

MR01

Particulars of a charge

195212 / 13



A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is
no instrument. Use form MR08

For further information, please
refer to our guidance at

This form must be delivered to the Registrar for registration within
21 days beginning with the day after the date of creation of the charge.
If delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery



You must enclose a certified copy of the instrument with this form. It will be
scanned and placed on the public record



A05 04/11/2013 #114
COMPANIES HOUSE

MONDAY

1 Company details

Company number 08122931
Company name in full MTS HATCHLANDS SOLAR LIMITED

2 For official use
Filing in this form
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 29/10/2013

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name
THE ROYAL BANK OF SCOTLAND PLC
Security Trustee

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MRO1

Particulars of a charge

4	Description	Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security	Continuation page Please use a continuation page if you need to enter more details
Description	N/A		

5	Fixed charge or fixed security	<p>Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
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6	Floating charge	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes Continue</p> <p><input type="checkbox"/> No Go to Section 7</p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input checked="" type="checkbox"/> Yes</p>	
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7	Negative Pledge	<p>Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
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MR01

Particulars of a charge

8

Trustee statement¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X

Ashurst LLP

X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name YGHALI/R546 01516/HATCH/DEB

Company name ASHURST LLP

Address BROADWALK HOUSE

5 APPOLD STREET

Post town LONDON

County/Region

Postcode E C 2 A 2 H A

Country ENGLAND

DX 639 LONDON CITY

Telephone +44 (0)20 7638 1111



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number. 8122931

Charge code: 0812 2931 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th October 2013 and created by MTS HATCHLANDS SOLAR LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th November 2013

DX

Given at Companies House, Cardiff on 8th November 2013



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



EXECUTION VERSION

Borrower Debenture (Hatchlands)

MTS Hatchlands Solar Limited as Borrower

and

The Royal Bank of Scotland PLC as Security Trustee

Certified as a true copy of the
original instrument save for the
material redacted pursuant to
s 859G of the Companies Act 2006

 Ashurst LLP

ROBIN LAWTON

SOLICITOR

31/10/2013

29 OCTOBER 2013

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THIS DEBENTURE is made on **29 OCTOBER** 2013

BETWEEN:

- (1) **MTS HATCHLANDS SOLAR LIMITED**, registered in England and Wales with company number 08122931 and registered address 4th Floor, 20 Old Bailey, London, EC4M 7AN, United Kingdom (the "**Borrower**"),

IN FAVOUR OF:

- (2) **THE ROYAL BANK OF SCOTLAND PLC** as trustee for the Secured Parties on the terms and conditions set out in the Facility Agreement (the "**Security Trustee**" which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of, and in accordance with, the Facility Agreement)

IT IS AGREED as follows

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Debenture and any Mortgage (as defined below).

"Account" means the Project Accounts and any other account opened or maintained by the Borrower with the Security Trustee, the Account Bank or any other person (and any replacement account or subdivision or subaccount of that account), the debt or debts represented thereby and all Related Rights,

"Assigned Account" means the Maintenance Reserve Account, the Debt Service Reserve Account, the Insurance Proceeds Account and the Compensation Proceeds Account and the debt or debts represented thereby and any other Account that may from time to time be identified in writing as an Assigned Account by the Security Trustee,

"Charged Property" means all the assets and undertaking of the Borrower which from time to time are the subject of the security created or expressed to be created in favour of the Security Trustee by or pursuant to this Debenture and any Mortgage,

"Collateral Rights" means all rights, powers and remedies of the Security Trustee provided by or pursuant to this Debenture or any Mortgage or by law,

"Disputes" has the meaning given to it in clause 34 (Jurisdiction and Enforcement),

"Facility Agreement" means the facility agreement dated on or about the date hereof between, amongst others, the Borrower, the Arranger, the Original Lender, the Original Hedge Counterparty, the Facility Agent and the Security Trustee, each as defined in such agreement as amended, varied, novated or supplemented from time to time,

"Insurance Policy" means any policy of insurance in which the Borrower may from time to time have an interest including each of the contracts of insurance or reinsurance entered into pursuant to clause 23.22 (Insurance) of the Facility Agreement, any other contracts or policies of insurance or reinsurance taken out by or on behalf of the Borrower or which the Borrower has the benefit of from time to time and any renewal or replacement of any such policy whether with the same or a different insurer or insurers and whether on the same or different terms,

"Intellectual Property" means any patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether

registered or unregistered, the benefit of all applications and rights to use such assets and all Related Rights,

"Investments" means:

- (a) any stocks, shares, debentures, securities and certificates of deposit,
- (b) all interests in collective investment schemes, and
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b),

in each case whether held directly by or to the order of the Borrower or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system)

"Monetary Claims" means any book and other debts and monetary claims owing to the Borrower and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which the Borrower is a party and any other assets, property, rights or undertaking of the Borrower)

"Mortgage" means a mortgage or legal charge in respect of all or any part of the Real Property in accordance with Clause 6 (Further Assurance) substantially in the form of schedule 2 (Form of Legal Mortgage)

"Mortgaged Property" means the leasehold property specified in the Schedule to the Mortgage

"Notice of Assignment" means a notice of assignment in substantially the form set out in Schedule 1 (Forms of Notice of Assignment) or in such form as may be specified by the Security Trustee

"Real Property" means:

- (a) the Mortgaged Property,
- (b) any present or future freehold, leasehold or immovable property and any other interest in land or buildings and all rights relating thereto in which the Borrower has an interest, and
- (c) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property,

and includes all Related Rights

"Receiver" means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment

"Regulations" has the meaning given to it in Clause 14.3 (Right of Appropriation)

"Related Rights" means, in relation to any asset

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,

- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any monies and proceeds paid or payable in respect of that asset

"Specific Contracts" means the Shareholders' Agreement, the Lease, the PPA, the EPC Contract, the EPC Guarantee, the Warranty Bank Guarantee, the Connection Agreement, the HoldCo Loan Agreement, each Warranty, each Warranty Document, the Meter Operating Agreement, the Project Services Agreement, the Hedging Agreements and any other Project Document which the Borrower is a party to

"Tangible Moveable Property" means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Borrower's stock in trade or work in progress) and all Related Rights

1 2 **Terms defined in other Finance Documents**

Unless defined in this Debenture, or the context otherwise requires, a term defined in the Facility Agreement or in any other Finance Document has the same meaning in this Debenture and each Mortgage, or any notice given under or in connection with this Debenture or any Mortgage, as if all references in those defined terms to the Facility Agreement or other Finance Documents were a reference to this Debenture, each Mortgage or that notice

1 3 **Construction**

In this Debenture or, as applicable, any Mortgage the rules of interpretation contained in clause 1 2 (Construction) of the Facility Agreement shall apply to the construction of this Debenture or any Mortgage or any notice given under or in connection with this Debenture or any Mortgage

