



Registration of a Charge

Company name: **SOLAR SUN LIMITED**

Company number: **07403006**



X50T927K

Received for Electronic Filing: **15/02/2016**

Details of Charge

Date of creation: **08/02/2016**

Charge code: **0740 3006 0002**

Persons entitled: **MACQUARIE BANK LIMITED, LONDON BRANCH AS SECURITY TRUSTEE FOR ITSELF AND EACH OF THE OTHER FINANCE PARTIES (AS DEFINED IN THE ACCOMPANYING COPY INSTRUMENT)**

Brief description: **ALL PRESENT AND FUTURE FREEHOLD OR LEASEHOLD LAND INCLUDING THE LAND AT 29 BECKINGTON, BROMPTON ROAD, WESTON-SUPER-MARE, AVON, BS24 9BT (TITLE NUMBER ST294308)AND 28 BECKINGTON, BROMPTON ROAD, WESTONSUPER-MARE, AVON, BS24 9BT (TITLE NUMBER ST294380), PURSUANT TO CLAUSE 3 AND SCHEDULE 1 OF THE ACCOMPANYING COPY INSTRUMENT**

Contains fixed charge(s).

Contains negative pledge.

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 SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BURGES SALMON LLP (EH11)**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7403006

Charge code: 0740 3006 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th February 2016 and created by SOLAR SUN LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th February 2016 .

Given at Companies House, Cardiff on 16th February 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Supplemental Charge

between

Solar Sun Limited

as Chargor

and

Macquarie Bank Limited, London Branch

as Security Trustee

relating to

a £23.7m term loan facility

This Supplemental Charge is supplemental to an Obligor Debenture dated 19 August 2015 and entered into between the parties hereto

CONTENTS

BACKGROUND.....	1
1. Definitions, Construction and Third Party Rights	1
2. Covenants to pay	2
3. Fixed Security	3
4. Further Assurance.....	3
5. General Undertakings with respect to charged assets.....	4
6. Real Property	4
7. Taxes	5
8. Rights of the Security Trustee	5
9. Exoneration.....	6
10. Appointment of Receiver or Administrator	7
11. Receiver's Powers	8
12. Protection of Purchasers.....	8
13. Power of Attorney and Delegation.....	9
14. Application of monies received under this Supplemental Charge	9
15. Release of Security	10
16. Amounts Payable.....	10
17. Power of Severance.....	11
18. New Accounts	11
19. Representations and Warranties	11
20. Miscellaneous	11
21. Calculations and Certificates	13
22. Notices	14
23. Counterparts	15
24. Law	15
25. Enforcement.....	15

Schedule 1 : Real property	17
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THIS SUPPLEMENTAL CHARGE is dated

8 February

2016 and made

BETWEEN:

- (1) **SOLAR SUN LIMITED**, (the "Chargor"), (a company incorporated in England and Wales with registration number 07403006) whose registered office is at Higher Hill Farm Butleigh Hill, Butleigh, Glastonbury, Somerset, United Kingdom BA6 8TW; and
- (2) **MACQUARIE BANK LIMITED, LONDON BRANCH**, (the "Security Trustee"), as trustee for itself and each of the other Finance Parties.

BACKGROUND

- (A) This Supplemental Charge is supplemental to the Original Debenture.
- (B) The Chargor owns the Real Property.
- (C) Under this Supplemental Charge, the Chargor provides further security to the Security Trustee for the Facility made available under the Facility Agreement.

OPERATIVE PROVISIONS

1. **Definitions, Construction and Third Party Rights**

1.1 Definitions

Terms defined in the Facility Agreement shall, unless otherwise defined in this Supplemental Charge or unless a contrary intention appears, bear the same meaning when used in this Supplemental Charge and the following terms shall have the following meanings:

"Administrator" means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the Chargor's affairs, business and property.

"Charged Assets" means the assets mortgaged, charged or assigned pursuant to clause 3 (*Fixed Security*) of this Supplemental Charge.

"Enforcement Date" means the date on which a notice is issued under clause 25.22 (*Acceleration*) of the Facility Agreement.

"Facility Agreement" means the facility agreement between, among others, (1) SPC Acquisitions Limited and (2) the Security Trustee dated 19 August 2015 and to which the Chargor has acceded as a Guarantor.

"LPA" means the Law of Property Act 1925.

