall apply to enter this Agreement and its terms and conditions in the local land charges register in relation to the Dedication Land.

This Agreement has been entered into as a Deed on the date stated at the beginning of it.

SCHEDULE 1 – DESCRIPTION OF THE WORKS

The Works referred to in this Agreement and shown in principle on Drawing(s) attached hereto which comprise the provision of:-

1. Converter Station Access Junction Works: works to provide access to the Converter Station site via a bellmouth junction and associate haul road as shown in principle on drawing [xxx]
2. Day Lane Passing Places Works: works to Day Lane to provide 4no. passing places on Day Lane between the junction with Broadway Lane and Lovedean Lane as shown in principle on drawing [xxx]

including but not limited to such ancillary works as may be required by the County Council which ancillary works may include inter alia the provision of traffic signs carriageway markings footways street furniture and drainage and any necessary alterations to statutory undertakers equipment;

SCHEDULE 2 – TERMS AND CONDITIONS OF WORKS

The Works shall be carried out in accordance with the following terms and conditions:

1. The Works (or any part thereof) shall not be commenced until:
 - 1.1 detailed contract drawings, a Programme, a Specification (with the Programme and Specification to be prepared in accordance with the Guidance notes), and traffic management measures have been prepared by the Developer and approved by the County Council in writing;
 - 1.2 the Developer has demonstrated to the satisfaction of the County Council how it will comply with the Code of Practice for the Co-ordination of Street Works for Road Purposes and Related Matters 1992 and has submitted to the County Council a Management Plan;
 - 1.3 written details of the form of Construction Contract for the Works has been submitted to the County Council and approved by the County Council;
 - 1.4 where in accordance with Regulation 4(8) of the CDM Regulations the Works are notifiable the Developer as the only client has provided to the County Council:-
 - 1.4.1 a copy of the notice to be served under Reg 6(2) of the CDM Regulations and a copy of the Notification of Project (form HSE10) to the HSE; and
 - 1.4.2 confirmation that duties under Reg 4(4) and 4(5) of the CDM Regulations are being carried out.
 - 1.5 where in accordance with Regulation 5(1) of the CDM Regulations there is more than one contractor or it is foreseeable that there will be more than one contractor carrying out the Works the Developer as the only client shall provide to the County Council written details of the principal designer and the principal contractor who will undertake these roles during the construction phase of the Works;
 - 1.6 the Developer has paid all sums due prior to commencement of the Works pursuant to Clause 6;
 - 1.7 the relevant original policies of insurance referred to in Clause 3.1.4 or copies thereof certified by a solicitor have been produced;
 - 1.8 a noise survey and assessment in respect of the Works has been undertaken by a competent noise expert in accordance with the advice and instruction contained in the technical memorandum entitled 'Calculation of Road Traffic Noise' published June 1988 by the TSO as may be amended from time to time and a copy of the survey and assessment has been submitted to the County Council and all and any requirements arising therefrom have been undertaken by the Developer at its own expense; and
 - 1.9 the Developer has provided in writing to the satisfaction of the County Council measures to ensure the highway remains adequately lit at all times during the works which may include the supply temporary lighting when required.
 - 1.10 Where the estimated value of the contract for the works equals or exceeds the threshold provided in Regulation 5(1) of the Public Contracts Regulations 2015 tenders have been invited under the Open Procedure and in compliance with the Public Contract Regulations 2015 and copies of the Contract Award Notice independent financial tender and evaluation report justifying the selection of the economic operator in accordance with Regulation 58 has been submitted to the County Council;
 - 1.11 the Developer has obtained any necessary licences and given any necessary notices pursuant to the New Roads and Street Works Act 1991 (and for the avoidance of doubt it is acknowledged the statutory authority provided by Article 11 of the Development Consent Order shall be sufficient in place of the need to obtain any necessary licences pursuant to the New Roads and Street Works Act 1991) and obtained any necessary permits required under the permit scheme (as applied by Article 9A of the Development Consent Order); and

- 1.12 the Developer has obtained any necessary consents and permissions from any railway canal, inland navigation, dock or harbour undertakers or any other party or organisation where the consent or permission of the undertaker, party or organisation is required for the Works to be lawfully undertaken and completed
2. Detailed contract drawings for Highway Structures (if any) shall be prepared by the Developer and submitted for written approval to the County Council in accordance with Department for Transport Document BD2/12 or any revision or replacement thereof and the structural design and checking procedure shall be carried out by a chartered engineer familiar with Department of Transport Codes of Practice who shall state on Form TA1 or revision or replacement thereof the documents to be agreed as applicable.
3. The Developer shall notify the County Council as follows:
 - 3.1 without prejudice to the Programme, following the approval of detailed contract drawings, the Programme and traffic management measures the date proposed for the commencement of the Works at least 1 month prior to the commencement of the Works;
 - 3.2 at least 10 Working Days prior to commencement of the Works (or any part thereof) of its intention to proceed with the Works;
 - 3.3 that the Works have commenced no later than the next Working Day following commencement of the Works; and
 - 3.4 at least 24 hours prior to the commencement of each and every stage of excavation and construction operations associated with highway structures (if any).
4. Unless otherwise agreed at least 1 month prior to commencement of the Works (or part thereof) the Developer shall give notice to any and all statutory undertakers for the time being of any service(s) which may be affected by the Works of the proposal to carry out the Works or which might be required in consequence of the Works and shall as part of those works relocate any street furniture affected to the satisfaction of the County Council.
5. The Works shall be signed and protected to at least the standards of the Traffic Signs Manual Chapter 8 2nd Edition published by TSO in March 2009 and the Safety at Street Works and Road Work A Code of Practice published by Department of Transport in June 2014 and the proposed arrangements shall be approved in writing by the County Council before the Works commence.
6. The Works shall be carried out in accordance with the Specification and Programme (as approved from time to time).
7. The Works shall be carried out:
 - 7.1 unless agreed otherwise by the County Council under the terms of a Construction Contract; and
 - 7.2 under the direction and instructions of a Chartered Engineer (or where agreed by the County Council a nominated person approved by the County Council) who shall be authorised to issue instructions to the Contractor in the normal execution of duties under the Construction Contract.
8. The Chartered Engineer (or where agreed by the County Council a nominated person approved by the County Council) shall further be responsible for negotiating and implementing any design changes to the Works reasonably considered to be necessary for the proper and safe function of the highway that might be agreed during the course of construction of the Works by the County Council.
9. The inspection and direction of the County Council shall be accepted and the Works shall be carried out in accordance with the approved detailed contract drawings the Specification and the Programme (as may be amended from time to time) and to a standard of workmanship and quality of materials approved by the County Council.
10. During the construction of the Works the Developer shall give or procure for the County Council free access to every part of the Works being constructed for the purpose of inspecting the same and all materials used or intended to be used for the Works and the

Developer shall give effect to any reasonable requirements made or reasonable direction given by the County Council so that the Works conform to the approved detailed contract drawings and the Specification.