1 4 **Duplication**

To the extent that the provisions of the Debenture duplicate those of any Mortgage the provisions of that Mortgage shall prevail

1 5 **Disposition of Property**

The terms of the other Finance Documents and of any side letters between the Parties in relation to the Finance Documents are incorporated into this Debenture, each Mortgage and each other Finance Document to the extent required for any purported disposition of the Real Property contained in any Finance Document to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

1 6 **Incorporation of provisions into any Mortgage**

Clauses 1 2 (Terms defined in other Finance Documents), 1 3 (Construction), 6 1 (Further Assurance General), 6 3 (Implied Covenants for Title), 14 (Enforcement of Security), 15 (Extension and Variation of the Law of Property Act 1925), 15 3 (Appointment of Receiver), 17 (Powers of Receiver), 20 (Power of Attorney), 31 (Miscellaneous), 33 (Governing Law) and 34 (Jurisdiction and Enforcement) of this Debenture are incorporated into any Mortgage as if expressly incorporated into that Mortgage, as if references in those clauses to this Debenture were references to that Mortgage and as if all references in those clauses to Charged Property were references to the assets of the Borrower from time to time charged in favour of, or assigned (whether at law or in equity) to the Security Trustee by or pursuant to that Mortgage

1 7 Mortgage

It is agreed that each Mortgage is supplemental to this Debenture

1 8 Present and future assets

1 8 1 A reference in this Debenture and any Mortgage to any Mortgaged Property or other asset includes, unless the contrary intention appears, present and future Mortgaged Property and other assets

1 8.2 The absence of or incomplete details of any Charged Property in any Schedule shall not affect the validity or enforceability of any Security under this Debenture or any Mortgage

1 9 Fixed Security

Clauses 3 1 (Fixed Charges) and 3 2 (Assignments) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment by way of security over each relevant asset within any particular class of assets defined under this Debenture or any Mortgage and the failure to create an effective mortgage, fixed charge or assignment by way of security (whether arising out of this Debenture or any Mortgage or any act or omission by any party) on any one asset shall not affect the nature of any mortgage, fixed charge or assignment imposed on any other asset whether within that same class of assets or not.

1 10 No obligation

The Security Trustee shall not be under any obligation in relation to the Charged Property as a consequence of this Debenture or any Mortgage and the Borrower shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Charged Property

2 PAYMENT OF SECURED OBLIGATIONS

2 1 Covenant to Pay

The Borrower covenants with the Security Trustee as trustee for the Secured Parties that it shall discharge all Secured Obligations on their due date in accordance with their respective terms and the Borrower shall pay to the Security Trustee when due and payable every sum at any time owing, due or incurred by the Borrower to the Security Trustee (whether for its own account or as trustee for the Secured Parties) or any of the other Secured Parties in respect of any such Secured Obligations Provided that neither such covenant nor the security constituted by this Debenture or any Mortgage shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law

2 2 Interest on Demands

If the Borrower fails to pay any sum on the due date for payment of that sum the Borrower shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with the provisions of clause 8 3 (Default Interest) of the Facility Agreement

3 FIXED CHARGES, ASSIGNMENTS AND FLOATING CHARGE

3 1 Fixed Charges

- 3 1 1 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge (which so far as it relates to the Mortgaged Property or land in England and Wales vested in the Borrower at the date of this Debenture shall be a charge by way of first legal mortgage) (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party) the Real Property
- 3 1 2 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Tangible Moveable Property
- 3 1 3 The Borrower charges, to the extent permitted by law, with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the PV Plant
- 3 1 4 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Accounts
- 3 1 5 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Intellectual Property
- 3 1 6 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) any goodwill and rights in relation to the uncalled capital of the Borrower
- 3 1 7 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Investments
- 3 1 8 The Borrower charges with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Borrower's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to this Debenture

3 2 Assignments

3 2 1 The Borrower, to the extent permitted by applicable law, assigns and agrees to assign absolutely with full title guarantee to the Security Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations all the Borrower's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party)

- (a) the proceeds of any Insurance Policy and all Related Rights, and
- (b) the Specific Contracts, all proceeds paid or payable thereunder and all Related Rights

3 2 2 For the avoidance of doubt, prior to the occurrence of an Event of Default the Borrower shall be permitted to continue to exercise its rights, powers and discretions in relation to the Specific Contracts and retain payments of receivables assigned hereunder, subject always to the provisions of the Finance Documents and this Debenture

3 3 Floating Charge

3 3 1 The Borrower with full title guarantee charges in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of the Borrower

3 3 2 The floating charge created by Clause 3 3 1 above shall be deferred in point of priority to all fixed Security validly and effectively created by the Borrower under the Finance Documents in favour of the Security Trustee as trustee for the Secured Parties as security for the Secured Obligations

3 3 3 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 3 3 (Floating Charge)

4 CRYSTALLISATION OF FLOATING CHARGE

4 1 Crystallisation: By Notice

The Security Trustee may at any time by notice in writing to the Borrower convert the floating charge created by Clause 3 3 (Floating Charge) with immediate effect into a fixed charge as regards any property or assets specified in the notice if

- 4 1 1 an Event of Default has occurred and is continuing, or
- 4 1 2 the Security Trustee reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process, or
- 4 1 3 the Security Trustee reasonably considers that it is necessary in order to protect the priority of the security

4 2 Crystallisation: Automatic

Notwithstanding Clause 4 1 (Crystallisation By Notice) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge as regards all the assets subject to the floating charge if

- 4 2 1 the Borrower creates or attempts to create any Security (other than any Security permitted under clause 24 4 (Negative Pledge) of the Facility Agreement), over any of the Charged Property;
- 4 2 2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property,
- 4 2 3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower or an administrator is appointed to the Borrower, or
- 4 2 4 any person (who is entitled to do so) gives notice of its intention to appoint an administrator to the Borrower or files such a notice with the court

5 PERFECTION OF SECURITY

5 1 Notices of Assignment

The Borrower shall deliver to the Security Trustee (or procure delivery of) Notices of Assignment duly executed by, or on behalf of, the Borrower

- 5 1 1 in respect of each Assigned Account, on the date of this Debenture or in respect of each Account which is not an Assigned Account promptly upon the designation at any time by the Security Trustee of that Account as an Assigned Account, and
- 5 1 2 in respect of each Specific Contract entered into on or prior to the date of this Debenture, promptly after the date of this Debenture,
- 5 1 3 in respect of any Specific Contract entered into after the date of this Debenture, within three (3) Business Days of the date of such Specific Contract, and
- 5 1.4 in respect of any other asset which is the subject of an assignment pursuant to Clause 3 2 (Assignments) promptly upon the request of the Security Trustee from time to time,

and in each case shall use all reasonable endeavours to procure that each notice is acknowledged by the obligor or debtor specified by the Security Trustee and shall retain and, if requested to do so, promptly deliver to the Security Trustee written evidence of the delivery of such Notices of Assignment to the relevant counterparties specified in such Notices of Assignment, provided that the obligation under this Clause 5 1 shall not apply if such notices and acknowledgements have been incorporated into

