



Registration of a Charge

Company Name: **ORBITAL MARINE POWER LIMITED**

Company Number: **SC235066**



Received for filing in Electronic Format on the: **03/04/2024**

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Details of Charge

Date of creation: **27/03/2024**

Charge code: **SC23 5066 0016**

Persons entitled: **SCOTTISH INVESTMENTS LIMITED**

Brief description: **NOT APPLICABLE.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ADDLESHAW GODDARD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 235066

Charge code: SC23 5066 0016

The Registrar of Companies for Scotland hereby certifies that a charge dated 27th March 2024 and created by ORBITAL MARINE POWER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd April 2024 .

Given at Companies House, Edinburgh on 4th April 2024

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Delivered on 27 March 2024

SCOTTISH INVESTMENTS LIMITED

ORBITAL MARINE POWER LIMITED

ASSIGNATION IN SECURITY

This Assignment is subject to the terms of the Intercreditor Agreement defined herein

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This Assignment in Security is delivered on

27 March 2024

Between

- (1) **Scottish Investments Limited**, a company incorporated in Scotland (No. SC681617), wholly owned subsidiary of Scottish National Investment Bank plc and having its registered office at Waverley Gate, 2-4 Waterloo Place, Edinburgh EH1 3EG (**Bank**); and
- (2) **Orbital Marine Power Limited**, a company incorporated in Scotland (No. SC235066) and having its registered office at Innovation Centre - Orkney Hatston Pier Road, Crowness Business Park, Kirkwall KW15 1ZL (**Assignor**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Assignment, the following definitions will apply:

Agreements means each document (including invoices, management services agreements, operation and maintenance agreements, insurances, berth fees and decommissioning bond fees) under which the Intercompany Balance is owed by ProjectCo to the Assignor

Assigned Assets means

- (a) in respect of the Agreements, Authorisations and Collateral Instruments
 - (i) the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them to the extent forming part of the Intercompany Balance and
 - (ii) the benefit of all warranties and indemnities contained therein to the extent forming part of the Intercompany Balance and
- (b) the Intercompany Balance

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Edinburgh

Collateral Instruments means all other contracts, guarantees, indemnities, undertakings, appointments, warranties, bonds, Security and other documents in connection with the Agreements to which the Assignor is a party, or which are in the Assignor's favour or of which the Assignor (directly or indirectly) has the benefit

Default means an Event of Default or any event or circumstance specified in clause 25 (Events of Default) of the Facility Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default

Delegate means any delegate, agent or attorney appointed by the Bank under this Assignment

Event of Default means any event or circumstance specified as an event of default under any Finance Document

Facility Agreement means the facility agreement originally dated 30 June 2022 and made between, among others, the Assignor and the Bank as amended and restated pursuant to an amendment and restatement agreement dated on or about the date of this Assignment under which the Bank agrees to make available to the Assignor term loan facilities

Finance Document means the Facility Agreement, the Intercreditor Agreement, this Assignment any document governing or evidencing the terms of the Secured Obligations and any other document designated as a Finance Document by the Bank and the Assignor

Intercompany Balance means the outstanding intercompany balance owed by ProjectCo to the Assignor, being the amounts set out in Part 1 of the Schedule, less £929, 498.60 as at the date of this Assignment

Intercreditor Agreement means the intercreditor agreement dated on or about the date of this Charge and made between, among others, the Chargor, the Company and the Bank

Party means a party to this Assignment

Permitted Security has the meaning given to that term in the Facility Agreement

Proceeds means under or in connection with any Assigned Asset:

- (a) all present and future debts, rentals, royalties, fees, VAT and monetary claims due or owing to the Assignor and all other amounts recoverable or receivable by the Assignor from other persons or due or owing to the Assignor (whether actual or contingent and whether arising under contract or in any other manner whatsoever)
- (b) the benefit of all rights and remedies of any nature relating to any of the foregoing including claims for damages and other remedies for non-payment of the same, all entitlements to interest, negotiable instruments, guarantees, indemnities, Security, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights and
- (c) all proceeds of any of the foregoing

