

ANNEX - REASONS FOR NOT PROVIDING INFORMATION

Section 30(c) - Effective conduct of Public Affairs

This exemption applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, cause substantial prejudice to the to the effective conduct of public affairs in relation to communications and engagement with external stakeholders. This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in maintaining good relations between the Scottish Government and GFG Alliance and in protecting the free exchange of information between both to ensure that we keep each other fully and regularly informed about matters of mutual interest which may impact on the Scottish Government's guarantee or associated securities. There is no public interest in disclosing information when that will damage relationships and disrupt future engagement.

Section 38(1)(b) – Personal Data

This exemption applies to some of the information requested because it is personal data of a third party, i.e. names and contact details, and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

section 33(1)(b) – Commercial Interests

This exemption applies to some information in the public interest as it information belonging to a third party that is commercially sensitive. If this information were released it would negatively impact the business and potentially damage negotiations, day-to-day operations, and other activity. There may be some public interest in release of the information in terms of providing greater openness, but this is outweighed by the public interest in ensuring that private sector partners can share commercially sensitive information with Government with confidence that such information will be handled with due sensitivity.

Section 36(1) – Legal Advice

An exemption under section 36(1) of FOISA (confidentiality in legal proceedings) applies to some of the information requested because it is legal advice and disclosure would breach legal professional privilege. This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption.

We recognise that there is some public interest in release as part of open and transparent government, and to inform public debate. However, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation.

[REDACTED]

THIS CUSTOMER AGREEMENT is made on
 2016 (Effective Date)

BETWEEN:

- (1) GREENSILL CAPITAL (UK) LIMITED (company number 08126173), whose registered office is at One Southampton Street, Covent Garden, London, WC2R 0LR (Financial Institution); and
- (2) LIBERTY ALUMINIUM LOCHABER LTD (company number SC549732) a limited liability company incorporated in Scotland whose registered office is at 15 Athol Crescent, Edinburgh EH3 8HA (Company).

INTRODUCTION

- A. Company and Supplier (as defined below) have entered or will enter into the PPA (as defined below).
- B. Financial Institution has entered into or will enter into an account receivables purchase agreement with Supplier, whereby Supplier may assign and Financial Institution may have assigned to it, on a non-recourse basis, Account Receivables (as defined below) arising out of the PPA.

AGREEMENT
[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Fergus Ewing MSP

Cabinet Secretary for the Rural Economy and Tourism
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

14 January 2021

Dear Mr Ewing,

Commitment of the GFG Alliance to Lochaber

Further to the submission of our New Business Plan for Lochaber, we have been asked to set out briefly our latest proposals and our wider commitments to the development of GFG Alliance assets in Scotland. I am grateful for the Scottish Government's continued support and approval for these new business plans in the face of the extraordinary economic and social challenges we faced in 2020.

I continue to be extremely positive about our industrial capabilities in Scotland and share your aspirations for a strong economy and industrial strategy for Scotland, with renewed plans for the Lochaber complex playing an important part.

We look forward this year with greater optimism but with further national restrictions now in place, it is clear that making progress during Q1 and Q2 will continue to be severely impacted, given the potential implications across the group. We will continue to bring forward capital investment plans wherever possible and we are grateful for the support of the Scottish Government for our acquisition and investment strategy.

Delivering for Scotland

Since our acquisition of assets in Scotland, we have achieved a great deal in a relatively short time. At the **Lochaber aluminium smelter and hydroelectric station**, we have been [REDACTED]

We have now enabled an increase in efficiency and production at the smelter and entered into a partnership with National Grid so that the hydroelectric station [REDACTED]

In early 2021, we [REDACTED] also have completed upgrades to our Grid connection, providing both further opportunity and security for the facilities.

Across the wider **JAHAMA Highland Estate**, we have committed to investment and community engagement across the estate in support of the Highlands economy, employees and local communities. Some highlights include:

- Completed an initial 100 hectares of peatland restoration, with [REDACTED] of peatland identified for future restoration.

GFG ALLIANCE

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- Planted over 150,000 native trees including ecologically important species such as Scots pine, Eared Willow and Common Alder.
- Increased woodland cover from 23% to 43% within the restoration area and overall woodland by 608 hectares.
- Opened a new wild venison business and shop in Fort William, promoting locally-produced sustainable meat at an affordable price for local people.

We also look forward to publishing our first Natural Capital Valuation report, a ground-breaking assessment quantifying the economic and environmental value of activities across the Estates, pointing the way to JAHAMA becoming economically as well as environmentally sustainable by 2027. More information about our extensive work on and around the estate is detailed below.

