

Annex 21

DIRECT AGREEMENT

amongst

[●]
as Security Trustee

[●] as Borrower

[●]
as Contractor

and

[CONTRACTOR GUARANTOR]
as Guarantor

DIRECT AGREEMENT
in respect of the [●] Solar Project
EPC Contract

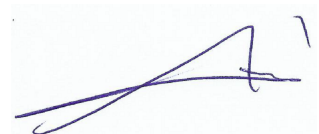
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SCHEDULES

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CONTRACTOR DIRECT AGREEMENT dated the [●] day of [●] 2014 among:

- (1) [●] a limited liability company, incorporated under the laws of England and Wales (Registered Number ●) whose registered office is at [●] (the "**Borrower**");
- (2) [●] [*designation to be confirmed*] (the "**Contractor**");
- (3) [●] in its capacity as agent of and trustee for the Finance Parties on the terms set out in the Finance Documents and its successor(s) as such agent and trustee (the "**Security Trustee**"); and
- (4) [●] incorporated in [●] (Registered Number [●]) whose registered office is at [●] (the "**Guarantor**").

WHEREAS:

- (A) The Borrower has entered into the Supply Contract with the Contractor for the supply and installation of equipment and associated works at the Site by the Contractor;
- (B) Pursuant to the Supply Contract, the Guarantor has entered into a guarantee in favour of the Borrower in respect of the Contractor's obligations under the Supply Contract (the "**Guarantee**");
- (C) It is a condition precedent to the Facilities Agreement that the Parties enter into this Agreement;
- (D) This is the "**EPC Direct Agreement**" referred to in the Facilities Agreement.

THEREFORE IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

"**Additional Party**" means one of (i) the Security Trustee (ii) a person nominated by the Security Trustee or (iii) a Receiver appointed under or pursuant to the Security Documents, named as Additional Party in a Step-In Notice;

"**this Agreement**" means this agreement (including the Schedules) as amended, varied, supplemented, novated, extended or restated from time to time;

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are generally open for business in London;

"Charged Agreements" means each of:

- (a) the Supply Contract;
- (b) the Guarantee; and
- (c) [*Others to be confirmed*]

"Connected Rights" means the proceeds of all payments, claims, awards and other sums (including liquidated and ascertained damages) paid or payable to the Borrower under or in respect of the Charged Agreements and all its present and future claims, rights, remedies and causes of action thereunder;

"Corrective Statement" has the meaning given to it in Clause 6.3 (*Corrections etc*);

"Default Interest Rate" means the rate of interest specified in Clause [] (*Default interest*) of the Facilities Agreement;

"Determined Amounts" means sums due by the Borrower to the Contractor under the Supply Contract which have been [certified for payment] under Clause [●] of the Supply Contract and have not been [disputed] under Clause [●] of the Supply Contract or have been disputed, but [adjudicated] as due for payment pursuant to Clause [●] of the Supply Contract;

"Event of Default" means any event the happening of which, subject only to the giving of notice to the Tenant, would cause the indebtedness owed by the Borrower to the Finance Parties under the Facility Agreement to become due and payable

"Facilities Agreement" means the £[] term loan facility agreement entered into, *inter alios*, between the Borrower and the Security Trustee dated on or around the date of this Deed as amended, restated, extended, varied, novated and/or supplemented from time to time;

"Finance Parties' Release Date" means the date when any actual, future or contingent obligations are no longer owed or capable of being owed by the Borrower to the Finance Parties under the Finance Documents;

"Initial Statement" has the meaning given to it in Clause 6.1 (*Initial Statement*);

"Party" means a party to this Agreement;

"Person" means any individual, firm, corporation, company, body, trust or foundation, or any association, partnership, joint venture, unincorporated body or other entity (in each case, whether or not having separate legal personality);

"Proposed Substitute" means a person named as a proposed Substitute in a Substitution Notice;

"Receiver" means a receiver, receiver and manager, administrative receiver, administrator or like official appointed under any jurisdiction;

"Security Enforcement Notice" means written notice given by the Security Trustee to the Contractor and the Guarantor that one or more of the Security Documents over the Charged Agreements has become enforceable in accordance with its terms;

"Security Interest" has the meaning given to it in the Security Documents;

"Site" means [•];

"Statement" means one or more Initial Statement, Updated Statement or Corrective Statement;

"Step-in-Date" means the date of service of a Step-In Notice;

"Step-In Decision Period" means the period:

- (a) commencing on the earlier of:
 - (i) the date on which the Security Trustee receives a copy of a Termination Notice in accordance with Clause 5.1 (*Termination Notice*); and
 - (ii) the date on which the Contractor receives a Security Enforcement Notice,

and

- (b) ending on the earliest of:
 - (i) the Step-In Date;
 - (ii) the date on which the Security Trustee gives written notice to the Contractor in accordance with Clause 7.6 (*Decision not to step-in*) that it does not intend to issue a Step-In Notice;
 - (iii) the Substitution Date;
 - (iv) the date falling 120 days after the date on which the Security Trustee received a copy of a Termination Notice in accordance with Clause 5.1 (*Termination Notice*), if the Step-In Decision Period commenced on such date; and
 - (v) the date falling 120 days after the date on which the Contractor received a Security Enforcement Notice in accordance with Clause (*Enforcement Notice*), if the Step-In Decision Period commenced on such date;

"Step-In Notice" means a notice in substantially the form set out in Schedule 1 signed by or behalf of the Security Trustee and the Additional Party named in it, and given by the Security Trustee to the Contractor pursuant to Clause 7 (*Step-In*);

"Step-In Period" means the period commencing on the Step-In Date and ending on the earliest of:

- (a) the Step-Out Date;
- (b) the Substitution Date;
- (c) the Finance Parties' Release Date; and
- (d) the date of any termination of the Supply Contract by the Contractor pursuant to Clause 7 (*Step-In*);

"Step-Out Date" means the date falling 10 Business Days after service of a Step-Out Notice;

"Step-Out Notice" means a notice in substantially the form set out in Schedule 2 given by an Additional Party to the Contractor withdrawing the undertakings given by it in a Step-In Notice;

"[Sterling] Proceeds Account" means the account of that name, details of which are notified from time to time by the Security Trustee to the Contractor;

"Supply Contract" means the EPC agreement between the Borrower and the Contractor;

"Substitute" means a Proposed Substitute approved or deemed to be approved by the Contractor under Clause 9 (*Substitution*);

"Substitution Date" means the date on which a Substitution is completed;

"Substitution" means a completed novation or other transaction or arrangement by which a Substitute becomes a party to or beneficiary of the Charged Agreements in place of the Borrower in accordance with Clause 9 (*Substitution*);

"Substitution Notice" means a notice in (or near as may be) the form set out in Schedule 3 given by the Security Trustee to the Contractor pursuant to Clause 9 (*Substitution*);

"Termination Action" means the exercise of any right, remedy or cause of action or the taking of any action or proceedings under or pursuant to the Supply Contract, or in connection with or in respect of it, for the purpose, with the intention, or in anticipation of or preparation for, the termination, rescission or repudiation of the Supply Contract by the Contractor or the suspension or termination of the Services by the Supplier under it;

"Termination Date" [has the meaning given to it in the Supply Contract;]

"Termination Event" means the occurrence of any event which entitles the Contractor to terminate the Supply Contract;

"Termination Notice" means a notice of termination of the Supply Contract served on the Borrower by the Contractor specifying the Termination Event(s) founded on and the clause(s) of the Supply Contract in respect of which it/they have occurred;

"Updated Statement" has the meaning given to it in Clause 6.2 (*Updated Statements*).

