

MR01
Particulars of a charge

004239/116



Companies House



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

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

For further information, please
refer to our guidance at
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This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery



You **must** enclose a certified copy of the instrument with this form This scanned and placed on the public record **Do not send the original**



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29/07/2016

#233

COMPANIES HOUSE

1 Company details

Company number 0 8 6 0 9 0 5 6

Company name in full SUNSAVE 28 (ARDLEIGH) LIMITED

1

For official use

→ **Filling in this form**

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d 1 d 9 m 0 m 7 y 2 y 0 y 1 y 6

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

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

Name CLERE AG

Name

Name

Name

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

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

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

Brief description

Chancery Farm, Ardleigh, Colchester, CO7 7SS (unregistered lease)

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ **Yes**

☐ **No**

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ **Yes** Continue

☐ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ **Yes**

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ **Yes**

☐ **No**

8

Trustee statement ^①

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

☐

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

9

Signature

Please sign the form here

Signature

Signature

X McDermott Will & Emery UK LLP X

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

MR01

Particulars of a charge

Presenter information

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

Contact name Martin Lambe

Company name McDermott Will & Emery UK LLP

Address 110 Bishopsgate

Post town London

County/Region

Postcode E C 2 N 4 A Y

Country UK

DX 131004 CDE Houndsditch

Telephone 020 7577 3496

Certificate

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

Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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

Important information

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

How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

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

Where to send

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

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

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

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

Further information

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

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



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8609056

Charge code: 0860 9056 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th July 2016 and created by SUNSAVE 28 (ARDLEIGH) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th July 2016.

no

Given at Companies House, Cardiff on 4th August 2016



Companies House



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

Dated 19 July 2016

Sunsave 28 (Ardleigh) Limited
as Chargor

CLERE AG
as Bondholder

I, Martin Lambe, of

McDermott Will & Emery UK LLP
110 Bishopsgate
London EC2N 4AY

*hereby certify that, save
for material redacted
pursuant to S.859 G
of The Companies Act
2006, this is a true
copy of the original
document.*

DEBENTURE

Martin Lambe
26/7/2016

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Deed dated 19 July 2016

PARTIES

- (1) **Sunsave 28 (Ardleigh) Limited**, a company with its registered address at 14 High Cross, Truro, Cornwall, TR1 2AJ England with registered number 08609056 as **Chargor**, and
- (2) **CLERE AG**, registered under German law at Bergkirchener Strasse 228, 32549 Bad Oeynhausen, Germany and with registration number HRB 3077 as **Bondholder**

IT IS AGREED as follows

Interpretation

1 Definitions and interpretation

Definitions

- 1.1 Unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the Bond Agreement shall have the same meaning when used in this Deed. In addition, the following expressions shall have the meanings specified next to each

Administrative Receiver means one or more administrative receivers appointed, or to be appointed, under this Deed

Administrator means one or more administrators appointed, or to be appointed, under this Deed

Bond Agreement means the bond instrument dated on about the same date as this Deed comprising a €12,000,000 bond (*Teilschuldverschreibungen*) issued by the Bond Issuer, the bond subscription agreement (*Begebungsvertrag*) between the Bond Issuer and the Bondholder and the corresponding global note (*Globalurkunde*), as it may from time to time be amended, restated, novated or replaced (however fundamentally, including by an increase of any size in the amount of the monies made available under it, the alteration of the nature, purpose or period of those facilities or the change of its parties)

Bond Issuer means ib vogt GmbH, Helmholtzstr 2-9, 10587 Berlin, Germany

Business Day means a day other than Saturday or Sunday on which banks are generally open for business in London, Brussels and Frankfurt-am-Main

Charged Assets means the Fixed Charge Assets and the Floating Charge Assets

Debt means a monetary claim of any kind (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including Security) connected with it

Default Rate means the default rate specified in the Bond Agreement

Disposal means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Security

Enforcement Time means any time at which

- (a) any amount owing by the Bond Issuer under the Bond Agreement is payable but has not been paid,
- (b) any step is being taken by any person to put the Bond Issuer into administration

Equipment means all plant, machinery, vehicles and other equipment used in a business and all warranties and other Rights relating to them, including but not limited to