11. The Developer shall not cover up any works without the approval of the County Council and shall afford full opportunity for it to examine and measure any work which is about to be covered up and to examine foundations before permanent work is placed thereon and shall give at least three working days' notice to the County Council whenever any such work or foundations is or are ready or are about to be ready for inspection.
12. The County Council shall have power in its reasonable discretion to test or require the testing of materials plant and workmanship used or proposed to be used in the Works on the public highway and the Dedication Land (subject to doing so within a reasonable timescale) and to reject any materials plant or workmanship so tested which it may reasonably find to be not in accordance with the approved detailed contract drawings and the Specification.
13. The Developer shall as soon as is reasonably practicable replace or repair any materials plant or workmanship which have been found to be not in accordance with the approved detailed contract drawings and the Specification (as may be amended from time to time).
14. Immediately prior to the issue of the Certificate of Completion on site road safety audits shall be carried out by the Developer in the presence of the County Council and arising therefrom the County Council shall be at liberty to require such alterations to the approved detailed contract drawings and to the Works at the expense of the Developer as may be reasonably required to ensure the safety of users of the highway.
15. The Works shall be completed to the satisfaction of the County Council in accordance with the timescale specified in the Programme or any variation thereof agreed by the County Council (such agreement not to be unreasonably withheld or delayed).
16. Only in so far as is necessary to protect the County Council's legitimate interest as Highway Authority and the effective operation of the public highway should the Works not be completed to the reasonable satisfaction of the County Council in accordance with the timescale specified in the approved Programme or any variation thereof agreed by the County Council the Developer shall if required by the County Council pay to the County Council on demand a sum proportionate to the disruption caused to the public highway by the delayed works of up to £2,000 as stipulated by the County Council per Working Day for each day the Works continue on the public highway past the timescale specified in the Programme which the County Council shall apply towards the purpose of developing policies for the promotion and encouragement of safe integrated and economic transport facilities and services to from and within its area.
17. The Developer shall fully maintain the Works for the Converter Station Access Junction Works Maintenance Period and the Day Lane Passing Places Works Maintenance Period (respectively) and shall make good any defects or damage which may arise or be discovered in relation to the relevant Works during such period.
18. The Developer shall provide the County Council with the following prior to issue of a Certificate of Completion
 - 18.1 where any drainage is provided as part of the Works CCTV Drain Survey together with details of gully manhole and catchpit locations in an agreed GPS format;
 - 18.2 in respect of highway structures (if any) a maintenance manual to include suitable scale electronic data sets and paper sets of "as built" drawings soil reports records of materials tested Health and Safety file and revised forms AIP and associated certificates;
 - 18.3 accurate 1:500 scale of "as built" drawings supplied dwg format (packaged with any associated XRefs) and PDF format;
 - 18.4 records of the any earthworks showing sources of material used in areas of fill, description of fill materials, descriptions of sub-grades in cut areas, and copies of any results of tests of material carried out as part of the supervision of the construction of the earthworks; and

18.5 records of the sources of supply of all other manufactured materials (e.g. drainage goods fencing materials traffic signs electrical components and cables etc.).

IN WITNESS whereof the parties hereto have executed this document as a Deed delivered the day and year first before written

EXECUTED as a **DEED** by affixing the)
COMMON SEAL of **HAMPSHIRE**)
COUNTY COUNCIL in the presence of:-)

Authorised Signatory

Name

Position

EXECUTED as a **DEED** by)
AQUIND LIMITED)

acting by [Names of two of)
its directors/a director and its secretary])

.....
Director

.....
[Director/Secretary]

APPENDIX 1

Converter Station Access Junction Works Drawing

APPENDIX 2

Day Lane Passing Places Works Drawing

APPENDIX 4
TEMPORARY CONSTRUCTION ACCESS WORKS HIGHWAYS AGREEMENT

DATED

202[X]

HAMPSHIRE COUNTY COUNCIL

and

AQUIND LIMITED

Minor Works Agreement for Highway Works at
[]
pursuant to (inter alia) S.278 Highways Act 1980

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HAMPSHIRE COUNTY COUNCIL
SECTION 278 MINOR WORK AGREEMENT

Date:

202[]

PARTIES:

1. **Hampshire County Council** of The Castle Winchester SO23 8UJ (the “**County Council**”)
2. **AQUIND Limited** (Company Registration Number 06681477) of OGN House, Hadrian Way, Wallsend NE28 6HL (the “**Developer**”)

WHEREAS

- A. On [xxx] 202[x] the Secretary of State granted the AQUIND Interconnector Order 202[x] (the “**Order**”) which granted development consent for the elements of the AQUIND Interconnector which are located in the UK and the UK Marine Area (the “**Development**”).
- B. The Developer is the undertaker for the purposes of the AQUIND Interconnector Order 202[x] and is undertaking the construction of the Development.
- C. The County Council is the local highway authority for the administrative area of Hampshire pursuant to the Highways Act 1980
- D. It is necessary in connection with the construction of the Development for temporary construction accesses to be installed and following the completion of the construction of the relevant elements of the Development for those temporary construction accesses to be reinstated.
- E. **THE PARTIES HAVE AGREED** that highway works comprising the provision of [a temporary access junction in connection with the construction of the Development] (the “**Temporary Works**”) together with the subsequent removal of the Temporary Works upon completion of the Development (the “**Reinstatement Works**”) as identified on approved drawing number[s] [general arrangement] (the “**Drawing/s**” – all attached hereto) (the Temporary Works and Reinstatement Works being collectively referred to as the “**Works**”) may be carried out by the Developer in accordance with the Specification set out in Recital F and subject to the terms and conditions set out beneath which constitutes an agreement

between the County Council and the Developer pursuant to Section 278 of the Highways Act 1980.