ProjectCo means Orbital Marine Power (Orkney) PLC (No. SC609187)

Secured Obligations means all monies and liabilities now or after the date of this Assignment due, owing or incurred by the Assignor to the Bank whatsoever, in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Bank, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

Security means a mortgage, charge, pledge, lien, assignment, assignation in security, standard security, pledge or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

Security Period means the period beginning on the date of this Assignment and ending on the date on which the Bank is satisfied that the Secured Obligations have been irrevocably and

unconditionally satisfied in full and all facilities made available by the Bank to the Assignor have been cancelled

Schedule means the schedule in 2 parts annexed as relative to this Assignment

Unpaid Sum means any sum due and payable to the Bank but unpaid by the Assignor

1.2 Interpretation

(a) In this Assignment, unless the context otherwise requires:

- (i) the Bank, the Assignor, any Party or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) references to clauses are to be construed as references to the clauses of this Assignment;
- (iii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented or restated (however fundamentally) or replaced;
- (iv) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (v) a **person** includes any individual person, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality) or any other entity or body of any description;
- (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (vii) a provision of law is a reference to a provision, of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Assignment;
- (viii) a time of day is a reference to London time;
- (ix) **sterling** and **£** shall be construed as a reference to the lawful currency of the United Kingdom;
- (x) **euro** and **€** shall be construed as a reference to the single currency of Participating Member States; and
- (xi) **dispose** includes any sale, lease, licence, transfer or loan;
- (xii) writing shall, subject to clause 18 (Notices), include any mode of reproducing words in a legible and non-transitory form; and

- (xiii) an Event of Default is **continuing** if it has not been remedied to the satisfaction of the Bank or waived by the Bank.
- (b) Clause and schedule headings are for ease of reference only.
- (c) Any word importing the singular shall include the plural and vice versa.
- (d) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived, in both cases, to the satisfaction of the Bank.
- (e) Any certificate provided by a director of the Assignor pursuant to the terms of this Assignment shall be given without incurring any personal liability.
- (f) A term defined in this Assignment has the same meaning when used in any notices, acknowledgements or other documents issued under or in connection with this Assignment.
- (g) The contents table and headings in this Assignment are for convenience only and do not affect the interpretation or construction of this Assignment.
- (h) The words **other, include, including** and **in particular** do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- (i) This Assignment is subject to the terms of the Intercreditor Agreement. If there is any conflict or inconsistency between any provision of this Assignment and any provision of the Intercreditor Agreement, the relevant provision of the Intercreditor Agreement will prevail.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in this Assignment a person who is not a Party has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Assignment.
- (b) The consent of any person who is not a Party is not required to rescind or vary this Assignment or any other agreement entered into under or in connection with it.

2 Covenant to pay

2.1 Covenant

The Assignor covenants with the Bank that it will pay or discharge on demand the Secured Obligations when they fall due.

2.2 Limited recourse

Notwithstanding the terms of any other provision of this Assignment, the Bank shall have no recourse against the Assignor or its assets, whether by way of court proceedings, a winding up application or otherwise, in respect of its obligations and liabilities under this Assignment except by enforcement of its security over the Assigned Assets, and the liability of the Assignor shall extend only to and shall not exceed the proceeds of any such enforcement

3 Security

3.1 Assignment

As a continuing security for the payment of the Secured Obligations, the Assignor hereby assigns to the Bank its whole right, title, interest and benefit, present and future, in and to the Assigned Assets.

3.2 Delivery of intimation

On execution of this Assignment, the Assignor will promptly execute and deliver to each other party to the Agreements a notice substantially in the form set out in Schedule 1Part 2 (Form of Notice of Assignment) of the Schedule and procure that the Assignor receives an acknowledgement from each such party substantially in the form set out in Schedule 1Part 3 (Form of Acknowledgement of Intimation) of the Schedule.