1.2 **Facilities Agreement**

The following words and phrases shall have the meaning given to them in the Facilities Agreement:

Finance Documents;

Finance Parties;

[Lenders' Technical Adviser]; and

Security Documents.

1.3 **Interpretation**

In this Agreement, unless the context requires otherwise:

1.3.1 words importing the singular shall include the plural and vice versa;

1.3.2 references to this Agreement or any other document shall be construed as references to this Agreement or such other document as amended, supplemented, novated, varied, extended and/or restated from time to time;

1.3.3 references to any statute or statutory provision (including any subordinate legislation) shall include any statute or statutory provision for the time being in force which amends, extends, consolidates or replaces the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision; and

1.3.4 any reference to a Party or any Person includes its permitted successors, transferees and assigns, but always subject to the terms of this Deed and the other Finance Documents, governing assignments and transfers.

1.4 **Headings**

The table of contents and the headings in this Agreement are included for convenience only and shall be ignored in construing this Agreement.

2 SECURITY INTERESTS

2.1 Notice and acknowledgement

The Borrower gives notice to the Contractor and the Guarantor that it has created or undertaken to create, the Security Interests specified in the Security Documents over the Charged Agreements and Connected Rights in favour of the Security Trustee, including an absolute assignment by way of security of the benefit of and its whole, present and future rights under the Charged Agreements and the Connected Rights and the Contractor and Guarantor hereby acknowledge and consent to the creation of such Security Interests (and in particular such assignment) on the terms set out in the Security Documents.

2.2 No other Security Interests

The Contractor and the Guarantor confirm that they have not received notice or are otherwise aware of any other Security Interest or third party interest in respect of any of the Charged Agreements or Connected Rights.

2.3 Exercise of rights

2.3.1 The Borrower gives notice to the Contractor and the Guarantor that it has agreed with the Security Trustee that, until such time as the Security Trustee gives a Security Enforcement Notice to the Contractor and the Guarantor, the Borrower remains entitled to exercise all rights, powers and discretions under and in connection with the Charged Agreements and Connected Rights, save that the Borrower shall not amend, waive or modify, cancel, terminate, suspend, surrender, vary, assign, novate or transfer any of the Charged Agreements or Connected Rights without the prior written consent of the Security Trustee. The Contractor and Guarantor acknowledge such notice and agree to these provisions and undertake to observe them.

2.3.2 Notwithstanding the assignment referred to above, the Borrower shall remain liable to fulfil all its obligations under the Charged Agreements and, save as expressly provided by this Agreement, neither the Security Trustee nor any Finance Party shall be under any obligation or liability in respect of such obligations by reason of or arising out of this Agreement, unless in its sole discretion it elects to exercise any of the rights to the contrary effect conferred on it under this Agreement.

2.4 Enforcement

Upon the Security Trustee giving a Security Enforcement Notice to the Contractor and the Guarantor:

- (a) The Security Trustee shall be entitled immediately or at any time thereafter to exercise all the rights, powers and discretions conferred on the Borrower under or available to it at law or in equity in respect of the Charged Agreements and the Connected Rights;

- (b) The Borrower shall hold all present and future rights, interests and benefits arising under or in respect of the Charged Agreements and the Connected Rights to the order of the Security Trustee; and
- (c) The Contractor and the Guarantor shall fulfil all their obligations under the Charged Agreements in favour of the Security Trustee or as it may direct.

2.5 Conclusive effect

- 2.5.1 The Borrower, the Contractor and the Guarantor agree that service of a Security Enforcement Notice shall conclusively establish for the purposes of this Agreement that the relevant Security Interests over the Charged Agreements and the Connected Rights have become enforceable, without any requirement, or right, of reference to the Borrower, or enquiry as to the justification for such Security Enforcement Notice or the validity of the Event(s) of Default founded on.
- 2.5.2 Following service of a Security Enforcement Notice, the Contractor and the Guarantor shall accept and comply with the terms of any notice, statement of instruction from the Security Trustee in relation to the Charged Agreements and the Connected Rights which the Borrower would have been entitled to give, without reference or enquiry as to its justification or validity.
- 2.5.3 The Borrower acknowledges and agrees that it shall not be entitled to question the justification or validity of any such notice, statement or instruction from the Security Trustee, or the right or duty of the Contractor or the Guarantor to rely and act upon and in accordance with it.

2.6 No prejudice

The failure of the Security Trustee to take any action available to it under or pursuant to this Agreement in respect of the Charged Agreements or the Connected Rights following service of a Security Enforcement Notice shall not prejudice the right of the Security Trustee or the Finance Parties to take any other action available to it or them in relation to the Borrower or its property and assets.

3 CONTRACTOR COVENANTS

The Contractor covenants with the Security Trustee that:

3.1 No dealing with Charged Agreements

It shall not assign or otherwise transfer or dispose of, or create or permit any Security Interest to arise over the Charged Agreements or the Connected Rights or any interest therein, without the prior written consent of the Security Trustee.

3.2 No amendment of Charged Agreements

It shall not make or consent to any amendment or variation of any of the Charged Agreements to which it is a party or agree to any release or waiver by the Borrower

of any term, provision or condition of such Charged Agreements without the prior written consent of the Security Trustee.

3.3 **Notices etc**

Prior to service of any Security Enforcement Notice, it will provide the Security Trustee with a copy of every notice, demand or acknowledgement which it serves on or delivers to the Borrower under or pursuant to any of the Charged Agreements to which it is a party, at the same time as it does so to the Borrower. Following service of a Security Enforcement Notice, all such notices, demands or acknowledgements shall be served on or delivered to the Security Trustee.

3.4 **Notice of Termination Events**

It shall notify the Security Trustee of the occurrence of any Termination Event or any event or circumstance which, with the lapse of time, the giving of notice or the fulfilment of any condition, would constitute a Termination Event as soon as reasonably practical after becoming aware of it.

3.5 **No other step ins**

It shall not enter into any collateral warranty or other document giving step in or similar rights to any person other than the Security Trustee, without the prior written consent of the Security Trustee, save only any collateral warranty provided for under the Facilities Agreement, in relation to which the prior written consent of the Security Trustee is hereby given. The Borrower hereby acknowledges the obligations of the Contractor under this Clause and agrees that the Contractor's compliance with such obligations shall not constitute a breach of the Supply Contract.