- F. The "Specification" referred to means the 'Manual of contract documents for highway works: Volume 1 Specification for highway works' published by TSO in November 2009 as modified and extended by any supplements and revisions and further as modified and extended by Hampshire County Council's Model Contract Specification (available on request), Hampshire County Council's Highway Construction Standard Details (available at www.hants.gov.uk/transport/developers/standard-details), Hampshire County Council's Technical Guidance Notes (available at www.hants.gov.uk/transport/developers/technical-guidance) and Hampshire County Council's Companion Document to Manual for Streets where applicable (available at http://documents.hants.gov.uk/transport/manual_for_streets.pdf) all as in force at the date of commencement of the Works
- G. The County Council is satisfied pursuant to Section 278 of the Highways Act 1980 that it will be of benefit to the public for the County Council to enter into this Agreement for the execution of the Works by and at the expense of the Developer which Works are the subject of the development consent granted by the AQUIND Interconnector Order 202[x].

NOW THIS DEED OF AGREEMENT WITNESSETH as follows:

1. This Deed of Agreement is made pursuant to Section 278 of the Highways Act 1980 Section 111 of the Local Government Act 1972 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers including the Localism Act 2011.

Prior to construction of the Works

2. Unless otherwise agreed in writing the Developer shall give the County Council such written notice as is necessary in accordance with the requirements of the New Roads and Street Works Act 1991 and the Hampshire County Permit Scheme Order (in accordance with Article [9A] of the DCO), such period being

no less than 1 month prior to the intention to commence both the Temporary Works and the Reinstatement Works (respectively).

3. Before commencement of construction of the Works the Developer shall obtain such consents, licences or permissions as may be required for carrying out the Works and shall comply with these WHICH FOR THE AVOIDANCE OF DOUBT includes the consents and permissions provided for within the Order and shall pay the inspection fee deposit (being an amount equivalent to 5% of the tender price for the Works (as confirmed by the Developer and as approved by the County Council)) (the '**Inspection Fee Deposit**') for use by the County Council in connection with the inspection of the Works only.
4. The Developer shall not carry out the Works except in accordance with the Drawing/s and the Specification.
5. The Developer shall prior to commencing construction of the Temporary Works pay all current outstanding costs incurred by the County Council in relation to development control approval design checks, project management and legal fees for the purpose of negotiating and completion of this Agreement, and any costs in respect of approval of the design and certification of any street lighting and illuminated equipment by the County Council's PFI provider (where provided as part of the Works and where necessary).
6. The Cash Deposit ("**Cash Deposit**") in the sum of [IN FIGURES] (£[]) being equivalent to 110% of the estimated cost of the Works shall be paid by the Developer to the County Council on the date hereof and returned to the Developer in three phases with 25% being returned on the issue of the Certificate of Completion of the Temporary Works ("**First Certificate of Completion**"), a further 25% being returned on the issue of the Certificate of Completion of the Reinstatement Works ("**Second Certificate of Completion**") with a minimum of FIVE THOUSAND POUNDS (£5,000) retained and the remaining balance being returned on the issue of the Certificate of Maintenance ("**Certificate of Maintenance**") together with any interest accrued on the Cash Deposit. If the Developer fails at any time to carry out or observe any of the

terms of this Agreement or becomes bankrupt or goes into liquidation or enters liquidation the County Council shall use the Cash Deposit to fully reimburse the County Council in respect of any fees costs and expenses it has incurred FURTHERMORE any fees costs and expenses incurred over and above the Cash Deposit limit shall be recoverable from the Developer and any costs monies fees due to the County Council shall be paid by the Developer within 21 days of written demand.

7. The Developer shall indemnify the County Council in respect of any third party actions claims fees charges expenses proceedings or demands which may arise out of or in connection with or incidental to the carrying out of the Works and until the County Council assumes responsibility for the highway on which the Works are located following issue of the Certificate of Maintenance. The Developer shall also indemnify the County Council in respect of all costs associated with its responsibilities and all claims under the Land Compensation Act 1973 and regulations made thereunder (including claims the County Council determine should be met under the Noise Insulation Regulations 1975) arising out of the use of the Works from the date of the commencement of the Temporary Works until the date of issue of the Certificate of Maintenance.
8. The Developer shall be insured against public liability risks for a sum of at least £10,000,000 in respect of any one claim and shall ensure that any person or persons carrying out the Works on its behalf is similarly insured against public liability risks until the issue of the Certificate of Maintenance and a copy of the insurance policy and receipts for the premiums paid must be provided by the Developer to the County Council prior to the commencement of the Temporary Works and thereafter prior to commencement of the Reinstatement Works.

Construction of the Works

9. The Developer shall minimise obstruction to vehicle and pedestrian traffic and sign and guard the Works as necessary in accordance with chapter 8 (Parts 1 and 2) of the Traffic Signs Manual 2009 and chapter 8 (Part 3) of the Traffic

Signs Manual 2016 as modified extended amended supplemented or revised including any replacement thereof.

10. The Developer shall provide a traffic management plan in relation to the construction of both the Temporary Works and thereafter the Reinstatement Works if required by the County Council.
11. The Developer shall not interfere with any drain, culvert, gully, bridge, wall or other highway structure without the consent of the County Council and shall not close any part of the highway in connection with the construction of the Works unless the County Council has agreed previously.
12. The Developer shall carry out the Works as contractor for the County Council in a good and workman like manner and in accordance with the Drawing/s and the Specification within the period specified and to the satisfaction of the County Council. The Developer shall comply with all relevant legislation.
13. The Developer shall, during the carrying out of the Works, give access at any time to the County Council and any authorised officer for the purposes of inspections.

