

NOTE INSTRUMENT

THIS INSTRUMENT IS MADE ON _____ DAY OF _____ 2022 (THE "INSTRUMENT")

BY

[●], a limited liability company incorporated under the laws of Nigeria with registered number RC. [●] and having its office at [●] (the "Issuer"), which expression shall where the context so admits include its successors in-title and assigns

BACKGROUND

The Issuer has pursuant to its Constitutional Documents (as defined below), and by resolution of its board of directors passed on or about the date hereof, created and authorized the issue of up to US\$[●] notes ("Notes") to be constituted as provided in this Instrument and subject to, and with the benefit of, the Conditions set out in Schedule 2 to this Instrument.

1. INTERPRETATION

1.1 In this Instrument, the following words and expressions shall have the following meanings unless the context otherwise requires:

"**Account Bank**" means a bank which is acceptable to the Investor with which the Issuer is to open the Proceeds Account [and the DSRA]¹;

"**Aggregation Agent**" means [●], who shall be responsible for procuring the Equipment;

"**Anti-Corruption Laws**" means any laws or regulations concerning bribery, corruption or similar activities including the Nigerian Corrupt Practices and Other Related Offences Act 2003, the Nigerian Economic and Financial Crimes Commission Act 2004, Proceeds of Crime Act 2002, the Terrorism Act 2000, the Money Laundering Regulations 2007, the Money Laundering (Prohibition) Act 2011, the Terrorism Prevention (Amendment) Act 2013 and any other law or regulation similar to either of those Acts and to which the Issuer is subject in the operation of its business;

"**CCI**" means Certificate of Capital Importation;

"**Certificate**" means the certificate for the Notes in the form (or substantially in the form) set out in schedule 1 of this Instrument;

"**Closing Date**" means the date that (A) this Agreement is executed by the Parties and (B) the last of the Conditions to Initial Subscription is satisfied by the Issuer (or waived by the Investor as the case may be), which in any event shall not be later than September 30, 2022;

"**Commitment Fee**" means an amount equal to [●] *per cent per annum* of the Subscription Money calculated and withheld on undrawn amount for the Notes

¹ To be retained where the transaction will feature a DSRA.
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payable from the date of signing of this Notes Instrument and to be paid quarterly in arrears starting on the end of the first quarter following the execution of the Notes Instrument.

“Conditions” means the terms and conditions attaching to the Notes, as set out in Schedule 2 and shall include the conditions to subscription set out in Annexure 1 of this Instrument;

“Constitutional Documents” means the memorandum and articles of association of the Issuer, including the Issuer’s shareholders’ agreement, if any;

“DSRA” means the debt service reserve account, a NGN-denominated bank account opened and maintained by the Issuer with the Account Bank with bank account number [•];

“Equipment” means the solar system equipment and components to be purchased with the Subscription Money;

“Event of Default” means any of the following events

- (a) the Issuer fails to properly or timely perform one or more of its obligations under this Instrument and following receipt of notice from the Investor of not less than 5 business days to remedy such failure, the same is not remedied;
- (b) the Issuer defaults under a material lease, financing or borrowing agreement with a third party;
- (c) the Issuer is declared bankrupt, files a petition for the suspension of creditor payments, files for its own bankruptcy or is subject to other insolvency proceedings;
- (d) any warranty, representation or statement by the Issuer is or becomes false, misleading or incorrect when made or regarded as made under this Instrument;
- (e) the Investor, in good faith, deems itself insecure as a result of a Material Adverse Change in the Issuer’s financial condition or otherwise;
- (f) the Issuer violates or in the reasonable opinion of the Investor is likely to violate any Anti-Corruption Laws; and
- (g) transfer of a (in the sole determination of the Investor) material part of the assets of the Issuer to a third party;

“Exchange Rate” means the “Investors & Exporters FX Rate” issued by the FMDQ or any other replacement platform approved by the Investor;

“Final Subscription Amount” means the amount to be disbursed on the Final Subscription Date, and shall be the estimated costs of freight, clearing and import duty for the Equipment, as provided by the Issuer, PROVIDED that the Final Subscription Amount shall not exceed the difference between the Maximum Note Amount on the

one hand and the Initial Subscription Amount together with the Second Subscription Amount on the other hand;

“Final Subscription Date” means subject to the Issuer achieving the pre-agreed performance under this Agreement, the date the Investor disburses the Final Subscription Amount following the Issuer’s satisfaction of the Conditions to Final Subscription as set out in Annexure 1 of this Instrument;

“FMDQ” means FMDQ OTC Plc;

“Initial Subscription Amount” means the amount to be disbursed on the Initial Subscription Date and shall be the amount representing the advance payment for procurement costs as stated on the purchase order issued by the Aggregation Agent to the Issuer for the Equipment, **PROVIDED** that the Initial Subscription Amount, the Second Subscription Amount and the Final Subscription Amount together shall not exceed the Maximum Note Amount;

“Initial Subscription Date” means the date the Investor disburses the Initial Subscription Amount following the Issuer’s satisfaction of the Conditions to Initial Subscription as set out in Annexure 1 of this Instrument;

“Instrument” means this secured note instrument constituting the Notes;

“Investor” means All On Partnerships for Energy Access Limited by Guarantee, a company limited by guarantee incorporated under the laws of the Federal Republic of Nigeria with registration number RC 1340185 and having its registered address at 21/22 Marina, Lagos;

