



Registration of a Charge

Company name: **FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED**
Company number: **09817571**



X7B2UVQY

Received for Electronic Filing: **27/07/2018**

Details of Charge

Date of creation: **26/07/2018**
Charge code: **0981 7571 0001**
Persons entitled: **BARCLAYS BANK PLC(AS SECURITY TRUSTEE)**
Brief description:
Contains fixed charge(s).
Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

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

Certified by: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9817571

Charge code: 0981 7571 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th July 2018 and created by FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2018 .

Given at Companies House, Cardiff on 31st July 2018

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**

DATED 26/07/2018

(1) FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED

(2) BARCLAYS BANK PLC

**CHARGE OVER MEMBERSHIP INTEREST
in FIM Solar Generation I LLP**



Pinsent Masons

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THIS CHARGE OVER MEMBERSHIP INTEREST is made on 26 July 2018

BETWEEN:

- (1) **FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED** a private limited company registered in England and Wales (registered number 09817571) and whose registered office is Glebe Barn, Great Barrington, Burford, Oxfordshire OX18 4US (together the "**Chargor**"); and
- (2) **BARCLAYS BANK PLC** (as security trustee for the Secured Finance Parties (as defined below)) (in such capacity, the "**Security Trustee**").

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:-

- (a) terms defined in, or construed for the purposes of, the Facilities Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed); and

- (b) at all times the following terms have the following meanings:-

"Act" means the Law of Property Act 1925

"Borrower" means FIM Solar Generation I LLP, a limited liability partnership registered in England and Wales (registered number OC397836) and whose registered office is Glebe Barn, Great Barrington, Burford, Oxfordshire OX18 4US.

"Default Rate" means the rate of interest determined in accordance with Clause 8.4 (*Default interest*) of the Facilities Agreement

"Delegate" means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Security Trustee or by a Receiver

"Facilities Agreement" means the term facilities agreement dated 19 June 2015 and originally made between (1) FIM Solar Generation I LLP (as Borrower), (2) FIM Solar Parks I LLP and FIM Forest Funds General Partner Limited (as Members), (3) Barclays Bank PLC (as Mandated Lead Arranger), (4) Barclays Bank PLC (as Agent), (5) Barclays Bank PLC (as Account Bank), (6) Barclays Bank PLC (as Security Trustee) and (7) the financial institutions listed therein (as Original Lenders) as subsequently varied, supplemented, restated or otherwise amended pursuant to which the Original Lenders agreed to make certain facilities available to the Borrower

"Members' Agreement" means the limited liability partnership agreement dated 11 February 2015 relating to the Borrower as subsequently amended and restated by an amendment and restatement agreement dated on or around the date of this Deed and made between (1) the Chargor, (2) FIM Solar Parks 1 LLP and (3) the Borrower in respect of the establishment of the Borrower as a limited liability partnership;

"Membership Interest"	means the Chargor's interest in the Borrower (whether arising under the Members' Agreement, the Limited Liability Partnership Act 2000 (or any other law or regulation relating to limited liability partnerships) or otherwise), including, without limitation, all of its interest in the capital of, all of its rights to receive the profits of, and all of its rights to receive any distributions of assets, of the Borrower
"Party"	means a party to this Deed
"Receiver"	means a receiver, or receiver and manager or administrative receiver of the whole or any part of the Security Assets appointed by the Security Trustee under this Deed
"Related Rights"	means:- <ul style="list-style-type: none"> (a) all dividends, distributions and other income paid or payable in relation to any Membership Interest or on any asset referred to in paragraph (b) of this definition; and (b) all rights, monies or property accruing or offered at any time in relation to such Membership Interest whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise
"Secured Finance Parties"	has the meaning given to that term in the Security Trust and Intercreditor Deed
"Secured Obligations"	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of each Obligor to any Secured Finance Party (or any of them) under or pursuant to any Finance Document (including all monies covenanted to be paid under this Deed)
"this Security"	means the Security created or evidenced by or pursuant to this Deed
"Security Assets"	means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed and
"Security Period"	means the period beginning on the date of this Deed and ending on the date on which:- <ul style="list-style-type: none"> (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and (b) no Secured Finance Party has any further commitment, obligation or liability under or pursuant to the Finance Documents

1.2 Interpretation

- 1.2.1 Unless a contrary indication appears, in this Deed the provisions of Clause 1.3 (*Construction*) of the Facilities Agreement (other than Clause 1.3.1(n)) apply to this Deed as though they were set out in full in this Deed, except that references to "this Agreement" will be construed as references to this Deed.