"Occupational Lease" means any occupational lease or licence or other right of occupation to which the Real Property may be subject from time to time.

"Original Debenture" means the Obligor Debenture dated 19 August 2015 between the Chargor and the Security Trustee.

"Real Property" means:

- (A) all freehold and/or leasehold property or immovable property from time to time of the Chargor situate in England and Wales including, as at the date of this Supplemental Charge, the leasehold property set out in Schedule 1 (*Real Property*);
- (B) any buildings, fixtures (including trade fixtures), fittings, fixed plant or machinery from time to time on or forming part of the property referred to in paragraph (A) above; and
- (C) the Related Property Rights.

"Receiver" means any person appointed by the Security Trustee to be a receiver or receiver and manager or administrative receiver of any property subject to the Security Interests created by this Supplemental Charge.

"Related Property Rights" means, where used in relation to a particular property, asset (or class of assets) or right, the following:

- (A) the proceeds of sale and/or other realisation of that property, asset (or class of assets) or right (or any part thereof or interest therein); and
- (B) all Security Interests, options, agreements, rights, easements, benefits, indemnities, guarantees, warranties or covenants for title in respect of such property asset (or class of assets) or right; and
- (C) all rights under any Occupational Lease or agreement for lease, sale or use in respect of such property or asset.

"Secured Liabilities" means all or any monies, obligations and liabilities covenanted to be paid or discharged pursuant to clause 2 (*Covenants to Pay*).

"Secured Party" means each Finance Party and any Receiver or delegate thereof.

"Security Period" means the period from the date of this Supplemental Charge until the date on which the Security Trustee has determined (acting reasonably) that all of the Secured Liabilities (whether actual or contingent) have been irrevocably and unconditionally paid and discharged in full and that all facilities which might give rise to any Secured Liabilities have been terminated.

1.2 Construction and Third Party Rights

The provisions of clause 1.2 (*Interpretation*) of the Facility Agreement apply to this Supplemental Charge as though they were set out in full in this Supplemental Charge except that references to the Agreement are to be construed as references to the Original Debenture as supplemented by this Supplemental Charge and, unless a contrary indication appears, any reference in this Supplemental Charge to:

- (1) the "Chargor", the "Security Trustee", the "Shareholder", any "Finance Party" or any "Secured Party" or any other person will be construed so as to include that person's legal personal representatives, its successors in title, permitted assigns and permitted transferees;
- (2) this Supplemental Charge shall be construed as references also to any separate or independent stipulation or agreement contained in it; and

- (3) references to any form of property or asset (including the Shares) shall include a reference to all or any part of that property or asset.
- (B) The words "other", "or otherwise" and "whatsoever" shall not be construed ejusdem generis or be construed as any limitation upon the generality of any preceding words or matters specifically referred to.
- (C) The terms of this Supplemental Charge may be enforced only by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- (D) The fact that no or incomplete details of any Charged Asset are inserted in a schedule does not affect the validity or enforceability of the security granted hereunder.

1.3 Implied Covenants for Title

The obligations of the Chargor under this Supplemental Charge shall be in addition to the covenants for title deemed to be included in this Supplemental Charge by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

1.4 Effect as a Deed

This Supplemental Charge is intended to take effect as a deed notwithstanding that the Security Trustee may have executed it under hand only.

1.5 Law of Property (Miscellaneous Provisions) Act 1989

To the extent necessary for any agreement for the disposition of the Charged Assets in this Supplemental Charge to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Finance Documents and of any side letters between the parties to this Supplemental Charge are incorporated into this Supplemental Charge.

1.6 Security Trust Provisions

The Security Trustee holds the benefit of this Supplemental Charge on trust for the Finance Parties in accordance with clause 27 (*Role of the Security Trustee*) of the Facility Agreement.

1.7 Transaction Security Documents

Each of the parties to this Supplemental Charge designates this Supplemental Charge as a Transaction Security Document.

2. Covenants to pay

2.1 Covenant to Pay Secured Liabilities

The Chargor covenants that it shall on demand pay to the Security Trustee all monies and discharge all obligations and liabilities now or hereafter due, owing or incurred by it or any other Obligor to any Secured Party under the Finance Documents in each case whether by acceleration or otherwise, and whether such monies, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to a Secured Party or purchased (whether by assignment or otherwise) or acquired in any other way by it; denominated in sterling or any other

currency; or incurred on any current or other banking account or in any other manner whatsoever.