3.6 **Notification re warranties**

It shall notify the Security Trustee of the occurrence of any event or circumstance which results, or might reasonably be expected to result, in any of the representations and warranties set out in Clause 12 (*Warranties and Representations*) being or becoming incorrect or misleading in any material respect, promptly upon becoming aware of it.

3.7 **[Insurances**

It shall comply with its obligations regarding insurance claims under Clause [●] of the Supply Contract.]

3.8 **Access etc**

- 3.8.1 It shall, to the extent it is entitled to do so under the Supply Contract and provided such persons comply with all applicable health and safety requirements:

- (a) afford the Lenders' Technical Adviser, the Security Trustee and/or any person(s) authorised by either of them, such reasonable access to the Site during normal working hours as they may request from time to time;
- (b) grant the Lenders' Technical Adviser, the Security Trustee and/or any person(s) authorised by them, authorisation to attend such tests and inspections in connection with the Site as they may reasonably request from time to time; and

3.8.2 To the extent necessary, under the Supply Contract or otherwise, the Borrower hereby agrees to such access and authorisation.

3.9 **Termination payments**

It shall make payment of all termination amounts due to the Borrower under the Supply Contract in accordance with Clause [●] of the Supply Contract.

3.10 **Duty of care**

It owes and shall be deemed to owe a duty of care to the Security Trustee equal to the duty it owes to the Borrower under the Supply Contract, as if the Security Trustee were a party to the Supply Contract in place of the Borrower. The Contractor acknowledges that the Security Trustee will rely upon the Contractor's full and proper performance of its obligations under the Supply Contract.

3.11 **Supply Contract**

It has fulfilled and performed and will fulfil and perform its obligations under the Supply Contract.

4 **PAYMENT INSTRUCTION**

4.1 **Payment to [Sterling] Proceeds Account**

The Borrower irrevocably directs the Contractor and the Guarantor, and the Contractor and Guarantor agree, to pay all sums which are now or may at any time hereafter be or become payable by the Contractor or the Guarantor to the Borrower under or pursuant to the Charged Agreements, to the credit of the [Sterling] Proceeds Account (as applicable) or such other account or accounts as the Security Trustee may require.

4.2 **Irrevocability**

The direction and agreement contained in this Clause may not be revoked or varied without the prior written consent of the Security Trustee.

4.3 **Discharge**

The Borrower agrees that payment by the Contractor or, as the case may be, the Guarantor in accordance with this Clause shall discharge the Contractor or, as the case may be, the Guarantor from their respective obligations to make such payment to the Borrower.

5 **STEP-IN DECISION PERIOD**

5.1 **Termination Notice**

Without prejudice to the provisions of Clause 3.4 (*Notice of Termination Events*), the Contractor shall provide to the Security Trustee a copy of any Termination Notice with a statement of:

- (a) the Termination Action which the Contractor proposes to take, and
- (b) the proposed Termination Date and/or the date on which the Contractor considers it will be entitled to suspend or cease the Services.

5.2 **Non termination etc**

5.2.1 The Contractor shall not be entitled to take any Termination Action unless it has first delivered a copy Termination Notice and statement to the Security Trustee in accordance with Clause 5.1 (*Termination Notice*), and its right to pursue Termination Action shall thereafter be governed by this Clause 5 (*Step-In Decision Period*) and the other provisions of this Agreement, and shall in all circumstances be limited to Termination Action founded on the Termination Event(s) specified in such Termination Notice.

5.2.2 If the Contractor wishes to take Termination Action founded on any other Termination Event(s), it can do so only after first serving another Termination Notice, specifying one or more such other Termination Events and delivering a copy to the Security Trustee with a statement of proposed Termination Action in accordance with Clause 5.1 (*Termination Notice*), and its right to pursue Termination Action shall, subject to this Clause 6 and the other provisions of this Agreement, be limited to Termination Action founded on the Termination Events specified in such Termination Notice.

5.2.3 The Contractor agrees with the Security Trustee that any notice it may give pursuant to Section 112(2) of the Housing Grants, Construction and Regulation Act 1996 shall not expire prior to the expiry of 120 days from service of the Termination Notice.

5.3 **Suspension of notice etc**

5.3.1 A Termination Notice shall be suspended and, subject to Clauses 5.7 (*Treatment of payments*) and 7 (*Step-In*), no Termination Action may be taken by the Contractor during the Step-In Decision Period which commenced upon service of such Notice and during any ensuing Step-in Period.

5.3.2 The suspension of a Termination Notice under these provisions shall not, subject and without prejudice to the other provisions of this Agreement, constitute a waiver by the Contractor of its entitlement to take Termination Action based on the Termination Event(s) specified in the Termination Notice.

5.4 **Continued performance**

The Contractor undertakes to the Security Trustee that during any Step-In Decision Period it shall continue to perform its obligations under the Supply Contract including the due and punctual performance of the Services.

5.5 **Remedy of Termination Event(s)**

If, before the end of the Step-In Decision Period, the Security Trustee makes or procures payment to the Contractor of all sums then due and payable by the Borrower to the Contractor under the Supply Contract specified in the relevant Statement under Clause 6 (*Statement of Liabilities*) and/or procures the taking of such other action consistent with the terms of the Supply Contract as may be necessary to remedy the Termination Event(s) referred to in the Termination Notice, then any Termination Notice shall be deemed to have been revoked, the Contractor shall not be entitled to take any Termination Action and the Supply Contract shall continue in full force and effect.

5.6 **Termination Action**

If the Contractor has not received payment of all amounts referred to in Clause 5.5 and such other action necessary to remedy the Termination Event(s) specified in the Termination Notice has not been taken, or such Termination Event(s) has/have not been waived, before the earlier of (a) the end of the Step-In Decision Period and (b) 20 Business Days after the relevant Step-In Date, the Contractor shall automatically be entitled to take the Termination Action specified in the relevant Termination Notice without any requirement for further notice to the Security Trustee or any other party.

5.7 **Treatment of payments**

Where any payment is made or procured by the Security Trustee pursuant to Clause 5.5 (*Remedy of Termination Event(s)*):

- (a) such payment shall be made in satisfaction *pro tanto*, or otherwise as specified by the Security Trustee, of amounts owing by the Borrower to the Contractor under the Supply Contract;

- (b) the amount of such payment shall be treated for all purposes (except the requirements in relation to the procedure for drawing down) as an amount properly borrowed by the Borrower under the Finance Documents and the amount of the payment shall accordingly be a loan made to the Borrower, governed in all respects by the terms of the Finance Documents; and
- (c) the Security Trustee shall not incur any liability to the Contractor in respect of the Borrower's obligations under the Supply Contract or otherwise in connection with the subject of the Supply Contract.

5.8 **Revocation**

The Contractor may revoke a Termination Notice by written notice given to the Borrower, (copied at the same time to the Security Trustee) at any time before the end of a Step-In Decision Period. Upon any such revocation, the relevant Termination Notice shall for the purposes of this Agreement be treated as if it had never been given.