“ISPO” means the irrevocable standing payment order in the form set out in Schedule 4 to this Instrument to be issued by the Issuer to the Account Bank in favour of the Investor to cover the repayment of the Note and the interest accrued²;

“Mandatory Prepayment Event” means the receipt of the NEP Grant amount by the Issuer;

“Material Adverse Change” means (A) a material deterioration in, or negative effect on the business, operations, assets, position (financial, trading or otherwise) or profits/losses of the Issuer or the business of the Issuer that has or reasonably could reduce the net asset value of the Issuer taken as a whole, by 15% or more as compared to what such net asset value would have been but for such deterioration or negative effect, howsoever arising; or (B) any event, fact or circumstance which in the view of the Investor has or could affect the validity or enforceability of this Instrument or the rights or remedies of the Investor under this Instrument;

“Maturity Date” means twenty-four (24) months from each of the Subscription Dates;

“Maximum Note Amount” means the sum of US\$[●];

² To be retained if ISPO is required.

“Moratorium Period” means in respect of the interest on the Notes, six months from the Initial Subscription Date;

“NEP Grant” means the results - based grant to be given to the Issuer under the Nigeria Electrification Project of the Federal Government of Nigeria (in collaboration with the World Bank, the African Development Bank, and other partners) for the provision of electricity access to households, micro, small and medium scale enterprises in off - grid communities across Nigeria through renewable power sources;

“Noteholders” means the Investor and such other holders from time to time of the notes issued by the Issuer;

“Notes” means the secured notes of the Issuer in the maximum aggregate principal amount of US\$[•] constituted on or about the date hereof pursuant to this Instrument;

“Proceeds Account” means account number [•] maintained by the Issuer with the Account Bank into which the proceeds of the NEP Grant and all earnings from the Project and the Equipment shall be paid;

“Project” means the purchase of Equipment (specifically for the deployment [•]) from local and international sources under the Programme;

“Programme” means the demand aggregated renewable technology program financed and supported by the Investor and the Global Energy Alliance for People and Planet;

“Second Subscription Amount” means the amount to be disbursed on the Second Subscription Date and shall be an amount representing the balance payment as stated on the purchase order issued by the Aggregation Agent to the Issuer for the Equipment, **PROVIDED** that the Initial Subscription Amount, the Second Subscription Amount and the Final Subscription Amount together shall not exceed the Maximum Note Amount;

“Second Subscription Date” means subject to the Issuer achieving the pre-agreed performance under this Agreement, the date the Investor disburses the Second Subscription Amount following the Issuer’s satisfaction of the Conditions to Second Subscription as set out in Annexure 1 of this Instrument;

“Security Deed” means the security deed dated on or about the date of this Instrument between the Issuer (as chargor) and the Investor (as chargee);

“Security Documents” means the Security Deed;

“Subscription” means the investment of the Subscription Monies or portion thereof;

“Subscription Dates” means the Initial Subscription Date, the Second Subscription Date, the Final Subscription Date and any other date determined by the Investor and

notified to the Issuer subject to the Issuer's satisfaction of the Conditions. **Subscription Date** shall be construed accordingly;

"Subscription Money" means the aggregate sum of Initial Subscription Amount and Final Subscription Amount, which shall not be more than US\$[●] payable by the Investor to the Issuer for the Notes; and

"Supplier" means the manufacturer and/or distributor of the Equipment from which the Issuer shall purchase the Equipment, and which Supplier (i) has been so nominated by the Aggregation Agent and (ii) has satisfied the Investor's due diligence.

1.2 In this Instrument, unless the context otherwise requires:

- (a) all monetary amounts in this Instrument shall be expressed in US\$, including any amounts required for the calculation of the FX Rate, and the ~~the~~ value of any amounts or values not denominated in US\$ shall be converted into US\$ using the FX Rate;
- (b) references to redemption includes repayment and vice versa and the words "redemption", "redeem" and "redeemed" shall be construed accordingly;
- (c) references to clauses and schedules are references to clauses of and schedules to this Instrument and references to conditions are to the conditions set out in the Schedule;
- (d) the schedules form part of and are incorporated into this Instrument;
- (e) headings are included for ease of reference only and shall not affect the interpretation of this Instrument; and
- (f) the singular shall include the plural and vice versa, references to any gender shall include references to the other genders, and words denoting persons shall include firms and corporations and *vice versa*.

2. THE NOTES

2.1 Subject to the Conditions of this Instrument, the Investor, relying on the representations and warranties made by the Issuer, shall subscribe for and invest the Subscription Monies on each Subscription Date in accordance with the provisions of this clause 2.

2.2 The Investor may, by notice to the Issuer suspend the Subscription if (i) the Initial Subscription Amount is not paid by the Initial Subscription Date as a result of non-fulfilment of Conditions to Initial Subscription; or (ii) any Event of Default has occurred, is continuing, or is in the opinion of the Investor, imminent; or if any event or condition has occurred which has or can reasonably be expected to have caused, a Material Adverse Change.

2.3 The nominal amount of each Note is US\$[●] and the aggregate principal amount of all the Notes shall not exceed US\$[●].