1.2.2 Unless a contrary indication appears, any reference in this Deed to:-

- (a) the "**Chargor**", the "**Borrower**", any "**Obligor**", the "**Security Trustee**" or any other "**Secured Finance Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Trustee, any person for the time being appointed as Security Trustee or Security Trustees in accordance with the Finance Documents;
- (b) "**this Deed**", the "**Facilities Agreement**", any other "**Finance Document**" or any other agreement or instrument is a reference to this Deed, the Facilities Agreement, that other Finance Document or that other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of each Obligor or provides for further advances);
- (c) "**assets**" includes any present and future properties, revenues and rights of every description and includes uncalled capital;
- (d) "**including**" or "**includes**" means including or includes without limitation;
- (e) "**Secured Obligations**" includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting any person;
- (f) a provision of law is a reference to that provision as amended or re-enacted; and
- (g) the singular includes the plural and vice versa.

1.2.3 References to Clauses and Schedule 1 are to be construed, unless otherwise stated, as references to Clauses and the schedule of this Deed and references to this Deed include its schedule.

1.2.4 Clause and Schedule headings are for convenience only and shall not affect the construction of this Deed.

1.2.5 Each undertaking of the Chargor (other than a payment obligation) contained in this Deed:-

- (a) must be complied with at all times during the Security Period; and
- (b) is given by the Chargor for the benefit of the Security Trustee and each other Secured Finance Party.

1.2.6 If the Security Trustee or the Agent reasonably considers that an amount paid by an Obligor to a Secured Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation, bankruptcy or administration of an Obligor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.2.7 The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

1.3 Inconsistency between this Deed and the Security Trust and Intercreditor Deed and Facilities Agreement

If there is any conflict or inconsistency between any provision of this Deed and any provision of the Facilities Agreement or the Security Trust and Intercreditor Deed, the provision of the Facilities Agreement or the Security Trust and Intercreditor Deed shall prevail (as applicable).

1.4 Trust

All Security and dispositions made or created, and all obligations and undertakings contained, in this Deed to, in favour of or for the benefit of the Security Trustee are made, created and entered into in favour of the Security Trustee as trustee for the Secured Finance Parties from time to time on the terms of the Security Trust and Intercreditor Deed.

1.5 Third party rights

A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.6 Delivery

The Parties intend this Deed to be delivered on the first date specified on page 1 of this Deed.

2. COVENANT TO PAY

2.1 Covenant to pay

2.1.1 The Chargor, as principal obligor and not merely as surety, covenants in favour of the Security Trustee that it will pay and discharge the Secured Obligations from time to time when due and payable in accordance with the terms of the Facilities Agreement and the other Finance Documents.

2.1.2 Every payment by the Chargor of a Secured Obligation which is made to or for the benefit of a Secured Finance Party to which that Secured Obligation is due and payable in accordance with the Finance Document under which such sum is payable to that Secured Finance Party shall operate in satisfaction to the same extent of the covenant contained in Clause 2.2.1.

2.2 Default interest

2.2.1 Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate and in the manner agreed in the Finance Document under which such amount is payable and, in the absence of such agreement, at the Default Rate from time to time.

2.2.2 Default interest will accrue from day to day on a year of 365 days and will be compounded at such intervals as the Security Trustee (acting on the instructions of the Agent) states are appropriate.

2.3 Limited recourse

Notwithstanding any other provision of this Deed, it is expressly agreed between the Chargor and the Security Trustee that:-

2.3.1 the sole recourse of the Security Trustee to the Chargor under this deed is to the Chargor's interest in the Membership Interest and Related Rights; and

- 2.3.2 that the Chargor's liability for the payment and discharge of the Secured Obligations under this Deed shall be limited in aggregate to an amount equal to that recovered as a result of enforcement of this Deed with respect to the Membership Interest and Related Rights and satisfied only from the proceeds of sale or other disposal or realisation of the Membership Interest and Related Rights pursuant to this Deed.

