EnergieKontor

HEADS OF TERMS FOR SHARED OWNERSHIP

Version: DRAFT FOR REVIEW BY COMMUNITY

Date: April 2017

HEADS OF TERMS FOR SHARED OWNERSHIP

SUBJECT TO CONTRACT

PROJECT: PROPOSED WIND FARM AT OVER HILL

COMMUNITY INTEREST COMPANY [C.I.C.]: OVER HILL INVESTMENT COMMUNITY INTEREST COMPANY

Contact: to be advised

Address:	[Name]
Contact:	[Name]
Telephone:	[Telephone Number]
Email:	[Email Address]

C.I.C. Advisor: to be advised

Address:	[Name]
Contact:	[Name]
Telephone:	[Telephone Number]
Email:	[Email Address]

C.I.C. Solicitors: to be advised

Address:	[Name]
Contact:	[Name]
Telephone:	[Telephone Number]
Email:	[Email Address]

THE COMPANY: ENERGIEKONTOR UK LIMITED ON BEHALF WINDFARM PROJECT SPV

Address:	4330 Park Approach Thorpe Park Leeds LS15 8GB
Contact:	[Name]
Telephone:	[Telephone Number]
Email:	[Email Address]

The Company's Solicitors: to be advised

Address:	[Name]
Contact:	[Name]
Telephone:	[Telephone Number]
Email:	[Email Address]

INTRODUCTION

Energiekontor UK Ltd is developing a wind farm of up to 11 turbines and 37.4 Megawatts installed capacity at Over Hill located approximately 6.6 km to the north east of Dalmellington, and 7.9 km south of Ochiltree, East Ayrshire. The company has introduced to Dalmellington Community Council, Patna Community Council, Drongan, Rankinston & Stair Community Council, Ochiltree Community Council, Auchinleck Community Council, Cumnock Community Council, and Netherthird and District Community Council, the option of shared ownership of Over Hill Wind Farm based on the guidelines in the Scottish Government's "Good Practice Guide for Shared Ownership of Onshore Renewable Energy Developments". The C.I.C. intends to raise finance to invest or loan to the windfarm (the Company), with the returns used to repay investors and to fund local community initiatives.

If the project receives permission a windfarm specific company will be set up to be counterparty to all project specific contracts. This will include the Shared Ownership Option Agreement and the Shared Ownership Agreement set out below.

The Company intends to borrow the finance raised by the C.I.C. and repay this with interest with a top-up bonus linked to the performance of the wind farm. The C.I.C. will be granted an option to invest in the Company, subject to being able to raise the finance, on the terms noted below.

This heads of terms sets out the indicative terms to be placed in the respective contracts.

In terms of timing the expectation is as follows:

Governing contract	HoTs period				Shared Ownership Option Agreement		Shared Ownership Agreement		None
Sign Heads of Terms									
Complete planning process		1 year							
Planning decision									
Complete financing process				9 months					
Financial close									
Sign Shared Ownership Option Agreement									
Contruction						1 year			
Take over									
Sign Shared Ownership Agreement									
C.I.C. invest into windfarm									
Repay loan								20 years	
Operate windfarm								25 year	

(Not to scale)

The terms in this agreement are subject to planning, financial close and market conditions at time of financial close.

SHARED OWNERSHIP OPTION AGREEMENT TERMS

	Area	Summary
1	Wind Farm	Over Hill Wind Farm, in East Ayrshire Council
2	Option Period	The Option Period will commence on completion of the option contract (on Financial Close) and extend for the duration of the construction period for a maximum of [2] years. The final longstop date is [1] year from full commercial operation of the windfarm.
3	Option Payment	[£1 if requested]
4	Professional and Solicitor's Fees	The Company will pay the C.I.C.'s reasonable Professional & Solicitor's Fees and disbursements. Up to an amount of [...]
5	Finance raising	Following signing of the option agreement the C.I.C. will use its best endeavours to raise the Shared Ownership Loan Amount The C.I.C. board will have full control of how and where it raises finance subject to the constraints set out below: • There will be £[100,000] made available for investment by local people (Local Investors – members of host and surrounding community councils from windfarm) • For all finance sourced from non Local Investors the C.I.C. board should ensure there will be at least 1% return on capital is available for local community projects The C.I.C. should take advice from professionals in relation to compliance with the Financial Services and Markets Act 2000 and other regulations and must at all times be able to evidence compliance with such regulations in relation to the raising of finance.
6	Construction	The Company will commence the construction phase of the windfarm following completion of the Option Agreement. The Company will keep the C.I.C. informed of any changes to the completion date
7	Assignment	The Company shall be able to assign the agreement, following written consent from the C.I.C. The C.I.C. shall be able to assign the agreement following written consent of the Company.
8	Directorships & shareholding	On completion of the Option Agreement the Company will give up any directorships or shareholding it holds in the C.I.C. as soon as reasonably practicable.

SHARED OWNERSHIP AGREEMENT TERMS

	Area	Summary
1	Shared Ownership Loan Amount	The company guarantees to take on the Shared Ownership Loan Amount if the C.I.C. raises at least 95% of the loan amount of £[2,400,000].
2	Period	The shared ownership agreement period will be 20 years
3	Interest	The Company will pay interest on the loan of [6.5%] [subject to the provisions of the finance documents with the Company's lenders] ***[Note: further specifics to be provided]***
4	Bonus	The Company will pay bonus interest on the loan of [2%] on windy years
5	Repayment	The Company will repay the loan on a repayment basis making annual payments over 20 years. The Company will be required to make the annual loan payment prior to being able to pay any dividends to shareholders. Payments will however be subordinated to payments to the Company's main lenders and an inter creditor agreement is likely to be required to subordinate the Shared Ownership Loan to the main wind farm finance. There may therefore be instances where payments are not able to be made
6	Termination	The Company shall have the right to terminate the agreement upon giving 12 months' notice and shall pay all the capital and any interest due. The C.I.C. shall only have the right to terminate for breach or non-payment subject to allowing the Company a right to remedy any breach. This will again be subject to the inter creditor agreement and the requirements of the Company's lenders.
7	Reporting	The Company will provide annual reports of windfarm performance and accounts to the C.I.C.
8	Assignment	The Company shall be able to assign the agreement following written consent from the C.I.C. The C.I.C. shall be able to assign the agreement following written consent of the Company.
9	Company Guarantees	The Company Guarantees the following: • It has allowed for the repayment of the Shared Ownership Loan Amount in its financial modelling at financial close • It will make Shared Ownership Loan payments prior to paying any dividends to shareholders
10	C.I.C. Guarantees	The C.I.C. Guarantees the following: • It will raise all finance following latest FCA and other regulations and laws • It will enter into an inter-creditor agreement with the Company's lenders

These heads of terms do not and shall not form the basis of a contract between the parties, who do not intend to create any legal relationship between them and neither party shall have any obligation to the other until an option agreement has been entered into. Whilst this letter sets out the principal terms of the proposed option, it is not intended to constitute an exhaustive description of the provisions to be contained in the final option agreement or loan document.

A person who is not a party to these heads of terms shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these heads of terms. This paragraph does not affect any right or remedy of any person which exists or is available other than pursuant to that Act.

These heads of terms are governed by and shall be construed in accordance with English law and 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 these heads of terms, their subject matter or formation (including any non-contractual dispute or claim).

SIGNED AND AGREED BY:

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C.I.C. Date

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Company Date