- (a) 16,080 Jinko Solar JKM270P-60 260 Wp and 29,568 Jinko Solar JKM270P-60 265 Wp modules,
- (b) 14 Schneider Electric Context Core XC680 inverters, and
- (c) 7 Schneider Electric 1360 kVA 33 kV 2x0 38kV Eco Design transformers

Fixed Charge Assets means those assets which are from time to time the subject of clauses 3.1 and 3.2

Floating Charge Assets means those assets which are from time to time the subject of clause 3.3

Insolvency Event, in relation to a person, means

- (a) the dissolution, liquidation, provisional liquidation, administration, administrative receivership or receivership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors,
- (b) any analogous or similar procedure in any jurisdiction other than England, or
- (c) any other form of procedure relating to insolvency, reorganisation or dissolution in any jurisdiction

Insolvency Legislation means

- (a) the Insolvency Act 1986 of England and Wales and secondary legislation made under it, and

- (b) any other primary or secondary legislation in England and Wales from time to time relating to insolvency or reorganisation

Intellectual Property means all copyright (including rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration)

Key Contract means

- (a) each of the contracts or licences entered into by the Chargor on or before the date of this Deed (including, but not limited to, the types of contracts listed in schedule 4 (*Key Contracts*)),
- (b) any contract or licence entered into by the Chargor after the date of this Deed (including, but not limited to, the types of contracts listed in schedule 4 (*Key Contracts*)), or
- (c) any contract or licence that amends, replaces, transfers or novates any of the above contracts or licences

Land means

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

Legal Reservations means

- (a) the principle that equitable remedies may be unavailable or granted or refused at the discretion of a court,
- (b) the time barring of claims under the Limitation Act 1980, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim and similar principles of law,
- (c) the fact that courts may regulate the conduct of judicial proceedings and the award and enforcement of judgments and costs in accordance with the rules of the relevant lex fori notwithstanding any contractual stipulations to the contrary

Obligations, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are

- (a) to pay money or to perform (or not to perform) any other act,
- (b) express or implied,
- (c) present, future or contingent,
- (d) joint or several,
- (e) incurred as a principal or surety or in any other manner, or
- (f) originally owing to the person claiming performance or acquired by that person from someone else

Officer, in relation to a person, means any officer, employee or agent of that person

Permitted Security means liens arising in the ordinary course of trading by operation of law or under Key Contracts and Security created under this Deed

Receiver means an Administrative Receiver or a Specific Receiver

Right means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary

Secured Obligations means Obligations from time to time incurred by the Bond Issuer under or in connection with the Bond Agreement when they become due for payment or discharge

Security means

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction, and
- (b) any proprietary interest over an asset, or any contractual arrangement in relation to an asset, in each case created in relation to financial indebtedness and which has the same commercial effect as if security had been created over it

Specific Receiver means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999 of England and Wales

VAT means value added tax

Interpretation

1 2 In this Deed

- (a) the table of contents, the summary and the headings are inserted for convenience only and do not affect the interpretation of this Deed,
- (b) any reference to clauses and schedules are to clauses of, and schedules to, this Deed,
- (c) a reference to **this Deed** (or any provision of it) or any other document shall be construed as a reference to this Deed, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties
- (d) any reference to the Bond Agreement or any other document are to that document as from time to time amended, restated, novated or replaced, however fundamentally,
- (e) any reference to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity,
- (f) any reference to a person include its successors in title, permitted assignees and permitted transferees,
- (g) words importing the plural include the singular and vice versa,
- (h) any reference to any enactment include that enactment as amended or re-enacted, and, if an enactment is amended, any provision of this Deed which refers to that enactment will be amended in such manner as the Bondholder, after consultation with the Chargor, determines to be necessary in order to preserve the intended effect of this Deed, and
- (i) any reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts

1 3 This Deed shall be read together with the Bond Agreement and, in the event of any conflict or inconsistency between the provisions of this Deed and the provisions of the Bond Agreement, the relevant provisions of the Bond Agreement shall prevail

1 4 Where this Deed imposes an obligation on the Chargor to do something if required or requested by the Bondholder, it will do so as soon as practicable after it becomes aware of the requirement or request

