

GUARANTEE AND REIMBURSEMENT AGREEMENT

THE SCOTTISH MINISTERS

(as the Guarantor)

and

SIMEC LOCHABER HYDROPOWER LIMITED

(as Purchaser)

and

LIBERTY ALUMINIUM LOCHABER LIMITED

(as SmelterCo)

and

THE CORPORATE UNDERTAKERS

in respect of the SG Guarantee

**Brodies LLP
15 Atholl Crescent
Edinburgh EH3 8HA
T: 0131 228 3777
F: 0131 228 3878
DX ED 10
Ref: MPST.LIB14.6
FAS 0468
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GUARANTEE AND REIMBURSEMENT AGREEMENT

BETWEEN:

1. **THE SCOTTISH MINISTERS**, of Victoria Quay, Edinburgh EH6 6QQ (the "**Guarantor**");
2. **SIMEC LOCHABER HYDROPOWER LIMITED**, a company incorporated in Scotland (company number SC549864) of 15 Atholl Crescent, Edinburgh EH3 8HA (the "**Purchaser**");
3. **LIBERTY ALUMINIUM LOCHABER LIMITED**, a company incorporated in Scotland (company number SC549732) of 15 Atholl Crescent, Edinburgh EH3 8HA ("**SmelterCo**").
4. **LIBERTY INDUSTRIES UK LIMITED** incorporated in Scotland, number SC550829, of 15 Atholl Crescent, Edinburgh EH3 8HA ("**LUK**");
5. **SIMEC GROUP LIMITED**, incorporated in Hong Kong, with company registration number 1651874, having its Registered Office at Suite 2202-2204 Gloucester Tower, The Landmark Building, 11 Pedder Street, Central, Hong Kong ("**SGL**");
6. **LIBERTY HOUSE GROUP PTE. LTD.**, incorporated in Singapore, number 201113318W, having its Registered Office at 8 Marina View, #40-06, Asia Square Tower 1, Singapore (018960) ("**LHG**"); and
7. **SIMEC ENERGY PTE. LTD.**, incorporated in Singapore, number 201322004G, having its Registered Office at 171 Tras Street, 04-171a, Union Building, Singapore 079025 ("**SEP**").

BACKGROUND

- (1) The Purchaser and SmelterCo have entered into the [REDACTED] and the Guarantor will issue the SG Guarantee (as defined below) in respect of certain [REDACTED] [REDACTED] pursuant to the terms of the SG Guarantee and in accordance with this Agreement.
- (2) It is intended that SGL is responsible for the obligations of its Subsidiaries, and that LHG is responsible for the obligations of its Subsidiaries, arising in each case hereunder.

IT IS AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accession Agreement**" means a document substantially in the form set out in Part 4 of the Schedule (Accession Agreement);

"**Acquisition**" means the acquisition of all the existing shares of the Target by the Purchaser pursuant to the Acquisition Agreement;

"**Acquisition Agreement**" means:

(a) the share sale agreement relating to the Acquisition dated 22 November 2016 between British Alcan Aluminium plc and the Purchaser; and

(b) the contribution agreement relating to the Acquisition between British Alcan Aluminium plc and HydroCo dated 22 November 2016;

"**Agreed Form**" means, in respect of any document, the form of it agreed between the Purchaser and the Guarantor prior to the signing of this Agreement;

"**Agreed Security Principles**" means the principles set out in Part 5 of the Schedule (Agreed Security Principles);

"[REDACTED]
[REDACTED]
[REDACTED]"

"**Corporate Undertaker**" means each of the parties (4) to (7) above and HydroCo (once it has acceded to this Agreement pursuant to Clause 15.2);

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

"**Effective Date**" means the date of closing of the Acquisition or such other date as is agreed between SmelterCo and the Guarantor;

"**Enforcement Event**" is as defined in Clause 10.3;

"**Guaranteed Document**" means the [REDACTED]

"**Hive-up Agreement**" means the contribution agreement between HydroCo and SmelterCo dated on or around the date hereof in respect of the sale of certain assets from HydroCo to SmelterCo as more fully described therein;

"**HydroCo**" means the Target;

"**Lochaber Estate Lands**" means the property over which standard securities are granted pursuant to paragraphs 9 to 13 of Part 2 of the Schedule (Initial Conditions) and which are further

described by reference to the relevant Standard Securities Plan referred to at paragraphs (b) to (f) of that defined term;

[REDACTED]

[REDACTED]

"**Obligors**" means the Purchaser, HydroCo (once it has acceded to this Agreement pursuant to Clause 15.2), each of the Corporate Undertakers and SmelterCo;

"**Payment Obligations**" has the meaning given to it in the SG Guarantee;

"**Party**" means a party to this Agreement;