3. GRANT OF SECURITY

3.1 Nature of security

All Security and dispositions created or made by or pursuant to this Deed are created or made:-

- 3.1.1 in favour of the Security Trustee;
- 3.1.2 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- 3.1.3 as continuing security for payment of the Secured Obligations.

3.2 Membership interests

- 3.2.1 The Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by the Chargor, or in which it from time to time has an interest:-
- (a) by way of first fixed charge all Membership Interests, together with all Related Rights from time to time relating to those Membership Interests; and
 - (b) to the extent not effectively assigned under Clause 3.3 (*Members' Agreement*), all its rights and remedies in connection with the Members' Agreement and all proceeds and claims arising from them.
- 3.2.2 Immediately upon execution of this Deed, the Chargor shall deliver to the Security Trustee:-
- (a) two executed but undated deeds of adherence in respect of the Borrower's LLP Agreement (in a form satisfactory to the Security Trustee); and
 - (b) an executed but undated Form LL TMO1 in relation to the termination of the Chargor as a member of the Borrower (in a form satisfactory to the Security Trustee); and
 - (c) two executed but undated Forms LL AP02 in relation to the appointment of a new corporate member of the Borrower (in a form satisfactory to the Security Trustee).

3.3 Members' Agreement

The Chargor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all of its present and future rights, title and interest in and to the Members' Agreement, all rights and remedies in connection with the Members' Agreement and all proceeds and claims arising from them.

3.4 Notice of assignment

Within one Business Day of (or such other period of time as agreed between the Chargor and the Security Trustee) execution of this Deed, the Chargor shall deliver a duly completed notice of assignment to each other party to the Members' Agreement, and shall use its reasonable endeavours to procure that each such party executes and delivers to the Security Trustee an

acknowledgement, in each case in the respective forms set out in the schedule or in such other form as reasonably agreed to by the Security Trustee.

3.5 Assigned Assets

The Security Trustee is not obliged to take any steps necessary to preserve the Members' Agreement, to enforce any term of the Members' Agreement against any person or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed.

4. CONTINUING SECURITY

4.1 Continuing security

This Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

4.2 Additional and separate security

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Security Trustee and/or any other Secured Finance Party may at any time hold for any Secured Obligation.

4.3 Right to enforce

This Deed may be enforced against the Chargor without the Security Trustee and/or any other Secured Finance Party first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

5. LIABILITY OF THE CHARGOR RELATING TO SECURITY ASSETS

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Security Trustee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

6. REPRESENTATIONS

6.1 General

The Chargor makes the representations and warranties set out in this Clause 6 to the Security Trustee and to each other Secured Finance Party.

6.2 No Security Interests

No Security exists over all or any of the present or future Security Assets of the Chargor other than:-

6.2.1 as created by this Deed; or

6.2.2 as permitted by the Facilities Agreement.

6.3 Membership Interests fully paid

To the extent that the Chargor has been required by the Borrower to make a capital contribution in accordance with the Members' Agreement, the Chargor has made such contribution in full.

6.4 Ranking

Subject to the Reservations, this Security has or will have first ranking priority and is not subject to any prior ranking or pari passu ranking Security.

6.5 Time when representations made

6.5.1 All the representations and warranties in this Clause 6 are made by the Chargor on the date of this Deed and are also deemed to be made by the Chargor:-

- (a) on the date of each Utilisation Request and each Utilisation Date; and
- (b) on the first day of each Interest Period.

6.5.2 Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

7. UNDERTAKINGS BY THE CHARGOR

7.1 Negative pledge and Disposals

Unless permitted by the terms of the Facilities Agreement, the Chargor shall not do or agree to do any of the following without the prior written consent of the Security Trustee:-

- 7.1.1 create or permit to subsist any Security on any Security Asset other than as created by this Deed; or
- 7.1.2 sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) the whole or any part of its interest in any Security Asset; or
- 7.1.3 take or permit the taking of any action which may result in the rights attaching to any Security Asset being altered.

7.2 Undertakings

The Chargor shall comply with the undertakings set out in Clauses 29 (*Information Undertakings*), 30 (*General Covenants*) and 31 (*Project Covenants*) of the Facilities Agreement.