- (a) in the case of the Assigned Accounts, the Account Bank Agreement,
- (b) in the case of a Specific Contract, the relevant Direct Agreement entered into between, amongst others, the Security Trustee and the counterparty to the relevant Specific Contract, or
- (c) in the case of any Insurance Policy, the endorsements contained in such policy

5 2 Notices of Charge

- 5 2.1 The Borrower shall if requested by the Security Trustee from time to time promptly deliver to the Security Trustee (or procure delivery of) notices of charge (in form and substance reasonably satisfactory to the Security Trustee) duly executed by, or on behalf of, the Borrower and shall use all reasonable

endeavours to procure that each notice is acknowledged by each of the banks or financial institutions with which any of the Accounts (other than the Assigned Accounts and the Proceeds Account) are opened or maintained

- 5 2 2 The execution of this Debenture by the Borrower and the Security Trustee shall constitute notice to the Security Trustee of the charge created over any Account opened or maintained with the Security Trustee

5 3 **Real Property: Delivery of Documents of Title**

The Borrower shall

- 5 3 1 immediately upon the execution of this Debenture or any Mortgage (and upon the acquisition by it of any interest in any Charged Property at any time) deposit (or procure the deposit) with the Security Trustee all deeds, certificates and other documents constituting or evidencing title to the Charged Property (other than the Investments in relation to which Clause 8 2 (Investments Delivery of Documents of Title) shall apply) or shall procure that the Borrower's solicitor delivers appropriate undertakings satisfactory to the Security Trustee to hold the deeds, certificates and other documents of title to the order of the Security Trustee, and
- 5 3 2 deposit with the Security Trustee at any time thereafter any further such deeds, certificates and other documents, promptly upon coming into possession of any of those items or shall procure that the Borrower's solicitor delivers appropriate undertakings satisfactory to the Security Trustee to hold the deeds, certificates and other documents of title to the order of the Security Trustee

5 4 **Registration of Intellectual Property**

The Borrower shall, if requested by the Security Trustee, execute all such documents and do all acts that the Security Trustee may reasonably require to record the interest of the Security Trustee in any registers relating to any registered Intellectual Property

6 **FURTHER ASSURANCE**

6 1 **Further Assurance: General**

- 6 1 1 The covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 6 1 2 below
- 6 1 2 The Borrower shall promptly at its own cost enter into a Mortgage over any Real Property and do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may specify (and in such form as the Security Trustee may require in favour of the Security Trustee or its nominee(s))
- (a) to create, perfect, protect and maintain the security created or intended to be created in respect of the Charged Property (which may include the execution by the Borrower of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Charged Property) or for the exercise of the Collateral Rights,
- (b) to confer on the Security Trustee security over any property, assets or undertaking of the Borrower located in any jurisdiction outside England

and Wales equivalent or similar to the security intended to be conferred by or pursuant to this Debenture and each Mortgage, and/or

(c) to facilitate the realisation of the Charged Property.

6 2 Consents

The Borrower shall use all reasonable endeavours to obtain (in form and content reasonably satisfactory to the Security Trustee) as soon as possible any consents necessary including any consent necessary for any Mortgage to enable the assets of the Borrower to be the subject of an effective fixed charge or assignment pursuant to Clause 3 (Fixed Charges, Assignments and Floating Charge) and, immediately upon obtaining any such consent, the asset concerned shall become subject to such security and the Borrower shall promptly deliver a copy of each consent to the Security Trustee

6 3 Implied Covenants for Title

The obligations of the Borrower under this Debenture and any Mortgage shall be in addition to the covenants for title deemed to be included in this Debenture and any Mortgage by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994

7 NEGATIVE PLEDGE AND DISPOSALS

7.1 Negative Pledge

The Borrower undertakes that it shall not, at any time during the subsistence of this Debenture or any Mortgage, create or permit to subsist any Security over all or any part of the Charged Property other than Security permitted pursuant to the Facility Agreement

7 2 No Disposal of Interests

The Borrower undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture or any Mortgage, except as permitted pursuant to the Facility Agreement or by this Clause 7 or, in relation to any Account, Clause 9 2

7 2 1 execute any conveyance, transfer, lease or assignment of, or other right to use or occupy, all or any part of the Charged Property,

7 2 2 create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property,

7 2 3 (a) grant or vary, or accept any surrender, or cancellation or disposal of, any lease, tenancy, licence, consent or other right to occupy in relation to any of the Charged Property or (b) allow any person any right to use or occupy or to become entitled to assert any proprietary interest in, or right over, the Charged Property, which may, in each case, adversely affect the value of any of the Charged Property or the ability of the Security Trustee to exercise any of the Collateral Rights, or

7 2 4 assign or otherwise dispose of any interest in any Account

8 INVESTMENTS

8 1 Investments: Payment of Calls

The Borrower shall pay when due all calls or other payments which may be or become due in respect of any of the Investments, and in any case of default by the Borrower in such payment, the Security Trustee may, if it thinks fit, make such payment on behalf of the

Borrower in which case any sums paid by the Security Trustee shall be reimbursed by the Borrower to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until reimbursed at the rate and in accordance with Clause 2.2 (Interest on Demands)

8.2 Investments: Delivery of Documents of Title

After the occurrence of an Event of Default the Borrower shall promptly on the request of the Security Trustee, deliver (or procure delivery) to the Security Trustee, and the Security Trustee shall be entitled to retain, all of the Investments and any certificates and other documents of title representing the Investments to which the Borrower (or its nominee(s)) is or becomes entitled together with any other document which the Security Trustee may reasonably request (in such form and executed as the Security Trustee may reasonably require) with a view to perfecting or improving its security over the Investments or to registering any Investment in its name or the name of any nominee(s)

8.3 Investments: Exercise of Rights

The Borrower shall not exercise any of its rights and powers in relation to any of the Investments in any manner which, in the opinion of the Security Trustee (acting reasonably), would prejudice the value of, or the ability of the Security Trustee to realise, the security created by this Debenture

9 ACCOUNTS

9.1 Accounts: Notification and Variation

The Borrower, during the subsistence of this Debenture

9.1.1 shall promptly deliver to the Security Trustee on the date of this Debenture (and, if any change occurs thereafter, on the date of such change), details of each Account maintained by it with any bank or financial institution (other than with the Security Trustee or other than those Accounts the details of which are already set out in the Account Bank Agreement), and

9.1.2 shall not, without the Security Trustee's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account

9.2 Accounts: Operation Before Event of Default

The Borrower shall prior to the occurrence of an Event of Default (which is continuing) be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account subject to the terms of the Facility Agreement.