3.3 Waiver of rights

The obligations of the Assignor under this Assignment and the rights, powers and discretions of the Bank under this Assignment will not be reduced, discharged or otherwise affected by:

- (a) any time, waiver or consent granted to, or composition with the Assignment or any other person;
- (b) the release of the Assignor or any other person under the terms of any composition or arrangement with any creditor of the Assignor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights or remedies against, or Security over assets of the Assignor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument;
- (d) the Bank failing to realise the full value of any Security held by it;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Assignor or any other person or any defective or excessive exercise of the Assignor's powers or authority;
- (f) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) termination or replacement of the Secured Obligations or any document, guarantee or Security related to the Secured Obligations including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility or other document or Security;
- (g) any unenforceability, illegality, invalidity, irregularity or frustration of any obligation (actual or purported) of any person under this Assignment or any other document, guarantee or Security held in connection with the Secured Obligations;
- (h) any claim or enforcement of payment from the Assignor or any other person;
- (i) any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Assignor or any other person;

- (j) any change in the constitution, name or style of the Assignor or any other person, or if such other person is a partnership or other unincorporated organisation, its dissolution or any change in its status or membership; or
- (k) anything done or omitted to be done by the Bank or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Assignor under this Assignment.

3.4 **Recourse**

The Security constituted by this Assignment:

- (a) is in addition to any other Security which the Bank may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of the Bank.

3.5 **Negative pledge**

The Assignor covenants with the Bank that save as otherwise provided in the Intercreditor Agreement, it shall not without the prior written consent of the Bank:

- (a) create, purport to create or permit to subsist any Security upon any of the Assigned Assets; or
- (b) sell, assign, dispose of or otherwise transfer whether by a single transaction or a number of transactions and whether related or not, the whole or any part of the Assigned Assets.

4 **Power of attorney**

The Assignor irrevocably and severally appoints the Bank and any of its delegates or sub-delegates to be its attorney to take any action which the Assignor is obliged to take under this Assignment. The Assignor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 4.

5 **Further assurance**

5.1 The Assignor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, standard securities, charges, notices and instructions) as the Bank may reasonably specify (and in such form as the Bank may reasonably require in favour of the Bank or its nominee(s)):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Assignment (which may include the execution of a pledge, charge, assignment, assignment or assurance or other Security over all or any of the assets which are, or are intended to be, the subject of this Assignment) or for the exercise of any rights, powers and remedies of the Bank provided by or pursuant to this Assignment or by law;
- (b) to confer on the Bank Security over any property and assets of the Assignor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Assignment;

- (c) to facilitate the exercise of any rights, powers and remedies exercisable by the Bank in respect of any of the Assigned Assets or provided by or pursuant to the Finance Documents or by law; and/or
- (d) (if a Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Assignment.

5.2 The Assignor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Bank by this Assignment and/or pursuant to the Finance Documents.

5.3 Any document required to be executed by the Assignor under this clause 5 will be prepared at the cost of the Assignor.

6 Liability

No obligation shall be assumed by the Bank (or its nominee) in respect of the Assigned Assets as a result of the execution and delivery of this Assignment and (in particular but without limitation to such generality) no liability will be incurred by the Bank (or its nominee) as a result of any failure by the Assignor to comply with all or any of its obligations in relation to the Assigned Assets.

7 Enforcement of security

7.1 When security is enforceable

On the occurrence of any Event of Default which is continuing, the security created by and under this Assignment is immediately enforceable.

7.2 Powers on enforcement

- (a) The Bank may, at its absolute discretion, at any time after the security created by or under this Assignment is enforceable, without notice to the Assignor or any other person, either in its own name or in the name of the Assignor and in such manner and upon such terms and conditions as it thinks fit to exercise all and/or any rights and powers in relation to all or any of the Assigned Assets which could be exercised by the absolute owner thereof, including (without limitation):
 - (i) the power to sell, call in, collect, convert into money or otherwise dispose of all or any of the Assigned Assets with full power to sell any of the same either together or in parcels and either by public auction or private contract and for such consideration (whether in cash, securities or other assets and whether deferred or not) as the Bank may think fit and with full power to buy in or rescind or vary any contract of sale of all or any of the Assigned Assets and to resell the same without being responsible for any loss which may be occasioned thereby and for the purposes aforesaid or any of them to execute and do all such assurances and things as it shall think fit;
 - (ii) the power to receive all or any money payable in respect of or in connection with all or any of the Assigned Assets;
 - (iii) to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Assigned Assets;