- 2.4 The payment of the Subscription Money shall subject to the satisfaction of the Conditions be made in three tranches on the respective Subscription Date as follows:
- 2.4.1 the Initial Subscription Amount shall be paid directly to the Supplier's account nominated by the Aggregation Agent upon the confirmation of the Issuer and placement of a purchase order by the Aggregation Agent;
- 2.4.2 the Second Subscription Amount shall be paid directly to the Supplier's account nominated by the Aggregation Agent upon the confirmation that the balance payment as stated on the purchase order issued by the Aggregation Agent for the Equipment is due for payment; and
- 2.4.2 the Final Subscription Amount shall be payable directly to the Issuer.
- 2.5 The Parties agree that payment of the Subscription Monies in accordance with clause 2.4 above shall constitute a good discharge of the Investor's obligation to subscribe to the Notes.
- 2.7 All the Notes shall constitute direct, secured and unconditional obligations of the Issuer and shall rank *pari passu* without preference or priority with all senior secured obligations of the Issuer and superior to equity distributions, shareholder loans, other related party loans and any other indebtedness of the Issuer.

3 NOTE CERTIFICATES AND REGISTER

- 3.1 The Investor shall be entitled to a Certificate executed by the Issuer for the amount of Notes held by it.
- 3.2 Where the Investor transfers only part of the Notes comprised in a Certificate, the old Certificate shall be cancelled and a new Certificate for the balance of such Notes shall be issued without charge.
- 3.3 The following events shall occur following the Closing Date:
- 3.3.1 the Investor shall, after deduction of any Commitment Fee, pay the Subscription Money by electronic transfer to bank accounts designated for that purpose; and
- 3.3.2 the Issuer shall:
- (a) execute and deliver to the Investor the Certificate for the Notes; and
 - (b) authorize the Issuer's company secretary to effect the appropriate updates to the Issuer's register of Noteholders and process any applicable regulatory filings.
- 3.4 The Issuer shall keep, or cause to be kept, a register of the Notes at its registered office showing the names and addresses of the Noteholders for the time being and the

amount of the Notes held by every Noteholder and the principal monies paid up on them.

- 3.5 The proceeds of all subscriptions to the Notes shall be used solely and exclusively to finance the Project.

4 CONDITIONS OF ISSUE

The Notes shall be issued subject to, and with the benefit of, the Conditions set out in this Instrument. The Conditions shall be binding on the Issuer, the Noteholders and all persons claiming through or under them.

5 ENFORCEMENT AND VARIATION

- 5.1 The Issuer covenants with the Investor to perform and observe the obligations in this Instrument to the intent that this Instrument shall ensure for the benefit of Investor and the Investor shall be entitled to sue for the performance and observance of the provisions of this Instrument.

- 5.2 No amendment, modification, change or addition to the rights of the Investor under this Instrument shall be binding on the Investor without the prior written consent of the Investor.

6 NOTICES

- 6.1 Any notice or other document required to be given under this Instrument shall be written in the English Language and delivered by hand or sent by first class post or e-mail or in electronic form to the address below or such other address as notified by the Parties from time to time in writing:

- 6.1.1 in the case of the Issuer:

Address: [•]

For the attention of: [•]

Email: [•]

- 6.1.2 in the case of the Investor:

Address: 44 Bourdillon Road, Ikoyi, Lagos, Nigeria

For the attention of: [Afolabi Akinrogunde]

Email: Afolabi.Akinrogunde@all-on.com

(or in each such case to such other address as the recipient may notify to the other Party for such purpose in accordance with this clause 6).

- 6.2 A notice given under this Instrument shall be deemed to have been properly served and received:

- 6.2.1 if personally delivered, at the time of delivery; and

6.2.2 if sent by electronic communication, on the day on which it was sent if it was sent before 5.00pm on a Business Day and otherwise on the next following Business Day after it was sent,

shall be in writing and may be given to or served on any Noteholder by sending it by first-class post in a prepaid envelope addressed to such Noteholder at the registered address of such Noteholder. Any such notice sent or document served by first-class post shall be deemed to have been given or served 48 hours after the time when it is posted.

7 GOVERNING LAW AND JURISDICTION

7.1 This Instrument and the Notes (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of the Federal Republic of Nigeria.

7.2 Any dispute arising out of, or in connection with this Instrument and the performance and non-performance of the Parties' obligations including, but not limited to, any question regarding its existence, validity or termination shall be referred to and finally resolved by the courts of Nigeria.

IN WITNESS of which this Instrument has been executed and takes effect on the date stated at the beginning of it.

The Common Seal of

[.], was hereunto affixed in the presence of:

)
)
)

COMMON SEAL

DIRECTOR

DIRECTOR/SECRETARY

SCHEDULE 1
Form of Certificate

[Name of Issuer]
[RC Number of Issuer]

a company registered under the Laws of the Federal Republic of Nigeria [.]
(the “Company”)

CERTIFICATE NO. [NUMBER]

AMOUNT OF NOTES USD [.]

Secured Notes [2022] (the “Notes”).

Issued pursuant to the Constitutional Documents of the Company and created by a resolution of the shareholders and/or Board of the Issuer passed on [***] 20[**].

This is to certify that All On Partnerships for Energy Access Limited by Guarantee of 21/22 Marina, Lagos, Nigeria is the registered holder(s) of the nominal amount stated above of the Notes constituted by a note instrument dated _____ (the “Instrument”) and made by the Company.

