



Registration of a Charge

Company name: **MERSTON RENEWABLE ENERGY CIC**

Company number: **09631133**

Received for Electronic Filing: **10/09/2019**



Details of Charge

Date of creation: **04/09/2019**

Charge code: **0963 1133 0009**

Persons entitled: **TRIODOS BANK UK LIMITED**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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:

CMS CAMERON MCKENNA NABARRO OLSWANG LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9631133

Charge code: 0963 1133 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th September 2019 and created by MERSTON RENEWABLE ENERGY CIC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th September 2019 .

Given at Companies House, Cardiff on 11th September 2019

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

DATE: 4 September 2019

**SUPPLEMENTAL
DEBENTURE**

Between

MERSTON RENEWABLE ENERGY C.I.C.

and

TRIODOS BANK UK LIMITED

CMS Cameron McKenna Nabarro Olswang LLP

Saltire Court
20 Castle Terrace
Edinburgh
EH1 2EN

T +44 131 228 8000

F +44 131 228 8888

cms.law

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This Debenture is made 4th day of September 2019

Between:

- (1) **MERSTON RENEWABLE ENERGY C.I.C.** a community interest company incorporated in England and Wales with company registration number (09631133) and whose registered office of is at Overmoor Farm, Neston, Corsham, England SN13 9TZ (the "**Company**"); and
- (2) **TRIODOS BANK UK LIMITED**, a company incorporated in England and Wales with registration number (11379025) and whose registered office is at Deanery Road, Bristol, BS1 5AS (the "**Bank**").

RECITALS

- (1) It is a condition subsequent to the Facility Agreement that the Company enter into this debenture in favour of the Bank.

It is agreed as follows:

1. INTERPRETATION

- 1.1 In this debenture words and expressions not otherwise defined below shall bear the meanings given in the Facility Agreement.

"**Assigned Agreements**" means each of the agreements specified in Schedule 2 to this debenture in each case, other than any such agreement which has yet to come into effect which shall become an Assigned Agreement immediately upon coming into effect, and any agreement entered into to amend or restate such agreements

"**Book Debts**" means all present and future book debts due or owing to the Company, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Company in relation to any of them

"**Charged Property**" means all the assets, property and undertaking for the time being subject to the security interests created by this debenture (and references to the Charged Property shall include references to any part of it)

"**Designated Account**" means any account nominated by the Bank as a designated account for the purposes of this debenture

"**Encumbrance**" means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

"**Enforcement Event**" means the occurrence of any of the events or circumstances which, pursuant to the Facility Agreement, are defined as and constitute an Event of Default

"**Equipment**" means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Company, including any part of it and all spare parts, replacements, modifications and additions together with any associated warranties and maintenance contracts

"**Existing Debenture**" means the debenture dated 28 September 2018 originally between the Company and Triodos Bank N.V. (and as subsequently transferred by Triodos Bank N.V. to the

Bank pursuant to a Part VII transfer mechanism under the Financial Services and Markets Act 2000 as approved by the UK High Court of Justice and effective from 1 May 2019)

“Expenses” means all expenses (on a full indemnity basis) incurred by the Bank or any Receiver at any time in connection with the Charged Property or the Secured Liabilities or in taking or perfecting this debenture or in preserving defending or enforcing the security created by this debenture or in exercising any power under this debenture or otherwise

“Facility Agreement” means the facility agreement dated 28 September 2018 originally between the Company and Triodos Bank N.V. (and as subsequently transferred by Triodos Bank N.V. to the Bank pursuant to a Part VII transfer mechanism under the Financial Services and Markets Act 2000 as approved by the UK High Court of Justice and effective from 1 May 2019) for the provision of a credit facility.

“Intellectual Property” means the Company’s present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights

“Interest” means interest at the rate(s) charged to the Company by the Bank from time to time in accordance with clause 5 (*Interest*) of the Facility Agreement or as otherwise agreed between the Parties

“Investments” means all present and future stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Company, including all rights accruing or incidental to those investments from time to time

“LPA” means the Law of Property Act 1925

“Monetary Claims” means all monetary debts (other than the Book Debts) and claims (including things in action which may give rise to a debt) due or owing to the Company and the benefit of all rights relating to them

“Properties” means all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Company, or in which the Company holds an interest (including, but not limited to, the properties which are briefly described in the schedule to this debenture) and all buildings and fixtures (including trade fixtures), fixed plant and machinery from time to time on any such property, and Property means any of them

“Receiver” means a receiver and/or manager of any or all of the Charged Property appointed under this debenture

“Secured Liabilities” means all the Company’s liabilities to the Bank of any kind and in any currency (whether present or future, actual or contingent, and whether incurred alone or jointly with another and in whatever style or name and whether as principal or surety) together with the Bank’s charges and commission, Interest and Expenses thereon

1.2 In this debenture unless the context requires otherwise, a reference to:

1.2.1 a statutory provision includes a reference to:

- (a) that statutory provision as modified or re-enacted or both from time to time before the date of this debenture; and

- (b) any subordinate legislation made under that statutory provision before the date of this debenture;
- 1.2.2 persons includes a reference to an individual, firm, body corporate, unincorporated association or partnership;
- 1.2.3 a person includes a reference to that person's legal personal representatives, successors and assigns;
- 1.2.4 a clause or schedule is a reference to a clause of or schedule to this debenture;
- 1.2.5 the singular shall include the plural and vice versa; and
- 1.2.6 this debenture (or any specified provision of it) or any other document is a reference to this debenture, that provision or document as may from time to time be, restated, varied, supplemented, amended, substituted, novated or assigned, whether or not as a result of any of the same:
 - (a) there is an increase or decrease in any facility made available under the Facility Agreement or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
 - (b) any additional, further or substituted facility to or for such facility is provided;
 - (c) any rate of interest, commission or fees or relevant purpose is changed;
 - (d) the identity of the parties is changed;
 - (e) the identity of the providers of any security is changed;
 - (f) there is an increased or additional liability on the part of any person; or
 - (g) a new agreement is effectively created or deemed to be created.

1.3 References to the **Properties and the **Charged Property** include any part of it or them and the **Properties** includes:**

- 1.3.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Properties at any time;
- 1.3.2 the proceeds of sale of any part of the Properties and any other monies paid or payable in respect of or in connection with the Properties;
- 1.3.3 the benefit of any covenants for title given or entered into by any predecessor in title of the Company in respect of the Properties; and
- 1.3.4 all rights under any licence, agreement for sale or agreement for lease in respect of the Properties or any part of them.

The **Properties** also includes any share from time to time held by the Company in any landlord or management company of the Properties.

1.4 The headings in this debenture shall not affect its interpretation.

1.5 In the event of a conflict between the provisions of this debenture and the Facility Agreement, the terms of the Facility Agreement shall prevail.

2. COVENANT TO PAY

The Company shall, on demand, pay to the Bank and discharge all Secured Liabilities when they become due.

3. INTEREST

The Company shall pay Interest on any amounts due under clause 2 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Company) at the rate and in the manner charged to the Company by the Bank from time to time. In the case of any Expenses or other amounts due to the Bank under this debenture, such Interest shall accrue and be payable as from the date on which the relevant Expenses arose or amounts were paid by the Bank, without the need for any demand for payment being made.

4. CHARGES

As a continuing security for the payment and discharge of the Secured Liabilities (subject only to the Existing Debenture), the Company with full title guarantee:

- 4.1 charges to the Bank, by way of legal mortgage, all the Properties listed in Schedule 1 to this debenture;
- 4.2 charges to the Bank, by way of fixed charge:
 - 4.2.1 all Properties not effectively mortgaged or charged under the preceding provisions of this clause 4;
 - 4.2.2 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Properties;
 - 4.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Company's business or the use of any Charged Property, and all rights in connection with them;
 - 4.2.4 all present and future goodwill and uncalled capital for the time being of the Company;
 - 4.2.5 the Equipment;
 - 4.2.6 the Intellectual Property;
 - 4.2.7 the Book Debts;
 - 4.2.8 the Monetary Claims;
 - 4.2.9 the Investments; and
 - 4.2.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person.
- 4.3 assigns to the Bank, by way of a legal assignment, all its rights in any policies of insurance or assurance present or future (including, without limitation, any insurances relating to the Properties or the Equipment);
- 4.4 assigns to the Bank, by way of a legal assignment, to the extent the same are assignable, the benefit of the Assigned Agreements, the benefit of any guarantee or security for the performance of the Assigned Agreements and any other document to which the Company is a party and which is designated as a 'Project Document' by the Bank and the Company; and

- 4.5 charges to the Bank, by way of floating charge, all the undertaking, property, assets and rights of the Company at any time not effectively mortgaged, charged or assigned pursuant to clause 4.1 to clause 4.4 inclusive. Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by this clause.

5. CONFIRMATION

- 5.1 This debenture shall be without prejudice to the Existing Debenture, the security constituted or intended to be constituted by the Existing Debenture and all of the obligations, undertakings, covenants, agreements, rights, powers, directions, remedies, immunities and other provisions contained or referred to in the Existing Debenture which shall remain in full force and effect and continue to secure payment, performance and discharge of the Secured Liabilities notwithstanding this debenture.
- 5.2 For the avoidance of doubt, any legal mortgage, charge or assignment (whether at law or in equity) constituted by way of fixed security pursuant to Clause 4 (*Security*) of the Existing Debenture shall continue in full force and effect notwithstanding this debenture and shall not merge in any security constituted by this debenture or be released, extinguished or affected in any way by the security constituted by this debenture or the provisions of this Clause 5.

6. FURTHER ASSURANCE

- 6.1 The Company, at its own cost, shall prepare and execute in favour of the Bank, or as the Bank shall direct, such further legal or other assignments, mortgages, securities or charges (containing a power of sale and such other provisions as the Bank may reasonably require) as the Bank may reasonably require to perfect or protect the security created by this debenture over any Charged Property.
- 6.2 The Company will at any time if and when required by the Bank give notice to such parties as the Bank may require of any such further legal or other assignments, mortgages, securities or charges and will take such other steps as the Bank may require to perfect any of the same.

7. CONVERSION OF FLOATING CHARGE

- 7.1 The floating charge created by clause 4.5 shall automatically and immediately (without notice) be converted into a fixed charge over the relevant Charged Property if:
- 7.1.1 the Company creates, or attempts to create, on all or any part of the Charged Property an Encumbrance without the prior written consent of the Bank or any trust in favour of another person; or
 - 7.1.2 the Company disposes, or attempts to dispose of, all or any part of the Charged Property (other than property that is only subject to the floating charge while it remains uncrystallised which property may be disposed of in accordance with clause 7.1.2 below); or
 - 7.1.3 a receiver is appointed over all or any of the Charged Property that is subject to the floating charge; or
 - 7.1.4 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Charged Property; or
 - 7.1.5 the Bank receives notice of the appointment of, or a proposal or an intention to appoint, an administrator of the Company.

7.2 The Bank may, in its sole discretion, at any time and by written notice to the Company, convert the floating charge created under this debenture into a fixed charge as regards any part of the Charged Property specified by the Bank in that notice.

7.3 Any asset acquired by the Company after any crystallisation of the floating charge created under this debenture which, but for such crystallisation, would be subject to a floating charge shall (unless the Bank confirms in writing to the contrary) be charged to the Bank (subject only to the Existing Debenture) by way of fixed charge.

8. RESTRICTIONS AND CHARGED PROPERTY

8.1 The Company shall not at any time, except with the prior written consent of the Bank:

8.1.1 create, purport to create or permit to subsist any Encumbrance on, or in relation to, the Charged Property other under any Security Document (as defined in the Facility Agreement) or as permitted by the Facility Agreement; or

8.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Charged Property except as permitted by the Facility Agreement; or

8.1.3 create or grant (or purport to create or grant) any interest in the Charged Property in favour of a third party (other than as permitted by the Facility Agreement).

9. COMPANY COVENANTS

9.1 During the continuance of this security the Company shall:

9.1.1 not do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by the Bank or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this debenture;

9.1.2 take all necessary action to safeguard and maintain the Company's present and future rights and interests in or to the Charged Property;

9.1.3 comply with all laws and regulations for the time being in force relating to or affecting the Charged Property and to obtain and promptly renew from time to time and comply with the terms of all authorisations which may be necessary to enable the Company to preserve, maintain or renew the Charged Property;

9.1.4 keep all Charged Property of an insurable nature comprehensively insured to the Bank's reasonable satisfaction for its full reinstatement cost in the joint names of the Company and the Bank or with the interest of the Bank endorsed on the policy or policies and (to the extent that the Company has not already done so under the Existing Debenture):

(a) deposit with the Bank all insurance policies and all deeds and documents of title relating to the Charged Property;

(b) give notice to the relevant insurers of the assignment of the Company's rights and interest in and under the Company's insurance policies pursuant to clause 4;

(c) ensure all sums in excess of £10,000 received under the Company's insurance policies in any twelve month period are paid directly to the Bank and, if such

monies are not paid directly to the Bank, hold the monies on trust for the benefit of the Bank; and

(d) at the Bank's option, apply the proceeds from any insurance policy of the Company in making good the relevant loss or damage, or to reduce the Secured Liabilities;

9.1.5 keep the Charged Property in good and substantial repair and condition and, in the case of Equipment, in good working order;

9.1.6 not, without the prior written consent of the Bank or otherwise in accordance with clause 8.1.8 below, release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts or Monetary Claims;

9.1.7 as agent for the Bank, collect in and realise all Book Debts and/or Monetary Claims, pay the proceeds into an account with the Bank immediately on receipt and, pending that payment, hold those proceeds on trust for the Bank;

9.1.8 if required to do so by the Bank, execute a legal assignment of the Book Debts to the Bank in such terms as the Bank may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred;

9.1.9 not call on, or accept payment of, any uncalled capital;

9.1.10 not, without the prior written consent of the Bank, carry out any development on or make any alterations to the Properties which require planning permission or approval under building regulations, nor pull down or remove the whole or any part of any building forming part of any Property, nor to remove from any Property any fixtures or fixed plant and machinery other than as required in order to effect the Project;

9.1.11 observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected;

9.1.12 within fourteen days of its receipt, provide the Bank with a copy of any notice, order or requirement received from whatever source which may affect the value of the Properties;

9.1.13 not, without the prior written consent of the Bank, grant, or accept a surrender of, any lease or licence of any of the Properties or consent to any assignment or sub-letting by a tenant except as permitted by the Facility Agreement; and

9.1.14 furnish to the Bank an annual balance sheet and profit and loss account and trading account showing the true position of the Company's affairs and also from time to time such other information in respect of the assets and liabilities of the Company as the Bank may reasonably require provided such information shall be no more onerous than that required to be provided under the Facility Agreement.

9.2 The Bank and its agents may enter and inspect the Charged Property at any reasonable time, and where no Event of Default is continuing the Bank must give the Company not less than two Business Days' notice of such inspection.

9.3 If the Company fails to keep any of the Charged Property in good and substantial repair and condition and, in the case of Equipment, in good working order, the Bank shall be entitled (but not obliged) to repair and maintain the same at the Company's expense.

- 9.4 If the Company fails to keep any of the Charged Property of an insurable nature comprehensively insured to the Bank's reasonable satisfaction for its full reinstatement cost, the Bank shall be entitled (but not obliged) to arrange insurance of the Charged Property at the Company's expense.
- 9.5 Any sums expended by the Bank under clauses 9.4 and 9.5 above are repayable by the Company to the Bank on demand together with Interest from the date of payment by the Bank.
- 9.6 The Bank shall not be responsible to the Company or any other person in the event of the Charged Property not being adequately insured. Whenever any insurance is effected through the agency of the Bank all sums allowed to the Bank by way of commission or otherwise by the insurers shall belong to the Bank and the Bank shall not be required to account to the Company for such sums.

10. ENFORCEMENT

- 10.1 The security constituted by this debenture shall be immediately enforceable in the event that:
- 10.1.1 the Company or its directors request the Bank to appoint an administrator or receiver to the Company or any of the Charged Property; or
- 10.1.2 on the occurrence of an Enforcement Event.
- 10.2 Section 103 of the LPA shall not apply to this debenture and the statutory power of sale and other powers given by section 101 of the LPA (as varied or extended by this debenture) shall, as between the Bank and a purchaser, arise on the execution of this debenture and be exercisable at any time after such execution, but the Bank shall not exercise such power of sale until the security constituted by this debenture has become enforceable under clause 10.1.
- 10.3 After the security constituted by this debenture has become enforceable, the Bank may in its absolute discretion 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 or dispose of all or any part of the Charged Property.
- 10.4 The statutory powers of sale, leasing and accepting surrenders conferred on the Bank shall be extended so as to authorise the Bank to lease and make arrangements for leases at a premium or otherwise and accept surrenders of leases and grant options as the Bank shall think expedient and without the need to observe any of the provisions of sections 99 and 100 of the LPA.

10.5 *Appropriation of Rights*

To the extent that any of the Charged Property constitutes "financial collateral" and this debenture and the obligations of the Company under this Debenture 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 (the "FCA Regulations")), the Bank shall have the right, at any time after the security constituted by this debenture has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each bank account of the Company, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by the Bank by reference to a public index or by such other process as the Bank may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this Clause 9.5 (*Appropriation of Rights*) shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

11. APPOINTMENT OF RECEIVER

- 11.1 At any time after the security constituted by this debenture has become enforceable, the Bank may, without further notice, by writing under the hand of any duly authorised officer of the Bank or any person authorised by such officer in writing:
- 11.1.1 appoint any person or persons to be a Receiver of the Charged Property or any part thereof; and
 - 11.1.2 to the extent permitted by law, remove any Receiver so appointed and appoint another or others in his or their place.
- 11.2 When more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Bank specifies to the contrary).

12. POWERS AND CAPACITY OF A RECEIVER

- 12.1 A Receiver shall have, in addition to the powers conferred on receivers by statute, the following powers which, in the case of joint receivers, may be exercised jointly and severally:
- 12.1.1 to enter and/or take possession of, collect and get in, and generally manage any of the Charged Property;
 - 12.1.2 to take, continue or defer any proceedings in the name of the Company or otherwise as may seem expedient;
 - 12.1.3 to carry on and manage the Company's business;
 - 12.1.4 to raise or borrow any money and secure the payment of any money in priority to the Secured Liabilities as he thinks fit;
 - 12.1.5 to sell, realise, dispose of or concur in selling, realising or disposing of (but, where necessary, with the leave of the Court) the Charged Property without the restriction imposed by section 103 of the LPA;
 - 12.1.6 to grant, or accept surrenders of, any leases or tenancies affecting the Properties and to grant any other interest or right over the Charged Property on such terms and subject to such conditions as he thinks fit;
 - 12.1.7 to make any arrangement or compromise which he shall think expedient;
 - 12.1.8 to undertake or complete any works of repair, alteration, building or development on the Properties and to apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence to carry out any of the same;
 - 12.1.9 to make and effect all repairs and renewals of and any improvements to the Equipment and maintain or renew all insurances;
 - 12.1.10 to appoint managers, agents, officers, consultants, advisers, servants and workmen at such salaries and for such periods as he or they may determine and to purchase or acquire materials, tools, equipment, goods or supplies;
 - 12.1.11 to insure the Charged Property and any works and effect indemnity insurance or similar insurance and obtain bonds and give indemnities and security to any bondsmen;
 - 12.1.12 to sever and sell separately any fixtures or fittings from the Properties without the consent of the Company;

- 12.1.13 to carry into effect and complete any transaction by executing deed or documents in the name of or on behalf of the Company;
 - 12.1.14 to do all such other acts and things as may from time to time be considered by such Receiver to be incidental or conducive to any of the matters or powers above or otherwise incidental or conducive to the realisation of the Bank's security or the exercise of his functions as Receiver.
- 12.2 All money received by the Bank or a Receiver in the exercise of any enforcement powers conferred by this debenture shall be applied:
 - 12.2.1 first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Bank (and any Receiver, attorney or agent appointed by it);
 - 12.2.2 secondly, in payment of the Receiver's remuneration (as agreed between the Bank and the Receiver);
 - 12.2.3 thirdly, in or towards satisfaction of the Secured Liabilities in such order and manner as the Bank determines; and
 - 12.2.4 finally in paying any surplus to the Company or any other person entitled to it.
- 12.3 Any Receiver shall at all times and for all purposes be deemed to be the agent or agents of the Company and the Company shall be solely responsible for his or their acts or defaults and for his or their remuneration. Neither the Bank nor any Receiver shall be liable to the Company as mortgagee in possession or otherwise for any loss occurring in the exercise of any of its or his powers pursuant to this debenture.
- 12.4 The Bank may fix the remuneration of any Receiver for his services and for those of his firm appropriate to the work and responsibilities involved without being limited by the maximum rate specified in section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this debenture which shall be due and payable immediately upon its being paid by the Bank.
- 12.5 Only money actually paid by the Receiver to the Bank shall be capable of being applied by the Bank in or towards satisfaction of the Secured Liabilities. The Bank may, in its absolute discretion, at all times prior to the payment in full of all Secured Liabilities, place and keep to the credit of a separate or suspense account any money received by the Bank or a Receiver under this debenture for so long and in such manner as the Bank thinks fit without any obligation to apply the same or any part thereof in or towards the discharge of the Secured Liabilities.
- 12.6 Neither the Bank nor any Receiver shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.
- 12.7 At any time after this debenture shall have become enforceable or after any powers conferred by any encumbrance having priority to this debenture shall have become exercisable, the Bank may redeem such or any other prior encumbrance or procure the transfer thereof to itself and may settle and pay the accounts of the encumbrancer. Any accounts so settled and paid shall be conclusive and binding on the Company and all moneys paid by the Bank to the encumbrancer in accordance with such accounts are to be repayable by the Company to the Bank on demand together with Interest from the date of payment by the Bank.

- 12.8 To the extent permitted by law, any right, power or discretion conferred by this Mortgage on a Receiver may, after the security constituted by this Mortgage has become enforceable be exercised by the Bank in relation to the Mortgaged Property whether or not it has taken possession of the Mortgaged Property and without or notwithstanding the appointment of a Receiver.

13. APPOINTMENT OF ADMINISTRATOR

At any time after the security constituted by this debenture has become enforceable, the Bank may by writing under the hand of any duly authorised officer of the Bank appoint any person or persons to be an administrator of the Company pursuant to paragraph 14 of Schedule B1 to the Insolvency Act 1986 and, to the extent permitted by law (and subject to any necessary approval from the court), remove any administrator so appointed and appoint another or others in his or their place.

14. POWER OF ATTORNEY

- 14.1 By way of security the Company irrevocably appoints the Bank and separately any Receiver to be its attorney and, in its name and on its behalf and as its act and deed, to execute any document and do any acts and things which:

14.1.1 the Company is required to execute and do under this debenture (but has not done); and/or

14.1.2 any attorney may deem necessary or appropriate in exercising any of the powers conferred by this debenture or by law on the Bank or Receiver.

- 14.2 The Company ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise of all or any of their powers.

- 14.3 The powers of attorney granted pursuant to clause 14.1 shall only be exercisable whilst an Event of Default is continuing.

15. REGISTRATION RESTRICTIONS

The Company shall procure that no person shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of any Property without the prior written consent of the Bank. The Company shall be liable for the costs of the Bank in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

16. NEW ACCOUNTS

If the Bank receives notice of any subsequent Encumbrance or other interest affecting the Charged Property the Bank may open a new account or accounts for the Company. If the Bank does not open a new account it shall nevertheless be treated as if it had done so at the time when it received notice and from that time onwards all payments made by or on behalf of the Company to the Bank shall be credited or be treated as having been credited to the new account and shall not operate to reduce the Secured Liabilities.

17. CONSOLIDATION AND SET OFF

- 17.1 The Bank shall be entitled at any time (both before and after demand) and without notice to the Company:

17.1.1 to combine or consolidate all or any existing accounts (including accounts in the name of the Bank) of the Company with the Bank;

- 17.1.2 to set off or transfer any sum or sums standing to the credit of any account in or towards satisfaction of any of the liabilities of the Company to the Bank on any other account or in any other respect; and
- 17.1.3 for this purpose, the Bank may convert any amount in one currency into another, using its market rate of exchange at the relevant time.
- 17.2 The Company waives any present or future right of set off it may have in respect of the Secured Liabilities.
- 18. IMMEDIATE RECOURSE**
- The Company waives any right it may have to require the Bank to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this debenture against the Company.
- 19. NOTICES**
- 19.1 Any notice or other communication given under or in connection with this debenture shall be in writing and shall be delivered personally or sent by first class post pre-paid recorded delivery (or airmail if overseas) or by fax to the relevant party at its address or fax number set out in this debenture or such other address or fax number as either party may specify by notice in writing to the other from time to time.
- 19.2 Any notice or other communication shall be deemed to have been duly given:
- 19.2.1 if delivered personally, when left at the address referred to in clause 19.1;
- 19.2.2 if sent by first class post, two days after posting it;
- 19.2.3 if sent by air mail, six days after posting it, in the absence of evidence of earlier receipt;
- 19.2.4 if sent by fax, at the time of sending (with a valid transmission report).
- 19.3 Any notice given under this debenture shall not be validly served if sent by e-mail.
- 20. ASSIGNS**
- 20.1 At any time and without the consent of the Company, the Bank may assign or otherwise transfer the whole or any part of the Bank's rights and/or obligations under this debenture to any person. The Company consents to the disclosure by the Bank of any information and documentation concerning the Company to any prospective assignee or transferee.
- 20.2 The Company may not assign any of its rights, or transfer any of its obligations, under this debenture or enter into any transaction which would result in any of those rights or obligations passing to another person.
- 20.3 The expression the **Bank** shall include the Bank's assigns whether immediate or derivative. Any appointment or removal of a Receiver under clause 11 or any consents hereunder may be made or given by writing signed or sealed by any such assigns and the Company hereby irrevocably appoints each of such assigns to be its attorney in the terms and for the purposes in clause 14.
- 21. ADDITIONAL SECURITY**
- 21.1 This debenture and the security created by this debenture shall be in addition to, and independent of, every other security or guarantee which the Bank may now or from time to time hold for any of the Secured Liabilities.

- 21.2 The restriction on the right of consolidation contained in section 93 of the LPA shall not apply to this debenture or any further security entered into pursuant to this debenture.

22. NON-MERGER

- 22.1 No prior security held by the Bank over the whole or any part of the Charged Property shall merge in the security created by this debenture.
- 22.2 This debenture shall remain in full force and effect as a continuing security for the Secured Liabilities despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Bank discharges this debenture in writing.

23. SEVERABILITY

Each of the provisions in this debenture shall be severable and distinct from one another and, if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired.

24. NON-WAIVER

- 24.1 Any waiver or variation of any right of the Bank (whether arising under this debenture or otherwise) shall only be effective if it is in writing and signed by the Bank, will only apply in the circumstances for which it was given and shall not prevent the Bank from subsequently relying on the relevant provision.
- 24.2 No delay or failure to exercise any right or power under this debenture shall operate as a waiver.

25. GENERAL

- 25.1 A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this debenture.
- 25.2 The Company certifies that this debenture does not contravene any of the provisions of the Company's memorandum and articles of association.

26. REGULATION

- 26.1 The Bank is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and Prudential Regulation Authority under registration number 183366.

27. GOVERNING LAW AND JURISDICTION

- 27.1 This debenture is governed by and shall be construed in accordance with the law of England and Wales.
- 27.2 For the benefit of the Bank, the Company irrevocably submits to the jurisdiction of the English courts and irrevocably agrees that a judgment or ruling in any proceedings in connection with this debenture in those courts will be conclusive and binding on the Company and may be enforced against the Company in the courts of any other jurisdiction.

SCHEDULE 1
REGISTERED PROPERTY

Not applicable.

SCHEDULE 2
ASSIGNED AGREEMENTS

Words and expressions not otherwise defined below shall bear the meanings given in the Facility Agreement		
Agreements	Parties	Date
Operation and maintenance contract for the photovoltaic plant on land at Pagham Road, Merston, Chichester	(1) Pfalzsolar GmbH, a company incorporated in Germany registered at Franz-Zang-Strasse, D-67059, Ludwighafen, Germany (2) the Company	30 April 2019

Signature page to the debenture between Merston Renewable Energy C.I.C and Triodos Bank UK Limited

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The Bank

Signed as a deed by
and for and on behalf of
TRIODOS BANK UK LIMITED

)
)
)
)

[Redacted Signature]

Authorised Signatory

[Redacted Signature]

Authorised Signatory

The Company

Signed as a deed by
for and on behalf of
**MERSTON RENEWABLE
ENERGY C.I.C.**

)
)
)
)
)

Director

in the presence of:

Name of witness:

Signature of witness:

Address:

Occupation:

Signature page to the debenture between Merston Renewable Energy C.I.C and Triodos Bank UK Limited

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The Bank

Signed as a deed by)
and for and on behalf of)
TRIODOS BANK UK LIMITED)
) Authorised Signatory

)
) Authorised Signatory

The Company

Signed as a deed by)
for and on behalf of)
MERSTON RENEWABLE)
ENERGY C.I.C.)
.....**NICK BOWLAND**.....) Director
in the presence of:)

Name of witness: **NICHOLAS ROUSE**

Signature of witness: 

Address: **2, HOLLY COTTAGES**

ST. HELENA LANE, BAWDERTON GREEN

Occupation: **ENGINEER**