



Registration of a Charge

Company name: **NEW SANDFIELDS ABERAFAN AND AFAN-COMMUNITY
REGENERATION**

Company number: **03674953**

Received for Electronic Filing: **13/01/2014**



Details of Charge

Date of creation: **13/01/2014**

Charge code: **0367 4953 0008**

Persons entitled: **PURE LEAPFROG**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

Notification of addition to or amendment of charge.

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

PURE LEAPFROG



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3674953

Charge code: 0367 4953 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th January 2014 and created by NEW SANDFIELDS ABERAFAN AND AFAN-COMMUNITY REGENERATION was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th January 2014 .

Given at Companies House, Cardiff on 13th January 2014



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

ROBERT RABINOWITZ, CEO

M: 07939 884458

* R. Rabinowitz

THIS IS AN IMPORTANT LEGAL DOCUMENT AND THE LENDER RECOMMENDS THAT YOU SEEK INDEPENDENT LEGAL ADVICE BEFORE ENTERING INTO IT.

THIS DEED is dated 13/01/2014

PARTIES

- (1) NEW SANDFIELDS ABERAFAN AND AFAN - COMMUNITY REGENERATION (NSA AFAN) incorporated and registered in England with company number 03674953 and whose registered office is at 'Ty Arian', Silver Avenue, Sandfields, Port Talbot, Neath Port Talbot, SA12 7RX (**Borrower**).
- (2) PURE LEAPFROG incorporated and registered in England and Wales with registered company number 05534395 whose registered office is at Eden House, 23-25 Wilson Street, London, EC2M 2TE (**Lender**).

BACKGROUND

- (A) The Lender has agreed pursuant to the Loan Offer Letter to provide the Borrower with a loan on a secured basis to buy certain renewable energy generating equipment.
- (B) This debenture provides security which the Borrower has agreed to give the Lender for the loan under the Loan Offer Letter.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions in this clause apply in this debenture:

Charged Property: all the assets, property and undertaking for the time being subject to the security interests created by this debenture (and references to the Charged Property include references to any part of it).

Costs: all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on Costs.

Energy Company: the licensed electricity supplier from time to time which makes FIT Payments to the Borrower.

Event of Default: an event of default as defined and governed by paragraph 11 of the Terms and Conditions.

FIT Payments: feed in tariff payments due to the Borrower as a result of the electricity generated by the Renewable Energy Generating Equipment.

FIT Payment Assignment: the assignment by the Borrower to the Lender of the Borrower's right to receive FIT Payments in accordance with clause 3.1(a) of this debenture.

Loan Offer Letter: the loan offer letter dated on or around the date of this debenture between the Borrower and the Lender for the provision of loan facilities together with the Terms and Conditions.

Receiver: a receiver and/or manager of any or all of the Charged Property appointed under paragraph 3 of Schedule 1.

Renewable Energy Generating Equipment: the equipment and/or machinery as installed as a complete and working system financed in whole or part by the Lender and used by the Borrower in the production of renewable energy and which could entitle the Borrower to receive FIT Payments and/or RHI Payments comprising the following equipment:

Dalton Road Community Centre
Dalton Road, Sandfields, Port Talbot SA12 7SF

PV: 133 x LG265S1C-G3-265W

Inverter: 2 x Solarlake 10,000TL + 1 x Solarlake 15,000 TL SB

2 x 3 pole AC63A Rotary Isolators

1 x 8 pole DC32A Isolator

Ofgem approved generation meter

Cabling, isolators, fixings and warning labels

RHI Payments: renewable heat incentive payments due to the Borrower from Ofgem (or any successor operator or administrator of the renewable heat incentive scheme) by virtue of any heat generated by the Renewable Energy Generating Equipment.

Secured Liabilities: all present and future monies, obligations and liabilities owed by the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Loan Offer Letter or this debenture together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities.

Security Interest: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Period: the period starting on the date of this debenture and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

Terms and Conditions: the Pure Community Energy Fund terms and conditions.