5.9 **Overriding effect**

The Parties hereby expressly agree that this Clause 5 (*Step-In Decision Period*) and the other provisions of this Agreement shall override any contrary provisions of the Supply Contract.

6 **STATEMENT OF LIABILITIES**

6.1 **Initial Statement**

Within 5 Business Days after the commencement of a Step-In Decision Period, the Contractor shall send the Security Trustee (copied at the same time to the Borrower) a written statement, accompanied by appropriate supporting documentation and data, (together with the "**Initial Statement**") specifying in reasonable detail the following matters, as of the date of the Initial Statement:

- (a) all outstanding Determined Amounts; and
- (b) all other sums due by and claims against the Borrower under the Supply Contract (including those accrued but not yet payable) which are not yet Determined Amounts.

6.2 **Updated Statements**

Within 5 Business Days of the end of each calendar month throughout the Step-In Decision Period, the Contractor shall send the Security Trustee (copied at the same time to the Contractor) an updated statement, accompanied by appropriate supporting documentation and data, (together, an "**Updated Statement**") specifying the items referred to in paragraphs (a) and (b) of Clause 6.1 (*Initial Statement*), as of the end of such month.

6.3 **Corrections etc**

The Contractor shall send the Security Trustee (copied at the same time to the Borrower) a written statement (a "**Corrective Statement**") correcting or amending any Initial Statement or Updated Statement as soon as reasonably practicable after it becomes aware:

- (a) of any material inaccuracy (including by way of omission or inclusion) in such Initial Statement or Updated Statement which in either case has not been corrected in a subsequent Updated Statement; or
- (b) of any additional new fact or information which renders the Initial Statement (if not yet updated by an Updated Statement) or most recent Updated Statement materially inaccurate or misleading.

6.4 **Verification of Statements**

The Security Trustee may appoint independent chartered accountants and/or technical advisers to verify any Statement and the Contractor shall, subject their entering into such confidentiality agreement as the Contractor may reasonably request, permit such parties to have access to and to make copies of all records, documents, data and accounting technical and other information not subject to legal privilege as they may reasonably require for that purpose. The fees and expenses properly and reasonably incurred by such parties shall be paid by the Contractor.

6.5 **Accuracy of Statements**

The Contractor warrants to the Security Trustee that all Statements shall to the best of the Contractor's knowledge, information and belief, be true, complete and accurate statements of the sums and amounts therein specified as of the dates to which they relate.

6.6 **Conclusiveness of Statements**

Every Statement shall be conclusive evidence for the Security Trustee, the Finance Parties, any Receiver, any Additional Party and any Substitute that the Contractor has waived and abandoned all claims arising out of or in connection with the Supply Contract in respect of the period prior to the date of the Termination Notice to which such Statement(s) relate other than those disclosed in such Statement(s) and other than those which were not due and payable and which the Contractor was not aware of as at the date of such Statement(s).

7 STEP-IN

7.1 Step-In Notices

The Security Trustee may give a Step-In Notice to the Contractor at any time during a Step-In Decision Period.

7.2 Effect of Step-In Notice

With effect from the Step-In Date:

- (a) the Contractor shall or, as the case may be, shall continue to perform its obligations under the Supply Contract, and shall not be entitled to take any Termination Action save in respect of any failure by the Additional Party to fulfil its obligations under this Clause 7 (*Step-In*);
- (b) The Additional Party shall become liable to pay the Contractor:
 - (i) all Determined Amounts specified in the Initial Statement or, as the case may be, the most recent Updated or Corrective Statement, within 15 Business Days of the Step-In Date; and
 - (ii) all other sums and claims specified in the Initial Statement or, as the case may be, the most recent Updated or Corrective Statement, to the extent that they become Determined Amounts, within 15 Business Days of their becoming Determined Amounts;
- (c) The Additional Party shall become an additional obligor along with the Borrower in respect of its obligations under the Supply Contract in accordance with Clause 7.3 (*Additional Party's rights and obligations*).

7.3 Additional Party's rights and obligations

- 7.3.1 During a Step-In Period, the Additional Party shall enjoy the benefit of and be entitled to exercise all rights, powers and discretions of the Borrower under the Supply Contract (including for avoidance of doubt all rights of termination) and shall be liable along with the Borrower to fulfil all obligations of the Borrower under the Supply Contract which arise during and in respect of the Step-In Period, but the Additional Party alone (to the exclusion of the Borrower) shall have authority to deal with the Contractor and exercise all rights, powers and discretions available to the Borrower under the Supply Contract.
- 7.3.2 The Additional Party shall not be liable for any obligations or liabilities of the Borrower under the Supply Contract in respect of the period before the Step-In Date, except to the extent provided in Clause 7.2(b) (*Effect of Step-In Notice*).
- 7.3.3 During a Step-In Period, the Contractor shall owe its obligations under the Supply Contract to the Additional Party jointly, but fulfilment of such obligations to either of them shall constitute a good discharge to both.

7.4 Contractor's obligations

The Borrower shall remain liable to the Contractor for all its obligations and liabilities under the Supply Contract whether arising before or after any Step-In Date and shall not be released from an such obligation or liability nor shall any such obligation or liability be affected or impaired, as a result of the exercise by the Additional Party of any right, power or discretion under the Supply Contract pursuant to Clause 7.3 (*Additional Party's rights and obligations*), or any act or omission of, or any indulgence or release granted to the Additional Party, except to the extent that such obligations or liabilities have been fulfilled by the Additional Party in accordance with this Agreement: but the Contractor shall not be entitled to take any action against the Borrower to enforce any such unfulfilled obligations or liabilities during a Step-in Period nor shall the Borrower be required to fulfil such unfulfilled obligations or liabilities during a Step-In Period.

7.5 Exclusion of set off

During a Step-In Period, the Contractor shall not be entitled to set off or exercise any right of counterclaim or retention in respect of any of its obligations under the Supply Contract against any of the Borrower's obligations to the Contractor thereunder, or under any other agreement between them.

7.6 Decision not to step-in

If during any Step-In Decision Period it is decided not to issue a Step-In Notice the Security Trustee shall give written notice to that effect to the Contractor as soon as reasonably practicable after such decision has been reached.

7.7 Good faith etc

The Contractor covenants with the Security Trustee that during any Step-In Decision Period or Step-In Period:

- (a) it will act in good faith, and will not unreasonably withhold or delay any approvals required pursuant to Clause 9 (*Substitution*); and
- (b) it shall not prevent, obstruct or frustrate the exercise and performance by the Security Trustee, the Borrower, any Additional Party or any other person, of any of their rights or obligations under this Agreement or the Charged Agreements.

7.8 Unrestricted number

Subject to the other provisions of this Agreement, there shall be no restriction on the number of Step-In Periods which may be instituted.

8 STEP-OUT

8.1 Step-Out Notices

The Additional Party may give a Step-Out Notice to the Contractor at any time during a Step-In Period.