- (iv) the power to negotiate, compromise and/or agree any dispute arising out of all or any of the Assigned Assets; and
 - (v) to do all such other acts and things it may consider necessary or expedient for the realisation of the Assigned Assets or incidental to the exercise of any of the rights conferred on the Bank under or by virtue of this Assignment and to concur in the doing of anything which the Assignor has the right to do and to do any such thing jointly with any other person.
- (b) The Bank may exercise all or any of the powers referred to in this Assignment in such manner and to such extent as the Bank considers appropriate (in its sole discretion) and in particular (but without limitation to the generality of the foregoing) shall not be under any duty to maximise the proceeds arising from the Assigned Assets.
 - (c) Neither the Bank nor any nominee of the Bank shall be liable to account to the Assignor except in respect of the actual receipts of the Bank or such nominee and shall not be liable to the Assignor for any loss or damage arising from the exercise by the Bank or such nominee of all or any of the powers conferred by this Assignment other than arising out of wilful misconduct of the Bank.
 - (d) The Assignor will do or permit to be done everything which the Bank may from time to time reasonably require to be done for the purpose of enforcing the Bank's rights under this Assignment, and will allow its name to be used as and when required by the Bank for that purpose.

8 Representations and undertakings

8.1 Representations and warranties

The Assignor represents and warrants to the Bank that:

- (a) the instruments or other documents comprising the Agreements as provided to the Bank before the date of this Assignment evidence all terms of the Agreements, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Assigned Asset;
- (b) no Assigned Asset is void, voidable or otherwise unenforceable and no Security expressed to be created by this Assignment is liable to be avoided or otherwise set-aside, on the liquidation or administration of the Assignor or otherwise;
- (c) it is entitled as against the other parties to the Agreements and each of them to enter into and effect this Assignment and any consents to and approvals of this Assignment which are required have been obtained prior to the date of this Assignment;
- (d) it has not granted any waiver of rights nor any allowance of time nor any forbearance or forgiveness in or in respect of any matter or thing concerning the Agreements;
- (e) it has not varied, departed from or altered the terms or conditions of the Agreements and no such variation or departure is contemplated;
- (f) it has not made any claim under the Agreements whether in reliance on the obligations in the Agreements or in respect of any breach of the Agreements and has not received or acknowledged notice of any adverse claim by any person in respect of the Assigned Assets or any interest in them;

- (g) it has fully and duly performed all duties and undertakings falling to be performed by it under the Agreements prior to and up to the date of this Assignment and is not in breach of any of its obligations under the Agreements;
- (h) nothing has occurred which is or would constitute an event of default (howsoever described) under the Agreements or other document or agreement comprising the Assigned Assets or which would entitle a party to such Assigned Asset to terminate or rescind such Assigned Asset; and
- (i) it is the sole legal and beneficial owner of the Assigned Assets and the Assigned Assets are free from any Security other than any Permitted Security.

8.2 Matters represented

Each of the representations and warranties in clause 8.1 will be correct and complied with in all respects at all times during the continuance of the security constituted by this Assignment.

8.3 Undertakings

Except with the Bank's prior written consent, the Assignor undertakes to the Bank that it shall:

- (a) in relation to the Assigned Assets, procure and maintain in effect all approvals, authorisations, consents and registrations necessary or appropriate and comply with all obligations under any present or future statute, regulation, order and instrument or under any by-laws, regulations or requirements of any competent authority or other approvals, licences or consents and, if requested by the Bank, produce to the Bank, within 14 days of receipt of the same, every material notice, order or proposal given or made in relation to the Assigned Assets by any competent authority and either comply with the same or make such objections and representations against the same as the Bank may require or approve;
- (b) notify the Bank of any breach of an Assigned Asset by a counterparty and furnish to the Bank all particulars relating thereto available to them and inform the Bank of the steps taken or proposed to be taken by way of compliance;
- (c) not make or agree to any material variation, cancellation, waiver or termination of any Assigned Asset or compromise or settle any claim in relation to the Assigned Assets or release any party to the Agreement from any of its obligations in respect of the Assigned Assets or waive any breach of the same or any of the Assignor's rights under the Assigned Assets, except as (in any such case) otherwise approved by the Bank in writing;
- (d) not at any time exercise any right or power conferred on it by the Assigned Assets in any manner which the Bank believes is adverse to the interests of the Bank under the Finance Documents and, at any time a Default is continuing, to exercise any such right or power in the manner directed by the Bank and allow its name to be used as and when required by the Bank for these purposes;
- (e) at all times observe and perform all its obligations under the Assigned Assets and shall secure compliance by each counterparty to the Assigned Assets of their respective obligations under the Assigned Assets;
- (f) remain liable to perform the obligations assumed by it in respect of the Assigned Assets and the Bank shall be under no obligation of any kind whatsoever or be under any

liability whatsoever in relation to the Assigned Assets by reason of this Assignment or as a result of the Assignor failing to observe, perform or fulfil any of its obligations or liabilities under any Finance Document or in respect of any Assigned Asset;

- (g) immediately on entering into this Assignment or, if later, promptly on receipt of the same, provide the Bank with a copy of any report, notices, circulars, accounts, invoice, certificate, valuation, variation notice, order, direction, permission or other communication received in respect of or in connection with the Agreements;
- (h) not take or omit to take any action which would prejudice the security constituted pursuant to this Assignment or impair the value of the Assigned Assets and shall, at its own cost, promptly take all action which is at any time necessary or which the Bank may request, to protect the value of the interests of the Assignor and the Bank in the Assigned Assets;
- (i) not, save in accordance with clause 8.3(j), vary or abrogate any of the rights attached to the Assigned Assets or take or omit to take any action which would have that result; and
- (j) take such action as the Bank may reasonably request in respect of any proposed consolidation, reorganisation, arrangement, conversion or exchange offer affecting or relating to the Assigned Assets or any of them or any proposal made for varying or abrogating any rights attaching to the Assigned Assets or any of them.

8.4 Power to remedy

- (a) If the Assignor fails to comply with any of the undertakings set out in clause 8.3, it shall allow and irrevocably authorises the Bank and/or such persons as it shall nominate to take such action on its behalf as shall be necessary to ensure that it complies with those undertakings.
- (b) If the Assignor fails to perform any obligation or other covenant affecting the Assigned Assets, the Assignor shall permit the Bank or its agents and contractors:
 - (i) to comply with or object to any notice served on the Assignor relating to any Assigned Asset; and
 - (ii) to take any action the Bank may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- (c) The Assignor shall within 3 Business Days of demand indemnify the Bank against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 8.4.

9 Contingencies

If the Bank enforces the Security constituted by or under this Assignment at a time when no amounts are due to the Bank but at a time when amounts may or will become so due, the Bank may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

10 Delegation

- 10.1 The Bank may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Bank under this Assignment to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Bank may think fit.
- 10.2 The Bank will not be liable or responsible to the Assignor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

11 Application of monies

- 11.1 All monies received by the Bank under this Assignment and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Bank may determine.
- 11.2 The Bank may place any money received, recovered or realised pursuant to this Assignment in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

12 Remedies and waivers

- 12.1 No failure to exercise, nor any delay in exercising, on the part of the Bank, any right or remedy under this Assignment shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Assignment are cumulative and not exclusive of any rights or remedies provided by law.
- 12.2 A waiver given or consent granted by the Bank under this Assignment will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

13 Protection of third parties

- 13.1 No person (including a purchaser) dealing with the Bank or its agents has an obligation to enquire of the Bank or others:
- (a) whether the Secured Obligations have become payable;
 - (b) whether any power purported to be exercised has become exercisable;
 - (c) whether any Secured Obligations or other monies remain outstanding;
 - (d) how any monies paid to the Bank shall be applied; or
 - (e) the status, propriety or validity of the acts of the Bank.
- 13.2 The receipt by the Bank shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Bank.

- 13.3 In clauses 13.1 and 13.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Assigned Assets or any of them.