2.2 Potential Invalidity

Neither the covenant to pay in clause 2.1 (*Covenant to Pay Secured Liabilities*) nor the obligation to pay interest pursuant to clause 2.3 (*Interest*) nor the Security Interests created by this Supplemental Charge shall extend to or include any liability or sum which would, but for this clause 2.2, cause such covenant or security to be unlawful under any applicable law.

2.3 Interest

The Chargor hereby agrees to pay to the Security Trustee, in respect of any amount demanded from it in accordance with this Supplemental Charge (to the extent that interest on such amount is not otherwise being paid pursuant to any agreement between the Chargor and the relevant Finance Party) interest in accordance with clause 10.3 (*Default interest*) of the Facility Agreement.

3. Fixed Security

3.1 Creation of Fixed Security

The Chargor charges to the Security Trustee by way of fixed charge which so far as relates to freehold or leasehold property in England and Wales vested in the Chargor at the date of this Supplemental Charge shall be a charge by way of legal mortgage with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities all of the Chargor's rights to and title and interest in the Real Property.

4. Further Assurance

The Chargor shall promptly upon request by the Security Trustee execute (in such form as the Security Trustee may reasonably require) such documents (including assignments, transfers, mortgages, charges, notices and instructions) in favour of the Security Trustee or its nominees and do all such assurances and things (including the delivery, transfer, assignment or payment of all or part of the Charged Assets) as the Security Trustee (or its nominee) may reasonably require for:

- (A) creating, perfecting, maintaining and/or protecting (by registration or in any other way) the Security Interests created or intended to be created by this Supplemental Charge or title to all or any part of the Charged Assets, which shall include, without limitation, the obtaining of any necessary consent (in form and substance satisfactory to the Security Trustee) to enable all or any of the Charged Assets to be mortgaged or charged pursuant to this Supplemental Charge (which the Chargor shall promptly deliver a copy of to the Security Trustee);
- (B) facilitating the realisation, at any time on or after the occurrence of the Enforcement Date, of all or any part of the Charged Assets;
- (C) procure the transfer of the Charged Assets, into the name of the Security Trustee or such nominee(s), agents or purchasers as it shall direct, at any time on or after the occurrence of the Enforcement Date; and
- (D) for exercising all powers, remedies, authorities and discretions conferred on the Security Trustee or any Receiver pursuant to this Supplemental Charge or by law.

5. **General Undertakings with respect to charged assets**

5.1 The Chargor undertakes to the Security Trustee with respect to the Charged Assets that:

(A) **Negative Pledge**

it shall not, without the prior consent in writing of the Security Trustee, create or attempt to create or permit to subsist or arise any Security Interest on, over or affecting the Charged Assets or any part of them;

(B) **Disposals**

it shall not, without the prior consent in writing of the Security Trustee, dispose of the Charged Assets or any part of them or agree so to do except in the case of disposals which are expressly permitted by the Facility Agreement;

(C) **Subsequent Charges**

without prejudice to clause 23.2 (*Negative pledge*) of the Facility Agreement, it shall procure that any Security Interest created by the Chargor after the date of this Supplemental Charge (otherwise than in favour of the Security Trustee) shall be expressed to be subject to this Supplemental Charge;

(D) **Deposit of Title Documents**

to the extent the Chargor possesses them in materialised form it shall deposit with the Security Trustee the deeds and documents of title relating to the Charged Assets;

(E) **Prejudicial Action**

it shall not do or cause or permit to be done anything which is reasonably likely to reduce, jeopardise or otherwise prejudice the value to the Security Trustee of the Charged Assets; and

(F) **Repair and Condition**

it shall keep the Charged Assets in a good and substantial state of repair and condition in accordance with the terms of the Facility Agreement.

6. **Real Property**

6.1 **Registration and Notifications**

The Chargor shall:

(A) without prejudice to clause 23.5 (*No disposals*) of the Facility Agreement, immediately notify the Security Trustee of any contract, conveyance, transfer or other disposition for the acquisition by the Chargor of the legal or beneficial interest in any Real Property; and

(B) make an application to the Chief Land Registrar on Form RX1 for the registration against any Real Property from time to time including a registered title of the following restriction:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Security Trustee] referred to in the charges register or their conveyancer."