8.2 Effect of Step-Out Notice

With effect from the Step-Out Date:

- (a) the Additional Party shall be released from its undertakings under the relevant Step-In Notice in respect of the period from and after the Step-Out Date (but shall remain liable under such undertakings in respect of the period up to the Step-Out Date); and
- (b) the Additional Party shall cease to be an additional obligor along with the Borrower under the Supply Contract and to be entitled to exercise the rights, powers and discretions of the Borrower under the Supply Contract.

9 SUBSTITUTION

9.1 Substitution Notice

The Security Trustee may give a Substitution Notice to the Contractor at any time during a Step-In Decision Period or a Step-In Period.

9.2 Approval of Proposed Substitute

9.2.1 The Contractor shall have a period of 10 Business Days from the date of service of a Substitution Notice within which to decide whether to approve or reject the Proposed Substitute, with reference to the financial and technical arrangements made by it to enable it to fulfil the obligations of the Borrower under the Supply Contract. In making such a decision the Contractor shall act reasonably, and shall be deemed to be acting unreasonably (and shall be deemed to have approved the proposed Substitute) if it rejects the Proposed Substitute where the finance and technical arrangements the Proposed Substitute has made are similar to those which applied in respect of the Contractor at the commencement of the Supply Contract.

9.2.2 The Contractor shall notify the Security Trustee in writing of its decision regarding the Proposed Substitute. If the Contractor has not notified the Security Trustee of its rejection of the Proposed Substitute by the expiry of the period specified in Clause 9.2.1, it shall be deemed to have approved it.

9.3 Proposals

If the Contractor rejects a Proposed Substitute, the Security Trustee may propose another or others, on any number of occasions.

9.4 **Novation etc**

Within 5 Business Days of the approval or deemed approval of a Proposed Substitute by the Contractor under Clause 9.2 (*Approval of Proposed Substitute*), the Borrower, the Contractor and the Substitute shall enter into a novation agreement in substantially the form set out in Schedule 4, or such other form as the Security Trustee may reasonably require, in respect of the Supply Contract and this Agreement, and the Guarantor shall grant a new guarantee in the same terms *mutatis mutandis* as the Guarantee in favour of the Substitute, or enter into a novation agreement or such other agreement as the Security Trustee may reasonably require in respect of the Guarantee, so that:

- (a) the Substitute shall become a party to or a beneficiary under the Charged Agreements and this Agreement in place of the Borrower, and shall assume all the obligations and liabilities, and be entitled to all the benefits, rights, powers and discretions of the Borrower under the Charged Agreements and this Agreement;
- (b) the Borrower shall cease to be a party to or a beneficiary under the Charged Agreements and this Agreement and shall be released from all obligations and liabilities and no longer entitled to any benefits, rights powers or discretions under the Charged Agreements and this Agreement; and
- (c) the Contractor shall not be entitled to take any Termination Action in respect of any Termination Event which occurred prior to the Substitution Date, unless such Termination Event remains outstanding and has not been waived or remedied within 10 Business Days of the Substitution Date.

9.5 **Further assurance**

The Contractor and the Guarantor undertake to enter into such further agreements and execute such deeds and documents as the Security Trustee may reasonably require, to fulfil the meaning spirit and intent of this Clause.

10 **RECEIVER**

10.1 **No Termination Action**

The Contractor acknowledges that the Security Trustee has the power to appoint a Receiver to the Borrower under the Security Documents and agrees that it will not be entitled to, and shall not, serve a Termination Notice or take any Termination Action solely by reason of the appointment of such a Receiver.

10.2 **Contractor Obligations**

The Contractor acknowledges and agrees that where a Receiver is appointed to the Borrower, the Contractor shall continue to be bound by and shall fulfil the provisions of this Agreement and the Charged Agreements.

11 SUBORDINATION

11.1 Subordination

The Contractor and the Guarantor each agree that prior to the Finance Parties' Release Date, they shall not:

- (a) demand, claim, sue for, recover, retain or receive any amount from the Borrower (including by way of set off, counterclaim or retention) except and only to the extent that the Contractor is expressly obliged to pay such amount to the Contractor under the Supply Contract;
- (b) receive or permit any guarantee, surety, indemnity or other assurance against loss to subsist in its favour in respect of any of the obligations of the Borrower under the Charged Agreements;
- (c) initiate, support or take any action in relation or with a view to:
 - (i) any suspension of payments, moratorium of any indebtedness, winding-up, administration, reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) or dissolution of the Borrower;
 - (ii) any composition, assignment or arrangement with any creditor of the Borrower; or
 - (iii) the appointment of a Receiver, liquidator, administrator, compulsory manager or similar official in respect of the Borrower or any of its assets;
- (d) take or omit any action which might impair the subordination achieved or intended to be achieved by this Agreement; and
- (e) if any of the events specified in paragraph (c) above occurs:
 - (i) be entitled to any right of contribution or indemnity in respect of any moneys or other distributions received or payments made on account of the obligations of the Borrower under the Charged Agreements or be subrogated to any Security Interest, moneys or other rights held, received or receivable by the Security Trustee or any Lender;
 - (ii) claim, rank, prove or vote as a creditor of the Borrower whether in competition with the Security Trustee or any Lender or otherwise; or
 - (iii) receive, claim or have the benefit of any payment, distribution or Security Interest from or on account of the Borrower.

11.2 Turnover

If the Contractor or the Guarantor receives any amount (including by way of set off, counterclaim or retention) in contravention of the provisions of Clause 11.1 (*Subordination*) it shall immediately notify the Security Trustee and turn the same over to the Security Trustee for the account of the Finance Parties and pending such payment shall hold the same on trust for the Security Trustee.

12 WARRANTIES and REPRESENTATIONS

The Contractor and the Guarantor each represent and warrant to the Security Trustee that:

- (a) the Contractor is a limited company, duly incorporated and validly existing under the laws of [●] and the Guarantor is a limited company, duly incorporated and validly existing under the laws of [●] each having the power and authority to enter into this Agreement and the Charged Agreements to which it is a party, to own its assets to conduct the business which it conducts and/or proposes to conduct;
- (b) they have each taken all necessary corporate and other action (including the obtaining of any necessary consents, the making of registrations and the like) in order:
 - (i) to enable them lawfully to enter into, exercise their rights and perform and comply with their obligations under this Agreement;
 - (ii) to ensure that those obligations are valid, legally binding and enforceable; and
 - (iii) to make this Agreement admissible in evidence in the Courts of England;
- (c) their entry into, exercise of their rights and/or performance of or compliance with their obligations under this Agreement does not and will not result in the existence of, or oblige them to create, any security over their assets, or contravene or exceed, or trigger the imposition of any limitation on their powers however imposed, or the right or ability of their directors to exercise such powers under:
 - (i) any law, regulation or judicial or official order to which they are subject;
 - (ii) their respective Memorandum and Articles of Association or other constitutional documents; or
 - (iii) any agreement to which they are a party or which is binding on them or their assets;

- (d) the obligations expressed to be assumed by them under this Agreement are valid binding and enforceable in accordance with their terms;
- (e) they have not taken any action, nor so far as they are aware, has any other person taken any action for their dissolution or the appointment of a liquidator, receiver, administrative receiver, administrator, judicial factor, or similar official in respect of them or any of their undertaking or assets, or the institution of a voluntary arrangement or scheme of arrangement or composition in respect of their debts or affairs, or given notice of intention to appoint an administrator, presented any administration application, petition or other legal proceedings or commenced other corporate action or procedure, for any of those purposes, or any analogous appointment or action in any other jurisdiction;
- (f) so far as they are aware, after full and careful enquiry, no litigation, arbitration or administrative proceeding is current, pending or threatened to restrain their entry into, exercise of any rights under and/or performance or enforcement of or compliance with their obligations under this Agreement; and
- (g) each of the above representations and warranties will be correct and complied with in all respects at all times during the continuance of this Agreement as if repeated by reference to the circumstances existing at such times.