14 Additional security

The Security created by or under this Assignment is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Bank.

15 Settlements conditional

- 15.1 If the Bank (acting reasonably) believes that any amount paid by the Assignor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Assignor, such amount shall not be considered to have been paid.
- 15.2 Any settlement, discharge or release between the Assignor and the Bank shall be conditional upon no Security or payment to or for the Bank by the Assignor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

16 Subsequent Security

If the Bank receives notice of any other subsequent Security or other interest affecting all or any of the Assigned Assets it may open a new account or accounts for the Assignor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Assignor, as from the time of receipt of such notice by the Bank, all payments made by the Assignor to the Bank shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations.

17 Set-off

- 17.1 The Bank may set off any matured obligation due from the Assignee under the Finance Documents against any matured obligation owed by the Bank to the Assignee, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

18 Notices

- 18.1 Any communication and/or information to be given in connection with this Assignment shall be in writing in English and shall either be delivered by hand or sent by first class post, email or other electronic form:

(a) where the recipient is the Bank, a notice must be given or served under both (i) and (ii) below (and the deemed date of receipt of both shall be as stated in clause 18.2):

(i) in hard copy, either delivered by hand or sent by first class post to its registered office for the attention of 'Head of Investment Legal'; and

(ii) by email to [REDACTED],

(b) where the recipient is the Assignor, that identified with its name below,

or any substitute address or department or officer as the Assignor may notify to the Bank (or the Bank may notify to the Assignor, if a change is made by the Bank) by not less than 5 Business Days' notice.

Bank

18.2 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Assignment will only be effective if by way of letter, when it has been left at the relevant address or 3 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under clause 18.1, if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Bank will be effective only when actually received by the Bank and then only if it is expressly marked for the attention of the department or officer identified with the Bank's signature below (or any substitute department or officer as the Bank shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with clause 18.2(a) to clause 18.2(b), after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

19 Invalidity

Clause 34 (Partial invalidity) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Assignment and any Security created by or under it.

20 Assignment

- 20.1 The Bank may assign or otherwise transfer all or any part of its rights under this Assignment or any Security created by or under it.
- 20.2 The Assignor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this Assignment or any of its rights under this Assignment or purport to do any of the same without the prior written consent of the Bank.

21 Releases

Upon the expiry of the Security Period, the Bank shall, at the request and cost of the Assignor, take whatever action is necessary to discharge or release (without recourse or warranty) the Assigned Assets from the Security created by this Assignment.

22 Currency clauses

- 22.1 Clause 30.6 (Currency of account) of the Facility Agreement shall apply to this Assignment as if set out here in full but so that references to the Finance Documents shall be construed as references to this Assignment and any Security created by or under it and references to a Guarantor shall be construed as references to the Assignor.
- 22.2 If a change in any currency of a country occurs, this Assignment will, to the extent the Bank (acting reasonably and after consultation with the Assignor) specifies to be necessary, be

amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

- 22.3 If a payment is made to the Bank under this Assignment in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Bank may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Assignor will remain liable for such shortfall.

23 Certificates and determinations

Any certification or determination by the Bank of a rate or amount under this Assignment is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

24 Assignor's indemnity

- 24.1 The Assignor shall promptly indemnify the Bank and every Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:

- (a) the taking, holding, protection or enforcement of this Assignment;
- (b) the exercise of any of the rights, powers, discretions and remedies vested in the Bank and each Delegate by this Assignment or by law; and
- (c) any default by the Assignor in the performance of any of the obligations expressed to be assumed by it in this Assignment.

- 24.2 The Bank may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and the proceeds of the enforcement of this Assignment for all monies payable to it.

25 Exclusion of liability

25.1 No liability

The Bank shall not be liable in respect of all or any part of the Assigned Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

25.2 Officers and agents

The Assignor may not take proceedings against any officer, employee or agent of the Bank in respect of any claim it might have against the Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Assignment and any officer, employee or agent of the Bank may rely on this clause.

26 Fees, costs and expenses**26.1 Transaction expenses**

The Assignor shall promptly on demand pay the Bank the amount of all costs, fees and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Assignment.