1 5 It is intended that this document takes effect as a deed even though the Bondholder may only execute it under hand

1 6 The provisions of the Bond Agreement relating to

- (a) any disposition of an interest in land, or

(b) any obligation of the Bondholder to make further advances,

are deemed to be incorporated in this Deed

- 1 7 Where a definition of a type of asset in this Deed contains a number of categories each category will be construed as separate from each other category

Parties and third parties

- 1 8 The Rights expressly conferred on the Bondholder, each Receiver and each Officer of the Bondholder or a Receiver under this Deed are enforceable by each of them under the Third Parties Act

- 1 9 No other term of this Deed is enforceable under the Third Parties Act by anyone who is not a party to this Deed

- 1 10 The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting

(a) the Rights of the Bondholder under this Deed without its consent, or

(b) the Rights of a Receiver or of an Officer of the Bondholder or a Receiver under this Deed without its consent, but only to the extent that it has notified the Bondholder that it intends to enforce that clause at the time of the termination or variation

Security

2 Payment of Secured Obligations

The Chargor will, on demand, pay to the Bondholder or otherwise discharge all Obligations from time to time incurred by the Chargor under or in connection with the Bond Agreement when they become due for payment or discharge

3 Charges

3 1 As continuing security for the payment and discharge of the Secured Obligations, the charges contained in this clause 3 are given with full title guarantee to the Bondholder by way of first-ranking legal mortgage in respect of

(a) all the Land of which a brief description is contained in Schedule 1 (*Land*), and

(b) all other Land now owned by it,

and in any Rights accruing to, derived from or otherwise connected with it (including insurances and proceeds of Disposal and of insurances)

3 2 The Chargor charges, by way of first-ranking fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in

(a) Land, other than that charged under clause 3 1,

(b) Equipment,

(c) Key Contracts,

(d) balances on all bank accounts,

(e) Intellectual Property,

(f) Debts, and

(g) goodwill and uncalled capital,

and in any Rights accruing to, derived from or otherwise connected with them (including insurances and proceeds of Disposal and of insurances)

3 3 The Chargor charges, by way of first-ranking floating charge, its undertaking and all its present and future assets other than those effectively charged under clauses 3 1 or 3 2

- 3 4 The Bondholder may convert all or part of the floating charge created by the Chargor under clause 3 3 into a fixed charge by giving notice to that effect to the Chargor and specifying the identity of the assets concerned This may be done on one or more occasion, but only during an Enforcement Time

4 Restrictions

- 4 1 The Chargor will ensure that the restrictions contained in this clause 4 are complied with unless the Bondholder agrees to the contrary
- 4 2 No Security will exist over, or in relation to, any Charged Asset other than Permitted Security
- 4 3 There will be no Disposal of any Fixed Charge Asset, except as permitted under the Bond Agreement
- 4 4 There will be no Disposal of any Floating Charge Asset otherwise than for market value in the ordinary course of trading of the Chargor or except as permitted under the Bond Agreement

5 Perfection

General action

- 5 1 The Chargor will, at its own expense, create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, an asset registry or otherwise), deposit all such documents and do all such other things as the Bondholder may require from time to time in order to
- (a) ensure that the Bondholder has an effective first-ranking fixed charge (or, in the case of Land then owned by the Chargor, a first-ranking charge by way of legal mortgage) over the Fixed Charge Assets, subject only to the Permitted Security,
 - (b) ensure that the Bondholder has an effective first-ranking floating charge over the Floating Charge Assets, and
 - (c) facilitate the enforcement of the Security created under this Deed, the realisation of the Charged Assets or the exercise of any Rights held by the Bondholder or any Receiver or Administrator under or in connection with the Security created under this Deed

- 5 2 The scope of clause 5 1 is not limited by the specific provisions of the rest of this clause 5

Land

- 5 3 If required to do so by the Bondholder, the Chargor will execute a first-ranking charge by way of legal mortgage over any Land in England and Wales owned by it at that time which is not already the subject of such a charge in favour of the Bondholder, in substantially the same form as the legal mortgage created under this Deed