Duration and Completion of the Temporary Works

14. The Developer shall complete the construction of the Temporary Works within a period of [X] weeks, using a contractor the County Council (acting reasonably) deems to be appropriately qualified.
15. The Developer shall notify the County Council of completion of the construction of the Temporary Works and if these have been completed to the County Council's satisfaction, a First Certificate of Completion shall be issued (the issue of which by the County Council shall not be unreasonably withheld or delayed) and from that date the Developer shall be responsible for the correction of any defects and maintaining the Temporary Works until such time as it commences the Reinstatement Works.

16. Prior to the issue of the First Certificate of Completion the Developer shall ensure all outstanding fees have been paid including any design check fees, project management and inspection fees and FURTHER provide to the County Council all necessary drawings, health and safety certificates, site road safety audits and any other documentation the County Council reasonably requires.

Duration and Completion of Reinstatement Works

17. The Developer shall undertake and complete the Reinstatement Works within a period of [x] weeks using a contractor the County Council (acting reasonably) deems to be appropriately qualified SUBJECT TO the provisions of Clauses 3 and 4 following completion of the construction phase of the Development requiring use of the Temporary Access
18. The Developer shall notify the County Council of completion of the Reinstatement Works and if these have been completed to the County Council's satisfaction, a Second Certificate of Completion shall be issued (the issue of which by the County Council shall not be unreasonably withheld or delayed) and from that date for a period of 12 calendar months ("the Maintenance Period") the Developer shall be responsible for the correction of any defects and maintaining the Reinstatement Works until such time as the County Council issues the Certificate of Maintenance.
19. Prior to the issue of the Second Certificate of Completion the Developer shall ensure all outstanding fees have been paid including any design check fees, project management and inspection fees in respect of the Reinstatement Works and FURTHER provide to the County Council all necessary drawings, health and safety certificates, site road safety audits and any other documentation the County Council reasonably requires.
20. On completion of the Maintenance Period the Developer shall notify the County Council who shall inspect and notify the Developer of any required remedial works in respect of the Reinstatement Works. Once these have been carried

out to the County Council's satisfaction and all outstanding fees have been paid including any design check fees, project management and inspection fees the County Council shall issue a Certificate of Maintenance (the issue of which by the County Council shall not be unreasonably withheld or delayed) and from that time the County Council shall resume responsibility for the maintenance of the highway in the location where the Works were located and shall repay any amount of the Inspection Fee Deposit not expended in inspecting the Works.

21. Where any payment due to the County Council under this Agreement is outstanding the Developer covenants with the County Council that the Developer shall pay all outstanding payments to the County Council within ten working days of the County Council's written demand (the "**Demand**") as well as the interest at a rate of 4% per annum above the base lending rate of the [HSBC or other preferred bank] at the date of the demand on any sum outstanding from the due date under this Agreement until the actual date of payment to the County Council.
22. In no event shall any delay, neglect or forbearance on the part of the County Council in enforcing (in whole or in part) any provision of this Agreement be or be deemed to be a waiver of that provision or any other provision or shall in any way prejudice the right of that party under this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed delivered the day and year first before written

EXECUTED as a **DEED** by affixing the)
COMMON SEAL of **HAMPSHIRE**)
COUNTY COUNCIL in the presence of:-)

Authorised Signatory

Name and Position of Signatory

EXECUTED as a **DEED** by)
AQUIND LIMITED)
acting by two directors or one)
director and the company secretary)