The Notes are issued subject to, and with the benefit of, the provisions contained in the Instrument (the “Conditions”).

Executed as a deed by the Company this _____ day of _____ 20_____.

The Common Seal of
[.])
was hereunto affixed in the presence)
of:)

COMMON SEAL

DIRECTOR

DIRECTOR/SECRETARY

Notes:

1. No transfer of the Notes represented by this Certificate can be registered without production of this Certificate.
2. The Notes are transferable in accordance with the Conditions.
3. The Notes are governed by, and construed in accordance with, the laws of the Federal Republic of Nigeria.

SCHEDULE 2
Terms and Conditions

1. INTEREST

- 1.1 Interest shall accrue on any outstanding Notes at a rate of X% (X per cent) per annum, compounded annually, over the tenure of the Notes (the “Interest Rate”) and shall be applied in accordance with the provisions of the Instrument and this Schedule 2.
- 1.2 Any interest due under paragraph 1.1 of this Schedule 2 shall compound on an annual basis for each calendar year (or part thereof where Subscription takes place during a calendar year) and shall be calculated on the basis of the actual number of days elapsed and a year of three hundred and sixty-five (365) days.
- 1.3 If the Issuer fails to pay any principal or interest after becoming due, the accrued but unpaid principal or interest shall compound on a quarterly basis from the start date of the period for which the payment was due at the rate of 300 (three hundred) bps until eventual payment (the “Late Payment Fee”).
- 1.4 The first interest payment shall be made on the last day of the calendar quarter following the end of the Moratorium Period (“Interest Payment Date”) and subsequently on the last day of every calendar quarter (i.e. March 31, June 30, September 30 and December 31 as case may be) until the Note is fully redeemed or converted.
- 1.5 Further to paragraph 1.1 of this Schedule, any payment of principal and accrued interest on the Notes shall be [denominated in Naira and shall be at the Exchange Rate.]

2. REDEMPTION/REPAYMENT

- 2.1 Subject to early redemption as provided in paragraph 3 of this Schedule, the Issuer shall on the on the last day of the calendar quarter following the end of the Moratorium Period pay into the account specified in Schedule 3 below or such account as may be specified by the Investor the principal amount due on the Notes alongside the accrued interest.
- 2.2 Whenever any payment of principal or interest becomes due on a day which is not a Business Day, payment shall be made on the next following Business Day.
- 2.3 All payments due from the Issuer to the Investor under this Instrument shall be made free of all Tax Deduction. If the Issuer is required to make a Tax Deduction by law from any payment due under this Instrument, such payment shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

3. EVENTS RESULTING IN IMMEDIATE REDEMPTION

- 3.1 The Notes and all accrued interest shall be immediately redeemed without legal intervention being required upon the occurrence of (A) an Event of Default or (B) the

Issuer fails to meet any of its covenants under this Instrument or the Conditions or (C) a Mandatory Payment Event .

3.2 The Issuer may at any time prepay in full the Notes subject to the payment of accrued interest.

3.3 The Investor shall be entitled upon the occurrence of any of the events in paragraph 3.1 above, to apply to the Account Bank to transfer the funds in the credit of the Proceeds Account [and the DSRA]³ to any account designated by the Investor.

4. UNDERTAKINGS AND COVENANTS

4.1 As long as the Notes remain outstanding, the Issuer shall timeously prepare and deliver to the Investor without charge:

4.1.1 the Issuer's audited annual financial statements prepared in accordance with the applicable accounting and financial reporting standards;

4.1.2 minutes of meetings of the board and shareholders of the Issuer; and

4.1.3 regular reports on the Issuer's business activities, operations and future plans.

4.2 Notwithstanding the provisions of paragraph 4.1 above, the Investor shall be entitled to carry out its own audit of the Issuer's books at the Investor's expense.

4.3 As long as the Note remain outstanding, the consent of the Investor shall be required for the following decisions, such consent not to be unreasonably withheld:

4.3.1 except as provided for in this Instrument, to incur any Financial Indebtedness (whether bonds, loans or otherwise) ranking higher than or *pari passu* with the Issuer's obligation to repay the Investor under this Instrument;

4.3.2 to undertake any financing or issue securities convertible into or exercisable for shares in the Issuer;

4.3.3 to enter into any corporate restructuring, merger or de-merger, consolidation, reorganisation, liquidation, dissolution or sale of the Issuer or filing of a petition in bankruptcy (or similar);

4.3.4 permit any change in the Issuer's line of business other than businesses substantially similar or related to the existing business of the Issuer at the date hereof;

³ This is relevant where the transaction features a DSRA.
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- 4.3.5 permit the cessation of the Issuer's business or a substantial part thereof;
- 4.3.6 permit the disposal, granting of any encumbrances or lien over any of its major assets, deemed major at the sole discretion of the Investor, except in relation to proposed asset sales by the Issuer which have been disclosed in writing to the Investor before execution of this Instrument;
- 4.3.7 create, incur, assume or permit to exist, directly or indirectly, any lien on or with respect to the Equipment; and
- 4.3.8 to appoint or remove any director or managing director of the Issuer except in the case of casual vacancy.

For the purposes of this paragraph 4.3, "**Financial Indebtedness**" means any indebtedness of the Issuer howsoever arising.