9.3 Accounts: Operation After Event of Default

After the occurrence of an Event of Default (which is continuing) the Borrower shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Security Trustee

9.4 Assigned Accounts

9.4.1 The Borrower shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Assigned Account except as permitted pursuant to the terms of the Facility Agreement

9.4.2 The Security Trustee shall, upon the occurrence of an Event of Default (which is continuing), be entitled without notice to exercise from time to time all

rights, powers and remedies held by it as assignee of the Assigned Accounts and to

- (a) demand and receive all and any monies due under or arising out of each Assigned Account, and
- (b) exercise all such rights as the Borrower was then entitled to exercise in relation to such Assigned Account or might, but for the terms of this Debenture, exercise

9 5 Accounts: Application of Monies

The Security Trustee shall, upon the occurrence of an Event of Default (which is continuing), be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 18 (Application of Monies)

10 MONETARY CLAIMS

10 1 Dealing with Monetary Claims

The Borrower shall not at any time during the subsistence of the Debenture, except as permitted under the Facility Agreement

- 10 1 1 deal with the Monetary Claims except as set out in the Transaction Documents and upon realisation of the same paying the proceeds of those Monetary Claims into the Account specified in the Facility Agreement or, following the occurrence of an Event of Default (which is continuing), as the Security Trustee may require (and such proceeds shall be held upon trust by the Borrower for the Security Trustee on behalf of the Secured Parties prior to such payment in),
- 10 1 2 factor or discount any of the Monetary Claims or enter into any agreement for such factoring or discounting, or
- 10 1 3 be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Monetary Claims standing to the credit of any Account

10 2 Release of Monetary Claims: Before Event of Default

Prior to the occurrence of an Event of Default (which is continuing), the proceeds of the realisation of the Monetary Claims shall (subject to any restriction on the application of such proceeds contained in this Debenture or in the Facility Agreement), upon such proceeds being credited to an Account, be applied in accordance with the terms of the Facility Agreement

10 3 Release of Monetary Claims: After Event of Default

After the occurrence of an Event of Default (which is continuing) the Borrower shall not, except with the prior written consent of the Security Trustee, be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Monetary Claims standing to the credit of any Account

11 INSURANCES

11 1 Insurance: Undertakings

The Borrower shall at all times during the subsistence of this Debenture

- 11 1 1 keep the Charged Property insured in accordance with the terms of the Facility Agreement,
- 11 1 2 if required by the Security Trustee, cause each insurance policy or policies relating to the Charged Property other than any Insurance Policy which has been the subject of a Notice of Assignment pursuant to Clause 5 (Perfection of Security) to contain (in form and substance reasonably satisfactory to the Security Trustee) an endorsement naming the Security Trustee as sole loss payee in respect of all claims until such time as the Security Trustee notifies the insurer(s) to the contrary,
- 11 1 3 promptly pay all premiums and other monies payable under all its Insurance Policies and promptly upon reasonable request, produce to the Security Trustee a copy of each policy and evidence (reasonably acceptable to the Security Trustee) of the payment of such sums, and
- 11 1 4 if required by the Security Trustee (but subject to the provisions of any lease of the Charged Property), deposit all Insurance Policies relating to the Charged Property with the Security Trustee

11 2 **Insurance: Default**

If the Borrower defaults in complying with Clause 11 1 (Insurance Undertakings), the Security Trustee may effect or renew any such insurance on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies expended by the Security Trustee in doing so shall be reimbursed by the Borrower to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until reimbursed at the rate specified in Clause 2 2 (Interest on Demands)

11 3 **Application of Insurance Proceeds**

All monies received under any Insurance Policies relating to the Charged Property shall be applied in accordance with the terms of the Facility Agreement

12 **REAL PROPERTY**

12 1 **Property: Notification**

The Borrower shall immediately notify the Security Trustee of any contract, conveyance, transfer or other disposition for the acquisition by the Borrower (or its nominee(s)) of any Real Property

12 2 **Lease Covenants**

The Borrower shall, in relation to any lease, agreement for lease or other right to occupy to which all or any part of the Charged Property is at any time subject

- 12 2 1 pay the rents (if the lessee) and observe and perform in all material respects the covenants, conditions and obligations imposed (if the lessor) on the lessor or, (if the lessee) on the lessee, and
- 12 2 2 not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Charged Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term

12 3 **General Property Undertakings**

The Borrower shall

- 12 3 1 repair and keep in good and substantial repair and condition to the reasonable satisfaction of the Security Trustee all the Real Property, plant, machinery, fixtures (including trade fixtures), fittings, vehicles, computers and other equipment at any time forming part of the Charged Property,
- 12 3 2 not at any time without the prior written consent of the Security Trustee sever or remove any of the fixtures forming part of the Real Property or any of the plant or machinery (other than stock in trade or work in progress) on or in the Charged Property (except for the purpose of any necessary repairs, general maintenance, renewal, upgrade or replacement of it),
- 12 3 3 comply with and observe and perform (a) all applicable requirements of all planning and environmental legislation, regulations and bye-laws relating to the Real Property, (b) any conditions attaching to any planning permissions relating to or affecting the Real Property and (c) any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Real Property,
- 12 3 4 not grant any lease, tenancy, contractual licence or right to occupy in respect of the whole or any part of the Real Property or otherwise part with possession of the whole or any part of the Real Property except as permitted by the Transaction Documents or with the prior written consent of the Security Trustee,
- 12 3 5 permit the Security Trustee and any person nominated by the Security Trustee to enter into and upon any Real Property at all reasonable times during business hours and on not less than 24 hours' notice to view the state and condition of the Real Property and will remedy any material defect or want of repair forthwith after service by the Security Trustee of notice of the defect or want of repair, and
- 12 3 6 give immediate notice to the Security Trustee if it receives any notice under section 146 of the Law of Property Act 1925 or any proceedings are commenced against it for the forfeiture of any lease comprised in any Real Property

12 4 **Entitlement to Remedy**

If the Borrower fails to comply with any of the undertakings contained in this Clause 12, the Security Trustee shall be entitled (with such agents, contractors and others as it sees fit), to do such things as may in the reasonable opinion of the Security Trustee be required to remedy such failure and all monies spent by the Security Trustee in doing so shall be reimbursed by the Borrower on demand with interest from the date of payment by the Security Trustee until reimbursed in accordance with Clause 2 2 (Interest on Demands)

13 **GENERAL UNDERTAKINGS**

13 1 **Intellectual Property**

The Borrower shall during the subsistence of this Debenture in respect of any Intellectual Property which is material to or required in connection with its business

- 13 1.1 take all such steps and do all such acts as may be reasonably necessary to preserve and maintain the subsistence and the validity of any such Intellectual Property, and
- 13 1 2 not use or permit any such Intellectual Property to be used in any way which may materially and adversely affect its value