1.2 Interpretation

Unless the context otherwise requires, in this debenture:

- (a) any reference to any statute or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision which it consolidated or re-enacted before the date of this debenture;
- (b) a reference to one gender includes a reference to the other genders;
- (c) words in the singular include the plural and in the plural include the singular;
- (d) a reference to a clause or Schedule is to a clause or Schedule of or to this debenture;
- (e) a reference to **this debenture** (or any specified provision of it) or any other document shall be construed as a reference to this debenture, that provision

or that document as in force for the time being and as amended or novated from time to time;

- (f) a reference to a **person** shall be construed as including a reference to an individual, firm, corporation, unincorporated body of persons or any state or any agency of a person;
- (g) a reference to an **amendment** includes a supplement, variation, novation or re-enactment (and **amended** shall be construed accordingly);
- (h) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (i) a reference to an **authorisation** includes an authorisation, consent, licence, approval, resolution, exemption, filing, registration and notarisation;
- (j) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (k) a reference to the **Borrower** or the **Lender** shall include its successors, permitted transferees and permitted assigns; and

1.3 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 the terms of the Loan Offer Letter and of any side letters between any parties in relation to the Loan Offer Letter are incorporated in this debenture.

2. **COVENANT TO PAY**

The Borrower shall on demand pay to the Lender and discharge the Secured Liabilities when they become due.

3. **GRANT OF SECURITY**

3.1 **Charging clause**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee:

- (a) charges to the Lender, by way of first fixed charge:
 - (i) the Renewable Energy Generating Equipment;
 - (ii) all present and future rights, licences, guarantees, contracts, covenants and warranties relating to the Renewable Energy Generating Equipment and all consents and authorisations, statutory or otherwise held or required in connection with the Borrower's use of any Renewable Energy Generating Equipment and all rights in connection with them;
 - (iii) all interests in and rights under policies of insurance pertaining to the Charged Property now or at any time during the continuance of this security belonging to the Borrower, and all its rights, present and future, to other compensation monies from time to time payable in respect of the Charged Property; and
- (b) assigns to the Lender, by way of security, all its right, title and interest in the FIT Payments from time to time.
- (c) charges to the Lender, by way of first floating charge, all the RHI Payments and any undertaking, property, assets and rights of the Borrower connected

with the same together with all the undertaking, property, assets and rights of the Borrower referred to in clause 3.1(a) and clause 3.1(b) at any time but not effectively mortgaged, charged or assigned pursuant to clause 3.1(a) and clause 3.1(b).

3.2 Automatic conversion of floating charge

The floating charge created by clause 3.1(b) shall automatically and immediately (without notice) be converted into a fixed charge over the relevant Charged Property if the Borrower creates, or attempts to create, over all or any part of the Charged Property a Security Interest without the prior written consent of the Lender or any trust in favour of another person or disposes or attempts to dispose of all or any part of the Charged Property (other than property subject only to the floating charge while it remains uncrystallised which property may be disposed of in the ordinary course of business) or a receiver is appointed over all or any of the Charged Property that is subject to the floating charge or any person levies or attempts to levy any distress, attachment, execution or other process against all or any part of the Charged Property or the Lender receives notice of the appointment of, or a proposal or an intention to appoint, an administrator of the Borrower.

3.3 Conversion of floating charge by notice

The Lender may in its sole discretion at any time by written notice to the Borrower convert the floating charge created under this debenture into a fixed charge as regards any part of the Charged Property specified by the Lender in that notice.

3.4 Notice of FIT Payment Assignment

Upon the occurrence of an Event of Default, the Borrower shall notify the Energy Company within two days of the assignment by the Borrower to the Lender of the Borrower's right to receive FIT Payments in accordance with clause 3.1(a) of this debenture. The Lender retains the right to instruct the Energy Company to make FIT Payments to the Lender upon the occurrence of an Event of Default.

4. LIABILITY OF BORROWER

The liability of the Borrower under this debenture in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by any act or omission which but for this provision might discharge or otherwise prejudice or affect the liability of the Borrower.

5. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender on the date of this debenture and shall be deemed to represent and warrant to the Lender on each day of the Security Period that the Borrower is the legal and beneficial owner of the Charged Property free from any Security Interest other than the Security Interests created by this debenture.

6. COVENANTS

6.1 Covenants

The Borrower covenants with the Lender during the continuance of the security constituted by this debenture as follows:

- (a) The Borrower shall not at any time, except with the prior written consent of the Lender create, purport to create or permit to subsist any Security Interest on, or in relation to, any Charged Property other than any Security Interests created by this debenture or sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Charged Property, except for the disposal in the ordinary course of business of any of the Charged Property subject to the floating

charge created under this debenture or create or grant (or purport to create or grant) any interest in any Charged Property in favour of a third party.

- (b) The Borrower shall not do, or permit to be done, any act or thing, which will or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this debenture;
- (c) The Borrower, at its own cost, shall prepare and execute such further charges or transfers (containing a power of sale and such other provisions as the Lender may reasonably require) in favour of the Lender as the Lender shall in its absolute discretion from time to time require over all or any part of the Charged Property and give all notices, orders and directions which the Lender may require in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Charged Property.
- (d) The Borrower shall permit the Lender and any Receiver and any person appointed by either of them to enter upon the Borrower's property and inspect any of the Charged Property during normal business hours upon reasonable prior notice.