- (b) The Issuer shall ensure that as long as the Notes is subsisting (A) all earnings from the Project, NEP Grants, and the sale of the Equipment shall be paid to the Proceeds Account; (B) the Issuer shall issue and maintain the ISPO, which shall subsist and remain irrevocable except with the written consent of the Investor⁴; (C) as security for the Issuer's obligation under this Instrument shall ensure that the Proceeds Account is charged in favour of the Investor; and (D) the Issuer shall ensure that the Investor or Investor's authorised representative is made the key signatory to the Proceeds Account with the signature mandate on the Proceeds Accounts such that the Investor or Investor authorised representative alone or together with the Issuer's authorised signatory only can withdraw from the Proceeds Account. PROVIDED that in any event,
 - (c) no withdrawal shall be made from the Proceeds Account without the prior written approval of the Investor; and
 - (d) the Investor shall not by being a co-signatory to the Proceeds Account become liable, jointly or severally, (i) for any legal liability arising from the Issuer's conduct of its business or (ii) for any legal liability arising from any deposit into or withdrawal from the Proceeds Account being in breach of any legal obligation owed to any person.⁵

4.5 The Issuer shall ensure that as long as the Notes is subsisting, the Issuer shall not create any security interest of whatever description over the Proceeds Account in favour of any third party except with the prior written consent of the Investor, which consent shall be provided or denied by the Investor at its sole discretion.

⁴ To be retained if there is an ISPO.

⁵ To be retained if the transaction features a co-signatory arrangement, whereby All On is a co-signatory to the Proceeds Account.

- 4.6 [The Issuer shall ensure that at all times while the Notes is subsisting, the DSRA is funded for an amount sufficient for principal repayment and interest payment for two quarters.]⁶
- 4.7 The Issuer shall at all times ensure that (A) insurance policies are maintained on and in relation to the Equipment, the Project and its assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business; (B) all insurances must be with reputable independent insurance companies and must cover such risks and losses and in such amounts as are prudent and customary in the business in which it is engaged, including the Equipment and Project; and (C) the Investor is named as first-loss payee in respect of each of this insurance policies.
- 4.8 [Nothing in this Instrument including but not limited to the Investor or Investor's authorised representative being a co-signatory to the Proceeds Account, shall be construed at any time, past, present or future as creating a partnership, agency or joint venture relationship of any kind. Neither Party shall the right or power or authority at any time to act on behalf of or represent the other Party.]⁷
- 4.9 [The Issuer shall indemnify and hold harmless the Investor against any losses or liabilities that it may incur as a result of it being a co-signatory to the Proceeds Account. The Investor shall not incur any liability as a result of it being a co-signatory to the Proceeds Account.]⁸

5 REPRESENTATIONS AND WARRANTIES

- 5.1 The Issuer represents and warrants on the Subscription Date, on each Interest Payment Date and up until the Notes and interest accruing are fully paid that:
- 5.1.1 the Issuer is validly existing, duly incorporated and in good standing under the laws of the [Federal Republic of Nigeria];
- 5.1.2 the Issuer has the legal right and full power and authority to enter into and perform its obligations under this Instrument and any other document to be executed by it pursuant to, or in connection with, this Instrument;
- 5.1.3 this Instrument and any other document to be executed by the Issuer pursuant to or in connection with this Instrument will, upon execution, constitute valid and binding obligations of the Issuer in accordance with their respective terms and will not result in a breach of the Constitutional Documents; or any law, regulation or statute applicable to the Issuer, or any agreement binding on the Issuer;
- 5.1.4 no event has occurred which constitutes an Event of Default;

⁶ This clause is relevant where the transaction features a DSRA. Clause to be updated if mechanics for funding the DSRA is agreed.

⁷ Same as above.

⁸ Same as above.

- 5.1.5 there is no existing litigation or arbitration proceedings, the outcome of which will result in a Material Adverse Change;
- 5.1.6 the Issuer is solvent and able to pay its obligations herein as and when payable and that no order has been made, petition presented or meeting convened for the winding up of the Issuer or a corporate guarantor, or for the appointment of any provisional liquidator (or other process whereby the business is terminated and the assets of the company concerned are distributed amongst the creditors and/or shareholders or other contributors), and there are no proceedings under any applicable insolvency, re-organisation or other applicable laws;
- 5.1.7 all information furnished by the Issuer to the Investor in connection with this Instrument is true and correct in all respects and there are no other facts or circumstances of which it is aware that would render any such information misleading;
- 5.1.8 the Issuer has duly paid all taxes and made or caused to be made all proper returns required to be made and has supplied or caused to be supplied all information required to be supplied to the relevant tax authority;
- 5.1.9 all material licences, consents, permissions, authorisations and rights, required for the operation of the Issuer have been obtained, are in full force and effect and in the name of the Issuer. No act, event or omission has occurred or is alleged as a result of which any such licence, consent, permission, authorisation or right may be suspended, cancelled, revoked or not renewed;
- 5.1.10 the Issuer does not have any outstanding borrowing or indebtedness and has not agreed to create or incur any borrowing or indebtedness of that nature in the future, in each case other than as disclosed to the Investor prior to this Instrument;
- 5.1.11 the Issuer has not violated any law or agreements which may have a material adverse effect on the business or financial condition of the Issuer;
- 5.1.12 the Issuer has disclosed to the Investor any information which might reasonably be expected to adversely influence the decision of an investor to make a general corporate borrowings facility available to the Investor; and
- 5.1.13 the Issuer has (A) complied with all laws and regulations applicable to it in the conduct of its business concerning Anti-Corruption Laws (B) in place adequate policies and procedures for the purpose of ensuring compliance with such laws and (C) not been engaged in any activity, practice or conduct which would constitute an offence under any Anti-Corruption Law.