5 4 The Chargor agrees to the entry of the following restriction in the proprietorship register of the title to any Land in England and Wales which now or in the future is the subject of a charge by way of legal mortgage in favour of the Bondholder and which is, or is required to be, registered at the Land Registry

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated *[date of this Deed]* in favour of *[beneficiaries]* of *[address for service]* referred to in the Charges Register "

5 5 If any Land in which the Chargor has Rights now or in the future is required to be registered at the Land Registry, the Chargor will, within the relevant priority period under the Land Charges Act 1972 of England and Wales

- (a) apply to the Land Registry for first registration of the title to that Land and registration of the Chargor as proprietor of that Land and notify the Bondholder of its title number, and
- (b) if so required by the Bondholder, create a first-ranking charge by way of legal mortgage over that Land in favour of the Bondholder or, if not so required, procure that this Deed is noted in the charges register of that Land

5 6 If any Land in which the Chargor has Rights is already registered when those Rights are acquired, the Chargor will within the priority period of the relevant Land Registry Official Search

- (a) apply to the Land Registry for its title to that Land to be registered and give notice of the title number to the Bondholder, and
- (b) if so required by the Bondholder, create a first-ranking charge by way of legal mortgage over that Land in favour of the Bondholder or, if not so required, procure that this Deed is noted in the charges register of that Land

5 7 If any Land in which the Chargor has Rights now or in the future is not required to be registered at the Land Registry, the Chargor will, within the relevant priority period under the Land Charges Act 1972 of England and Wales, apply to register a Class C Land Charge in respect of this Deed at the Land Charges Registry if the title deeds and documents to that Land are not deposited with the Bondholder under clause 5 9

5 8 The Chargor will procure the entry of a note of the obligation to make further advances under the terms of the Bond Agreement on the Charges Register of any registered land forming part of the Land over which it has created a charge by way of legal mortgage in favour of the Bondholder

5 9 The Chargor will deposit with the Bondholder all deeds and documents of title and all leases, licences and other ancillary documents received by it or on its behalf in relation to its Land

Bank Accounts and Key Contracts

- 5 10 If, at any time, the Chargor has a Right in respect of a bank account or a Key Contract, it will, on the date of this Deed (or, if it acquires the Right later, as soon as practicable after it does so)
- (a) deliver a notice of this Deed to the other parties to the relevant bank account or Key Contract substantially in the form set out in the applicable part of Schedule 2 (*Notice and acknowledgement of charge*), and
 - (b) use its reasonable endeavours to procure that those parties deliver an acknowledgement of the notice to the Bondholder substantially in the form set out in that part of that Schedule as soon as reasonably practicable

Subsequent Security

- 5 11 If the Bondholder receives notice that any Security has been created over Charged Assets other than Permitted Security, the Bondholder will be treated as if it had immediately opened a new account for the Chargor, and all payments received by the Bondholder from the Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the Chargor to the Bondholder

Further Assurance

- 5 12 The Chargor shall, at the direction of the Bondholder given at any time, forthwith execute and deliver to the Bondholder all transfers and other documents and do all such things as may be necessary or desirable
- (a) to register all or any of the Charged Assets in the name of the Bondholder or its nominee,
 - (b) for creating, registering, perfecting, maintaining or protecting the security created by this Deed,
 - (c) for creating a fixed charge over any of the Charged Assets, or
 - (d) to facilitate the realisation of all or any of the Charged Assets after this Deed has become enforceable, or the exercise of any right, power or discretion vested in the Bondholder or the Attorney in relation to any Charged Assets or this Deed

Enforcement

6 Enforcement

Time for enforcement

- 6 1 The Bondholder may enforce the Security created under this Deed at any time which is an Enforcement Time or if the Chargor requests it to do so