7. POWERS OF THE LENDER

The Lender shall have the following powers:

- (a) The Lender shall be entitled (but shall not be bound) to remedy a breach at any time by the Borrower of any of its obligations contained in this debenture and the Borrower irrevocably authorises the Lender and its agents to do all such things as are necessary or desirable for that purpose.
- (b) The rights of the Lender under this clause 7 are without prejudice to any other rights of the Lender under this debenture and the exercise of those rights shall not make the Lender liable to account as a mortgagee in possession.
- (c) At any time after the security constituted by this debenture shall have become enforceable or after any powers conferred by any Security Interest having priority to this debenture shall have become exercisable, the Lender may redeem such or any other prior Security Interest or procure its transfer to itself and settle any account of the holder of any prior Security Interest.
- (d) Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower and all monies paid by the Lender to an encumbrancer in settlement of such an account shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest and be secured as part of the Secured Liabilities.

8. ENFORCEMENT

8.1 Enforcement events

The security constituted by this debenture shall be immediately enforceable in any of the circumstances set out in paragraph 1 of Schedule 1. The parties to this debenture agree that the provisions of Schedule 1 shall apply to this debenture and shall be binding between them.

8.2 Receiver's powers

A Receiver shall have, in addition to the powers conferred on receivers by statute, the further powers set out in Schedule 2.

9. COSTS AND INDEMNITY

9.1 Costs

The Borrower shall pay to or reimburse the Lender and any Receiver on demand, on a full indemnity basis, all Costs incurred by the Lender and/or any Receiver in relation to protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's or the Receiver's rights under this debenture or suing for, or recovering, any of the Secured Liabilities.

9.2 Indemnity

The Lender and any Receiver and their respective employees and agents shall be indemnified on a full indemnity basis out of the Charged Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this debenture or any matter or thing done or omitted to be done in relation to the Charged Property under those powers or any default or delay by the Borrower in performing any of its obligations under this debenture.

10. ASSIGNMENT AND TRANSFER

The Borrower may not assign any of its rights or transfer any of its obligations under this debenture or enter into any transaction, which would result in any of those rights or obligations passing to another person.

11. POWER OF ATTORNEY

11.1 Appointment of attorneys

By way of security, the Borrower irrevocably appoints the Lender and every Receiver separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that the Borrower is required to execute and do under this deed and/or any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender or any Receiver.

11.2 Ratification of acts of attorneys

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 11.1.

12. FURTHER PROVISIONS

12.1 Delay

No delay or failure to exercise any right or power under this debenture shall operate as a waiver. No single or partial exercise of any right under this debenture shall prevent any other or further exercise of that or any other such right.

12.2 Consolidation

The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this debenture.

12.3 Partial invalidity

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this debenture shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

12.4 Third party rights

A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this debenture.

13. NOTICES

13.1 Service

Any notice or other communication given under this debenture shall be in writing and shall be served by delivering it personally or by sending it by pre-paid first-class post or to the address of the relevant party as set out in against their name at the start of this debenture or such other address or fax number as may be notified in writing from time to time by the relevant party to the other party.

14. GOVERNING LAW AND JURISDICTION

14.1 Governing law

This debenture 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 according to the law of England and Wales.

14.2 Jurisdiction

The parties to this debenture irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this debenture or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 Enforcement

1. ENFORCEMENT EVENTS

This debenture shall be enforceable if an Event of Default (as defined in the Loan Offer Letter) occurs, and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Lender, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Lender may in its absolute discretion enforce all or any part of the security created by this debenture as it sees fit. The powers of sale conferred upon mortgagees under the Law of Property Act 1925 shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this debenture, but the Lender shall not exercise such power of sale until the security constituted by this debenture has become enforceable.

2. PROTECTION OF THIRD PARTIES

No purchaser, mortgagee or other person dealing with the Lender or any Receiver shall be concerned to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged, or whether the power the Lender or a Receiver is purporting to exercise has become exercisable or to see to the application of any money paid to the Lender or any Receiver.