6. TRANSFERS OF NOTES

- 6.1 Subject to the provisions of the Instrument, the Issuer shall not, without the prior written consent of the Investor, assign, transfer, sub-contract, delegate, charge or create any security interest over its rights and obligations under this Instrument.
- 6.2 The Investor may assign the whole or part of any of its rights to the Notes and the Instrument to any persons. The rights and obligations of the Investor hereunder shall be binding upon and inure to the benefits of its successors and permitted assigns.

7 COSTS

- 7.1. The Issuer shall within five (5) Business Days of demand, pay all costs and expenses including legal fees (together with any value added tax on them) that the Investor incurs in connection with the negotiation and preparation, perfection, execution, amendment, extension, alteration, preservation and enforcement of the Notes and/or this Instruments, subject to a cap of [.]
- 7.2. The Issuer shall pay all stamp duties or other taxes and duties or registration fees payable upon or in connection with the execution, delivery and perfection of this Instrument, and shall indemnify the Investor against any losses or liabilities that it may incur as a result of any delay or omission by the Issuer in paying any such duties or taxes.

8 WAIVER

The express or implied waiver by any Party to this Instrument of any of its rights or remedies arising under this Instrument or by law shall not constitute a continuing waiver of the right or remedy waived or a waiver of any other right or remedy.

9. VARIATION AND TERMINATION

- 9.1 All and any of the provisions of this Instrument may be deleted, varied, supplemented, restated or otherwise changed in any way at any time with the prior written consent of the Parties, in which event such change shall be binding against all the Parties hereto.
- 9.2 This Instrument shall be terminated by the Investor where:
- 9.2.1 the Issuer fails to satisfy the conditions as set out in Annexure 1 of this Instrument; or
- 9.2.2 there is a Material Adverse Change; or
- 9.2.3 there is an Event of Default and the same is not remedied in accordance with this Instrument.
- 9.3 Nothing in this paragraph shall release any Party from liability for breaches of this Instrument which occurred prior to its termination.

10. SET-OFF

- 10.1 The Investor may at any time set off any liability of the Issuer to the Investor against any liability of the Investor to the Issuer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Instrument. If the liabilities to be set off are expressed in different currencies, the Investor may convert either liability at the FX Rate for the purpose of set-off. Any exercise by the Investor of its rights under this condition 6.1 shall not limit or affect any other rights or remedies available to it under this Instrument or otherwise.
- 10.2 The Investor is not obliged to exercise any of its rights under paragraph 10.1 above but if the rights are exercised, the Investor shall promptly notify the Issuer of the set-off that has been made.

11. SECURITY

As security for any Outstanding Note at any point in time (including the principal amounts on the Notes and accrued interests), the Issuer shall execute and maintain the security created under the Security Documents until its release by the Investor on the terms and conditions provided in the respective Security Documents.

12. SEVERANCE

- 12.1 Each provision of this Instrument is severable and distinct from the others and if at any time, any provision of this Instrument is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Instrument will remain in full force and effect and will not in any way be impaired.
- 12.2 If any provision of this Instrument is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question will apply with the minimum modifications necessary to make it valid and enforceable.

13. CONFIDENTIALITY

- 13.1 The terms and conditions of this Instrument, any of the Transaction Documents including their existence, shall be confidential information and shall not be disclosed to any third party without the consent of the Issuer and the Investor, such consent not to be unreasonably withheld. PROVIDED that the Issuer and the Investor may disclose the terms and conditions described in this Instrument, any of the Transaction Documents and all other related agreements to their respective shareholders, owners, officers, directors, affiliates, partners, employees and financial and legal advisors on a need-to-know basis and either party shall ensure that such third party is made aware of and be bound by the confidentiality obligations in this clause.
- 13.2 The obligations contained in this paragraph 13 shall survive the termination of this Instrument.

IN WITNESS WHEREOF the Parties have executed this Instrument in the manner hereinafter appearing the day and year first above written.

The common seal of The within named [.] was affixed to this Instrument in the presence of

Name:
Director

Name:
Director/Secretary

FOR ALL ON PARTNERSHIPS FOR ENERGY ACCESS LIMITED BY GUARANTEE

Signature:

Name:

Position:

Date:

DRAFT COPY - DO NOT USE

SCHEDULE 3
INVESTOR'S BANK ACCOUNT DETAILS⁹

Bank Name	Citibank London
Bank Postal Address	Canada square, Canary Wharf, London E14 5LB, United Kingdom
Name of Account	ALL ON P/SHIPS 4 ENERGY LTD/GTE
Bank Account Number:	0017418698
Sort Code	185008
Currency of Bank Account	USD
IBAN number:	GB97CIT118500817418698
Swift number	CITIGB2L

Bank Name	Guaranty Trust Bank
Bank Postal Address	635 Akin Adesola, Victoria Island, Lagos State, Nigeria
Name of Account	ALL ON P/SHIPS 4 ENERGY LTD/GTE
Bank Account Number:	0225346476
Sort Code	058-152052
Currency of Bank Account	NGN

⁹ All On's bank details as set out below should be confirmed at the relevant time.