Methods of enforcement

- 6 2 The Bondholder may enforce the Security created under this Deed by
- (a) appointing an Administrator of the Chargor,
 - (b) if permitted to do so by the Insolvency Legislation, appointing an Administrative Receiver of the Chargor,
 - (c) appointing a Specific Receiver of assets of the Chargor,
 - (d) going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide, or
 - (e) taking any other analogous action it may decide in any jurisdiction other than England
- 6 3 An Administrator must be appointed in accordance with the Insolvency Legislation
- 6 4 A Receiver must be appointed by an instrument in writing, and otherwise in accordance with the Insolvency Legislation
- 6 5 The appointment of a Receiver may be made subject to such limitations as are specified by the Bondholder in the appointment
- 6 6 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Bondholder may specify to the contrary in the appointment
- 6 7 Subject to the Insolvency Legislation, the Bondholder may remove or replace any Receiver
- 6 8 If required by the Insolvency Legislation, an Administrator or Receiver must be a person qualified to act as such under it
- 6 9 The Chargor waives any right it may have of requiring the Bondholder to
- (a) enforce any security or other right, or

(b) claim any payment from or otherwise proceed against any other person,
before enforcing this Deed against the Chargor

Powers on enforcement

6 10 An Administrator will have the powers given to him by the Insolvency Legislation

6 11 An Administrative Receiver will have

- (a) the powers given to him by the Insolvency Legislation,
- (b) the powers given to a mortgagee or a receiver by the Law of Property Act 1925 of England and Wales, but without the restrictions contained in section 103 of that Act, and
- (c) the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor were not in insolvency proceedings

6 12 A Specific Receiver will have the same powers as an Administrative Receiver in respect of the assets over which he is appointed

6 13 The Bondholder will, if it enforces the Security created under this Deed itself, have the same powers as an Administrative Receiver in respect of the assets which are the subject of the enforcement

6 14 Except to the extent provided by law, none of the powers described in this clause 6 will be affected by an Insolvency Event in relation to the Chargor

Status and remuneration of Receiver

6 15 A Receiver will be the agent of the Chargor until the Chargor goes into liquidation. A Receiver will have no authority to act as agent for the Bondholder, even in the event of the liquidation of the Chargor

6 16 The Bondholder may from time to time determine the remuneration of any Receiver

Third parties

6 17 A person dealing with the Bondholder or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that

- (a) those persons have the power to do those things which they are purporting to do, and
- (b) they are exercising their powers properly

7 Application of proceeds

All money received by the Bondholder or a Receiver under or in connection with this Deed (whether during, or before, enforcement of the Security created under this Deed) will, subject to the rights of any persons having priority, be applied in the following order of priority

- (a) first, in or towards payment of all amounts payable to the Bondholder, any Receiver or their Officers under clause 11 (*Expenses, liability and indemnity*) and all remuneration due to any Receiver under or in connection with the Security created under this Deed,
- (b) secondly, in or towards payment of the Secured Obligations (and, if any of the Secured Obligations are not then payable, by payment into a suspense account until they become payable), and
- (c) thirdly, in payment of any surplus to the Chargor or other person entitled to it

Representations, Warranties and Undertakings

8 Representations and Warranties

The Warranties set out in this clause 8 are made by the Chargor on the date of this Deed, and the representations and warranties contained in this clause 8 are deemed to be repeated on each day that this Deed is effective with reference to the facts and circumstances existing at the time of repetition

- 8 1 The Chargor is the sole legal and beneficial owner and, to the extent applicable, registered holder of all the Charged Assets free from any Security other than the Permitted Security
- 8 2 This Deed does not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation to which the Chargor is a party or by which it is bound
- 8 3 This Deed constitutes and will continue to constitute the legal, valid, binding and, subject to the Legal Reservations, enforceable obligations of the Chargor, and is and will continue to be effective security over all and every part of the Charged Assets in accordance with its terms
- 8 4 This Deed is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, subject to the Legal Reservations
- 8 5 The Chargor
 - (a) is duly incorporated and validly existing under the law of its country of incorporation,
 - (b) has the necessary capacity, power and authority to enter into and perform its obligations under this Deed, and
 - (c) has obtained all necessary authorisations and consents, which will remain in full force and effect so long as this Deed subsists, to enable and entitle it to enter into this Deed

9 Land and Equipment

- 9 1 The Chargor will
 - (a) comply with all material statutory, regulatory, environmental and contractual obligations relating to its Land or its use, and
 - (b) comply with all material obligations imposed on it under any lease of its Land
- 9 2 The Chargor will keep its Land and Equipment in good repair, working order and condition and permit the Bondholder and its representatives to enter and view their state and condition upon giving reasonable notice to the Chargor
- 9 3 The Chargor will not, without the prior written consent of the Bondholder