7.3 Notification

The Chargor shall:-

- 7.3.1 unless otherwise provided to the Agent in accordance with the Facilities Agreement, notify the Security Trustee within 14 days of receipt of every notice received by it in relation to the Security Assets; and
- 7.3.2 (if required by the Security Trustee and unless otherwise provided to the Agent in accordance with the Facilities Agreement) immediately provide it with a copy of that notice and either (A) comply with such notice or (B) make such objections to it as the Security Trustee may reasonably require or approve.

7.4 Calls

7.4.1 The Chargor shall promptly pay all calls or other payments which may become due in respect of its Membership Interests and all other outgoings in respect of its Membership Interests.

7.4.2 If the Chargor fails to make such payments, the Security Trustee may (without prejudice to the rights of the Security Trustee under Clause 8 (*Power to remedy*)) make such payments on behalf of the Chargor.

7.4.3 Any sums so paid by the Security Trustee shall be repayable by the Chargor to the Security Trustee on demand together with interest at the Default Rate (both before and after judgment) from the date on which those payments were made by the Security Trustee and otherwise in accordance with Clause 8.4 (*Default interest*) of the Facilities Agreement.

7.5 Rights in respect of Membership Interests

7.5.1 Until an Event of Default occurs which is continuing and subject to the terms of the Facilities Agreement and the Security Trust and Intercreditor Deed, the Chargor shall be entitled to:-

- (a) receive and retain all dividends, distributions, profits and other monies paid on or derived from its Membership Interests; and
- (b) exercise all voting and other rights and powers attaching to its Membership Interests provided that it must not do so in a manner which:-
 - (i) has the effect of changing the rights attaching to any Membership Interests or of any Related Rights unless permitted by the Finance Documents; or
 - (ii) is prejudicial to the interests of any of the Secured Finance Parties.

7.5.2 At any time following the occurrence of an Event of Default which is continuing, the Security Trustee may complete the instrument(s) of transfer for all or any Membership Interests on behalf of the Chargor in favour of itself or such other person as it may select.

7.5.3 At any time when any Membership Interest is registered in the name of the Security Trustee or its nominee, the Security Trustee shall be under no duty to:-

- (a) ensure that any dividends, distributions or other monies payable in respect of such Membership Interest is duly and promptly paid or received by it or its nominee;
- (b) verify that the correct amounts are paid or received; or
- (c) take any action in connection with the taking up of any (or any offer of any) Related Rights in respect of or in substitution for, any such Membership Interest.

8. POWER TO REMEDY

8.1 Power to remedy

If at any time the Chargor does not comply with any of its obligations under this Deed, the Security Trustee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The Chargor irrevocably authorises the Security Trustee and its employees and agents by way of security to do all such things (including entering the property of the Chargor) which are necessary or desirable to rectify that default.

8.2 Mortgagee in possession

The exercise of the powers of the Security Trustee under this Clause 8 shall not render it, or any other Secured Finance Party, liable as a mortgagee in possession.

8.3 Monies expended

The Chargor shall pay to the Security Trustee on demand any monies which are expended by the Security Trustee in exercising its powers under this Clause 8 together with interest at the Default Rate from the date on which those monies were expended by the Security Trustee (both before and after judgment) and otherwise in accordance with Clause 2.2 (*Default interest*).

9. WHEN SECURITY BECOMES ENFORCEABLE

9.1 When enforceable

This Security shall become immediately enforceable upon the occurrence of an Event of Default that is continuing and shall remain so for so long as such Event of Default is continuing.

9.2 Statutory powers

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default and for so long as such Event of Default is continuing.

9.3 Enforcement

After this Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of this Security in such manner as it sees fit.

10. ENFORCEMENT OF SECURITY

10.1 General

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to this Security.

10.2 Powers of the Security Trustee

At any time after this Security becomes enforceable (or if so requested by the Chargor by written notice at any time), the Security Trustee may without further notice (unless required by law):-

- 10.2.1 appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
- 10.2.2 appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
- 10.2.3 exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
- 10.2.4 exercise (in the name of the Chargor and without any further consent or authority of the Chargor) any voting rights and any powers or rights which may be exercised by the Chargor in respect of its Membership Interests.

10.3 Redemption of prior mortgages

At any time after this Security has become enforceable, the Security Trustee may:-

- 10.3.1 redeem any prior Security against any Security Asset; and/or

10.3.2 procure the transfer of that Security to itself; and/or

10.3.3 settle and pass the accounts of the holder of any prior Security and any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Security Trustee on demand.