Schedule 4¹⁰
Sample Irrevocable Standing Payment Order

PART A
[DEVELOPER'S LETTERHEAD]

[Date]

[Account Bank]

Dear Madam,

Irrevocable Standing Payment Order ("ISPO")

We, _____ ("**Issuer**") have entered into a first priority Security Deed dated _____ in favour of All On Partnership for Energy Access Limited by Guarantee ("**Investor**") as security for the issuance by the Issuer to the Investor of US\$ _____ notes ("**Notes**") pursuant to the Note Instrument dated _____, 2022 between the Issuer and the Investor.

We hereby pledge that in addition to any general lien granted in favour of the Investor and the irrevocable domiciliation of the business proceeds into the following designated accounts with your bank with account number _____ and account name _____ [Insert currency of account] (the "**Designated Account**"), take this as our irrevocable instruction to you to, upon the written request of the Investor at any time and without notice to us:

- (1) combine and consolidate all or any sums due to us from the Designated Account up to the sums of US\$ _____ [amount in word] only or the Naira equivalent at the "Investors & Exporters FX Rate" issued by the FMDQ on the date of payment or the amount advised through an invoice which will be co-signed by the Investor and Issuer and sent by us before the date of payment; and
- (2) set off or transfer any sum applicable above standing to the credit of the Designated Account together with interest to the following account of the Investor (All On Partnership for Energy Access Limited by Guarantee) on account of the said Notes.

Bank Name ¹¹	*****
Bank Postal Address	*****
Name of Account	*****
Bank Account Number:	*****
Sort Code	*****
Currency of Bank Account	*****

¹⁰ This schedule 4 (including its parts A and B) should only be retained where the transaction features an ISPO element.

¹¹ All On to kindly confirm account information at relevant time.
GE/ALL ON/Template/NOTE/OO/001/16092022/DRAFT 1

We also hereby confirm that payments made to the Investor pursuant to this ISPO shall be deemed to be payments made to us and we shall indemnify and hold the Bank harmless against any losses or liabilities that the Bank may incur as a result of ISPO.

We confirm that (i) this ISPO is given in good faith and it remains irrevocable except with the written consent of the Investor and (ii) none of the instructions, authorizations and confirmations in this ISPO can be revoked or varied in any way except with the Investor's specific written consent.

This ISPO is governed by the laws of the Federal Republic of Nigeria and any dispute arising therefrom shall be subject to the jurisdiction of the Courts of the Federal Republic of Nigeria.

Please confirm your agreement to the above by sending the attached acknowledgement to the Investor with a copy to ourselves.

Regards,
For: [CREDIT DEVELOPER]

Director

Director

CC:

All On Partnership for Energy Access Limited by Guarantee

PART B
Bank Acknowledgement

BANK'S LETTERHEAD

To: All On Partnership for Energy Access Limited by Guarantee (the "Investor")
of [●]

Date: _____, 2022

Dear Sirs,

We confirm receipt from _____ (the "Issuer") of the irrevocable standing payment order dated _____ ("ISPO") issued pursuant to the terms of the Security Deed dated _____ (the "Deed") and the Note Instrument dated _____ between the Issuer to the Investor.

We confirm that we accept the instructions and authorisations contained in that notice and we undertake to act in accordance with and comply with the terms of that notice;

We thank you very much for your kind attention.

For and on behalf of the [Account Bank] [or any other Bank]

Annexure 1

(please note that final CPs may be all or a combination of the following and list is not exhaustive)

CONDITIONS TO SUBSCRIPTION

PART A

A. CONDITIONS PRECEDENT TO INITIAL SUBSCRIPTION

- 1 As conditions to Initial Subscription, the Issuer shall:
 - 1.1 secure and deliver to the Investor all necessary corporate approvals required to enter into this Instrument and each of the Transaction Documents, including executed copies of the agreed form of Board and shareholders' resolutions;
 - 1.2 deliver to the Investor any relevant internal and external approvals, consents or waivers necessary to authorize the issuance of the Notes;
 - 1.3 submit to the Investor the Project business plan, including its funding needs;
 - 1.4 submit to the Investor the business plan and operating budget of the Issuer for the next 12 months after the Closing Date including the proposed use of the Subscription Money and repayment plan;
 - 1.5 deliver to the Investor, a duly signed certificate by its directors that there are no Material Adverse Changes;
 - 1.6 deliver to the Investor, a certificate attaching the certified true copies of the Constitutional Documents of the Issuer and sample/specimen of the signature of each person authorised to execute the Agreement on behalf of the Issuer;
2. The Subscription shall also be subject to the following:
 - 2.1. the negotiation and execution of the Transaction Documents;
 - 2.2. the Investor having carried out to its satisfaction commercial, technical, financial, legal, operational and integrity due diligence on the Issuer;
 - 2.3. the Investor having received a written undertaking from the Issuer that the Notes shall be deployed by the Issuer as contemplated under this Instrument;
 - 2.4. the Investor having received the updated register of shareholders and capitalization table of the Issuer;
 - 2.5. the Investor shall have received the final approval from its Investment Committee and Board of Directors and any other required internal corporate approvals;
 - 2.6. Issuer's settlement of all invoices presented by Investor for legal and deal-related costs as at the Closing Date;