13 2 Information and Access

The Borrower shall from time to time on request of the Security Trustee, furnish the Security Trustee with such information as the Security Trustee may reasonably require about the Borrower's business and affairs, the Charged Property and its compliance with the terms of this Debenture and the Borrower shall permit the Security Trustee, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice to (a) inspect and take copies and extracts from the books, accounts and records of the Borrower and (b) to view the Charged Property (without becoming liable as mortgagee in possession)

13 3 Amendments

The Borrower undertakes that it shall not, at any time during the subsistence of this Debenture, agree to or acquiesce in any material variation, amendment or waiver of any provision of, or grant any material consent under, any of the Specific Contracts save as permitted under the Facility Agreement

14 ENFORCEMENT OF SECURITY

14 1 Enforcement

At any time after the occurrence of an Event of Default (as long as it is continuing) or if the Borrower requests the Security Trustee to exercise any of its powers under this Debenture or if a petition or application is presented for the making of an administration order in relation to the Borrower or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Borrower or files such a notice with the court, the security created by or pursuant to this Debenture is immediately enforceable and the Security Trustee may, without notice to the Borrower or prior authorisation from any court, in its absolute discretion

14.1 1 enforce all or any part of that security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold, sell or otherwise dispose of all or any part of the Charged Property (at the time, in the manner and on the terms it thinks fit),

14 1 2 deliver Notices of Assignment duly executed on behalf of, the Borrower (and the Borrower irrevocably authorises the Security Trustee to sign such Notices of Assignment on behalf of the Borrower pursuant to the power of attorney granted under Clause 20 (Power of Attorney) below), and

14 1 3 whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Debenture) and each Mortgage on mortgagees and by this Debenture and each Mortgage on any Receiver or otherwise conferred by law on mortgagees or Receivers

14 2 No Liability as Mortgagee in Possession

Neither the Security Trustee nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission of any nature whatsoever in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable

14 3 Right of Appropriation

To the extent that any of the Charged Property constitutes "financial collateral" and this Debenture and the obligations of the Borrower 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 No 3226), as amended, (the "Regulations")) the Security Trustee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Borrower. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised, and (b) in the case of Investments, the market price of such Investments determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select, including independent valuation. In each case, the parties agree that the method of valuation provided for in this Debenture shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

14.4 Effect of Moratorium

The Security Trustee shall not be entitled to exercise its rights under Clause 14.1 (Enforcement) or Clause 4 (Crystallisation of Floating Charge) where the right arises as a result of an Event of Default occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the Insolvency Act 1986.

15 EXTENSION AND VARIATION OF THE LAW OF PROPERTY ACT 1925

15.1 Extension of Powers

The power of sale or other disposal conferred on the Security Trustee and on any Receiver by this Debenture and each Mortgage shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Debenture and each Mortgage.

15.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Debenture and each Mortgage or to the exercise by the Security Trustee of its right to consolidate all or any of the security created by or pursuant to this Debenture and each Mortgage with any other security in existence at any time or to its power of sale, which powers may be exercised by the Security Trustee without notice to the Borrower on or at any time after the occurrence of an Event of Default (which is continuing).

15.3 Power of leasing

15.3.1 The statutory powers of leasing may be exercised by the Security Trustee at any time on or after this Debenture or any Mortgage has become enforceable in accordance with Clause 14 (Enforcement of security) and the Security Trustee and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with Sections 99 and 100 of the Law of Property Act 1925.

15.3.2 For the purposes of Sections 99 and 100 of the Law of Property Act 1925, the expression "Mortgagor" will include any incumbrancer deriving title under the Borrower and neither Sub-section (18) of Section 99 nor Sub-section (12) of Section 100 of the Law of Property Act 1925 will apply.

15.3.3 The Borrower shall not have, at any time prior to the Final Discharge Date, the power pursuant to Section 99 of the Law of Property Act 1925, to make any

Lease in respect of any Real Property without the prior written consent of the Security Trustee or as permitted pursuant to the terms of the Facility Agreement

16 APPOINTMENT OF RECEIVER OR ADMINISTRATOR

16 1 Appointment and Removal

After the occurrence of an Event of Default or if a petition or application is presented for the making of an administration order in relation to the Borrower or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Borrower or files such a notice with the court or if requested to do so by the Borrower, the Security Trustee may by deed or otherwise (acting through an authorised officer of the Security Trustee), without prior notice to the Borrower

- 16 1 1 appoint one or more persons to be a Receiver of the whole or any part of the Charged Property,
- 16 1 2 appoint two or more Receivers of separate parts of the Charged Property,
- 16 1 3 remove (so far as it is lawfully able) any Receiver so appointed,
- 16 1 4 appoint another person(s) as an additional or replacement Receiver(s), or
- 16 1 5 appoint one or more persons to be an administrator of the Borrower

16 2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 16 1 (Appointment and Removal) shall be:

- 16 2 1 entitled to act individually or together with any other person appointed or substituted as Receiver,
- 16 2 2 for all purposes deemed to be the agent of the Borrower which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Security Trustee, and
- 16 2 3 entitled to remuneration for his services at a rate to be fixed by the Security Trustee from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925)

16 3 Statutory Powers of Appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Trustee under the Law of Property Act 1925 and the Insolvency Act 1986 (as extended by this Debenture and each Mortgage) or otherwise and such powers shall remain exercisable from time to time by the Security Trustee in respect of any part of the Charged Property

16 4 Miscellaneous

- 16 4 1 Section 109(1) of the Law of Property Act 1925 shall not apply to this deed
- 16 4 2 The Security Trustee shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986

17 POWERS OF RECEIVER

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Borrower) have and be entitled to exercise, in relation to the Charged Property (and any assets of the Borrower which, when got in, would be Charged Property) in respect of which he was appointed, and as varied and extended by the provisions of this Debenture (in the name of or on behalf of the Borrower or in his own name and, in each case, at the cost of the Borrower)

- 17 1 1 all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act,
- 17 1 2 all 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),
- 17 1 3 all the powers and rights of an absolute owner and power to do or omit to do anything which the Borrower itself could do or omit to do, and
- 17 1 4 the power to do all things (including bringing or defending proceedings in the name or on behalf of the Borrower) which seem to the Receiver to be incidental or conducive to:
 - (a) any of the functions, powers, authorities or discretions conferred on or vested in him,
 - (b) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Property); or
 - (c) bringing to his hands any assets of the Borrower forming part of, or which when got in would be, Charged Property

18 APPLICATION OF MONIES

18.1 Order of Application

All monies received or recovered by the Security Trustee or any Receiver pursuant to this Debenture and each Mortgage or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Security Trustee (notwithstanding any purported appropriation by the Borrower) in accordance with clauses 26 3 (Post-enforcement Payment Priorities) and 26 4 (Insufficient Amounts) of the Facility Agreement