10.4 Privileges

10.4.1 Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.

10.4.2 To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Security Trustee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

10.4.3 For the purpose of Clause 10.4.2, the value of the financial collateral appropriated shall be such amount as the Receiver or the Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

10.5 No liability

10.5.1 Neither the Security Trustee, any other Secured Finance Party nor any Receiver shall be liable (A) in respect of all or any part of the Security Assets or (B) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).

10.5.2 Without prejudice to the generality of Clause 10.5.1, neither the Security Trustee, any other Secured Finance Party nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

10.6 Protection of third parties

No person (including a purchaser) dealing with the Security Trustee or any Receiver or Delegate or any of its or his agents will be concerned to enquire:-

10.6.1 whether the Secured Obligations have become payable; or

10.6.2 whether any power which the Security Trustee or the Receiver is purporting to exercise has become exercisable; or

10.6.3 whether any money remains due under any Finance Document; or

10.6.4 how any money paid to the Security Trustee or to the Receiver is to be applied.

11. RECEIVER

11.1 Removal and replacement

The Security Trustee may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

11.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

11.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Trustee (or, failing such agreement, to be fixed by the Security Trustee).

11.4 Payment by Receiver

Only monies actually paid by a Receiver to the Security Trustee in relation to the Secured Obligations shall be capable of being applied by the Security Trustee in discharge of the Secured Obligations.

11.5 Agent of Chargor

Any Receiver shall be the agent of the Chargor. The Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. No Secured Finance Party shall incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

12. POWERS OF RECEIVER

12.1 General powers

Any Receiver shall have:-

12.1.1 all the powers which are conferred on the Security Trustee by Clause 10.2 (*Powers of the Security Trustee*);

12.1.2 all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;

12.1.3 (whether or not he is an administrative receiver) all the powers which are listed in schedule I of the Insolvency Act 1986; and

12.1.4 all powers which are conferred by any other law conferring power on receivers.

12.2 Additional powers

In addition to the powers referred to in Clause 12.1 (*General powers*), a Receiver shall have the following powers:-

12.2.1 to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;

- 12.2.2 to manage the Security Assets and the business of the Charger as he thinks fit;
- 12.2.3 to redeem any Security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 12.2.4 to sell or concur in selling or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act, and, without limitation:-
- (a) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
 - (b) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- 12.2.5 to carry out any sale or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Chargor;
- 12.2.6 to take any such proceedings (in the name of the Charger or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- 12.2.7 to enter into or make any such agreement, arrangement or compromise as he shall think fit (or as the Security Trustee shall direct) in respect of the Security Assets and/or income in respect of which he was appointed;
- 12.2.8 to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- 12.2.9 to form one or more Subsidiaries of the Chargor, and to transfer to any such Subsidiary all or any part of the Security Assets;
- 12.2.10 to:-
- (a) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
 - (b) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
 - (c) use the name of the Charger for any of the above purposes.

13. APPLICATION OF PROCEEDS AND SECURITY TRUST AND INTERCREDITOR DEED

13.1 Application

All monies received by the Security Trustee or any Receiver after this Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to this Security and subject to the Security Trust and Intercreditor Deed) be applied in the following order:-

- 13.1.1 *first*, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by the Security Trustee, any other Secured Finance Party or any Receiver or Delegate and of all remuneration due to the Receiver in connection with this Deed or the Security Assets;
- 13.1.2 *secondly*, in satisfaction of, or provision for, all cost and expenses incurred by the Agent or any other Secured Finance Party in connection with any realisation or enforcement of this Deed taken in accordance with the terms of any Finance Document;
- 13.1.3 *thirdly*, in or towards the satisfaction of the remaining Secured Obligations in accordance with Clause 13.3 (*Appropriation, Security Trust and Intercreditor Deed and suspense account*); and
- 13.1.4 *fourthly*, in payment of any surplus to the Chargor or other person entitled to it.

13.2 Contingencies

If this Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), the Security Trustee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account (with interest accruing thereon at such rate (if any) as the Security Trustee usually grants for accounts of that size and nature).