7. **Taxes**

The provisions of clause 14.2 (*Tax gross-up*), 14.3 (*Tax indemnity*), 14.4 (*Tax Credit*), 14.6 (*Stamp Taxes*) and 14.7 (*VAT*) of the Facility Agreement are incorporated into this Supplemental Charge as if expressly set out in this Supplemental Charge, as if references in those clauses were references to this Supplemental Charge and references to any Party include references to the Chargor.

8. **Rights of the Security Trustee**

8.1 **Enforcement**

At any time on or after the occurrence of the Enforcement Date, the Security Interests created pursuant to this Supplemental Charge shall be immediately enforceable and the Security Trustee may in its absolute discretion and without notice to the Chargor or the prior authorisation of any court:

- (A) enforce all or any part of the Security Interests created by this Supplemental Charge and take possession of or dispose of all or any of the Charged Assets in each case at such times and upon such terms as it sees fit; and
- (B) whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions:
 - (1) conferred from time to time on mortgagees by the LPA (as varied or extended by this Supplemental Charge) or by law; and
 - (2) granted to a Receiver by this Supplemental Charge or from time to time by law.

8.2 **Restrictions on Consolidation of Mortgages**

Section 93 of the LPA shall not apply to this Supplemental Charge or to any sale made under it. The Security Trustee shall have the right to consolidate all or any of the Security Interests created by or pursuant to this Supplemental Charge with any other security in existence at any time. Such power may be exercised by the Security Trustee at any time on or after the occurrence of the Enforcement Date. The Chargor hereby consents to the Security Trustee making an application to the Chief Land Registrar on Form CC for registration against any Real Property from time to time including a registered title of the right to consolidate.

8.3 **Restrictions on Exercise of Power of Sale**

Section 103 of the LPA shall not apply to this Supplemental Charge and the power of sale arising under the LPA shall arise on the date of this Supplemental Charge (and the Secured Liabilities shall be deemed to have become due and payable for that purpose). The power of sale and other powers conferred by section 101 of the LPA as varied or extended by this Supplemental Charge and those powers conferred (expressly or by reference) on a Receiver shall be immediately exercisable by the Security Trustee at any time on or after the occurrence of the Enforcement Date.

8.4 Leasing Powers

The restrictions contained in sections 99 to 100 of the LPA shall not apply to restrict the rights of the Security Trustee or any Receiver under this Supplemental Charge. The statutory powers of leasing may be exercised by the Security Trustee upon and following the occurrence of the Enforcement Date and the Security Trustee and any Receiver may make any lease or agreement for lease and/or accept any surrenders of leases and/or grant options on such terms as it sees fit without the need to comply with the aforementioned restrictions.

8.5 No Prior Notice Needed

The powers of the Security Trustee set out in clauses 8.2 (*Restrictions on Consolidation of Mortgages*), 8.3 (*Restrictions on Exercise of Power of Sale*) and 8.4 (*Leasing Powers*) above may be exercised by the Security Trustee without prior notice to the Chargor.

8.6 Right of Appropriation

(A) Without prejudice to the other provisions of this Supplemental Charge, to the extent that any of the Charged Assets constitute "financial collateral", and this Supplemental Charge and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003/3226) (the "Regulations")), the Security Trustee shall have the right to appropriate all or any part of those Charged Assets in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of any such Charged Assets so appropriated shall be the market price of such Charged Assets at the time the right of appropriation is exercised as determined by the Security Trustee by reference to such method or source of valuation as the Security Trustee may reasonably select, including by independent valuation. The parties agree that the methods or sources of valuation provided for in this clause or selected by the Security Trustee in accordance with this clause shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

(B) The Security Trustee shall notify the Chargor as soon as reasonably practicable of the exercise of its right of appropriation as regards such of the Charged Assets as are specified in such notice.

9. Exoneration

9.1 Exoneration

No Secured Party shall, nor shall any Receiver, by reason of it or the Receiver entering into possession of the Charged Assets, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Receiver duly appointed by the Security Trustee under this Supplemental Charge shall for all purposes be deemed to be in the same position as a receiver duly appointed by a mortgagee under the LPA save to the extent that the provisions of the LPA are varied by or are inconsistent with the provisions of this Supplemental Charge when the provisions of this Supplemental Charge shall prevail and every such Receiver and the Security Trustee shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers duly appointed under the LPA.