26.2 Amendment costs

If the Assignor requests an amendment, waiver or consent of this Assignment, the Assignor shall, within 3 Business Days of demand, reimburse the Bank for the amount of all costs and expenses (including legal fees) reasonably incurred by the Bank in responding to, evaluating, negotiating or complying with the request or requirement.

26.3 Enforcement and preservation costs

The Assignor shall, within 3 Business Days of demand, pay to the Bank the amount of all costs, fees and expenses (including legal fees) incurred by the Bank in connection with the enforcement of or the preservation of any rights under this Assignment and any proceedings instituted by or against the Bank as a consequence of taking or holding the Security created or expressed to be created in favour of the Bank under this Assignment or enforcing these rights.

26.4 Interest on late payments

- (a) If the Assignor fails to pay any amount payable by it under this Assignment on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the annual percentage rate equal to the aggregate of 3% and the highest rate of interest applicable to the Secured Obligations. Any interest accruing under this clause 26.4 shall be immediately payable by the Assignor on demand by the Bank.
- (b) Default interest (if unpaid) arising on Unpaid Sums will be compounded with the overdue amount at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

26.5 Consent to registration

The Assignor consents to the registration of this Assignment and of any certificate referred to in clause 23 (Certificates and determinations) for preservation.

27 Counterparts and delivery**27.1 Counterpart execution**

This Assignment may be executed in any number of counterparts and by the parties on separate counterparts.

27.2 Delivery where Assignment is executed in counterpart

Where executed in counterpart:

- (a) this Assignment shall not take effect until all of the counterparts have been delivered;

- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (c) the parties may choose to evidence the date of delivery of this Assignment by inserting this on the front page of this Assignment.

27.3 Delivery where Assignment is not executed in counterpart

If this Assignment is not executed in counterparts, this Assignment shall be delivered on the date inserted on the front page of this Assignment or, if no such date is inserted, the date agreed between the Parties.

27.4 Appointment of nominated person

The parties to this Assignment, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (**Counterparts Act**), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Assignment. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Assignment.

28 Governing law

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

29 Jurisdiction of Scottish courts

- 29.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Assignment (including a dispute relating to the existence, validity or termination of this Assignment or any non-contractual obligation arising out of or in connection with this Assignment (**Dispute**)).
- 29.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

29.3 This clause 29 is for the benefit of the Bank. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

In witness whereof these presents consisting of this and the preceding 16 pages and the schedule annexed as relative hereto are executed by the parties hereto as follows:

Subscribed for and on behalf of
Orbital Marine Power Limited

at Edinburgh

on 25 March 2024

)
) Director/Secretary/Authorised Signatory

) ANDREW SCOTT

) Full Name

in the presence of:

Signature of witness

Full name Thomas Horton

Address c/o Brodies LLP

58 Morrison Street, Edinburgh EH3 8DP

Address for notice: Innovation Centre - Orkney, Histon Pier Road,
Kirkwall, Orkney, Scotland, UK, KW15 1ZL

Subscribed for and on behalf of
Scottish Investments Limited

at

on

)
) Director/Secretary/Authorised Signatory

)
) Full Name

in the presence of:

Signature of witness

Full name

Address

Address for notice:

29.3 This clause 29 is for the benefit of the Bank. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

In witness whereof these presents consisting of this and the preceding 16 pages and the schedule annexed as relative hereto are executed by the parties hereto as follows:

Subscribed for and on behalf of)
Orbital Marine Power Limited) Director/Secretary/Authorised Signatory
 at)
 on) Full Name

in the presence of:

.....
 Signature of witness

Full name

Address

Address for notice:

Subscribed for and on behalf of)
Scottish Investments Limited)
 at **EDINBURGH.**) Director/Secretary/Authorised Signatory
 on **25/3/2024**) **JAMES WILLIAMSON**
) Full Name

in the presence of:

.....
 Signature of witness

Full name **ELIZA CORRIE**

Address **Exchange Tower, 19 Canongate,**
Edinburgh, EH3 8EH

-Address for notice:-

This is the Schedule referred to in the foregoing Assignment between Scottish Investments Limited and Orbital Marine Power Limited