And at **Dalzell and Clydebridge**, we are proud to have re-opened the steelworks and remain the only steel operations in Scotland. During this period, the business has undergone substantial transformation with new management structures, processes and operations, which now means after several years **[REDACTED]**, the business is looking forward to a sustainable future.

Looking to the future, we continue to make the following firm commitments to you in respect of our assets in Scotland:

Industrial development in Lochaber

Following an extensive work programme and significant GFG investment, our initial planned investment in a new alloy wheel factory next to the smelter achieved conditional planning permission and the project delivery plan for the project was well developed. However, as you will be aware, over recent years, there have been significant and detrimental shifts in the UK economy and a dramatic reduction in the size of the UK's automotive manufacturing base.

These market conditions have unfortunately led me to conclude that an alloy wheels factory would not be financially viable. Far from delivering new jobs or economic benefit for the Highlands of Scotland, proceeding with this investment would in fact put at risk the work we have already done to protect and grow the number of jobs across the complex up to this point.

However, I remain fully committed to undertaking demonstrable investment of not less than £70 million of our own funds at Fort William to establish facilities under the New Business Plan submitted to you last year. **[REDACTED]**

Our exciting new business plan for Lochaber will set the smelter on course for a secure future for decades to come, will create additional direct and indirect jobs as we move towards full capacity and also protect around 200 existing jobs.

It comprises three core elements:

- a state-of-the-art aluminium billet facility with the minimum capacity to produce c.80kt of aluminium billet per annum, **[REDACTED]** create local supply chain resilience and displace imports, and create export opportunities.
- **[REDACTED]**

[REDACTED]

Taken together, this investment programme will create sustainable long-term opportunities for growth, capable of supporting more than 600 jobs in the local economy, almost half of which will be directly employed in our own facilities. There is also the potential to create a web of downstream value add operations utilising this low Scottish carbon aluminium.

Moreover, the investment and historic work programme means these aluminium products will be the lowest carbon aluminium in the world. With half produced from [REDACTED] this is a truly unique programme that fits with Scotland's green jobs and recovery programme.

Relating to the *Scottish Government guarantee*, GFG acknowledges the significant raising of funds to enable the acquisition and subsequent development of the Lochaber suite of assets and we are grateful for the support of Scottish Government in enabling this. As Scottish Government is aware, we would acknowledge that at the time of the funds being raised, [REDACTED]

We are delighted to state that GFG remains focused on investing in Scotland, will seek to apply corresponding amounts in Scotland and that this package strikes the right balance of benefits against risks.

The companies in the GFG Alliance offer a comprehensive security package over the Lochaber assets and a range of other risk mitigants, conditions and guarantees to protect the Government's long-term interests. These guarantees are subject to Scots law and to the jurisdiction of Scottish courts. Over the period, GFG has fully satisfied its financial commitments, including interest paid to lenders and Guarantee Fee payments of more than [REDACTED], which have been paid to Scottish Government in respect of the Guarantee. With the aforementioned investment in grid connections at the Lochaber Hydroelectric station, we [REDACTED]

which should give further confidence to stakeholders and an opportunity to reduce such fees over the coming period.

Wider industrial development

- In addition to our planned investments in Lochaber, GFG Alliance will continue to evaluate opportunities for investment across Scotland. This includes [REDACTED]
- Given the wide-ranging economic challenges facing GFG Alliance, the steel industry and the UK economy at large, the first stage will be to undertake further work to understand the potential business case, funding and other support for such an investment.
- Subject to a planning inquiry, we have proposed an investment at Glenshero for a [REDACTED]

Should we be successful, during each year of the operation and maintenance of the wind farm, this investment is expected to contribute:

[REDACTED]

- During the construction phase, alone, the wind farm is expected to contribute [REDACTED]
- Furthermore, we have also committed to ringfence [REDACTED] to the JAHAMA Highland Estates for investment in projects based on the five core pillars of its new management strategy. The proposed projects include development concepts for: [REDACTED]

JAHAMA Highland Estates

- We appreciate the Scottish Government's community empowerment agenda and remain committed to working with the Scottish Government, Highlands & Island Enterprise,

Community Trusts and other stakeholders to maximise the land asset for the long-term sustainable development of the community.

- Since acquiring the land, JAHAMA management has established strong local relationships, receiving overwhelmingly positive feedback from community stakeholders. In no small part, this relates to the progress made on several community transactions, **[REDACTED]**

- We will continue to engage positively with all relevant communities and tenants in the development of the estate lands; and to consider any proposals for community transfers brought to us by community bodies that demonstrate their aspirations for the land and how it can support the wider vision for the estate and its communities.