- (a) grant or extend any lease, agreement for lease or licence, or part with or share possession or occupation, of its Land,
- (b) grant any licence or permission to any occupier to assign, underlet, part with possession or occupation or change the use of its Land,
- (c) determine, accept or agree to accept the surrender of any leasehold interest in any of its Land,
- (d) apply to the Land Registry to register the whole or any part of its Land as commonhold land or establish a commonhold association in respect of any of its Land, or
- (e) make a material change to the use of any of its Land

Miscellaneous

Continuing obligations

- 9 4 This Security is a continuing security and will extend to the ultimate balance of sums payable by the Bond Issuer under the Bond Agreement, regardless of any intermediate payment or discharge in whole or in part

Reinstatement

- 9 5 If any discharge, release or arrangement (whether in respect of the obligations of the Bond Issuer or any Security for those obligations or otherwise) is made by the Bondholder in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, then without limitation, the liability of the Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred

Waiver of defences

- 9 6 Neither the Security created by this Deed nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to the Bondholder), including
- (a) any time, waiver or consent granted to, or composition with, the Bond Issuer or any other person,
 - (b) the release of the Bond Issuer, the Chargor or any other person under the terms of any composition or arrangement with any person,
 - (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Bond Issuer or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
 - (d) any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of the Bond Issuer or any other person,
 - (e) any amendment (however fundamental) or replacement of the Bond Agreement or any other document or security,
 - (f) any unenforceability, illegality or invalidity of any obligation of any person under the Bond Agreement or any other document or security, or
 - (g) any insolvency or similar proceedings

Immediate recourse

- 9 7 The Chargor waives any right it may have of first requiring the Bondholder (or any agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of the Bond Agreement to the contrary.

Appropriations

- 9 8 Until the Secured Obligations have been irrevocably and unconditionally discharged in full, the Bondholder (or any agent on its behalf) or a Receiver may
- (a) refrain from applying or enforcing any other money, security or Rights held or received by it (or any agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and the Chargor will not be entitled to the benefit of the same, and
 - (b) hold in an interest-bearing suspense account any money received from the Chargor or on account of the Chargor's liability under this Deed.

Deferral of Chargors' rights

- 9 9 Unless the Bondholder otherwise directs, the Chargor will not exercise any Rights (including rights of set-off) which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed.
- (a) to be indemnified or reimbursed by the Bond Issuer,
 - (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bondholder under the Bond Agreement or of any other guarantee or security taken under, or in connection with, the Bond Agreement by the Bondholder,
 - (c) to bring legal or other proceedings for an order requiring the Bond Issuer to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed,
 - (d) to exercise any right of set-off against the Bond Issuer, and/or
 - (e) to claim or prove as a creditor of the Bond Issuer in competition with the Bondholder.
- 9 10 If the Chargor receives any benefit, payment or distribution in relation to such Rights, it will promptly pay an equal amount to the Bondholder for application in accordance with this Deed.
- 9 11 Clauses 9 9 and 9 10 only apply until all the Secured Obligations have been irrevocably and unconditionally discharged in full.

- 9 12 This Deed is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Bondholder

10 Duration of the Security

- 10 1 If any payment by the Chargor or any other security provider or any release given by the Bondholder (whether in respect of the Secured Obligations or any Security for them or otherwise) is avoided or reduced as a result of insolvency or any similar event
- (a) the liability of the Chargor under this Deed will continue as if the payment, release, avoidance or reduction had not occurred, and
 - (b) the Bondholder will be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, release, avoidance or reduction had not occurred