9.2 Indemnity

The Security Trustee and every Receiver, attorney, delegate, manager, agent or other person appointed by the Security Trustee hereunder shall be entitled to be indemnified out of the Charged Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Supplemental Charge and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets or any part of them, except to the extent such liabilities and expenses incurred are caused by the fraud, gross negligence or wilful misconduct of the Security Trustee or any Receiver, attorney, delegate, manager, agent or other person appointed by the Security Trustee hereunder. The Security Trustee and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Supplemental Charge.

10. Appointment of Receiver or Administrator

10.1 Appointment

- (A) At any time on or after the occurrence of the Enforcement Date, or if a petition is presented for the making of an administration order in relation to the Chargor, or at the request of the Chargor or its directors, the Security Trustee may, without prior notice to the Chargor, in writing (under seal, by deed or otherwise under hand) appoint:
- (1) a Receiver in respect of the Charged Assets or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his stead; or
 - (2) one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act 1986.
- (B) Nothing in clause 10.1(A) shall restrict the exercise by the Security Trustee of any one or more of the rights of the Security Trustee under Schedule B1 to the Insolvency Act 1986 and the rules thereunder or at common law.

10.2 More than one Receiver

Where more than one Receiver is appointed, each joint Receiver shall have the power to act severally, independently of any other joint Receiver, except to the extent that the Security Trustee may specify to the contrary in the appointment.

10.3 Receiver as agent

A Receiver shall be the agent of the Chargor which shall be solely responsible for his acts or defaults and for his remuneration and the Security Trustee shall not incur any liability (either to the Chargor or to any other person) by reason of the Security Trustee making his appointment as a receiver or for any other reason. No Receiver shall at any time act as agent of any Finance Party.

10.4 Receiver's Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be determined by the Security Trustee from time to time (and without being limited to any maximum rate specified by any statute or statutory instrument).

10.5 Actions of the Administrator

Save as provided for in statute or as otherwise agreed in writing by that Finance Party, no Finance Party shall have any liability for the acts or omissions of an Administrator.

11. Receiver's Powers

11.1 Powers

In addition to the powers of the Security Trustee conferred by clause 8 (*Rights of the Security Trustee*), a Receiver shall have (and be entitled to exercise) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Supplemental Charge):

- (A) all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (B) all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- (C) all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Chargor itself could do or omit to do;
- (D) the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Supplemental Charge or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the collection and/or realisation of Charged Assets in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

11.2 Powers may be Restricted

The powers granted to a Receiver pursuant to this Supplemental Charge may be restricted by the instrument (signed by the Security Trustee) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

12. Protection of Purchasers

12.1 Absence of Enquiry

No person or persons dealing with the Security Trustee or any Receiver shall be concerned to enquire whether any event has happened upon which any of the powers in this Supplemental Charge are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Supplemental Charge. All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the LPA shall apply to any person purchasing from or dealing with the Security Trustee or any such Receiver.

12.2 Receipt: Conclusive Discharge

The receipt of the Security Trustee or any Receiver shall be a conclusive discharge to any purchaser of the Charged Assets.

13. **Power of Attorney and Delegation**

13.1 **Power of Attorney: General**

The Chargor irrevocably and by way of security appoints the Security Trustee and any Receiver severally to be its attorney in its name and on its behalf and as its act and deed at any time:

- (A) to execute and deliver and perfect any documents or instruments which the Security Trustee or such Receiver may reasonably require for perfecting the title of the Security Trustee to the Charged Assets or for vesting the same in the Security Trustee, its nominee or any purchaser;
- (B) to sign, execute, seal and deliver and otherwise perfect any further security document which the Chargor is required to enter into pursuant to this Supplemental Charge;
- (C) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the rights conferred on the Security Trustee or any Receiver under this Supplemental Charge or by law (including, after the Security Interests constituted hereby has become enforceable, the exercise of any right of a legal or a beneficial owner of the Shares) or which the Chargor is required to do pursuant to this Supplemental Charge or which may be deemed expedient by the Security Trustee or a Receiver in connection with any preservation, disposition, realisation or getting in by the Security Trustee or such Receiver of the Charged Assets or in connection with any other exercise of any other power under this Supplemental Charge.

13.2 **Power of Attorney: Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this clause 13 (*Power of Attorney and Delegation*) does or purports to do in exercise of the powers granted by this clause.