Part 1- Intercompany Balance

Inter-co balance accrued		£
Uses of Topco cash		
Project and device insurance	819,999	
Marine Scotland decomm bond	358,286	
EMEC berth fees	263,001	
Abundance finance costs	264,000	
Services from Topco - O&M / MSA	989,838	
Other / credits	-268,429	
	2,426,696	

Part 2- Form of Notice of Assignment

[To be printed on the letterhead of the Assignor]

Orbital Marine Power (Orkney) PLC
Innovation Centre - Orkney Hatston Pier Road
Crowness Business Park
Kirkwall
Orkney
KW15 1ZL

_____ 2024

Dear Sirs

Assignment (Assignment) dated 2024 between Orbital Marine Power Limited and Scottish Investments Limited (Bank) in respect of an intercompany loan agreement between Orbital Marine Power Limited as lender and Orbital Marine Power (Orkney) PLC as borrower dated 2024 (Agreement)

We refer to the Agreement. By this letter we give you notice that under the Assignment (a copy of which is attached) we have assigned to the Bank, by way of security, all our rights, title, interest and benefit in and to the Agreement.

We irrevocably instruct and authorise you to:

- comply with the terms of any written instructions received by you from the Bank from time to time relating to the Agreement, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions (including in relation to the payment of any sums referred to in the Agreement);
- hold all sums from time to time due and payable by you to us under the Agreement to the order of the Bank;
- pay, or release, all monies to which we are entitled under the Agreement to the Bank, or to such persons as the Bank may direct; and
- disclose information in relation to the Agreement to the Bank on request by the Bank.

Neither the Assignment nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Agreement.

Subject to the above, you may continue to deal with us in relation to the Agreement until you receive written notice to the contrary from the Bank. Thereafter, we will cease to have any right to deal with you in relation to the Agreement and you must deal only with the Bank.

Please note that we have agreed that we will not amend or waive any provision of or terminate the Agreement without the prior written consent of the Bank.

The instructions in this notice may only be revoked or amended with the prior written consent of the Bank.

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Bank at its registered office marked for the attention of 'Head of Investment Legal', with a copy to us.

This notice, 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 Scots law.

Yours faithfully

.....
Orbital Marine Power Limited

Part 3 - Form of Acknowledgement of Intimation**[To be printed on the letterhead of the Counterparty]**

Scottish Investments Limited
 Waverley Gate
 2-4 Waterloo Place
 Edinburgh
 EH1 3EG

Attention: 'Head of Investment Legal'

_____ 2024

Dear Sirs

Security assignation (Assignment) dated _____ 2024 between Orbital Marine Power Limited (Assignor) and Scottish Investments Limited (Bank) in respect of an intercompany loan agreement between Orbital Marine Power Limited as lender and Orbital Marine Power (Orkney) PLC as borrower dated _____ 2024 (Agreement)

We confirm receipt from the Assignor of a notice (**Notice**) dated _____ 2024 of an assignation, by way of security, of all the Assignor's rights, title, interest and benefits in and to the Agreement.

We confirm that:

- we accept the instructions and authorisations contained in the Notice and agree to comply with the Notice and note that these instructions and authorisations cannot be revoked or varied without the Bank's prior written consent;
- upon receipt from the Bank of any instruction, such instruction may not be countermanded by any instruction received from the Assignor or any third party unless the Bank has given its prior written consent;
- there has been no amendment, waiver or release of any rights or interests in the Agreement since the date of the Agreement;
- we will not cancel, avoid, release or otherwise allow the Agreement to lapse without giving the Bank at least 30 days' prior written notice;
- we do not have and have not claimed, exercised or attempted to exercise against the Assignor any right of set-off, counter-claim or other right relating to the Agreement;
- we have not, as at the date of this acknowledgement, received notice that the Assignor has assigned its rights under the Agreement to a third party, or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party;
- the Bank will not in any circumstances have any liability in relation to the Agreement; and
- the Agreement shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Bank.

This letter, 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 Scots law.

Yours faithfully

.....

Orbital Marine Power (Orkney) PLC