



Registration of a Charge

Company name: **EQUITIX INVESTMENT MANAGEMENT LTD**

Company number: **06273020**



X7XQ5FNN

Received for Electronic Filing: **23/01/2019**

Details of Charge

Date of creation: **08/01/2019**

Charge code: **0627 3020 0012**

Persons entitled: **THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED AS
SECURITY TRUSTEE FOR THE SECURED PARTIES (SECURITY AGENT)**

Brief description: **NOT APPLICABLE.**
Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ADDLESHAW GODDARD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6273020

Charge code: 0627 3020 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th January 2019 and created by EQUITIX INVESTMENT MANAGEMENT LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd January 2019 .

Given at Companies House, Cardiff on 25th January 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Dated

8 January 2019

**INTERTRUST CORPORATE SERVICES (UK) LIMITED AS TRUSTEE FOR
EQUITIX V B TRUST**

and

EQUITIX INVESTMENT MANAGEMENT LIMITED
as Assignors

and

THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED
as Security Agent

DEED OF ASSIGNMENT

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This Deed is made on

8 January 2019

Between

- (1) **Intertrust Corporate Services (UK) Limited** (a company incorporated in England and Wales with registered number 04723839) whose registered office is at 35 Great St. Helen's, London, England, EC3A 6AP in its capacity as the trustee of **Equitix V B Trust (Trust)** (an unauthorised unit trust constituted in England) (**Trustee**);
- (2) **Equitix Investment Management Limited** (a company incorporated in England with number 06273020, whose registered office is at Welken House, 10-11 Charterhouse Square, London EC1M 6EH) (**Manager**); and
- (3) **The Royal Bank of Scotland International Limited** as security trustee for the Secured Parties (as defined below) (**Security Agent** which term shall include any person appointed as security trustee or as an additional trustee in accordance with the terms of the Facility Agreement).

Whereas

- (A) By a facility agreement dated on or about the date of this Deed (**Facility Agreement**) between (amongst others) Equitix Fund V LP and Equitix V Primary Infrastructure LP (as the Funds and Guarantors), Equitix GP 5 Limited and Equitix GP 5 (Greenfield) Limited as General Partners, Equitix Investment Management Limited as Manager, Equitix Fund V Feeder Limited as FeederCo, the Trustee, the parties listed therein as Original Lenders, NatWest Markets Plc as Agent and The Royal Bank of Scotland International Limited as Security Agent and Issuing Agent, the Lenders have agreed to make available to the Borrowers a revolving loan and letter of credit facility.
- (B) It is a condition of the Facility Agreement that the Assignors (as defined below) enter into this Deed and give the security hereby constituted.

It is agreed

1 Definitions and Interpretation

1.1 Definitions

In this Deed:

AIV Fund means Equitix V Primary Infrastructure LP (registered as a limited partnership under the Limited Partnership Act 1907 with number SL0322655)

Assignors mean the Trustee and the Manager (each an **Assignor**)

Feeder Commitment has the meaning ascribed to it in the Trust Deed

Feeder Drawdown Notice has the meaning ascribed to that term in the Trust Deed

Feeder Investor has the meaning ascribed to that term in the Trust Deed

Party means a party to this Deed

Secured Liabilities means all monies and liabilities now or after the date of this Deed due owing or incurred by the AIV Fund to the Finance Parties under the Finance Documents (or any of them) in any manner and in any currency or currencies and whether present or future,

actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Finance Party under any Finance Document, except for any obligations which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

Secured Parties has the meaning given to that term in the Facility Agreement

Trust Deed means the trust deed relating to the Trust dated 30 July 2018 between Intertrust Corporate Services (UK) Limited and Equitix Investment Management Ltd (as amended on 7 January 2019)

Trust Documents has the meaning ascribed to the term EVAT Documents in the Facility Agreement

Trust Rights means all the rights, title and interest of each Assignor under the Trust Documents to the Feeder Commitments (to the extent of the proceeds thereof and the rights of the relevant Assignor to execute and deliver Feeder Drawdown Notices pursuant to the Trust Deed and otherwise require, and enforce the obligations of, the Feeder Investors to contribute to the Feeder Commitments)

1.2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.
- (b) In this Deed the term:
 - (i) **dispose** includes any sale, lease, licence, transfer or loan;
 - (ii) **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues).
- (c) Clause 1.2 (Construction) of the Facility Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to **this Agreement** shall be read as a reference to this Deed.
- (d) If the Assignor(s) comprise(s) more than one person, reference to the Assignors is to all of them and references to the Assignor or an Assignor is to all or any of them (as the case may be).
- (e) The liability of the persons comprising the Assignor(s) is joint and several.