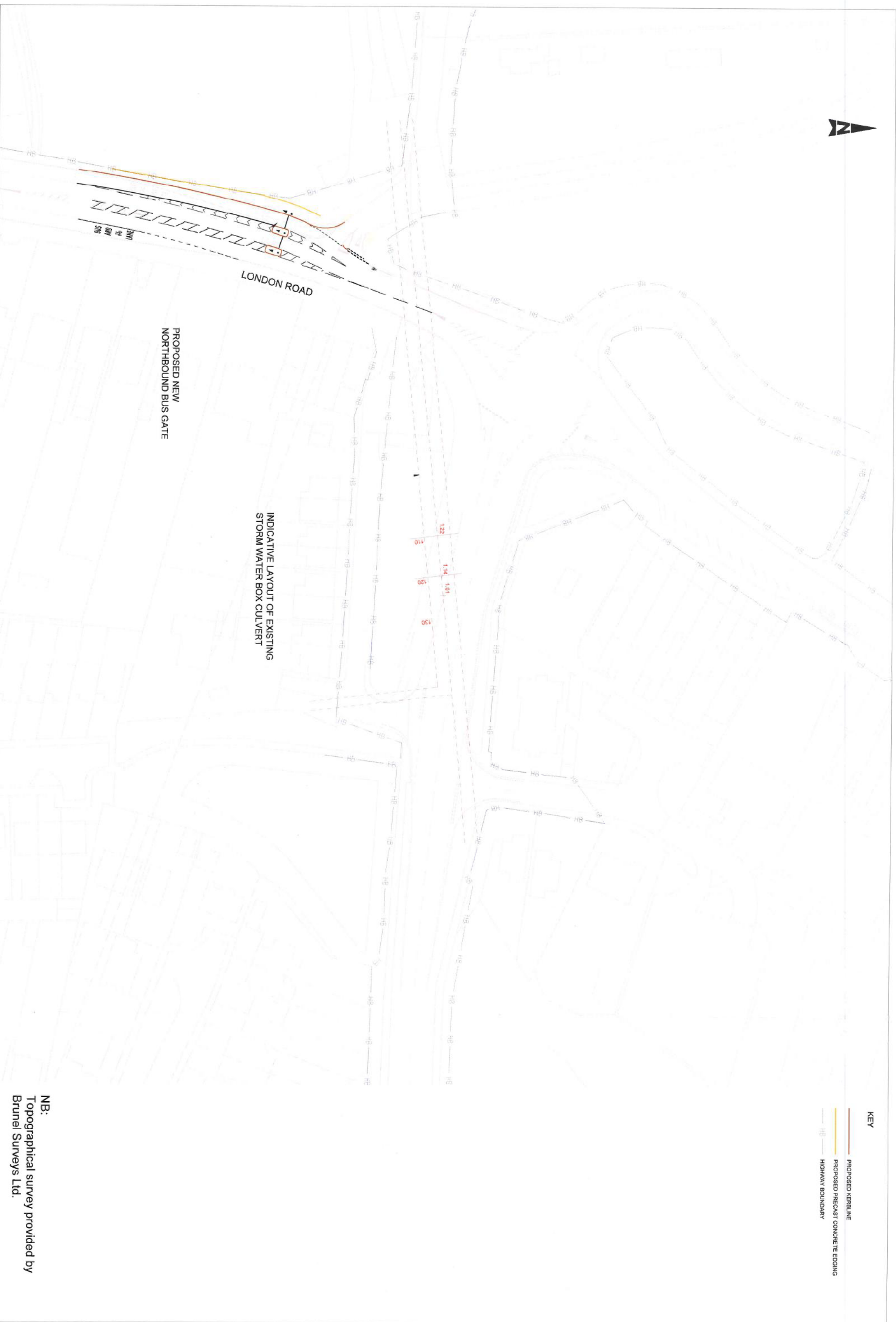
Director

Director/Secretary

APPENDIX 5
TCF WORKS PLAN



- KEY**
- PROPOSED KERBLINE
 - PROPOSED PRECAST CONCRETE EDGING
 - HIGHWAY BOUNDARY



INDICATIVE LAYOUT OF EXISTING
STORM WATER BOX CULVERT

PROPOSED NEW
NORTHBOUND BUS GATE

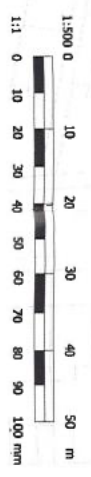
LONDON ROAD

NB:
Topographical survey provided by
Brunel Surveys Ltd.

APPENDIX 6
LADYBRIDGE ROUNDABOUT DEVELOPMENT WORKS PLAN



KEY	
[Yellow box]	EXISTING CARBIDEWAY
[Dark grey box]	PROPOSED ADOPTABLE CARBIDEWAY
[Light grey box]	PROPOSED ADOPTABLE FOOTPATH
[White box]	PROPOSED VEHICLE CROSSOVER
[Green box]	PROPOSED SOFT LANDSCAPE - SIMULATED
[Light green box]	PROPOSED SOFT LANDSCAPE - ADOPTABLE VERGE
[Green box with dots]	PROPOSED PRESTRIUM BLISTER TACTILE SURFACE
[Green box with dots]	SEE HCC DETAIL HCC19/C240
[Green box with dots]	PROPOSED CONCURRENCY HAZARD WARNING SURFACE
[Green box with dots]	SEE HCC DETAIL HCC19/C240
[Blue dashed line]	EXISTING HIGHWAY BOUNDARY
[Blue dashed line]	PROPOSED PEDESTRIAN GUARD RAIL
[Blue dashed line]	PROPOSED STREET LIGHTING COLUMN
[Blue dashed line]	REFER TO SEE DWGS. SEE 24.124-1D-001/002
[Blue dashed line]	PROPOSED BOLLARD - KEEP LEFT
[Blue dashed line]	PROPOSED BOLLARD - MAIN ASPECT
[Blue dashed line]	PROPOSED BOLLARD - REFLECTIVE



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A1 ORIGINAL

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- NOTES:
- To be read in conjunction with all other GTWVILLE/SA drawings.
 - Slips Attention Ponds to be refilled during detailed design phase to avoid highway boundary where required.
 - Phase 4 to be constructed to adoptable standards for handover under S38 Agreement.
 - Purbrook Heath Road / London Road junction to be stopped up. Redundant carriageway to be combined footway/cycleway.

Berewood
HAMPSHIRE
FOR APPROVAL
NOT FOR CONSTRUCTION

REV.	amendment	checked	date
1	Revisions following Stage 1 ICSL	RNA	04/11/2019
2	S30D Ponds review	RNA	19/07/2019
3	Opening title and project amended for consistency. Design updated to HCC Report No. 09/2020A	RNA	08/07/2019
4	Design revised to address comments from HCC.	RNA	12/04/2019
5	Design to address Safety Audit comments.	RNA	14/11/2018
6	New Road & Lift Road Junction added to works. Landscape Road alignment adjusted.	RNA	28/09/2018
7	Options reviewed for clarity	RNA	06/09/2017
8	Amendments to Purbrook Heath Road western area of reserve of meters (DM)	RNA	07/10/16
9	New topographic survey which change associated to site. Southern area island amended to suit lift driveway works (DM)	RNA	19/12/14
10	Minor amendments to landscape on south end west area of roundabout (DM)	RNA	02/04/14

m3
mayer brown

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graininger plc
Berewood, Waterloo, Wiltshire