13.3 **General Delegation**

The Security Trustee and any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Supplemental Charge (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

14. **Application of monies received under this Supplemental Charge**

- 14.1 Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Supplemental Charge, be applied for the purposes and in the order of priority set out in clause 25.24 (*Order of application on enforcement*) of the Facility Agreement, save that the Security Trustee or any Receiver may credit any monies received under this Supplemental Charge to a suspense account for so long and in such manner as the Security Trustee or such receiver may from time to time determine and a Receiver may retain the same for such period as he and the Security Trustee consider appropriate.

15. **Release of Security**

15.1 **Release**

The Security Trustee shall, at the request and cost of the Chargor, execute or procure the execution by its nominee (in each case in a form acceptable to the Security Trustee (acting reasonably)) and do all such deeds, acts and things as are necessary to release and/or reassign the Charged Assets from the Security Interests created by or in accordance with this Supplemental Charge at the end of the Security Period.

15.2 **Avoidance of Payments**

- (A) No amount paid, repaid or credited to a Secured Party shall be deemed to have been irrevocably paid if the Security Trustee considers (acting reasonably and having due regard to any evidence of solvency provided by the Chargor) that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.
- (B) If any amount paid, repaid or credited to a Secured Party is avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between that Secured Party and the Chargor shall be deemed not to have occurred and the Security Trustee shall be entitled to enforce this Supplemental Charge subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

16. **Amounts Payable**

16.1 **No Deduction**

All payments to be made by the Chargor under this Supplemental Charge shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Chargor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to a Secured Party under this Supplemental Charge or, if any such withholding or deduction is made in respect of any recovery under this Supplemental Charge, the Chargor shall (to the extent the relevant Finance Party (if it is a Lender) is a Qualifying Lender) pay such additional amount so as to ensure that the net amount received by that Secured Party shall equal the full amount due to it under the provisions of this Supplemental Charge (had no such withholding or deduction been made).

16.2 **Currency of Payment**

The obligation of the Chargor under this Supplemental Charge to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by a Secured Party of the full amount of the currency expressed to be payable under this Supplemental Charge.

16.3 **Currencies**

If any sum due from the Chargor under this Supplemental Charge (a "Sum"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the

currency (the "First Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of:

- (A) making or filing a claim or proof against the Chargor;
- (B) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
- (C) applying the Sum in satisfaction of any of the Secured Liabilities,

the Chargor shall, as an independent obligation, within three Business Days of demand, indemnify the relevant Secured Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that Secured Party at the time of its receipt of that Sum.

17. **Power of Severance**

In the exercise of the powers conferred by this Supplemental Charge the Security Trustee or any Receiver may sever and sell plant, machinery or other fixtures separately from the property to which they may be annexed and the Security Trustee or any Receiver may apportion any rent or other amount without the consent of the Chargor.

18. **New Accounts**

If a Finance Party receives notice of any subsequent charge or other interest affecting any part of the Charged Assets (the date of receipt of such notice being the "Notice Date") it may, without prejudice to its rights under this Supplemental Charge, open a fresh account or accounts with the Chargor and continue any existing account in the name of the Chargor and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Chargor after that time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If a Finance Party fails to open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

19. **Representations and Warranties**

19.1 **Representations**

The Chargor represents and warrants in favour of each of the Finance Parties, that it is the sole legal and beneficial owner of the Charged Assets free from any security and third party rights (other than the Original Debenture and this Supplemental Charge) and this Supplemental Charge confers the Security Interests it purports to confer over the Charged Assets and the Security Interests created under or pursuant to this Supplemental Charge is not subject to any prior or pari passu security and is not liable to avoidance on liquidation or bankruptcy, composition or any other similar insolvency proceedings.

19.2 **Times for Making Representations and Warranties**

The representations and warranties set out in this clause 19.2 are made on the date of this Supplemental Charge and are deemed to be repeated each day prior to the expiry of the Security Period by reference to the facts and circumstances then existing.

20. **Miscellaneous**

20.1 **The Chargor**

This Supplemental Charge is binding on the successors and assigns of the Chargor.

20.2 **Further Advances**

The Security Trustee hereby covenants with the Chargor, for the purpose of Section 94(1) of the LPA, that it will make further advances to the Chargor on the terms and subject to the conditions of the Facility Agreement. The Chargor hereby applies to the Chief Land Registrar for a note to that effect to be entered on the register of any Real Property title to which is now or at any time hereafter registered or required to be registered under the Land Registration Acts.