3. APPOINTMENT OF RECEIVER

- 3.1 At any time after the security constituted by this debenture has become enforceable, or at the request of the Borrower, the Lender may without further notice appoint by way of deed, or otherwise in writing, any one or more person or persons to be a receiver or a receiver and manager of all or any part of the Charged Property and (subject to section 45 of the Insolvency Act 1986) from time to time by way of deed, or otherwise in writing, remove any person appointed to be Receiver and may in like manner appoint another in his place. Where more than one person is appointed Receiver, they will have power to act separately (unless the appointment by the Lender specifies to the contrary).
- 3.2 The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this debenture which shall be due and payable immediately upon its being paid by the Lender.

4. POWERS ADDITIONAL

- 4.1 The powers of sale and appointing a Receiver conferred by this debenture shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise and shall be exercisable without the restrictions contained in sections 103 and 109 of the Law of Property Act 1925 or otherwise.

5. AGENT OF THE BORROWER

Any Receiver appointed by the Lender under this debenture shall be the agent of the Borrower.

6. POWERS OF RECEIVER

Any Receiver appointed by the Lender under this debenture shall in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986 have power to do all such acts and things as an absolute owner could do in the management of such of the Charged Property over which the Receiver is appointed.

7. ORDER OF APPLICATION OF PROCEEDS

All monies received by the Lender or a Receiver in the exercise of any enforcement powers conferred by this debenture shall be applied:

- (a) first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Lender (and any Receiver, attorney or agent appointed by it);
- (b) second in paying the remuneration of any Receiver (as agreed between him and the Lender);
- (c) third in or towards discharge of the Secured Liabilities in such order and manner as the Lender shall determine; and
- (d) finally in paying any surplus to the Borrower or any other person entitled to it.

Schedule 2 Further powers of Receiver

1. TO REALISE CHARGED PROPERTY

A Receiver may collect and get in the Charged Property in respect of which he is appointed or any part thereof and for that purpose make such demands and take any proceedings as may seem expedient and to take possession of the Charged Property with like rights.

2. TO DISPOSE OF CHARGED PROPERTY

A Receiver may grant options and licences over all or any part of the Charged Property, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases of, all or any of the property of the Borrower in respect of which he is appointed in such manner and generally on such terms and conditions as he thinks fit (fixtures and plant and machinery may be severed and sold separately from the premises in which they are contained without the consent of the Borrower) and to carry any such sale, assignment, leasing or surrender into effect. Any such sale may be for such consideration as he shall think fit and he may promote or concur in promoting a company to purchase the property to be sold.

3. TO INSURE

A Receiver may, if he thinks fit, but without prejudice to the indemnity contained in clause 9, effect with any insurer any policy or policies of insurance either in lieu or satisfaction of, or in addition to, such insurance.

4. LAW OF PROPERTY ACT 1925

A Receiver may exercise all powers provided for in the Law of Property Act 1925 in the same way as if he had been duly appointed under that act and exercise all powers provided for an administrative receiver in Schedule 1 of the Insolvency Act 1986.

5. INCIDENTAL POWERS

A Receiver may do all such other acts and things as he may consider incidental or conducive to any of the matters or powers in this Schedule 2 or which he lawfully may or can do as agent for the Borrower.

Executed as a deed by NEW
SANDFIELDS ABERAFAN and
AFAN - COMMUNITY
REGENERATION (NSA AFAN)
acting by

GARY REBERTS
[NAME OF FIRST DIRECTOR]

and IAN ISAAC
[NAME OF SECOND DIRECTOR OR
SECRETARY]

OR

Executed as a deed by NEW
SANDFIELDS ABERAFAN and
AFAN - COMMUNITY
REGENERATION (NSA AFAN)
acting by

[NAME OF DIRECTOR]

in the presence of:

Name of witness

Address of witness

Occupation of witness

G. Roberts
[SIGNATURE OF FIRST DIRECTOR]

Director

[Signature]
[SIGNATURE OF SECOND DIRECTOR OR
SECRETARY]

[Director OR Secretary]

[SIGNATURE OF DIRECTOR]

Director

Signature of witness

Executed as a deed by PURE
LEAPFROG acting by

G. JONES
[NAME OF FIRST DIRECTOR]

and A. KENNEDY
[NAME OF SECOND DIRECTOR OR
SECRETARY]

G. Jones
[SIGNATURE OF FIRST DIRECTOR]

Director

A. Kennedy
[SIGNATURE OF SECOND DIRECTOR OR
SECRETARY]

[Director OR Secretary]

OR

Executed as a deed by PURE
LEAPFROG acting by

.....
[NAME OF DIRECTOR]

.....
[SIGNATURE OF DIRECTOR]

Director

in the presence of:

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Name of witness

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Signature of witness

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.....
Address of witness

.....
Occupation of witness