We understand how important the continued development of industrial activity in Lochaber and across our assets in Scotland is for your Government, and the employment and economic value which go with that. I look forward to working closely with you to deliver our joint ambitions, continue to be a partner with your Government and to be one of Scotland's best businesses.

Yours sincerely,

[REDACTED]

Sanjeev Gupta

Executive Chairman / GFG Alliance

PERSONAL GUARANTEE

Granted by

SANJEEV GUPTA

In favour of

ALVANCE BRITISH ALUMINIUM LIMITED

THE SCOTTISH MINISTERS

[REDACTED]

[REDACTED]

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PERSONAL GUARANTEE

Granted by:

SANJEEV GUPTA of [REDACTED]

(the **Guarantor**)

In favour of:

ALVANCE BRITISH ALUMINIUM LIMITED (formerly incorporated as Liberty Aluminium Lochaber Limited) a company incorporated in Scotland (company number SC549732) and whose registered office is at Lochaber, Smelter, Fort William, Scotland, PH33 6TH (**SmelterCo**); and

In favour of:

THE SCOTTISH MINISTERS of Victoria Quay, Edinburgh EH6 6QQ (the **Scottish Ministers**).

WHEREAS:

- (A) The Scottish Ministers issued the SG Guarantee (as defined in the GRA referred to below) in respect of certain payment obligations owed by SmelterCo under the Customer Agreement (as defined in the GRA referred to below), pursuant to the terms of the SG Guarantee and in accordance with the GRA (as defined below).
- (B) In terms of the GRA, [REDACTED]
- (C) One of the conditions of the GRA is that the Guarantor grants to SmelterCo and to the Scottish Ministers this Guarantee.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Guarantee (including in the Recitals hereto), unless the context otherwise requires:

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

[REDACTED]

GRA means the guarantee and reimbursement agreement dated 16 December 2016 as amended and restated on 6 July 2020 and as further re-amended and restated on or about the date of this Guarantee and between *inter alios* The Scottish Ministers (as Guarantor), the Obligors and Simec Lochaber Hydropower Limited (as Purchaser);

Guarantee means this Guarantee which term includes and extends to any separate or independent stipulation or agreement contained in this Guarantee;

[REDACTED]

[REDACTED]

1.2 **Construction**

1.2.1 In this Guarantee any reference to:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

12. COSTS AND EXPENSES

Each Party will bear its own costs and expenses in relation to this Guarantee.

13. NOTICES

13.1 In Writing

13.1.1 Any communication, notice, or demand in connection with this Guarantee must be in writing and, unless otherwise stated, may be given:

- (a) in person; or
- (b) by post; or
- (c) by e-mail or other electronic communication.

13.1.2 An electronic communication will be treated as being in writing.

13.1.3 Unless it is agreed to the contrary, any consent or agreement required under this Guarantee must be given in writing.

13.2 Contact details

13.2.1 The contact details of the Guarantor for this purpose are:

Address: [REDACTED]
Email: ChairmansOffice@gfgalliance.com
Attention: The Guarantor

13.2.2 The contact details of SmelterCo for this purpose are:

Address: Alvance British Aluminium Ltd, 40 Grosvenor Place, 2nd Floor, London, United Kingdom, SW1X 7GG
Email: [REDACTED]

[REDACTED]
[REDACTED]

Attention: Jeff Kabel
[REDACTE
[REDACT

13.2.3 The contact details of the Scottish Ministers for this purpose are:

Address: Director General Economy, Room 1N.01, St Andrews House, Regent Road, Edinburgh, EH1 3DG

E-mail: DGEconomy@gov.scot

Attention: Director General Economy

13.2.4 Any of the Parties may change their contact details by giving fifteen Business Days' notice to the other Parties.

13.2.5 Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

13.3 Effectiveness

13.3.1 Except as provided below, any communication, notice, or demand in connection with this Guarantee will be deemed to be given as follows:

- (a) if delivered in person, at the time of physical delivery at the addresses stated in Clauses 13.2.1, 13.2.2 and 13.2.3;
- (b) if posted, when it has been received at the relevant address, or (if earlier) five Business Days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
- (c) if by e-mail or any other electronic communication, at the time of transmission of the e-mail or other electronic communication.

13.3.2 A communication given under Clause 13.3.1 (*Effectiveness*) but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

13.3.3 A communication to the Scottish Ministers will only be effective on actual receipt by it, as evidenced by a confirmation in writing from the Scottish Ministers (however expressed) that the communication is received.

14. MISCELLANEOUS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]