20.3 **Assignment and Transfer**

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Supplemental Charge. The Security Trustee may assign and transfer all or any part of its rights and obligations under this Supplemental Charge in accordance with the terms of the Facility Agreement.

20.4 **Property**

This Supplemental Charge is and will remain the property of the Security Trustee.

20.5 **Remedies and Waivers Cumulative**

Save as expressly provided in this Supplemental Charge, no failure to exercise, or delay in exercising any right, power, privilege or remedy under this Supplemental Charge on the part of any Secured Party shall operate as a waiver, nor shall any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise, or the exercise of any other right, power, privilege or remedy. No waiver by a Secured Party shall be effective unless it is in writing. The rights and remedies of a Secured Party provided in this Supplemental Charge are cumulative and not exclusive of any rights or remedies provided by law. No prior security held by the Security Trustee over the whole or any part of the Charged Assets shall merge into the collateral hereby constituted.

20.6 **Set-Off**

A Finance Party may set-off any matured obligation due from the Chargor to that Finance Party under this Supplemental Charge against any matured obligation owed by that Finance Party to the Chargor, regardless of the place of payment, booking, branch or currency of either obligation and apply any credit balance to which the Chargor is entitled on any account with that Finance Party in accordance with clause 14 (*Application of Monies Received under this Supplemental Charge*). If the obligations are in different currencies, a Finance Party may, at the cost of the Chargor, convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

20.7 **Partial Invalidity**

If, at any time, any provision of this Supplemental Charge is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Supplemental Charge nor the legality, validity or enforceability of that provision under the law of any other jurisdiction, shall in any way be affected or impaired.

20.8 Continuing Security

This Supplemental Charge shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

20.9 Additional Security

This Supplemental Charge shall be in addition to and not be affected by any other security or guarantee now or hereafter held by a Finance Party for all or any part of the Secured Liabilities nor shall any such other security or guarantee of liability to a Finance Party of or by any person not a party to this Supplemental Charge be in any way impaired or discharged by this Supplemental Charge nor shall this Supplemental Charge in any way impair or discharge such other security or guarantee.

20.10 Variation of Security

This Supplemental Charge shall not in any way be affected or prejudiced by a Secured Party at any time dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any security or guarantee referred to in clause 20.9 (*Additional Security*) or any rights which a Secured Party may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

20.11 Enforcement of Other Security

No Secured Party shall be obliged to enforce any other Security Interests it may hold for the Secured Liabilities before enforcing any of its rights under this Supplemental Charge.

20.12 Redemption of Prior Incumbrances

The Security Trustee or a Receiver may redeem or take a transfer of any prior Security over the Charged Assets and may agree the accounts of prior incumbrancers. An agreed account shall be conclusive and binding on the Chargor. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Chargor to the Security Trustee and until such payment shall form part of the Secured Liabilities.

20.13 Discretion

Except when stated otherwise in this Supplemental Charge, any liberty or power which may be exercised, any determination which may be made and any opinion which may be formed hereunder by the Security Trustee or any Receiver may be exercised, made and formed in its or his absolute and unfettered discretion without any obligation to give reasons therefor.

20.14 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Supplemental Charge, the entries made in the accounts maintained by the Security Trustee in connection with this Supplemental Charge are prima facie evidence of the matters to which they relate.

21. **Calculations and Certificates**

21.1 **Certificates and Determinations**

Any certification or determination by the Security Trustee of a rate or amount under this Supplemental Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

21.2 **Day Count Convention**

Any interest accruing under this Supplemental Charge will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

22. **Notices**

22.1 **Communications in writing**

Any communication to be made under or in connection with this Supplemental Charge shall be made in writing and, unless otherwise stated, may be given in person, by post, electronic mail or fax.

22.2 **Addresses**

The address, fax number and (if applicable) email address (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Supplemental Charge for any communication or document to be made or delivered under or in connection with this Supplemental Charge is as follows:

In the case of the Security Trustee:

Address: Ropemaker Place, 28 Ropemaker Street, London EC2Y 9HD

Fax number: +44 20 3037 5700

Email address: cfmefpnotices@macquarie.com with a copy to
cfmlegallon@macquarie.com

Attention: Conor McNally / Matt Booth with a copy to CFM Legal London

In the case of the Chargor:

Address: Higher Hill Farm Butleigh Hill, Butleigh, Glastonbury, Somerset, United Kingdom BA6 8TW

Fax number: N/A

Attention: Graham Harding

Email: Graham.Harding@BritishRenewables.com

or any substitute address, fax number, email address or department or officer as the Security Trustee or the Chargor may notify to the other party by not less than five Business Days' notice.