13 SUB-SUPPLY CONTRACTS

13.1 Power to Assign

If the Contractor enters into a Sub-Supply Contract, it shall use all reasonable endeavours to procure that such Sub-Supply Contract contains an assignment clause allowing the Contractor to assign or transfer any of its rights or obligations under the Sub-Supply Contract on the directions of the Security Trustee to the Borrower, any Additional Party or any Substitute without the consent of the Sub-Supply Contractor.

13.2 Assignment, etc.

The Contractor agrees that on termination of the Supply Contract or its employment thereunder, for any reason, it will, if so requested in writing by the Borrower or an, Additional Party, at the option of the Borrower or any Additional Party:

- (a) if permitted under the relevant Sub-Supply Contracts, assign its rights under the Sub-Supply Contracts (but not any right to receive monies from any sub-Supply Contractor under the relevant Sub-Supply Contract(s), whether under any financial security, award, judgment, claim or otherwise, arising prior to termination of the Supply Contract or the

Contractor's employment thereunder) to the Borrower or such Additional Party (as the case may be) or another contractor nominated by the Borrower or such Additional Party; or

- (b) terminate, or permit termination of the Sub-Supply Contract(s) to allow the Borrower or such Additional Party or another contractor to enter into a new contract or contracts or arrangement(s) in respect of the subject matter of the Sub-Supply Contract(s).

14 **GUARANTOR'S OBLIGATIONS**

The Guarantor acknowledges and confirms to the Borrower, the Security Trustee, each Substitute and each Additional Party and their respective successors and assigns that:

- (a) its obligations under the Guarantee shall continue in full force and effect notwithstanding:
 - (i) any Additional Party becoming, or ceasing to be, an additional obligor under any of the Charged Agreements in accordance with this Agreement; or
 - (ii) any Substitute becoming a party to or beneficiary under any of the Charged Agreements in place of the Borrower in accordance with this Agreement; and
- (b) any Additional Party or Substitute which becomes an additional obligor under or party to the Supply Contract in accordance with this Agreement shall be entitled to make demands and receive payment and otherwise exercise all the rights, powers and discretions conferred on the Borrower under the Guarantee and payment or performance to such Additional Party or Substitute shall constitute payment or performance to the Borrower.

15 **SECURITY TRUSTEE**

15.1 **Trust**

The benefit of this Agreement (including, without limitation, all warranties and undertakings and any sums received by the Security Trustee pursuant to this Agreement) shall be held by the Security Trustee upon and subject to the terms of the Facility Agreement on trust for itself and the Finance Parties.

15.2 **Discretion**

As between the Security Trustee and the Borrower, the Contractor and the Guarantor, any right, power or discretion which may be exercised hereunder by the Security Trustee may be exercised in its absolute and unfettered discretion, without



any obligation to give any reason or explanation, but always subject to and in accordance with Facility Agreement.

15.3 Liability

The Security Trustee and any Receiver shall not in any circumstances be liable to the Contractor or Guarantor or any other person for any losses, damages, liabilities or expenses arising from or in connection with the exercise or non exercise of any of its rights, powers or discretions under this Agreement or any act, default or omission of the Security Trustee or any Receiver, or its or his/her officers, employees or agents in connection with this Agreement, except to the extent caused by the wilful neglect or default of the Security Trustee or any Receiver or its or his/her officers, employees or agents.

15.4 Change in Security Trustee

15.4.1 Any change in the Security Trustee shall be recorded by the outgoing Security Trustee and its successor giving written notice to the Contractor and the Guarantor in substantially the form set out in the Schedule 5 as soon as reasonably practical after such change has taken place.

15.4.2 Upon service of such notice, the outgoing Security Trustee shall cease to be a Party and shall be released from all liability (if any) under this Agreement and its successor as Security Trustee shall be deemed to be or a Party to this Agreement in its place as if named as a Party from the date of commencement, without any further requirement of notice, intimation or agreement.

16 DURATION

This Agreement shall commence on the date hereof and shall continue in force until the earlier of the Finance Parties' Release Date or the termination of the Charged Agreements. The Security Trustee shall notify the Contractor and the Guarantor in writing as soon as reasonably practicable after it considers this Agreement has ceased to have effect.

17 ASSIGNMENT

17.1 This Agreement shall benefit and be binding on the Parties and their respective permitted assignees or transferees of all or part of their rights and obligations in accordance with this Agreement. Any reference in this Agreement to any Party shall be construed accordingly.

Neither the Contractor, the Guarantor nor the Borrower, may assign or transfer the benefit or burden of this Agreement or any of their respective rights or obligations hereunder without the prior written consent of the Security Trustee (which shall not be unreasonably withheld or delayed). The Security Trustee may assign its rights under this Deed to a successor security trustee without the consent of any Party.

18 NEW DIRECT AGREEMENTS

If the Borrower gives written notice to the Contractor and the Guarantor that pursuant to any actual or proposed refinancing of the facilities made available under the Facility Agreement or in the context of the appointment of a successor security trustee under the Facility Agreement, it will require a new direct agreement to be entered into, the Contractor and the Guarantor shall as soon as reasonably practicable following receipt of such notice enter into a new direct agreement on substantially the same terms as this Agreement.

19 **BORROWER**

None of the provisions of this Agreement shall be enforceable by the Borrower whether against the Security Trustee or otherwise and the Borrower is a Party only for the purpose of:

- (a) agreeing to the provisions of Clause 2 (*Security Interests*);
- (b) acknowledging that any payment made or procured to be made by or on behalf of the Security Trustee shall create a liability on the part of the Borrower to reimburse the Security Trustee therefore;
- (c) acknowledging that it has notice of and agrees to be bound by the provisions of this Agreement;
- (d) agreeing that it shall not knowingly do or omit to do anything that may prevent any Party from enforcing its rights under this Agreement otherwise than as may be necessary for the proper performance by the Borrower of its obligations under the Finance Documents; and
- (e) agreeing not to take any steps, action or commence any proceedings for the winding up, dissolution, administration, voluntary arrangement or reorganisation or the Contractor or the appointment of a receiver, receiver and manager, administrator, administrative receiver, or like official in respect of the Contractor or enforce action against any of the Contractor's property or assets.