"**Property Transfer**" means the conveyance of that portion of those subjects at Inverloch, Fort William currently undergoing registration in the Land Register of Scotland under Title Number INV1401 used exclusively in the Lochaber Smelter Business along with the land intended for use for the related Alloy Wheels Plant, all as shown shaded [] on the Property Transfer Plan;

"**Property Transfer Plan**" means the plan set out in Part 7 of the Schedule (Property Transfer Plan);

[REDACTED]

"**Ranking Agreement**" means agreements in the Agreed Form in relation to the priority of claims and ranking of security under the Security Documents in accordance with the Agreed Security Principles;

"**Relevant Applications**" means any applications for registration under the Land Registration etc. (Scotland) Act 2012 in name of the HydroCo and /or any of the other Obligors and in respect of any land subject to the Security Documents which applications are either outstanding or submitted as at the Effective Date or are submitted thereafter;

"**Schedule**" means the schedule in eight parts to this Agreement;

"**Security Document**" means each of the documents referred to in paragraphs 3 to 15 of Part 2 of the Schedule and in paragraphs 1 to 3 of Part 3 of the Schedule;

"**SG Guarantee**" means the financial guarantee in respect of the Payment Obligations issued by the Guarantor in accordance with this Agreement;

"**SG Guarantee Fee Letter**" means the fee letter dated on or about the date of delivery of this Agreement between the Guarantor and SmelterCo;

"**Standard Securities Plans**" means the plan for each of:

- (a) the Lochaber Hydro Plant, tailrace and smelter site;
 - (b) Glensherro Estate;
 - (c) Achintee Estate;
 - (d) Killiechonate Estate;
 - (e) Inverlochry Estate; and
 - (f) part of the north of Mamore Estate necessary to encompass the Nevis Diversion Dam,
- each as set out in Part 8 of the Schedule (Standard Securities Plans);

"**Target**" means Alcan Aluminium UK Limited, incorporated in England and Wales with registered number 750143, to be re-named SIMEC Lochaber Hydropower 2 Limited on closing of the Acquisition; and

"**VAT**" means value added tax provided for in the Value Added Tax Act 1994 and any other tax of a similar nature which may be imposed in place thereof from time to time.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Agreement to:

- 1.2.1.1 an **amendment** includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and **amended** will be construed accordingly;
- 1.2.1.2 a **clause** or **sub-clause** is a reference to clause or sub-clause of this Agreement;
- 1.2.1.3 a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;

- 1.2.1.4 this **Agreement** shall be deemed to be a reference to this guarantee and reimbursement agreement as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Agreement as varied, amended, supplemented or substituted from time to time;
- 1.2.1.5 **Sterling** or **£** means the lawful currency from time to time of the United Kingdom;
- 1.2.1.6 a Party or any other person includes its successors in title, permitted assignees and permitted transferees;
- 1.2.1.7 a provision of law is a reference to that provisions as extended, applied, amended or re-enacted and includes any subordinate legislation;
- 1.2.1.8 a time of day is a reference to Edinburgh time.
- 1.2.2 Unless a contrary indication appears, a term used in the SG Guarantee has the same meaning in this Agreement.
- 1.2.3 The headings in this Agreement are inserted for convenience only and shall be of no legal effect.
- 1.2.4 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.2.5 Unless the contrary intention appears, a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement.
- 1.2.6 Where a liability of an Obligor is expressed to be joint and several, that means joint and several up to an aggregate amount for each Obligor up to the value of 100% of its net assets

2 ISSUE OF SG GUARANTEE

2.1 Subject to the provisions of this Agreement, the Guarantor agrees to duly execute and deliver to the Purchaser the SG Guarantee in the form set out in Part 1 of the Schedule (Form of SG Guarantee) on or before the closing of the Acquisition.

■ [REDACTED]

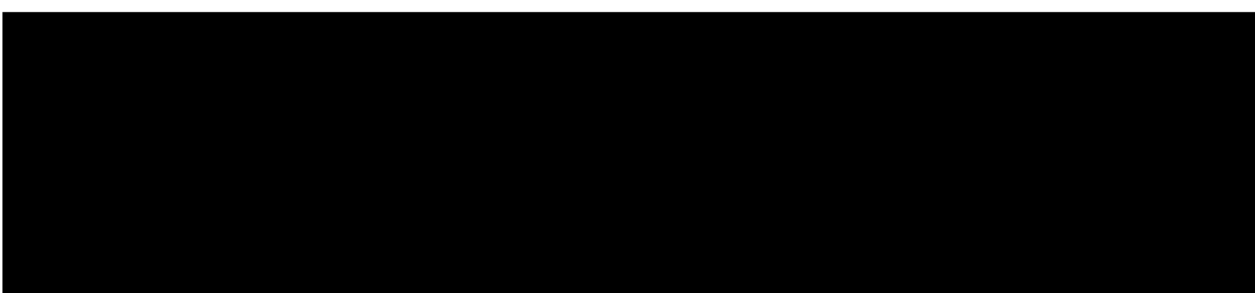
3 INITIAL CONDITIONS

- 3.1 The SG Guarantee may not be issued until the Guarantor has notified the Purchaser that it has received (or waived receipt of) duly executed and delivered originals or copies (as relevant) of all of the documents set out in Part 2 of the Schedule (Initial Conditions) in the Agreed Form together with all resolutions, minutes and other documents approving their execution and delivery. This Clause 3.1 is for the benefit of the Guarantor only.
- 3.2 The Guarantor must give the notification referred to in Clause 3.1 above to the Purchaser immediately upon being so satisfied.