22.3 Delivery

- (A) Any communication or document made or delivered by one party to another under or in connection with this Supplemental Charge will only be effective:
 - (1) if by way of fax, when received in legible form; or
 - (2) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 22.2 (*Addresses*), if addressed to that department or officer.
- (B) Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Security Trustee shall specify for this purpose).
- (C) Any communication or document which becomes effective, in accordance with clauses 22.3(A)(1) or 22.3(A)(2) after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following Business Day.

22.4 English language

- (A) Any notice given under or in connection with this Supplemental Charge must be in English.
- (B) All other documents provided under or in connection with this Supplemental Charge must be:
 - (1) in English; or
 - (2) if not in English, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

23. Counterparts

This Supplemental Charge may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Supplemental Charge.

24. Law

This Supplemental Charge and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

25. **Enforcement**

25.1 Jurisdiction of English courts

- (A) The courts of England have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Supplemental Charge or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a "Dispute").
- (B) Subject to clause 25.1(C) below, the parties to this Supplemental Charge agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Chargor will not:
 - (1) argue to the contrary; or
 - (2) initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than England.
- (C) This Clause 25.1 is for the benefit of each of the Security Trustee only. As a result, the Security Trustee shall not be prevented from initiating or pursuing proceedings relating to a Dispute in any other courts with jurisdiction nor from contending that such courts are appropriate and convenient. To the extent allowed by law, the Security Trustee may initiate or pursue:
 - (1) proceedings in any other court; and
 - (2) concurrent proceedings in any number of jurisdictions,

irrespective of whether proceedings have already been initiated by any party in England.

IN WITNESS whereof this Supplemental Charge has been duly executed and delivered as a deed on the date first above written.

SCHEDULE 1 : REAL PROPERTY

Property name (if any)	Street	Locality	Town	Postal County	Postal Code	HMLR Title Number
29 Beckington	Brompton Road		Weston-super-Mare	Avon	BS24 9BT	ST294308
28 Beckington	Brompton Road		Weston-super-Mare	Avon	BS24 9BT	ST294380
	10 Yeomans Orchard	Wrington	Bristol		BS40 5NT	ST294306
	17 Elm Close	Nailsea	Bristol		BS48 4XP	ST294491
	13 Turnpike Gate	Wickwar	Wotton-under-Edge	Gloucestershire	GL12 8ND	GR358740
	22 Dibdin Close		Newport	Gwent	NP19 9LJ	CYM540234
	129 Balmoral Way		Weston-super-Mare	Avon	BS22 9DJ	ST294339
	32 Allerton Crescent		Bristol		BS14 9PU	BL126614

THE CHARGOR

EXECUTED AS A DEED by
SOLAR SUN LIMITED

acting by
(director)

in the presence of:

Signature of witness:

)
)

Director

LOUISA MILNE

Name of witness

(in Block Capitals)

Address of witness:

POLLARDS HILL FARM

NORTHING ROAD

SOUTHWATER - W. SUSSEX

RH13 9SN

THE SECURITY TRUSTEE

SIGNED by

and

For and on behalf of

**MACQUARIE BANK LIMITED,
LONDON BRANCH**

)
)

Authorised Signatory

Authorised Signatory

in the presence of:

Signature of witness:

Name of witness

(in Block Capitals)

Address of witness:

THE CHARGOR

EXECUTED AS A DEED by
SOLAR SUN LIMITED

acting by
 (director)

in the presence of:

Signature of witness:

)

)

.....
 Director

.....
 Name of witness

(in Block Capitals)

Address of witness:

.....

.....

.....

THE SECURITY TRUSTEE

SIGNED by

and

For and on behalf of

MACQUARIE BANK LIMITED,
LONDON BRANCH

in the presence of:

Signature of witness:

)

)

.....
 Authorised Signatory

Matthew Booth
Division Director

.....
 Authorised Signatory

Karen Goepten
 Associate Director

.....
CONOR MENALLY
 Name of witness

(In Block Capitals)

Address of witness:

Macquarie Bank Limited
 Ropemaker Place
 28 Ropemaker Street
 London
 EC2Y 9HD
 UK

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