20 **MISCELLANEOUS**

20.1 **Variation**

This Agreement may be varied only by an agreement in writing signed by the Parties.

20.2 **No Waiver**

Failure or delay on the part of the Security Trustee in exercising any right, power or discretion under or pursuant to this Agreement shall not operate as a waiver thereof, nor will any single or partial exercise of any such right, power or discretion preclude any other or further exercise thereof. The rights, powers and discretions

contained in this Agreement are in addition to and not substitution for any right of set-off, compensation, retention, lien or other right or remedy provided by law.

20.3 Severability

The provisions of this Agreement shall be severable and distinct from one another and if at any time one or more of such provisions is or becomes or is declared void, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

20.4 Non compliance

If the Contractor or Guarantor fails to make any payment or fulfil any obligation due by it under or pursuant to this Agreement, the Security Trustee or any Receiver shall be entitled to do so on its behalf and in its name (or in its own name as it considers expedient) and/or to take such action to remedy or mitigate the consequences of such failure as it considers expedient) and/or the costs incurred in fulfilling such obligation or mitigating the consequences of such failure, shall be repayable by the Contractor or the Guarantor, as the case may be, on demand, together with interest at the Default Interest Rate from the date of demand until payment.

20.5 Late payments

If any amount payable under this Agreement is not paid on its due date, interest shall accrue on the overdue amount from the due date until the date of actual payment (as well after as before judgment) at the Default Interest Rate. Interest accruing under this Clause shall be payable on demand.

20.6 Confidentiality

Each of the Parties acknowledges that Confidential Information, as defined in the Supply Contract, of another Party may be disclosed to it in connection with this Agreement and undertakes not to publish or otherwise disclose the same otherwise than in accordance with the terms of Clause [●] of the Supply Contract.

20.7 Third party rights

20.7.1 For the purpose of the Contracts (Rights of Third Parties) Act 1999:

- (a) The parties intend that any Additional Party, Substitute or Receiver shall have the right to benefit from and be entitled to enforce the provisions of this Agreement expressed in their favour; and
- (b) Save as provided above, no person other than a Party to this Agreement shall have the right to enforce any provisions of this Agreement, but without prejudice to any right or remedy of such person which may exist or be available apart from that Act.

20.7.2 The Parties may (subject to the terms and conditions herein provided) vary any provision of this Agreement (including this Clause 20.7 (*Third party rights*)) without requiring to obtain the consent of any other person.

20.8 **Effect as a deed**

This Deed is intended to and shall take effect as a deed notwithstanding that it may have been executed by the Security Trustee under hand only.

20.9 **Counterparts**

This Agreement may be executed in any number of counterparts, and by one or more parties in separate counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

21 **NOTICES**

21.1 **Notices and deemed receipt**

Any demand notice to be given under this Agreement shall be in writing signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post or by facsimile to the address and for the attention of the relevant party set out in Clause 21.2 (*Addresses for notices*) (or as otherwise notified by that party thereunder). Any such notice shall be deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) in the case of pre-paid recorded delivery or registered post, 24 hours from the date of posting; and
- (c) in the case of facsimile, at the time of transmission, where in order to prove transmission it shall be sufficient to produce confirmation of uninterrupted transmission by a transmission report,

provided that if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.

21.2 **Addresses for notices**

The addresses and facsimile numbers of the parties for the purposes of this Clause 21 (*Notices*) are:

The Security Trustee

Address: []

For the attention of: []

Fax number: []

The Borrower

Address: []

For the attention of: []

Fax number: []

The Contractor

Address: []

For the attention of: []

Fax number: []

The Guarantor

Address: []

For the attention of: []

Fax number: []

or such other address or facsimile number in the United Kingdom as may be notified in writing from time to time by the relevant party to the other.

21.3 No electronic service

For the avoidance of doubt any demand or notice given under this Agreement shall not be validly given if sent by e-mail.

22 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and in so far as not already subject thereto, the Parties irrevocably accept the exclusive jurisdiction of the English Courts.

EXECUTED AND DELIVERED as a Deed by the Borrower, the Contractor and the Guarantor, and signed by the Security Trustee on the date first above stated.

SCHEDULES

SCHEDULE 1

Form of Step-In Notice

To: [Contractor] Limited
[Address]

Date: []

Attention:

Dear Sirs,

[•] Solar Farm Project

- 1 We refer to the Contractor Direct Agreement dated [•] 20[•] (the "**Direct Agreement**") among us as Security Trustee, you as Contractor, [•] Limited as Project Company and Borrower and [Guarantor] Limited [plc] as Guarantor.
- 2 This is a Step-In Notice under Clause 7 of the Direct Agreement.
- 3 Terms defined in the Direct Agreement shall have the same meaning in this Notice. We nominate: *[Insert name of Additional Party]* [Limited] as Additional Party under the Direct Agreement.
- 5 By its signature of this Notice, the Additional Party undertakes:
 - (a) to pay you the Determined Sums set out in the [Initial Statement] [Updated Statement] [Corrective Statement] dated [•] within [] Business Days of the date of service of this Notice;
 - (b) to pay you the other sums and claims set out in such [Initial] [Updated] [Corrective Statement] Statement to the extent that they become Determined Amounts, within [•] Business Days of their becoming Determined Sums; and
 - (c) to fulfil the obligations of the Contractor under the Supply Contract arising from and after the Step-In Date to the end of the Step-In Period.
- 6 Please acknowledge receipt of this Notice by signing and returning the enclosed duplicate.

Yours faithfully

(i) For and on behalf of [Security Trustee] Limited, as Security Trustee

..... [Director] [Authorised Signatory]

(ii) For and on behalf of [Additional Party] Limited

..... [Director] [Authorised Signatory]

[On duplicate]

Date: []

We [Contractor] Limited hereby acknowledge receipt of the Step-In Notice dated [●] 20[●] of which this is a duplicate

For and on behalf of [Contractor] Limited

..... [Director] [Authorised Signatory]

SCHEDULE 2

Form of Step-Out Notice

To: [Contractor] Limited
[Address]

Date: []

Attention:

Dear Sirs,

[•] Solar Farm Project

- 1 We refer to the Contractor Direct Agreement dated [•] 20[•] (the "**Direct Agreement**") among us as Security Trustee, you as Contractor, [•] Limited as Project Company and Borrower and [•] Limited [plc] as Guarantor.
- 2 We refer also to the Step-In Notice dated [•] 20[•] given to you by us and the Security Trustee.
- 3 This is a Step-Out Notice under Clause 8 of the Direct Agreement.
- 4 We hereby withdraw the undertakings given by [us] in the Step-In Notice with effect from the date of this Notice (the "**Step-Out Date**").
- 5 We acknowledge that we remain liable under such undertakings in respect of the period up to the Step-Out Date.
- 6 Please acknowledge receipt of this Notice by signing and returning the enclosed duplicate.