Project: BEREWOOD, WATERLOOVILLE
SOUTHERN ACCESS, SECTION 278 WORKS

Scale: 1:500
Drawn by: DMR
Checked by: PAS

Date: JANUARY 2014
Ref: GA_01.dwg

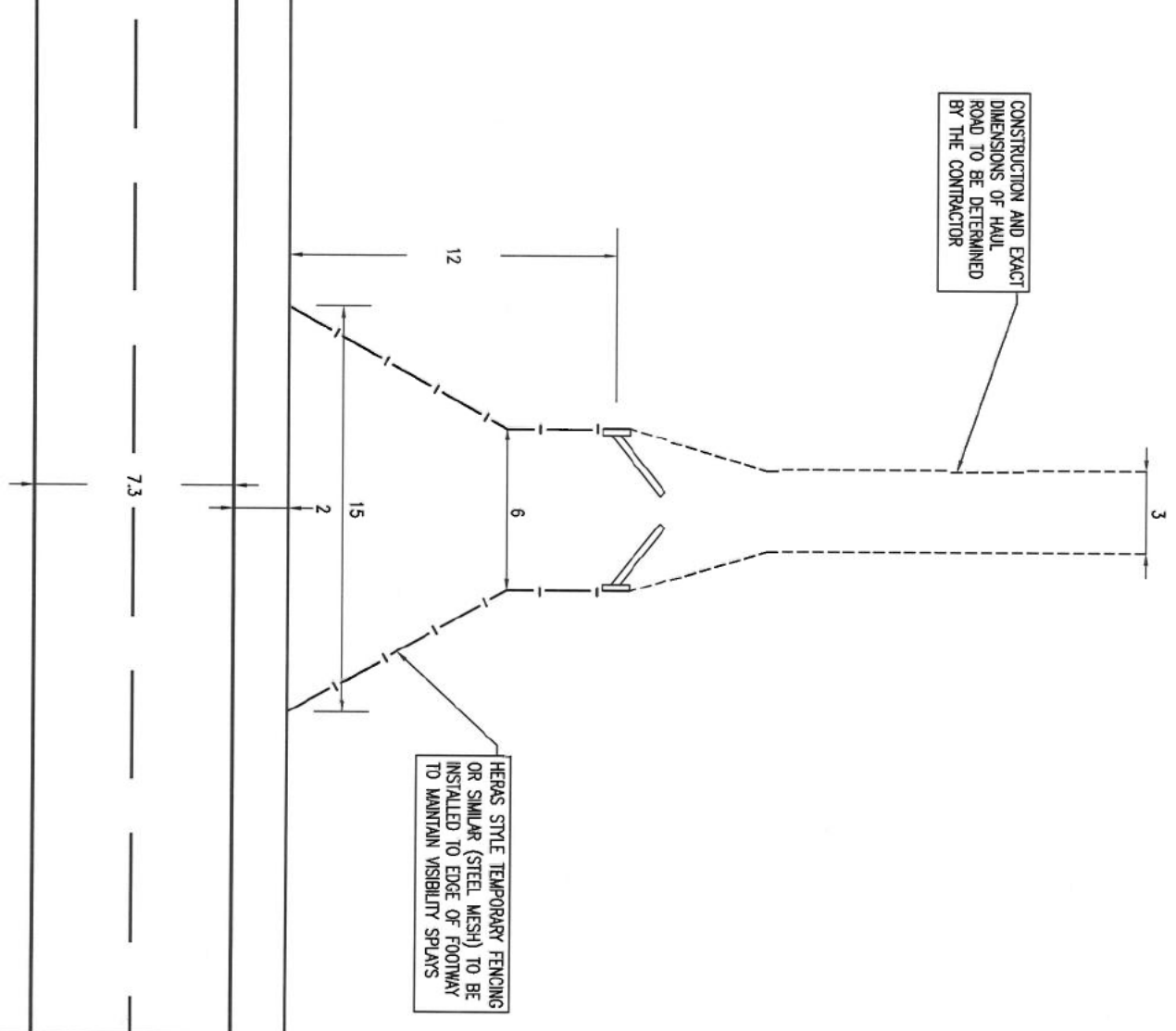
General Arrangement

Drawing number: GTWVILLE_SA/GA/01

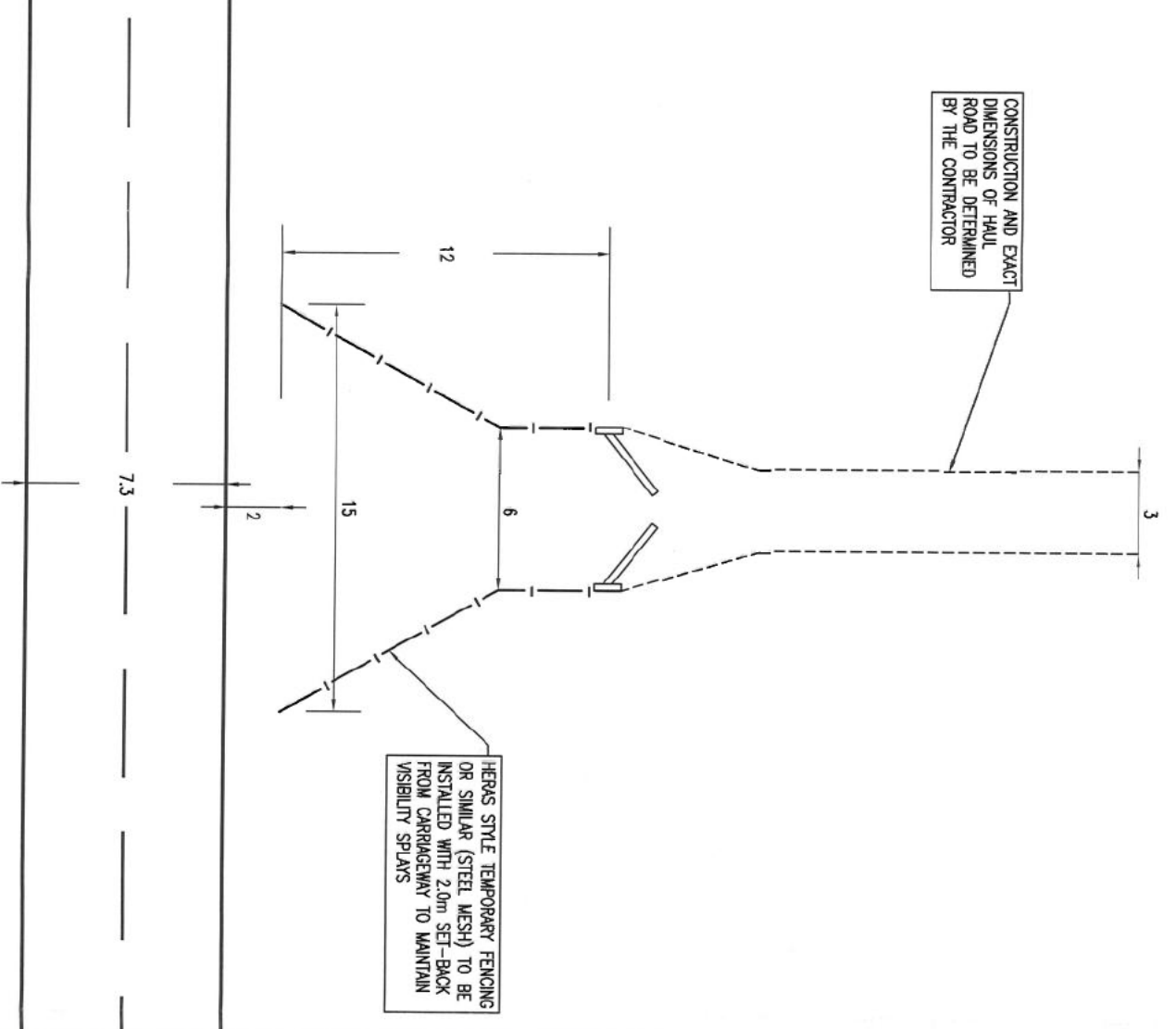
Rev: J

APPENDIX 7
TEMPORARY CONSTRUCTION ACCESS TYPICAL LAYOUT DRAWING

CONSTRUCTION ACCESS WITH FOOTWAY



CONSTRUCTION ACCESS WITHOUT FOOTWAY



DO NOT SCALE

NOTES:

1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
2. THIS PROVISIONAL PRELIMINARY DESIGN IS FOR GUIDANCE PURPOSES ONLY. FOR ACCURATE ADVANCE A DETAILED DESIGN SHOULD BE CARRIED OUT AT THE APPROPRIATE DESIGN STAGE, THEREFORE, USE OF THE INFORMATION IS ENTIRELY AT YOUR OWN RISK.
3. ACCESS GATES WILL BE MANAGED AT ALL TIMES TO PREVENT VEHICLES FROM BLOCKING CARRIAGEWAY.
4. WHEEL WASHING FACILITIES WILL BE AVAILABLE PRIOR TO EXITING THE SITE IN ACCORDANCE WITH THE FRAMEWORK CONSTRUCTION TRAFFIC MANAGEMENT PLAN.
5. VISIBILITY SPLAYS ARE TO BE IN ACCORDANCE WITH MANUAL FOR STREET 2 PRINCIPLES MEASURED AT 2.0M FROM EDGE OF CARRIAGEWAY WHERE 85TH PERCENTILE VEHICLE SPEED ARE LESS THAN 37mph. IN ALL OTHER CASES DMRB VISIBILITY SPLAYS STANDS WILL BE REQUIRED UNLESS AGREED WITH THE HIGHWAY AUTHORITY.
6. DETAILS OF VEHICLE CROSSOVER CONSTRUCTION TO BE CONFIRMED DURING DETAILED DESIGN.
7. ANY PROTECTION FOR APPARATUS WILL BE AGREED WITH THE STATUTORY UNDERTAKER IN ADVANCE OF ANY WORKS.

KEY:

- CONSTRUCTION HAUL ROAD
- - - CONSTRUCTION FENCING / HOARDING
- PROPOSED CONSTRUCTION ACCESS GATE (OPENS INWARDS TO SITE)

REV	DATE	BY	DESCRIPTION	CHK	APP
B	18/12/2020	AMS	CONSTRUCTION ACCESS WITHOUT FOOTWAY OFFSET INCREASED TO 2M AND NOTES UPDATED	CW	CW
A	11/11/2020	AM	FIRST ISSUE	CW	CW

DRAWING STATUS: S2 - FOR INFORMATION



Grosvenor House, 2 Grosvenor Square, Southampton, SO15 2BE, UK
T +44 (0) 2380 101 700
wsp.com



CLIENT: AQUIND
ARCHITECT: AQUIND
PROJECT: AQUIND
TITLE: TYPICAL CONSTRUCTION ACCESS LAYOUT

SCALE @ A3:	CHECKED:	APPROVED:
1:250	CW	CW
PROJECT No:	DESIGNED:	DATE:
62100616	AVI	December 20
DRAWING No:	AVI	DATE:
AQ-UK-DCO-TR-LAY-001	AVI	December 20
		REV:
		B

APPENDIX 8
FORM OF NOTICE OF RECEIPT AND ACKNOWLEDGEMENT

ON THE LETTERHEAD OF THE COUNTY COUNCIL

[Date]

Dear Sirs