13.3 Appropriation, Security Trust and Intercreditor Deed and suspense account

- 13.3.1 Subject to the Security Trust and Intercreditor Deed and Clause 13.1 (*Application*), the Security Trustee shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which it may determine or if the Lender assigns any of its rights under the Finance Documents under Clause 33.1 (*Assignments and transfers by the Lenders*) of the Facilities Agreement in accordance with the order set out in Clause 38.6 (*Partial payments*) of the Facilities Agreement.
- 13.3.2 Any such appropriation shall override any appropriation by the Chargor.
- 13.3.3 All monies received, recovered or realised by the Security Trustee under or in connection with this Deed may at the discretion of the Security Trustee be credited to a separate interest-bearing suspense account for so long as the Security Trustee determines (with interest accruing thereon at such rate (if any) as the Security Trustee usually grants for accounts of that size and nature) without the Security Trustee having any obligation to apply such monies and interest or any part of it in or towards the discharge of any of the Secured Obligations unless such monies would clear all Secured Obligations in full.

14. SET-OFF

14.1 Set-off rights

- 14.1.1 The Security Trustee and each other Secured Finance Party may (but shall not be obliged to) set off any obligation which is due and payable by the Chargor and unpaid (whether under the Finance Documents or which has been assigned to the Security Trustee or such other Secured Finance Party by the Chargor) against any obligation (whether or not matured) owed by the Security Trustee or such other Secured Finance Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- 14.1.2 At any time after the Debenture Security has become enforceable (and in addition to its rights under Clause 14.1.1), the Security Trustee and each other Secured Finance Party may (but shall not be obliged to) set-off any contingent liability owed by the Chargor under any Finance Document against any obligation (whether or not matured) owed by

the Security Trustee or such other Secured Finance Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.

14.1.3 If the obligations are in different currencies, the Security Trustee or such other Secured Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

14.1.4 If either obligation is unliquidated or unascertained, the Security Trustee or such other Secured Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

14.2 Time deposits

Without prejudice to Clause 14.1 (*Set-off*), if any time deposit matures on any account which the Chargor has with the Security Trustee or any other Secured Finance Party at a time within the Security Period when:-

14.2.1 this Debenture Security has become enforceable; and

14.2.2 no Secured Obligation is due and payable;

such time deposit shall automatically be renewed for such further maturity as the Security Trustee or such other Secured Finance Party in its absolute discretion considers appropriate unless the Security Trustee or such other Secured Finance Party otherwise agrees in writing.

15. DELEGATION

Each of the Security Trustee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such Delegate.

16. FURTHER ASSURANCES

16.1 Further action

The Chargor shall, at its own expense, immediately do all acts and execute all documents as the Security Trustee or a Receiver may reasonably specify (and in such form as the Security Trustee or a Receiver may reasonably require) for:-

16.1.1 creating, perfecting or protecting the Security intended to be created by this Deed or any other Finance Document; and

16.1.2 if the Debenture Security is enforced, facilitating the realisation of any Security Asset;

16.1.3 facilitating the exercise of any rights, powers and remedies exercisable by the Security Trustee, any other Secured Finance Party, or any Receiver or any Delegate in respect of any Security Asset or provided by or pursuant to the Finance Documents or by law; or

16.1.4 creating and perfecting Security in favour of the Security Trustee or the Secured Finance Parties over any property and assets of the Chargor located in any jurisdiction outside England and Wales equivalent or similar to the Security intended to be created by or pursuant to this Deed or any other Finance Document.

This includes:-

(a) the re-execution of this Deed or such Finance Document;

- (b) the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property, whether to the Security Trustee or to its nominee; and
- (c) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Trustee thinks is necessary.

16.2 Finance Documents

The Chargor shall take all such action as is available to it (including making all filings and registrations, other than the submission of completed MR01 forms in relation to any registration requirements under section 859A of the Companies Act 2006) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Secured Finance Parties by or pursuant to the Finance Documents.

16.3 Specific security

Without prejudice to the generality of Clause 16.1 (*Further action*), the Chargor will immediately upon request by the Security Trustee execute any document contemplated by that Clause over any Security Asset which is subject to or intended to be subject to any fixed security under this Deed.

17. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any Delegate to be its attorney to take any action whilst an Event of Default is continuing or enforcement of this Security has occurred which the Chargor is obliged to take under this Deed (including under Clause 16 (*Further assurances*)) within two Business Days of request by the Security Trustee or, if no Event of Default is continuing, which the Chargor has failed to take under this Deed (including under Clause 16 (*Further assurances*)). The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause.