Yours faithfully

For and on behalf of [Security Trustee] Limited, as Security Trustee

..... [Director] [Authorised Signatory]

[On duplicate]

Date: []

We [Contractor] Limited hereby acknowledge receipt of the Step-Out Notice dated [•] 20[•] of which this is a duplicate

For and on behalf of [Contractor] Limited

..... [Director] [Authorised Signatory]

SCHEDULE 3

Form of Substitution Notice

To: [Contractor] Limited
[Address]

Date: []

Attention:

Dear Sirs,

[•] Solar Farm Project

- 1 We refer to the Contractor Direct Agreement dated [•] 20[•] (the "**Direct Agreement**") among us as Security Trustee, you as Contractor, [•] Limited as Project Company and Borrower and [Guarantor] Limited [plc] as Guarantor.
- 2 This is a Substitution Notice under Clause 9 of the Direct Agreement.
- 3 Terms defined in the Direct Agreement shall have the same meaning in this Notice.
- 4 We propose: *[Insert name of Proposed Substitute]* [Limited] as Substitute under the Direct Agreement.
- 5 We enclose details of the financial and technical arrangements which have been made to enable the Proposed Substitute to fulfil the obligations of the Borrower under the Supply Contract. We shall be glad to provide any clarification or any further information you require.
- 6 We look forward to hearing from you within 10 Business Days from the date of service of this Notice as to whether you approve or reject the Proposed Substitute.
- 7 Please acknowledge receipt of this Notice by signing and returning the enclosed duplicate.

Yours faithfully

- (i) For and on behalf of [Security Trustee] Limited, as Security Trustee

..... [Director] [Authorised Signatory]

[On duplicate]

Date: []

We [Contractor] Limited acknowledge receipt of the Substitution Notice of which this is a duplicate

For and on behalf of [Contractor] Limited

..... [Director] [Authorised Signatory]

SCHEDULE 4

Form of Novation Agreement

To: [Contractor] Limited
[Address]

Attention:
[Borrower] Limited
[Address]

Attention:

Date: []

Dear Sirs

[•] Solar Farm Project

- 1 We refer to the Contractor Direct Agreement dated [•] 20[•] (the "**Direct Agreement**") among you, [] Limited as Security Trustee and [Guarantor] Limited as Guarantor.
- 2 This is a novation agreement under Clause 9.4 of the Direct Agreement.
- 3 Terms defined in the Direct Agreement shall have the same meaning in this agreement.
- 4 We [Name of Substitute] Limited are a Substitute in terms of Clause 9 of the Direct Agreement.
- 5 We agree that by our execution of this agreement we shall become a party to the Supply Contract and the Direct Agreement as Borrower, in place of you [former Borrower] Limited, and hereby assume all the obligations and liabilities, and

become entitled to all the benefits, rights, powers and discretions of the Borrower under the Supply Contract and the Direct Agreement.

- 6 By your execution of this agreement you [former Borrower] Limited shall cease to be a party to the Supply Contract and the Direct Agreement and are hereby released from all obligations and liabilities and are no longer entitled to any benefits, rights, powers or discretions under the Supply Contract and the Direct Agreement.
- 7 By your execution of this agreement, you [Contractor] Limited agree that you shall not be entitled to take any Termination Action in respect of any Termination Event which occurred prior to the date of this agreement (the "**Substitution Date**") unless such Termination Event remains outstanding and has not been waived or removed within 10 Business Days of the Substitution Date.
- 8 Our address and facsimile number for the purposes of Clause 21 of the Direct Agreement, [and for the giving of notice under the Supply Contract] are:

[Name of Substitute] Limited
[Address]
Attention:
Fax number:
- 9 This agreement shall be governed by the law of England and insofar as not already subject thereto, the parties irrevocably accept the [non] exclusive jurisdiction of the English Courts.
- 10 This agreement is intended to and shall take effect as a deed.
- 11 This agreement may be executed in any number of counterparts and by one or more parties in separate counterparts, each of which shall together constitute one and the same instrument.

EXECUTED and DELIVERED as a Deed on the date above stated

EXECUTED as a Deed by
[Contractor] Limited acting by:

..... Director
..... Director/Secretary

EXECUTED as a Deed by
[Former Borrower] Limited acting by:

..... Director

..... Director/Secretary

EXECUTED as a Deed by
[New Borrower] Limited acting by:

..... Director

..... Director/Secretary

SCHEDULE 5

Form of notice of change of Security Trustee

To: [Contractor] Limited
[Address]

Date: []

Attention:

[Guarantor] Limited
[Address]

Attention:

[Borrower] Limited
[Address]

Attention:

Dear Sirs,

[•] Solar Farm Project

- 1 We refer to the Contractor Direct Agreement among us dated [•] 20[•] (the "**Direct Agreement**").
- 2 This is a notice of change of Security Trustee under Clause 15.4 of the Direct Agreement.
- 3 Terms defined in the Direct Agreement shall have the same meaning in this Notice.
- 2 We give notice that we [•] have ceased to act as Security Trustee and [•] incorporated in [•] (Registered Number [•]) whose registered office is at [•] has been appointed Security Trustee in our place.
- 3 With effect from the date of this notice, the said [•] shall become a Party to the Direct Agreement as Security Trustee in our place as if named as a Party from the date of commencement and we [•] shall cease to be a Party and shall be released and discharged from all liability under the Direct Agreement.

- 4 By its signature of this notice, the said [●] agrees to become a Party to the Direct Agreement as Security Trustee on the terms stated.
- 5 Please acknowledge receipt by signing and returning the enclosed duplicate.

Yours faithfully

For and on behalf of [outgoing Security Trustee]

..... [Director] [Authorised Signatory]

For and on behalf of [new Security Trustee]

..... [Director] [Authorised Signatory]

[On duplicate]

Date: []

We [Contractor] [Guarantor] [Borrower] Limited hereby acknowledge receipt of the notice of change of Security Trustee dated [●] 20[●] of which this is a duplicate

For and on behalf of [Contractor] [Guarantor] [Borrower] Limited

..... [Director] [Authorised Signatory]

SIGNATORIES

EXECUTED and DELIVERED as a DEED by
[●] acting by

..... Director
..... Full Name
..... Director/Secretary
..... Full Name

EXECUTED and DELIVERED as a DEED by
[●] acting by

..... Director
..... Full Name
..... Director/Secretary
..... Full Name

EXECUTED and DELIVERED as a DEED by
[GUARANTOR] LIMITED [PLC] acting by

..... Director
..... Full Name
..... Director/Secretary
..... Full Name

EXECUTED and DELIVERED as a DEED
by [●]
as Security Trustee acting by

..... Authorised Signatory
..... Full Name

in presence of:

..... Witness

..... Full Name

..... Address

..... Treh

A handwritten signature in blue ink, consisting of a stylized 'A' shape with a horizontal line extending to the right and a small vertical stroke at the end.