- 2.7. the Issuer submitting a certified copy of the Board resolution of its directors confirming the solvency of the Issuer and certifying that as at the date of that resolution, no fact or circumstances as occurred or in the reasonable opinion of the board of directors of the Issuer is likely to occur on or before the date of the first drawdown which has or would have a material adverse effect on the ability of the Issuer to comply with its payment obligations in terms of the facility;
- 2.8. provision by the Issuer of all information required by the Investor to enable it to comply with all “Know Your Customer” or similar identification procedures;
- 2.9. evidence of the obtention of regulatory approval in respect of the Project;
- 2.10. delivery by the Issuer of duly executed commercial contracts and community agreements for offtake in connection with the Project;
- 2.11. the issuer opening a designated account (“the proceeds account”) into which the proceeds of the NEP Grant and all earnings from the Project and the Equipment shall be paid;
- 2.12. evidence of domiciliation of the Issuer’s Nigeria Electrification Project (NEP) Grant Payments for financed project(s) with the proceeds account;
- 2.13. evidence of pre-qualification for the Performance Based Grant Program under the Nigeria Electrification Project (NEP);
- 2.14. evidence of the opening of the DSRA;
- 2.15. the issuer submitting the Grant Agreement(s) for the Performance Based Subsidy Program for financed project(s);
- 2.16. submission of an executed procurement agreement between [the Issuer] and [the Aggregation Agent];
- 2.17. the Issuer submitting a letter from the Issuer confirming its acceptance of the invoice value for the for the procurement, insurance and freight cost as provided by the “Aggregation Agent”;
- 2.18. submission of Term sheet/Financing agreement from other investor(s)/lender(s) to cover remainder of project cost;
- 2.19. evidence that the Issuer has applied for a CCI in respect of the Subscription Money;
- 2.20. [provision to the Investor of evidence that (A) lien has been created over the Proceeds Account and (B) the Investor has been made the key signatory to the Proceeds Account with the signature mandate on the Proceeds Accounts such that the Investor

or investor authorised representative alone or together with the Issuer's authorised signatory **only** can withdraw from the Proceeds Account¹²;

- 2.21. a letter from the Issuer confirming its acceptance of the invoice value for the procurement, insurance and freight cost as provided by the Aggregation Agent;
- 2.22. evidence that the Issuer has applied for a CCI in respect of the Subscription Money;
- 2.23. [resolution of the Issuer approving (A) the creation of a lien over the Proceeds Account and (B) the Investor or Investor authorised representative as the key signatory to the Proceeds Account with the signature mandate on the Proceeds Accounts such that the Investor or Investor authorised representative alone or together with the Issuer's authorised signatory **only** can withdraw from the Proceeds Account¹³; and
- 2.24. any other conditions precedent as stated in any of the Transaction Documents.

B. CONDITIONS SUBSEQUENT TO INITIAL SUBSCRIPTION

The Issuer shall fulfil the following conditions upon receipt of the Initial Subscription Amount:

- i. receipt of a e-CCI for the Initial Subscription Amount within 72 hours of disbursement of the Initial Subscription Amount, to be shared with the Investor;
- ii. within 21 days from date of disbursement, evidence of stamping and perfection of the Agreement;
- iii. submission of an executed notice of charge over the Proceeds Account [and the DSRA]¹⁴ to the Account Bank and an acknowledgement of same from the Account Bank; and
- iv. [evidence of Issuer's issue of the ISPO and acknowledgment by the Account Bank.]¹⁵

PART B

A. CONDITIONS PRECEDENT TO SECOND SUBSCRIPTION

The Issuer shall provide the Investor with, prior to Second Subscription:

- 1 a letter from the Issuer confirming its acceptance of the invoice value for the for the procurement, insurance and freight cost as provided by the "Aggregation Agent"; and
- 2 confirmation that the balance payment as stated on the purchase order issued by the Aggregation Agent to the Issuer for the Equipment is due for payment.

B. CONDITIONS SUBSEQUENT TO SECOND SUBSCRIPTION

The Issuer shall fulfil the following conditions upon Second Subscription Amount:

¹² To be retained only if the transaction features a co-signatory/lien arrangement.

¹³ Same as above.

¹⁴ Relevant where there is a DSRA.

¹⁵ Relevant where the transaction features an ISPO.

- i. receipt of a e-CCI for the Second Subscription Amount within 72 hours of disbursement of the Second Subscription Amount, to be shared with the Investor.

PART C

A. **CONDITIONS PRECEDENT TO FINAL SUBSCRIPTION**

The Issuer shall provide the Investor with, prior to Final Subscription:

1. Invoice from the Issuer for the value of duty payments, clearing and logistics costs.

CONDITIONS SUBSEQUENT TO FINAL SUBSCRIPTION

1. evidence of remittance and regularization of all tax liabilities of the Issuer up to the closing date;
2. receipt of a CCI within 72 hours of disbursement into the Issuer's bank account;
3. furnish the Investor with the duly authenticated Notes Certificate;
4. evidence of the procurement of the Equipment Insurance naming the Investor as the first loss payee with (an) insurer(s) acceptable to the Investor; and
5. update on project activities as may be required by the Investor