18. CURRENCY CONVERSION

All monies received or held by the Security Trustee or any Receiver or Delegate under this Deed may be converted from their existing currency into such other currency as the Security Trustee or any Receiver or Delegate considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the official rate of exchange for the conversion of that currency or currency unit into the other rounded up or down by the Security Trustee (acting reasonably). The Chargor shall indemnify the Security Trustee or any Receiver or Delegate against all costs, charges and expenses incurred in relation to such conversion. Neither the Security Trustee nor any Receiver or Delegate shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

19. CHANGES TO THE PARTIES

19.1 Chargor

The Chargor may not assign any of its rights or obligations under this Deed.

19.2 Security Trustee

The Security Trustee may assign or transfer all or any part of its rights under this Deed pursuant to the resignation or removal of the Security Trustee in accordance with the Security Trust and Intercreditor Deed. The Chargor shall, immediately upon being requested to do so by the Security Trustee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

20. MISCELLANEOUS

20.1 New accounts

20.1.1 If the Security Trustee or any other Secured Finance Party receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security (other than Security expressly permitted under the Facilities Agreement) affecting any Security Asset and/or the proceeds of sale of any Security Asset or any guarantee under the Finance Documents ceases to continue in force and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice.

20.1.2 As from that time all payments made to the Security Trustee or such other Secured Finance Party will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

20.2 Tacking

20.2.1 Each Finance Party shall perform its obligations under the Facilities Agreement (including any obligation to make available further advances).

20.2.2 This Deed secures advances already made and further advances to be made.

20.3 Protective Clauses

20.3.1 The Chargor is deemed to be a principal debtor in relation to this Deed. The obligations of the Chargor under, and the security intended to be created by, this Deed shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by any Secured Finance Party which would otherwise have reduced, released or prejudiced this Debenture Security or any surety liability of the Chargor (whether or not known to it or to any Secured Finance Party).

20.3.2 Clause 27 of the Facilities Agreement (*Guarantee and indemnity*) applies in relation to this Deed as if references to the obligations referred to in such Clauses respectively were references to the obligations of the Chargor under this Deed.

21. NOTICES

21.1 Clause 40 of the Facilities Agreement (*Notices*) is incorporated into this Deed as if fully set out in this Deed.

21.2 The address and fax numbers of each Party for all communications or documents given under or in connection with this Deed are those identified with its name in the execution pages to this Deed or subsequently notified from time to time by the relevant Party for the purposes of the Facilities Agreement or this Deed.

22. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by a Secured Finance Party or the Security Trustee specifying the amount of any Secured Obligation due from the Chargor (including details of any relevant calculation thereof) is in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

23. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the

legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

24. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Security Trustee (or any other Secured Finance Party), any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

25. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Security Trustee and the Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Security Trustee so agrees in writing. A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

26. COUNTERPARTS

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

27. RELEASE

27.1 Release

Upon the expiry of the Security Period (but not otherwise) the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Debenture Security.

27.2 Reinstatement

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Security Trustee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

28. GOVERNING LAW

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

29. JURISDICTION OF ENGLISH COURTS

29.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").

29.2 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.

29.3 This Clause 29 is for the benefit of the Secured Finance Parties only. As a result, no Secured Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts

with jurisdiction. To the extent allowed by law, the Secured Finance Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Security Trustee and has been delivered on the first date specified on page 1 of this Deed by the Chargor.

SCHEDULE 1

FORM OF NOTICE TO AND ACKNOWLEDGMENT BY THE PARTY TO THE MEMBERS' AGREEMENT

To:- [Insert name and address of relevant party]

Dated: [] 20[]

Dear Sirs

RE: MEMBERS AGREEMENT DATED [] MADE BETWEEN (1) YOU, (2) FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED (THE "CHARGOR") AND (3) FIM SOLAR GENERATION I LLP (THE "AGREEMENT")