11 Expenses, liability and indemnity

- 11 1 The Chargor will, on demand, pay all legal and other costs and expenses (including any stamp duty, registration or other similar taxes)
- (a) incurred by the Bondholder or by any Receiver in connection with the enforcement or preservation of the Security created under this Deed or the Charged Assets, and
 - (b) incurred by the Bondholder or any Receiver in connection with any other matter relating to the Security created under this Deed, including any amendment, waiver, consent or release required in connection with the Security created under this Deed
- 11 2 Neither the Bondholder nor a Receiver nor any of their Officers will be in any way liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or the Security created under this Deed, except to the extent caused by its own negligence or wilful misconduct
- 11 3 The Chargor will, on demand, indemnify each of the Bondholder, a Receiver and their Officers in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with
- (a) anything done or omitted in the exercise of the powers conferred on it under this Deed, unless it was caused by its negligence or wilful misconduct,
 - (b) a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the Security created under this Deed had not been granted and which was not caused by its negligence or wilful misconduct, or
 - (c) any breach by the Chargor of this Deed

12 Payments

- 12 1 All payments by the Chargor under this Deed will be made in full, without any set-off or other deduction
- 12 2 If any tax or other sum must be deducted from any amount payable by the Chargor under this Deed, the Chargor will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions
- 12 3 All amounts payable by the Chargor under this Deed are exclusive of VAT. The Chargor will, in addition, pay any applicable VAT on those amounts
- 12 4 If the Chargor fails to make a payment to a person under this Deed, it will pay interest to that person on the amount concerned at the Default Rate from the date it should have made the payment until the date of payment (after, as well as before, judgment)
- 12 5 No payment by the Chargor (whether under a court order or otherwise) will discharge the Obligation of the Chargor unless and until the Bondholder has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Bondholder will have a separate cause of action against the Chargor for the shortfall
- 12 6 Any certification or determination by the Bondholder of an amount payable by the Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount
- 12 7 For the purpose of, or pending the discharge of, any of the Secured Obligations the Bondholder may convert any monies received, recovered or realised by the Bondholder under this Deed (including the proceeds of any previous conversion under this clause) from their existing currencies of denomination into Euros. Any such conversion shall be effected at the Bondholder's then prevailing spot selling rate of exchange for Euros against the existing currency. Each reference in this clause to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency

13 Remedies

- 13 1 The Rights created by this Deed are in addition to any other Rights of the Bondholder against the Chargor or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them
- 13 2 No failure by the Bondholder to exercise any Right under this Deed will operate as a waiver of that Right. Nor will a single or partial exercise of a Right by the Bondholder preclude its further exercise

- 13 3 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way

14 Power of attorney

The Chargor, by way of security, irrevocably appoints each of the Bondholder and any Receiver severally to be its attorney to do anything

- (a) which the Chargor is obliged to do under this Deed, and
- (b) after the Enforcement Time, which the attorney may require to exercise any of the Rights conferred on the attorney by this Deed or by law

15 The Bondholder

- 15 1 The Bondholder may be replaced by a successor in accordance with the Bond Agreement
- 15 2 On the date of its appointment, the successor Bondholder will assume all the Rights and Obligations of the retiring Bondholder. However, this does not apply to any Obligations of the retiring Bondholder which arise out of its acts or omissions as Bondholder before the appointment of the successor, in respect of which the retiring Bondholder will continue to have the Obligations imposed by, and the Rights contained in, this Deed
- 15 3 The retiring Bondholder will, at the Chargor's expense, provide its successor with copies of those of its records as Bondholder as its successor properly requires to perform its functions as Bondholder
- 15 4 The Bondholder may at any time, without the consent of the Chargor, assign or transfer the whole or any part of the Bondholder's rights and obligations under this Deed to any person
- 15 5 The Chargor may not assign any of its rights or transfer any of its obligations under this Deed or enter into any transaction, which would result in any of the Chargor's rights or obligations under this Deed passing to another person

16 Notices

- 16 1 Any notice or other communication to a party to this Deed must be in writing. It must be addressed for the attention of such person, and sent to such address or fax number as that party may from time to time notify to the other parties
- 16 2 It will be deemed to have been received by the relevant party on receipt at that address or fax number

16.3 The initial administrative details of the parties are contained in Schedule 3 (*Initial administrative details of the parties*) but a party may amend its own details at any time by notice to the other party

16.4 Any notice to the Chargor may alternatively be sent to its registered office or to any of its places of business or to any of its directors or its company secretary, and it will be deemed to have been received when delivered to any such places or persons