We refer to the Deed of *[insert date of deed]* made between AQUIND Limited and the County Council ("the "Deed"), and in particular paragraph [x.x] of Schedule 3 thereto.

We hereby acknowledge receipt of the sum of *[insert amount of the contribution received]* (being the amount of the *[insert reference to contribution as defined in the Deed]* and confirm that this amount is held, and shall not be used other than, in accordance with and for the purposes specified in the Deed.

The County Council further acknowledges its obligations in paragraph[s] *[insert paragraph references relevant to the payment of the contribution received]* to repay those funds to AQUIND Limited (or its Successor) in the circumstances set out in that paragraph.

Yours faithfully,

For and behalf of Hampshire County Council

**APPENDIX 9
SUPPLEMENTAL DEED**

THIS SUPPLEMENTAL DEED is made the [] day of [] 20[]

BETWEEN:

- (1) **AQUIND LIMITED** (company registration number 06681477) whose registered office is at OGN House, Hadrian Way, Wallsend NE28 6HL (the "**Undertaker**"); and
- (2) **HAMPSHIRE COUNTY COUNCIL** of Hampshire County Council, The Castle, Winchester, SO23 8UJ (the "**County Council**")

WHEREAS:

- (A) On [XXX] the Secretary of State for Business, Energy and Industrial Strategy made the Development Consent Order.
- (B) On [XXX] the Undertaker and the County Council entered into the Principal Agreement (as defined within this Deed) which contains development consent obligations relating to the Development.
- (C) Clause 4 of the Principal Agreement requires the Undertaker, upon acquiring any freehold interest or leasehold interest of seven years or more in the DCO Land, to enter into an agreement so as to bind and make such interests subject to the obligations, covenants and conditions contained in the Principal Agreement in so far as they relate to such interests and/or parts of the DCO Land and remain to be observed, performed and/or complied with.
- (D) The Undertaker acquired a [freehold interest/leasehold interest] in the Acquired Land (as defined within this Deed) on [].
- (E) The Parties have agreed to enter into this Deed so that the undertakings, obligations and covenants contained in the Principal Agreement bind the Undertaker's interest in the Acquired Land for the purposes of section 106 of the 1990 Act.