18 2 Section 109 Law of Property Act 1925

Section 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this deed

19 PROTECTION OF PURCHASERS

19 1 Consideration

The receipt of the Security Trustee or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making

any acquisition, the Security Trustee or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit

19 2 Protection of Purchasers

No purchaser or other person dealing with the Security Trustee or any Receiver shall be bound to inquire whether the right of the Security Trustee or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Trustee or such Receiver in such dealings

20 POWER OF ATTORNEY

20 1 Appointment and Powers

The Borrower by way of security irrevocably appoints the Security Trustee and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for

20 1 1 carrying out any obligation imposed on the Borrower by this Debenture or any other agreement binding on the Borrower to which the Security Trustee is party (including the execution and delivery of any Mortgages, deeds, charges, assignments or other security and any transfers of the Charged Property), and

20 1.2 enabling the Security Trustee and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Debenture or any Mortgage or by law (including, after the occurrence of an Event of Default, the exercise of any right of a legal or beneficial owner of the Charged Property)

20 2 Ratification

The Borrower shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers

21 EFFECTIVENESS OF SECURITY

21 1 Continuing Security

21 1 1 The Security created by or pursuant to this Debenture and any Mortgage shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Trustee

21 1 2 No part of the security from time to time intended to be constituted by this Debenture or any Mortgage will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations

21 2 Cumulative Rights

The security created by or pursuant to this Debenture and any Mortgage and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Security Trustee or any other Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Charged Property shall merge into the security constituted by this Debenture and any Mortgage

21 3 No Prejudice

The security created by or pursuant to this Debenture and any Mortgage and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Borrower or any other person, or the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Secured Parties or by any variation of the terms of the trust upon which the Security Trustee holds the security or by any other thing which might otherwise prejudice that security or any Collateral Right

21 4 Remedies and Waivers

No failure on the part of the Security Trustee to exercise, nor any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right or constitute an election to affirm this Debenture or any Mortgage. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

21 5 No Liability

None of the Security Trustee, its nominee(s) or any Receiver shall be liable by reason of (a) taking any action permitted by this Debenture or any Mortgage or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part

21 6 Partial Invalidity

If, at any time, any provision of this Debenture or any Mortgage is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Debenture or any Mortgage nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this Debenture or any Mortgage is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security

21 7 Waiver of defences

The obligations of the Borrower under this Debenture and each Mortgage, the security created pursuant to this Debenture and each Mortgage and the Collateral Rights will not be affected by an act, omission, matter or thing which, but for this Clause 21 7, would reduce, release or prejudice any of its obligations under this Debenture and each Mortgage (without limitation and whether or not known to it or any Secured Party) including

21 7 1 any time, waiver or consent granted to, or composition with, any Obligor or other person,

21 7 2 the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor,

21 7 3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentment or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,

21 7 4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person,

- 21 7 5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Finance Document or any other document or security or of the Secured Obligations (including, without limitation, any change in the purpose of, any extension of, or any variation or increase in any facility or the addition of any new facility under any Finance Document or other document),
- 21 7 6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security or of the Secured Obligations, or
- 21 7 7 any insolvency or similar proceedings

21 8 Immediate recourse

The Borrower waives any right it may have of first requiring the Security Trustee or a Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Borrower under this Debenture or any Mortgage. This waiver applies irrespective of any provision of this Debenture to the contrary or any Mortgage.

21 9 Deferral of Rights

Until such time as the Secured Obligations have been discharged in full, the Borrower will not exercise any rights which it may have by reason of performance by it of its obligations under this Debenture or any Mortgage.

- 21 9 1 to be indemnified by any Obligor,
- 21 9 2 to claim any contribution from any guarantor of any Obligor's obligations under this Debenture or any other Finance Document, and/or
- 21 9 3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee under this Debenture or any Mortgage or the Security Trustee or any other Secured Party under any other guarantee or other Finance Document or security taken pursuant to, or in connection with, this Debenture, any Mortgage or any other Finance Document by the Security Trustee or any Secured Party

21 10 Turnover Trust

- 21 10 1 The Borrower shall not accept or permit to subsist any collateral from any Obligor or any other person in respect of any rights the Borrower may have arising out of this Debenture or any Mortgage. If, despite this provision, any such collateral shall be accepted or subsisting the Borrower acknowledges that the Borrower's rights under such collateral shall be held on trust for the Security Trustee and the Secured Parties, to the extent necessary to enable all amounts which may be or become payable to the Security Trustee and the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full, and the Borrower shall if requested promptly transfer the same to the Security Trustee or as it may direct for application in accordance with clauses 26 3 (Post-enforcement Payment Priorities) and 26 4 (Insufficient Amounts) of the Facility Agreement
- 21 10 2 If the Borrower receives any benefit, payment or distribution relating to the rights mentioned in Clause 21 9 (Deferral of Rights) above, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Trustee and the Secured

Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Security Trustee and the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as it may direct for application in accordance with clauses 26 3 (Post-enforcement Payment Priorities) and 26 4 (Insufficient Amounts) of the Facility Agreement

22 RELEASE OF SECURITY

22 1 Redemption of Security

Upon the Secured Obligations being discharged in full and none of the Secured Parties being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Borrower or any other person under any of the Finance Documents, the Security Trustee shall, at the request and cost of the Borrower, release and cancel the security constituted by this Debenture and procure the reassignment to the Borrower of the property and assets assigned to the Security Trustee pursuant to this Debenture, in each case subject to Clause 22 2 (Avoidance of Payments) and without recourse to, or any representation or warranty by, the Security Trustee or any of its nominees

22 2 Avoidance of Payments

If the Security Trustee (acting reasonably) considers that any amount paid or credited to it or any other Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Borrower under this Debenture and the security constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid

23 RETENTION OF DEBENTURE

The Security Trustee may retain this Debenture, each Mortgage, the Security constituted by or pursuant to this Debenture and each Mortgage and all documents relating to or evidencing ownership of all or any part of the Charged Property for a period of seven months after any discharge in full of the Secured Obligations Provided that if at any time during that seven month period a petition or application is presented for an order for the winding-up of, or the making of an administration order in respect of, the Borrower or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Borrower or files such a notice with the court or the Borrower commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Security Trustee may continue to retain such Security and such documents for such further period as the Security Trustee may determine and the Security and such documents shall be deemed to have continued to be held as security for the Secured Obligations

24 SET-OFF

The Borrower authorises the Security Trustee (but the Security Trustee shall not be obliged to exercise such right), after the occurrence of an Event of Default which is continuing, to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Security Trustee to the Borrower and apply any credit balance to which the Borrower is entitled on any account with the Security Trustee in accordance with Clause 18 (Application of Monies) (notwithstanding any specified maturity of any deposit standing to the credit of any such account)