17 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signature on the counterparts were on a simple copy of this Deed

18 Law

This Deed and any non-contractual obligations connected with it are governed by English law

19 Jurisdiction

19.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of, or in connection with, this Deed or any non-contractual obligations connected with this Deed (including a dispute regarding the existence, validity or termination of or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**)
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly that they will not argue to the contrary

19.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Bondholder
 - (i) irrevocably appoints Law Debenture Corporate Services Limited of Fifth Floor, 100 Wood St, London EC2V 7EX as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed, and
 - (ii) agrees that failure by an agent for service of process to notify the Bondholder of the process will not invalidate the proceedings concerned
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Bondholder must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Chargor. Failing this, the Chargor may appoint another agent for this purpose

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed

Schedule 1

Land

Part A

Registered Land

**County / District /
London Borough**

Address / Description

Title Number

--

Tendring District
Council

Chancery Farm,
Ardleigh, Colchester
CO7 7SS

Leases have not been
registered yet

Leases

Schedule 2
Notice and acknowledgment of charge

Part A

Form of notice of charge of Key Contract

To [Counterparty]

Date •

Dear Sirs

Notice of Charge

- 1 By a debenture dated •, we have charged to • (the **Bondholder**) all of our rights in [*insert details of agreement concerned*] (the **Agreement**)
- 2 We remain liable for our obligations under the Agreement. The Bondholder has no obligations under it
- 3 Please sign the enclosed acknowledgement and return it to the Bondholder at [*address*] marked for the attention of •

for and on behalf of

[Chargor]

Acknowledgement of Charge

To [Bondholder]

4 We acknowledge receipt of the notice described above

5 We have not received notice that any other person has an interest in the Agreement

Signed by

[Counterparty]) [Authorised representative]

Date •

Part B

Form of notice of charged Project Account

To [Account Bank]

Date ●

Dear Sirs

Notice of Charge

- 6 We give you notice that, under a debenture dated ● entered into by us (and others) in favour of ● (the **Bondholder**), we have charged to the Bondholder by way of first fixed charge all of our rights in the following accounts with you (the **Accounts**)

Bank	Sort Code	Account Holder	Account Name	Account Number
■■■■■	■■■■■	Sunsave 28 (Ardleigh) Limited		■■■■■

- 7 Please sign the enclosed acknowledgement and return it to the Bondholder at [address] marked for the attention of ●

for and on behalf of

[Chargor]

Acknowledgement of Charge

To [Bondholder]

8 We acknowledge receipt of the notice described above

9 We have not received notice that any other person has an interest in the Accounts

Signed by

[Counterparty]) [Authorised representative]

Date •

Schedule 3
Initial administrative details of the parties

Party	Address	Fax number	Attention
Chargor	c/o ib vogt GmbH, Helmholtzstrasse 2-9, 10587 Berlin, Germany	+49 30 397440-10	Anton Milner
Bondholder	Bergkirchener Strasse 228, 32549 Bad Oeynhausen, Germany	+49-(0)30-31 51 90 90	Dr Thomas van Aubel

SCHEDULE 4

Key Contracts

For the purpose of this Deed, "Key Contracts" shall include any of the following (or any analogous documentation)

a)	shareholder loans,
b)	license to occupy,
c)	lease agreements,
d)	grid connection agreement,
e)	EPC Contracts,
f)	meter operator agreements,
g)	electricity supply agreement,
h)	O&M contract

SIGNATORIES

Executed as a deed by

The Chargor

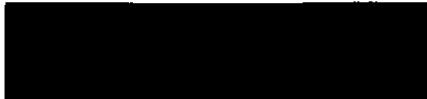
Sunsave 28 (Ardleigh) Limited

acting by



Authorised signatory

in the presence of



Name of witness

Marie-France LUDMANN

Address

**6 quai St Thomas
F.67000 STRASBOURG**

The Bondholder

CLERE AG

by

Authorised signatory

SIGNATORIES

Executed as a deed by

The Chargor

Sunsave 28 (Ardleigh) Limited

acting by

Authorised signatory

in the presence of

Name of witness

Address

The Bondholder

CLERE AG

by