Operative Clauses

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed where the context so admits:

- 1.1.1 references to clauses, paragraphs and Schedules are references to those clauses, paragraphs and Schedules in the Principal Agreement; and
- 1.1.2 words and phrases whose meanings are not set out in clause 1.1 have the same meanings as in the Principal Agreement.

1.2 The following expressions shall have the meanings set out below:

- 1.2.1 "**Acquired Land**" means the land shown edged in [] on the plan annexed to this Deed;
- 1.2.2 "**Parties**" means the parties to this Deed and "**Party**" shall be construed accordingly; and

1.2.3 **"Principal Agreement"** means the Deed dated [] 202[x] made pursuant to section 106 of the 1990 Act which was entered into between (1) the Undertaker and (2) the County Council.

2. **LEGAL EFFECT**

- 2.1 This Deed is supplemental to the Principal Agreement and relates to and binds the Undertakers [freehold/leasehold] interest in the Acquired Land and is made pursuant to the provisions of section 106 of the 1990 Act section 111 Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 2.2 This Deed contains development consent obligations for the purposes of the 1990 Act which are given by the Undertaker so as to bind the Undertaker's [freehold/leasehold] interest in the Acquired Land and are enforceable by the County Council as local planning authority.
- 2.3 The Undertaker agrees that as from the date hereof the development consent obligations and other covenants, agreements and provisions in the Principal Agreement given by the Undertaker to the County Council in so far as such development obligations and other covenants, agreements and provisions in the Principal Agreement relate to the Undertaker's interest in the Acquired Land and remain to be observed, performed and/or complied with shall be binding on the Undertaker's [freehold/leasehold] interest in the Acquired Land pursuant to section 106 of the 1990 Act as if the relevant development consent obligations and other covenants, agreements and provisions in the Principal Agreement were set out herein in full with the intent that the relevant development consent obligations and other covenants, agreements and provisions shall be enforceable by the County Council not only against the Undertaker but also against any successors in title to or assignees of the Undertaker and any person claiming through or under it an interest or estate in the Acquired Land as if the Undertaker had been an original covenanting party in respect of its interest in the Acquired Land when the Principal Agreement was entered into.
- 2.4 The County Council agrees that as from the date hereof the covenants in the Principal Agreement given by the County Council to the Undertaker shall be given to the Undertaker in relation to the Undertaker's interest in the Acquired Land as if the relevant covenants in the Principal Agreement were set out herein in full with the intent that the relevant covenants shall be enforceable by the Undertaker against the County Council in relation to the Undertaker's interest or estate in the Acquired Land.
- 2.5 This Deed comes into effect on the date of this Deed.
- 2.6 [The Mortgagee/Chargee/Beneficiary agrees that its security over the Undertaker's [freehold/leasehold] interest in the Acquired Land shall take effect subject to this Deed and the Principal Agreement PROVIDED THAT the Mortgagee/Chargee/Beneficiary shall otherwise have no liability under this Deed and the Principal Agreement and shall not be enforced against unless it takes possession of the whole or any part of the Acquired Interest or any part thereof in which case it too will be bound by the obligations in relation to that part of the Acquired Land as if it were a person deriving title from the Undertaker.] [WHERE APPLICABLE]
- 2.7 To the extent that any development consent obligations and other covenants, agreements and provisions in the Principal Agreement have already been satisfied in accordance with the terms of the Principal Agreement, such development consent obligations and other covenants, agreements and provisions shall be deemed to be similarly so satisfied under the terms of this Deed.
- 2.8 No person shall be liable for any breach of the obligations, covenants and conditions contained in this Deed in relation to any part of the Acquired Land in which they no longer have an interest (but without prejudice to the liability of such person for any breach occurring prior to its parting with such interest).
- 2.9 The Parties agree that any mortgagee or chargee (from time to time) of the whole or part of the Acquired Land will be bound by the obligations in this Deed and that the security of the mortgage or charge over the Acquired Land or any part of thereof shall take effect subject

to this Deed PROVIDED THAT the mortgagee or chargee (from time to time) shall have no liability under this Deed unless it takes possession of the whole or part of the Acquired Land in which case it too will be bound by the obligations in relation to that part of the Acquired Land as a person deriving title from the Undertaker.

3. **LOCAL LAND CHARGE**

3.1 This Deed is a local land charge and shall be registered as such by the County Council.

4. **ENDORSEMENT**

4.1 Promptly following completion of this Deed the County Council and the Undertaker shall endorse a memorandum of variation on the Principal Agreement in the following terms:

"A Supplemental Deed dated [] and made between (1) AQUIND Limited (2) Hampshire County Council [and (3) [Mortgagee/Chargee/Beneficiary]] has been entered in relation to this Agreement."

5. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

5.1 A person who is not a party to this Deed shall not have any rights under, or in connection with, it by virtue of the Contracts (Rights of Third Parties) Act 1999.

6. **JURISDICTION**

6.1 The construction validity and performance of this Deed including its enforcement and any dispute or claim arising out of or in connection with it or its subject matter or information (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and shall be subject to the jurisdiction of the English Courts.

IN WITNESS whereof this Deed has been duly executed by the parties to this Deed on the date which appears at the head of this document.

EXECUTED as a **DEED** by)
affixing the common seal of)
HAMPSHIRE COUNTY)
COUNCIL in the presence of: -)

Authorised signatory

Name

Position

SIGNED as a **DEED** by)
AQUIND LIMITED)
acting by two directors or one director)
and the company secretary:)

Director

Director/Secretary

SIGNED as a **DEED** by)
[MORTGAGEE/CHARGEE/)
BENEFICIARY] acting by two)
directors or one director and)
the company secretary:)

Director

Director/Secretary