25 SUBSEQUENT SECURITY INTERESTS

If the Security Trustee (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Charged Property or any assignment

or transfer of the Charged Property which is prohibited by the terms of this Debenture, any Mortgage or the Facility Agreement, all payments thereafter by or on behalf of the Borrower to the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Secured Parties shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Obligations as at the time when the Security Trustee received such notice

26 SUSPENSE ACCOUNTS AND CURRENCY CONVERSION

26.1 Suspense Accounts

All monies received, recovered or realised by the Security Trustee under this Debenture or any Mortgage (including the proceeds of any conversion of currency) may in the discretion of the Security Trustee be credited to any interest bearing suspense or impersonal account maintained with the Security Trustee or any bank, building society or financial institution as it considers appropriate and may be held in such account for so long as the Security Trustee may think fit pending their application from time to time (as the Security Trustee is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above

26.2 Currency Conversion

For the purpose of or pending the discharge of any of the Secured Obligations the Security Trustee may convert any money received, recovered or realised or subject to application by it under this Debenture or any Mortgage from one currency to another, as the Security Trustee thinks fit and any such conversion shall be effected at the Security Trustee's spot rate of exchange for the time being for obtaining such other currency with the first currency

27 ASSIGNMENT

The Security Trustee may assign and transfer all or any of its rights and obligations under this Debenture or any Mortgage to any person to whom it transfers its rights and/or obligations under the Facility Agreement. Subject to clause 46 (Confidentiality) of the Facility Agreement, the Security Trustee shall be entitled to disclose such information concerning the Borrower (or any other person) and this Debenture or any Mortgage as the Security Trustee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law

28 NOTICES

Each communication to be made under or in connection with this Debenture or any Mortgage shall be made in writing and in accordance with clause 41 (Notices) of the Facility Agreement

29 COSTS, EXPENSES, STAMP TAXES AND INDEMNITY

29.1 Costs and Expenses

Without double-counting, clauses 16.1 (Transaction Expenses) to 16.3 (Enforcement Costs) of the Facility Agreement shall apply to this Debenture and each Mortgage, *mutatis mutandis*, as if set out in full herein and therein

29 2 Stamp Taxes

The Borrower shall pay all stamp, registration and other taxes to which this Debenture, the security contemplated in this Debenture and any Mortgage or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Security Trustee on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax

29 3 Indemnity

The Borrower shall, notwithstanding any release or discharge of all or any part of the security, indemnify the Security Trustee, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Borrower of the provisions of this Debenture or any Mortgage, the exercise or purported exercise of any of the rights and powers conferred on them by this Debenture or any Mortgage or otherwise relating to the Charged Property

30 DISCRETION AND DELEGATION

30 1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Debenture or under any Mortgage by the Security Trustee or any Receiver may, subject to the terms and conditions of the Facility Agreement or except as otherwise provided under this Debenture, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons

30 2 Delegation

Each of the Security Trustee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Debenture (including the power of attorney) or any Mortgage on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Security Trustee or the Receiver itself

31 MISCELLANEOUS

31 1 Invalidity of any Provision

If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under and law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

31 2 Third Party Rights

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this deed and no rights or benefits expressly or impliedly conferred by this deed shall be enforceable under that Act against the parties to this deed by any other person

32 WAIVERS AND COUNTERPARTS

32 1 Waivers

No waiver by the Security Trustee of any of its rights under this Debenture or any Mortgage shall be effective unless given in writing

32 2 **Counterparts**

This Debenture 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 this Debenture

33 **GOVERNING LAW**

This Debenture and any non-contractual obligations arising out of or in connection with it are governed by English law

34 **JURISDICTION AND ENFORCEMENT**

34 1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture or any Mortgage (including a dispute relating to the existence, validity or termination of this Debenture or any Mortgage, the consequences of their nullity or any non-contractual obligations arising out of or in connection with this Debenture or any Mortgage) (a "**Dispute**")

34 2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary

34.3 This Clause 34 is for the benefit of the Security Trustee only. As a result, and notwithstanding Clause 34 1, it does not prevent the Security Trustee from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions

THIS DEBENTURE has been signed on behalf of the Security Trustee and executed as a deed by the Borrower and is delivered by it on the date specified above.

SCHEDULE 1

FORMS OF NOTICE OF ASSIGNMENT

PART A

FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

To [Insurer]

Date []

Dear Sirs,

We hereby give you notice that we have assigned to ● (the "**Security Trustee**") pursuant to a debenture entered into by us in favour of the Security Trustee dated ● all our right, title and interest in and to the proceeds of [insert details of relevant insurance policy] (the "**Policy of Insurance**")

- 1 With effect from your receipt of this notice we instruct you to
- 2 make all payments and claims under or arising from the Policy of Insurance to the Security Trustee [insert an account number if required] or to its order as it may specify in writing from time to time,
- 3 note the interest of the Security Trustee on the Policy of Insurance, and
- 4 disclose to the Security Trustee, without further approval from us, such information regarding the Policy of Insurance as the Security Trustee may from time to time request and to send it copies of all notices issued by you under the Policy of Insurance

With effect from your receipt of this notice all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Policy of Insurance (including all rights to compel performance) belong to and are exercisable by the Security Trustee

We shall continue to be solely responsible for the performance of our obligations under or in connection with the Policy of Insurance

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Trustee at [9th Floor, 280 Bishopsgate, London, EC2M 4RB] marked for the attention of [Andrew Rendel, E&I Portfolio Management, Corporate and Institutional Banking]

Yours faithfully,

for and on behalf of
MTS Hatchlands Solar Limited

On copy only MTS Hatchlands Solar Limited

To [Security Trustee]

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We confirm that (i) the Policy of Insurance is in full force and effect, (ii) we are not aware of any breach of the Policy of Insurance by the Borrower or any other insured party, (iii) we will make any payments due under the Policy of Insurance as provided in the Policy of Insurance, and (iv) no amendment, waiver or release of any rights, interests and benefits in the Policy of Insurance shall be effective without your prior written consent

For and on behalf of [Insurer]

By

.. .

Dated

PART B
FORM OF NOTICE OF ASSIGNMENT OF ACCOUNT

To [Account Bank]

Date []

Dear Sirs,

We hereby give you notice that we have assigned and charged to ● (the "**Security Trustee**") all of our right, title and interest in and to the following accounts

[specify accounts]

(including any renewal or redesignation of such account) and all monies standing to the credit of that account from time to time (the "Accounts")

With effect from the date of your receipt of a notice from the Security Trustee

- (a) any existing payment instructions affecting the Accounts are to be terminated and all payments and communications in respect of the Accounts should be made to the Security Trustee or to its order (with a copy to the Borrower), and
- (b) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Account belong to the Security Trustee

Please accept this notice by signing the enclosed acknowledgement and returning it to the Security Trustee at [9th Floor, 280 Bishopsgate, London, EC2M 4RB] marked for the attention of [Andrew Rendel, E&I Portfolio Management, Corporate and Institutional Banking]

Yours faithfully

for and on behalf of
MTS Hatchlands Solar Limited

On copy only MTS Hatchlands Solar Limited

To [Security Trustee]

Date []

At the request of the Security Trustee and MTS Hatchlands Solar Limited we acknowledge receipt of the notice of assignment and charge, on the terms attached, in respect of the Accounts (as described in those terms) We confirm that

- there are no restrictions on (a) the payment of the credit balance on the Accounts or (b) the assignment of the Accounts to the Security Trustee or any third party,
- we have not received notice of any previous assignments of, charges over or trusts in respect of, the Accounts and we will not, without the Security Trustee's consent (a) exercise any right of combination, consolidation or set off which we may have in respect of the Accounts or (b) amend or vary any rights attaching to the Accounts,
- we shall send all statements and other notices given by us relating to the Accounts to the Security Trustee, and
- following receipt of a notice from the Security Trustee we will act only in accordance with the instructions given by persons authorised by the Security Trustee

For and on behalf of ●

By

PART C

FORM OF NOTICE OF ASSIGNMENT OF SPECIFIC CONTRACT

To ●

Date ●

Dear Sirs,

We hereby give you notice that we have assigned to ● (the "**Security Trustee**") pursuant to a debenture (the "**Debenture**") entered into by us in favour of the Security Trustee dated ● all our right, title and interest in and to [details of Specific Contract] (the "Contract") including all monies which may be payable in respect of the Contract

With effect from your receipt of this notice

- 1 all remedies provided for in the Contract (including in respect of relevant warranties and indemnities) or available at law or in equity are exercisable by the Security Trustee although the Borrower may continue to exercise all rights and remedies granted to it under the Contract, subject to a further notice from the Security Trustee indicating otherwise,
- 2 we shall remain entitled to exercise all rights, powers and discretions under the Contract and you should give notices under the Contract to us, in each case, unless and until you receive a further notice from the Security Trustee indicating otherwise following which all rights to compel performance of the Contract (including in respect of relevant warranties and indemnities) are exercisable by the Security Trustee, although the Borrower shall continue to remain liable to perform all the obligations assumed by it under the Contract,
- 3 until such time until when the Security Trustee reassigns all rights, title and interest in and to the Contract in accordance with the terms of the Debenture, all of our rights, title and interest from time to time in and to the Contract, all proceeds paid or payable under the Contract and all related rights and no changes may be made to the terms of the Contract nor may the Contract be terminated without the Security Trustee's consent (save to the extent required in order to ensure compliance with applicable law),
- 4 all payments by you to us under or arising from the Contract should be made to the [Proceeds Account], and following notice from the Security Trustee, to the Security Trustee or to its order as it may specify in writing from time to time, and
- 5 you are authorised and instructed, without requiring further approval from us, to provide the Security Trustee with such information relating to the Contract as it may from time to time request and to send it copies of all notices issued by you under the Contract to the Security Trustee as well as to us

These instructions may not be revoked, nor may the terms of the Contract be amended, varied or waived without the prior written consent of the Security Trustee

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Trustee at [9th Floor, 280 Bishopsgate, London, EC2M 4RB]

marked for the attention of [Andrew Rendel, E&I Portfolio Management, Corporate and Institutional Banking]

Yours faithfully,

or and on behalf of
MTS Hatchlands Solar Limited

On copy only MTS Hatchlands Solar Limited

To SECURITY TRUSTEE

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, interests and benefits in and to the Contract and that we will comply with the terms of that notice

We confirm that no amendment, waiver or release of any of such rights, interests and benefits shall be effective without the prior written consent of the Security Trustee

For and on behalf of [relevant contract counterparty]

By

Dated

SCHEDULE 2
FORM OF LEGAL MORTGAGE

DATED ●

MTS HATCHLANDS SOLAR LIMITED
AS BORROWER

and

●
AS SECURITY TRUSTEE

MORTGAGE

THIS DEED is dated [] between

- (1) **MTS HATCHLANDS SOLAR LIMITED**, registered in England and Wales with company number [●] and registered address [●] (the "**Borrower**"), and
- (2) ● as trustee for the Secured Parties (the "**Security Trustee**" which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of, and in accordance with, the Facility Agreement).

BACKGROUND:

It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand

IT IS AGREED as follows

1 DEFINITIONS

In this Deed

"Mortgaged Property" means

- (a) the leasehold property specified in Schedule 1 (Details of Mortgaged Property), and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such property,

and includes all Related Rights

"Related Rights" means, in relation to any asset

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any monies and proceeds paid or payable in respect of that asset

2 LEGAL CHARGE

The Borrower charges with full title guarantee in favour of the Security Trustee (as Security Trustee for the Secured Parties) with the payment and discharge of the Secured Obligations, by way of first legal mortgage the Mortgaged Property

3 IMPLIED COVENANTS FOR TITLE

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (Legal Charge)
- (b) It shall be implied in respect of Clause 2 (Legal Charge) that the Borrower is disposing of the Mortgaged Property free from all charges and incumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment)

4 APPLICATION TO THE LAND REGISTRY

The Borrower consents to an application being made to the Land Registry to enter the following restriction in the Proprietorship register of any registered land forming part of the Mortgaged Property

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, 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 "

5 THIRD PARTY RIGHTS

A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed

6 GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law

THIS DEED has been entered into as a deed on the date stated at the beginning of this Deed

SCHEDULE 1

DETAILS OF MORTGAGED PROPERTY

Description of Property Title Number

[] []

EXECUTION PAGES TO LEGAL MORTGAGE

The Borrower

EXECUTED as a DEED)

by **MTS HATCHLANDS SOLAR LIMITED**)

acting by a director)

Signature of director '

Name of Director

in the presence of

Signature of witness

Name of witness (in block capitals)

Address of witness

Occupation of witness

The Security Trustee

Signed by

[INSERT NAME OF SECURITY TRUSTEE]

By

Address

Fax

Attention

SIGNATURES

BORROWER DEBENTURE

HATCHLANDS

The Borrower

Executed as a deed by
MTS HATCHLANDS SOLAR LIMITED
acting by a director or its duly authorised
signatory or attorney



Signature of witness

Name of witness

YASMEEN GHANI

Address of witness

Ashurst LLP
Broadwalk House
5 Appold Street
London EC2A 2HA

Occupation of witness



The Security Trustee

Executed as a deed by **THE ROYAL**)
BANK OF SCOTLAND PLC acting by its)
duly authorised signatory or attorney in)
the presence of a witness)



Signature of witness

Name of witness

VICTORIA SUI

Address of witness

Ashurst LLP
Broadwalk House
5 Appold Street
London EC2A 2HA

Occupation of witness