1. We give notice that, by a charge over membership interest dated [] 20[] (the "Charge"), we have assigned to Barclays Bank PLC (the "Security Trustee") as Security Trustee. for certain banks and others (as referred to in the Charge) all our present and future right, title and interest in and to the Agreement (together with any other agreement supplementing or amending the same), including all rights and remedies in connection with the Agreement and all proceeds and claims arising from the Agreement.
2. We irrevocably authorise and instruct you from time to time:-
 - 2.1 to disclose to the Security Trustee at our expense (without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure), such information relating to the Agreement as the Security Trustee may from time to time request;
 - 2.2 following written notification from the Security Trustee to you that an Event of Default has occurred and is continuing, to hold all sums from time to time due and payable by you to us under the Agreement to the order of the Security Trustee;
 - 2.3 following written notification from the Security Trustee to you that an Event of Default has occurred and is continuing, to pay or release all or any part of the sums from time to time due and payable by you to us under the Agreement only in accordance with the written instructions given to you by the Security Trustee from time to time;
 - 2.4 to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Charge or the Agreement or the debts represented thereby which you receive at any time from the Security Trustee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and
 - 2.5 to send copies of all notices and other information given or received under the Agreement to the Security Trustee.
3. We are not permitted to agree any amendment or supplement to, or waive any obligation under, the Agreement without the prior written consent of the Security Trustee.
4. All payments to be made by you to us under or in connection with the Agreement should be made (unless and until the Security Trustee notifies you to the contrary, in which case you shall make such payments as the Security Trustee shall direct) to [*specify name of members account*] held with [] with account number [] and sort code [] or such other account as we may specify in accordance with the terms of the facilities agreement dated [] and made between us and, amongst others, the Security Trustee.
5. This notice may only be revoked or amended with the prior written consent of the Security Trustee.
6. Please confirm by completing the enclosed copy of this notice and returning it to the Security Trustee (with a copy to us) that you agree to the above and that:-

- 6.1 you accept the instructions and authorisations contained in this notice and you undertake to comply with this notice;
- 6.2 you have not, at the date this notice is returned to the Security Trustee, received notice of the assignment or charge, the grant of any security or the existence of any other interest of any third party in or to the Agreement or any proceeds of it and you will notify the Security Trustee promptly if you should do so in future;
- 6.3 you will not permit any sums to be paid to us or any other person (other than the Security Trustee) under or pursuant to the Agreement other than in accordance with the terms of the Facilities Agreement (as defined in the Charge) or otherwise in accordance with paragraph 4 above; and
- 6.4 other than in accordance with the terms of the Facilities Agreement, you will not exercise any right to terminate the Agreement or take any action to amend or supplement the Agreement without the prior written consent of the Security Trustee.
7. This notice, and any acknowledgement in connection with it, and any non-contractual obligations arising out of or in connection with any of them, shall be governed by English law.

Yours faithfully

for and on behalf of

FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED

[On copy]

To: Barclays Bank PLC
[insert address]
("Security Trustee")

Copy to: **FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED**

Dear Sirs

We acknowledge receipt of the above notice and consent and agree to its terms. We confirm and agree to the matters set out in paragraph 6 in the above notice.

for and on behalf of
[Name of relevant party]

Dated: [18/04/11] 20[11]

EXECUTION PAGES

THE CHARGOR

Executed as a Deed (but not delivered until the date of this Deed) by **FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED** acting by

.....
WAYNE CAANSTONE.....

Full Name (Director)
in the presence of:

.....
HEATHER HANSON.....

Full Name (Witness)

.....
Address

.....
Signature of Director

.....
Signature of Witness

THE SECURITY TRUSTEE

Signed as a Deed (but not delivered until the date of this Deed) by
on behalf of **BARCLAYS BANK PLC**
in the presence of

.....
Full Name (Witness)

.....
Address

.....
Signature

.....
Signature of Witness

EXECUTION PAGES

THE CHARGOR

Executed as a Deed (but not delivered until the date of this Deed) by **FIM SOLAR DISTRIBUTION DESIGNATED MEMBER 1 LIMITED** acting by

.....
Full Name (Director)
in the presence of:

.....
Signature of Director

.....
Full Name (Witness)
.....
.....

.....
Address

.....
Signature of Witness

THE SECURITY TRUSTEE


Signed as a Deed (but not delivered until the date of this Deed) by
on behalf of **BARCLAYS BANK PLC**
in the presence of

PHILIP PARK

.....
Full Name (Witness)
.....

..... Barclays Bank PLC
..... 1 Churchill Place
Address Canary Wharf
..... London
..... E14 5HP

 
Signature


Signature of Witness