4 SUBSEQUENT CONDITIONS

The Purchaser shall procure the delivery to the Guarantor of all of the documents set out in Part 3 of the Schedule (Subsequent Conditions) in the Agreed Form by no later than the date specified alongside each condition, unless the Guarantor waives receipt of any of them.

5 PAYMENTS BY OBLIGORS

- 5.1 Each Obligor shall jointly and severally, on the terms and subject to the conditions of this Agreement:
- 5.1.1 pay or procure the payment, from time to time, of any amount due and payable to the Guarantor in accordance with the SG Guarantee Fee Letter and this Agreement; and
- 5.1.2 reimburse the Guarantor on the terms of this Agreement.
- 5.2 Each Obligor agrees for the benefit of the Guarantor that:
- 5.2.1 subject to any applicable law, its duties and obligations set out in this Agreement shall continue in full force and effect until all the Payment Obligations [REDACTED] [REDACTED] have been fully and irrevocably discharged; and
- 5.2.2 to the best of its knowledge no statute, rule, regulation or order has been executed, given or deemed applicable by any government or governmental or administrative agency or court having any relevant jurisdiction that would make [REDACTED] [REDACTED] illegal, invalid or unenforceable in any respect under any jurisdiction.
- 

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

7 EXPENSES

7.1 Each Party must pay the amount of its own costs and expenses (including legal and other adviser fees) incurred by it in connection with the [REDACTED] satisfaction of the initial conditions and subsequent conditions hereunder.

7.2 The Obligors must jointly and severally pay to the Guarantor the amount of all reasonable costs and expenses (including legal and other adviser fees) reasonably incurred by it in connection with any amendment, waiver or consent requested by or on behalf of any Obligor or specifically allowed by this Agreement.

7.3 The Obligors must jointly and severally pay to the Guarantor the amount of all costs and expenses (including legal fees) incurred by it in connection with:

7.3.1 the enforcement of, or the preservation of, any rights under this Agreement; or

7.3.2 any proceedings instituted by or against the Guarantor as a consequence of it entering into this Agreement.

8 INDEMNITIES

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 UNDERTAKINGS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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10 TERM AND DEFAULT

10.1 Subject to Clause 10.2 below, this Agreement shall take effect on the Effective Date and shall terminate on the date which is the later of:

10.1.1 the date on which the Guarantor is no longer subject to a claim or demand, or any potential or contingent claim or demand, under the SG Guarantee, in accordance with Clause 11 (Expiry) of the SG Guarantee; and

10.1.2 the date on which all amounts payable to the Guarantor by the Obligors under this Agreement have been paid in full.

10.2 The provisions of Clauses 1 (Definitions and Interpretation), 6 (Reimbursement), 8 (Indemnities) and this Clause 10 shall survive any termination of this Agreement.

10.3 In the event of—

10.3.1 any failure by the Purchaser to comply with the provisions of Clause 4 (Subsequent Conditions) of this Agreement; and/or

10.3.2 any failure by the Obligors to make any payment due pursuant to Clauses 5 (Payment by Obligors) or 6 (Reimbursement) of this Agreement, after making the relevant demands for payment referred to in Clause 6.3; and/or

10.3.3 any failure by the Obligors to comply with the provisions of Clause 9.1.1, 9.1.2 or 9.1.3 (Undertakings) of this Agreement; and/or

10.3.4 the entering into of any form of insolvency or analogous proceeding or any process for suspension of payments by any Obligor or by any shareholder of an Obligor or by any Corporate Undertaker, or if any such Obligor or shareholder or Corporate Undertaker shall cease or threaten to cease making payments of its obligations as they fall due,

then the Guarantor shall be entitled to declare by notice to the Purchaser that an enforcement event (an “**Enforcement Event**”) has occurred and may thereafter, subject to the Agreed Security Principles and to the provisions of any applicable Ranking Agreement, take such steps by way of enforcement of any of the Security Documents as it may require.

11 NATURE OF PARTIES’ RIGHTS AND OBLIGATIONS

11.1 Neither the obligations of the Obligors under this Agreement nor the rights, powers and remedies conferred on the Guarantor in respect of the Obligors by this Agreement or by law shall be discharged, impaired or otherwise affected by: