

MG01

Particulars of a mortgage or charge

185274/13



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LASERFORM

A fee is payable with this form.

We will not accept this form unless you send the correct fee

Please see 'How to pay' on the last page



What this form is for

You may use this form to register
particulars of a mortgage or charge
in England and Wales or Northern
Ireland



What this form is NOT for

You cannot use this form to
particulars of a charge for a
company To do this, please
form MG01s

MONDAY



L1L2DVVU

LD3

05/11/2012

#78

COMPANIES HOUSE

1

Company details

Company number

0 4 4 9 3 8 7 6

Company name in full

Black Hill Wind Farm Limited

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

Date of creation of charge

Date of creation

d3 d0 m1 m0 y2 y0 y1 y2

3

Description

Please give a description of the instrument (if any) creating or evidencing the
charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

Debenture dated 30 October 2012 between Black Hill Wind Farm Limited (as
Chargor) and KFW IPEX-Bank GmbH (as **Security Trustee**) (the **Debenture**)

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

All obligations from time to time incurred by the
Chargor under or in connection with the Finance
Documents.

Please see the continuation sheet

Continuation page

Please use a continuation page if
you need to enter more details

MG01

Particulars of a mortgage or charge

5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Continuation page

Please use a continuation page if you need to enter more details

Name	KFW IPEX-Bank GmbH									
Address	29th Floor, 30 St Mary Axe									
	London									
Postcode	E	C	3	A		8	E	Y		
Name										
Address										
Postcode										

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Continuation page

Please use a continuation page if you need to enter more details

Short particulars

- 1 The Debenture charges, by way of first legal mortgage
 - (a) Land known as Black Hill Wind Farm located at Black Hill, Longformacus, Duns, Berwickshire, Scotland and as more particularly described in the first lease dated 19th and 25th October made between (1) William Lockie Thorburn of Kidshielhaugh, Duns as landlord and (2) Black Hill Wind Farm Limited (Company Number 04493876) as tenant, and the second lease dated 19th and 25th October made between (1) Christine Marianna Gay Rodger and Andrew Grieve Rodger of Stobswood, Duns as landlord and (2) Black Hill Wind Farm Limited (Company Number 04493876) as tenant, and
 - (b) all other Land now owned by it,

and in any rights accruing to, derived from or otherwise connected with it (including insurances and proceeds of Disposal and of insurances)
- 2 The Chargor charges, by way of first fixed charge, all of the rights which it now has and all of the rights which it obtains at any time in the future in (a) the Shares, (b) any rights accruing to, derived from or otherwise connected with the Shares (including Dividends and proceeds of Disposal), (c) any warrants, options and other rights to subscribe for or otherwise acquire Shares, (d) Land, other than that charged by way of first legal mortgage in the paragraph 1 above, (e) Equipment, (f) Investments, (g) Project Documents, (h) Project Accounts, (i) Intellectual Property, (j) Debts, (k) Hedging Agreements, and (l) goodwill and uncalled capital, and in any rights accruing to, derived from or otherwise connected with them (including insurances and proceeds of Disposal and of insurances)
- 3 The Chargor charges, by way of first floating charge, its undertaking and all its present and future assets other than the Distribution Account and those assets effectively charged by way of first fixed charge under the above paragraph
- 4 The Debenture contains an undertaking by the Chargor that no Security shall exist over or in relation to any of the assets referred to in paragraphs 1 and 2 above except a Permitted Security Interest **Please see the continuation sheet.**

MG01

Particulars of a mortgage or charge

7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount

NIL

8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

9 Signature

Please sign the form here

Signature

Signature

X

Norton Rose LLP

X

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

MG01

Particulars of a mortgage or charge



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name NOKU/LN57301

Company name Norton Rose LLP (Collect
London Counters)

Address

Post town

County/Region

Postcode

Country

DX

Telephone +44 (0)20 7283 6000



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 the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



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.

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

MG01 - continuation page

Particulars of a mortgage or charge

4	Amount secured	
	Please give us details of the amount secured by the mortgage or charge	
Amount secured	<p>Definitions:</p> <p>Finance Documents means</p> <ul style="list-style-type: none"> (a) the facility agreement dated on or about the date of the Debenture between, amongst others, the Borrower and the Finance Parties, as it may from time to time be amended, restated, novated, or replaced (however fundamentally, including by an increase of any size in the amount of the facilities made available under it, the alteration of the nature, purpose or period of those facilities or the change of its parties) (the Facility Agreement) (b) the accounts agreement dated on or about the date of the Debenture and entered into between the Borrower, the Chargor, the Account Bank, the Facility Agent and the Security Trustee in relation to the operation of the Project Accounts (the Accounts Agreement) (c) the Direct Agreements, which means, <ul style="list-style-type: none"> (i) the Asset Management Direct Agreement (as defined in the Facility Agreement) (ii) the O&M Direct Agreement (as defined in the Facility Agreement), and (iii) the PPA Direct Agreement (as defined in the Facility Agreement) (d) any agreement or instrument relating to the protection against or benefit from any rate or price (including a swap, option, cap, collar, forward or floor) and any other derivative or risk hedging agreement or instrument entered into between a Hedge Provider and the Borrower (each Hedging Agreement) (e) the intercreditor deed dated on or around the date of the Debenture and entered into between the Facility Agent, the Security Trustee, the Account Bank, the Hedge Providers, the Lenders, the Borrower, the Chargor and the Shareholders (the Intercreditor Deed) (f) the Security Documents, which means <ul style="list-style-type: none"> (i) the Assignment of Shareholder Loans (as defined in the Facility Agreement) (ii) the Borrower Debenture (as defined in the Facility Agreement) (iii) on or after the Accession Effective Date, the Projco Debenture (as defined in the Facility Agreement) (iv) the Borrower Share Charge (as defined in the Facility Agreement) (v) on or after the Accession Effective Date, the Standard Securities (as defined in the Facility Agreement) (vi) on or after the Accession Effective Date, the Direct Agreements (as defined in the Facility Agreement) (vii) any other document designated as such by the Facility Agent and the Borrower (g) the Fee Letters, which means the letters between <ul style="list-style-type: none"> (i) the Mandated Lead Arranger and the Borrower setting out the arrangement fee payable by the Borrower, (ii) the Facility Agent and the Borrower setting out the agency fee payable by the 	

MG01 - continuation page

Particulars of a mortgage or charge

4	Amount secured	
	Please give us details of the amount secured by the mortgage or charge	
Amount secured	<p>Borrower, and</p> <p>(iii) the Account Bank and the Borrower setting out the account bank fee payable by the Borrower,</p> <p>(h) each deed of accession entered into in the form set out in Schedule 1 (Form of Accession Deed) to the Intercreditor Deed (the Intercreditor Accession Deed)</p> <p>(i) the project company accession deed entered into in the form of Schedule 14 (Form of Project Company Accession Deed) to the Facility Agreement by the Facility Agent and the Chargor (the Project Company Accession Deed)</p> <p>(j) the transfer certificate completed substantially in the form of Schedule 5 (Form of Transfer Certificate) of the Facility Agreement by an Existing Lender, a New Lender (as defined in the Facility Agreement) and the Facility Agent (the Transfer Certificate), and</p> <p>(k) any other document designated as such by the Facility Agent and the Borrower</p> <p>Account Bank means HSBC Bank plc or any other person appointed as such under the Accounts Agreement</p> <p>Borrower means Black Hill Wind Farm Holdco Limited with registered offices at c/o Dundas & Wilson, Northwest Wing, Bush House, Aldwych, London, United Kingdom, WC2B 4EZ and company number 08193114</p> <p>Facility Agent means KfW IPEX-Bank GmbH, or any other person appointed as security trustee for the Finance Parties under the Finance Documents</p> <p>Finance Parties means the Facility Agent, the Mandated Lead Arranger, the Security Trustee, any Hedge Provider and the Lenders and Finance Party means any one of them</p> <p>Hedge Provider means a person that has entered into a Hedging Agreement with the Borrower and who, at the date of entering into the Hedging Agreement, satisfies the requirements of clause 22 7 3 (a) and 22 7 3(b) (Hedging) of the Facility Agreement</p> <p>Lenders means the Original Lenders, any bank, financial institution, trust, fund or other entity which has become a party or a Lender in accordance with clause 2 3 (Increase) of the Facility Agreement and any transferees and Lender means any of them</p> <p>Mandated Lead Arranger means KfW IPEX-Bank GmbH</p> <p>Original Lenders means, at any time, those banks and financial institutions listed in Schedule 1 (The Original Lenders) of the Facility Agreement (being KfW IPEX-Bank GmbH at the date of the signing of the Facility Agreement) as term loan lenders which have not transferred all their rights and obligations under the Facility Agreement to a transferee</p> <p>Project Accounts means (as defined under the Facility Agreement)</p> <p>(a) the Collection Account (as defined in the Facility Agreement)</p> <p>(b) the Compensation Proceeds Account (as defined in the Facility Agreement)</p> <p>(c) the Debt Service Reserve Account (as defined in the Facility Agreement)</p> <p>(d) the Distribution Account (as defined in the Facility Agreement)</p>	

MG01 - continuation page

Particulars of a mortgage or charge

4	Amount secured	
	Please give us details of the amount secured by the mortgage or charge	
Amount secured	<p>(e) the Insurance Proceeds Account (as defined in the Facility Agreement)</p> <p>(f) the Maintenance Reserve Account (as defined in the Facility Agreement)</p> <p>(g) the Decommissioning Reserve Account (as defined in the Facility Agreement)</p> <p>(h) the Proceeds Account (as defined in the Facility Agreement)</p> <p>(i) the Equity Cure Account (as defined in the Facility Agreement)</p> <p>(j) any other account so designated by the Borrower and the Facility Agent</p> <p>Security Trustee means KFW IPEX-Bank GmbH, or any other person appointed as security trustee for the Finance Parties under the Finance Documents</p> <p>Shareholders means</p> <p>(a) Black Hill Wind Farm Topco Limited (incorporated in England with number 08192398) whose registered office is at c/o Dundas & Wilson Northwest Wing, Bush House, Aldwych, London, United Kingdom WC2B 4EZ (the Topco), and</p> <p>(b) any other shareholder of the Borrower and the Chargor from time to time</p>	

MG01 - continuation page

Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>Definitions:</p> <p>Accession Effective Date means the date when the Chargor accedes to the Facility Agreement on the execution by the Facility Agent of a Project Company Accession Deed</p> <p>Debt means a monetary claim of any kind (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all rights (including Security) connected with it (but shall exclude monies standing to the credit of a bank account that is not a Project Account),</p> <p>Dividends, in relation to any Share, means</p> <ul style="list-style-type: none"> (a) dividends and distributions of any kind and any other sum received or receivable in respect of that Share (b) shares or other rights accruing or offered by way of redemption, bonus, option or otherwise in respect of that Share (c) allotments, offers and rights accruing or offered in respect of that Share, and (d) any other rights attaching to, deriving from or exercisable by virtue of the ownership of, that Share <p>but for the avoidance of doubt excludes any amounts paid to or from the Distribution Account</p> <p>Disposal means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any right over an asset in favour of another person, but not the creation of Security</p> <p>Equipment means all plant, machinery, vehicles and other equipment used in the business of the Chargor, except equipment of a type which is disposed of in the ordinary course of trading, and all warranties and other rights relating to them</p> <p>Guarantor means Black Hill Wind Farm Limited, a company incorporated in England with registered number 04493876 whose registered office is at Beaufort Court, Egg Farm Lane, Kings Langley, Hertfordshire WD48LR</p> <p>Intellectual Property means all copyright (including rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading, and any intellectual property acquired after the date of the Debenture which is designated as Intellectual Property by the Chargor and the Security Trustee at or about the time of its acquisitions</p> <p>Investment means</p> <ul style="list-style-type: none"> (a) any shares or loan capital held in a subsidiary (b) any investment acquired after the date of the Debenture which is designated as an Investment by the Chargor and the Security Trustee at or about the time of its acquisition, and (c) any other debt or equity security or any warrant or option to acquire or subscribe for any such security (whether it is held directly or through a custodian, clearing house or other person) unless it is of a type which is not held as an investment and is accordingly 	

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

disposed of in the ordinary course of trading (excluding any monies standing to the credit of a bank account that is not a Project Account),

and any accretions to them and other rights arising in connection with them but excluding all amounts standing to the credit of the Distribution Account

Land means

- (a) freehold, leasehold or commonhold land
- (b) any estate or interest in, and any rights attaching or relating to, that land, and
- (c) any buildings, fixtures and fittings (including trade fixtures and fittings) and other equipment attached to, situated on or forming part of that land

Obligors means the Borrower, the Guarantor and on or after the Accession Effective Date, the Chargor and **Obligor** means any one of them

Project Accounts (as defined under the Debenture) means

- (a) any account described in Schedule 2 (Project Accounts) of the Debenture, which is the Proceeds Account
- (b) any account that replaces an account described in Schedule 2 (Project Accounts) of the Debenture
- (c) any account established after the date of the Debenture which is designated as a Project Account by the Chargor and the Security Trustee at or about the time of its establishment, and
- (d) any other account with a bank or financial institution which cannot be drawn on by the account holder in the ordinary course of its trading without the consent of the Security Trustee

Project Documents means

- (a) each of the Project Documents as such term is defined in the Facility Agreement
 - (i) the power purchase agreement between the Chargor and the PPA Offtaker (as defined in the Facility Agreement) dated 17 October 2005 and any renewal or replacement thereof permitted in accordance with the terms of the Facility Agreement (the **PPA**)
 - (ii) the service agreement dated 1 August 2012 and entered into between the O&M Contractor (as defined in the Facility Agreement) and the Chargor (the **O&M Contract**)
 - (iii) the extended warranties provided by Siemens plc to the Chargor and RES UK & Ireland Limited in respect of (i) intermediate speed shaft pinion failures due to non-metallic inclusion in the gearboxes of each of the turbines at the Wind Farm and (ii) deterioration of the surface condition of the ring gear in the gearboxes of turbines T12 and T21 only (the **Siemens Warranties**)
 - (iv) (a) the lease dated 19 and 25 October 2005 entered into between William Lockie

MG01 - continuation page

Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

Thorburn, residing at Kidshielhaugh, Duns as landlord and the Chargor as tenant registered in the Land Register of Scotland under Title Number BER3914, and (b) the lease dated 19 and 25 October 2005 and entered into between Mrs Christine Marianna Gay Rodger and Andrew Grieve Rodger, residing at Stobswood, Duns as landlord and the Chargor as tenant registered in the Land Register of Scotland under Title Number BER3915, each in respect of the Site (the **Leases**)

- (v) the agreement dated 23 January 2007 relating to grid connection and entered into between the Grid Connection Counterparty (as defined in the Facility Agreement) and the Chargor (the **Grid Connection Agreement**)
- (vi) the asset management agreement to be entered on or around the date of the Debenture between the Chargor and the Asset Manager (as defined in the Facility Agreement) (the **Asset Management Agreement**)
- (vii) the copyright licence to be entered into between RES Wind Farm Holdings Limited, the Borrower and Chargor dated on or about the date of the Debenture (the **Copyright Licence**)
- (viii) the agreement dated 23 October 2009 and entered into between the Chargor and Black Hill Wind Farm Community Fund Limited whereby the Chargor makes bi-annual payments to Black Hill Wind Farm Community Fund Limited to be used for the purpose of supporting certain initiatives in the local community (the **Grant Funding Agreement**)
- (ix) the waiver and compensation agreement dated on or around the date of the Debenture between the Borrower and RES UK & Ireland Limited (the **Waiver and Compensation Agreement**)
- (x) each agreement entered or to be entered into between any Shareholder, the Borrower and the Chargor for the provision of shareholder loans (each **Shareholder Loan Agreement**)
- (xi) the deed of release delivered by Bank of Tokyo-Mitsubishi UFJ, Limited on or around the date of the Debenture releasing the Chargor from any pre-existing security interest (the **Deed of Release**)
- (xii) any other document designated as a Project Document by the Facility Agent and the Borrower
- (b) any contract that amends or replaces a contract referred to in paragraph (a) above, and
- (c) any contract entered into after the date of the Debenture which is designated as a Project Document by the Chargor and the Security Trustee at or about the time it was entered into

Permitted Security Interest means

- (a) any security interest created in respect of any retention of title arrangement carried out at arm's length in the relevant Obligor's ordinary course of trade,
- (b) any security interest arising under the Finance Documents,

MG01 - continuation page

Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>(c) any security interest arising by operation of law in the relevant Obligor's ordinary course of trade securing amounts not more than 30 days overdue,</p> <p>(d) rights of set-off arising by operation of law,</p> <p>(e) any security interest over any Permitted Investment (as defined in the Facility Agreement) in favour of a clearing or custody system holding the Permitted Investment, and</p> <p>(f) any other security interest approved in writing by the Facility Agent acting on the instructions of the majority lenders,</p> <p>Security means</p> <p>(a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction</p> <p>(b) any proprietary interest over an asset, or any contractual arrangement in relation to an asset, in each case created in relation to Financial Indebtedness (as defined in the Facility Agreement) and which has the same commercial effect as if security had been created over it, and</p> <p>(c) any right of set-off created by agreement</p> <p>Share means any shares acquired by the Chargor after the date of the Debenture which are designated as Shares by the Chargor and the Security Trustee at or about the time of their acquisition</p> <p>Wind Farm means the electricity generating station powered by 22 turbines and located at the site located at Black Hill, Longformacus, Duns, Berwickshire, Scotland, as specifically detailed in the</p>	



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 4493876
CHARGE NO. 9**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEBENTURE DATED 30 OCTOBER
2012 AND CREATED BY BLACK HILL WIND FARM LIMITED
FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM
THE COMPANY UNDER THE TERMS OF THE
AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING
THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1
PART 25 OF THE COMPANIES ACT 2006 ON THE 5 NOVEMBER
2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 7 NOVEMBER
2012

LC



Companies House



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