1.3 Third Party Rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

- (b) Unless expressly provided to the contrary in any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

2 Covenant to pay

2.1 Covenant to pay

Each Assignor (other than the Manager) hereby covenants with the Security Agent (as security trustee for the Secured Parties) to pay on demand all the Secured Liabilities.

2.2 Limited recourse

The recourse of the Security Agent against the Manager and the Trustee in respect of the Secured Liabilities under this Deed is limited:

- (a) as set out (in relation to the Trustee) in paragraph (a)(xv)(C) of clause 1.2 (Construction) of the Facility Agreement and (in relation to the Manager) as set out in paragraph (a)(xv)(B)(1), (2) and (3) of clause 1.2 (Construction) of the Facility Agreement; and
- (b) to the enforcement of, and recovery against, the Trust Rights to which the Manager or (as the case may be) the Trustee is entitled and accordingly the Security Agent agrees that the total amount recoverable against the Assignor under this Deed shall be limited to the proceeds received by the Security Agent enforcing and realising the Trust Rights in accordance with this Deed.

3 Assignment

As continuing security for the payment of the Secured Liabilities, each Assignor hereby assigns absolutely by way of security with full title guarantee to the Security Agent (as security trustee for the Secured Parties) the Trust Rights of such Assignor.

4 Restrictions

None of the Assignors shall, save as otherwise permitted under the Facility Agreement, without the prior consent in writing of the Security Agent:

- (a) create or permit to exist any Security over the Trust Rights (save for the Security created under this Deed);
- (b) agree any amendment of or variation to (unless such amendment or variation would not impair the title, interests or rights of the Security Agent in the Trust Rights or is otherwise permitted by the terms of the Facility Agreement) the Trust Deed;
- (c) terminate the Trust Deed;
- (d) sell or otherwise dispose of or agree to sell or otherwise dispose of its benefit in the Trust Rights; or
- (e) take or omit to take any action the taking or omission whereof would or might materially impair the interest, title or rights of the Security Agent or the Finance Parties in the Trust Rights,

save that nothing in this clause 4 shall prevent an Assignor exercising its Trust Rights (including the service and enforcement of Feeder Drawdown Notices on the Feeder Investors in relation to their respective Feeder Commitments in accordance with the provisions of the Trust Documents) to the extent permitted under the Finance Documents.

5 Powers of the Security Agent

- 5.1 The Security Agent may at any time following the occurrence of an Event of Default which is continuing without further notice and without the restrictions contained in section 103 of the Law of Property Act 1925 exercise in respect of the Trust Rights all the powers conferred on mortgagees by the Law of Property Act 1925 as hereby varied or extended with full power to call in all monies forming part of the Trust Rights and to enforce all rights to receive monies forming part of the Trust Rights in each case under the terms of this Deed and in all cases subject to compliance with the terms of this Deed but otherwise at such times and in such manner and generally on such terms and conditions as the Security Agent may think fit.
- 5.2 The Security Agent may apply all monies it receives in respect of Trust Rights relating to the relevant Assignor in or towards discharge of the Secured Liabilities in such order as the Security Agent in its absolute discretion may from time to time determine.

6 Power of attorney

- 6.1 Each Assignor, by way of security, irrevocably and severally appoints the Security Agent and any of their delegates or sub-delegates to be its attorney to take at any time after the occurrence of an Event of Default which is continuing any action which an Assignor is obliged to take under this Deed, including but not limited to:
- (a) to execute or deliver to any Feeder Investor Feeder Drawdown Notices to the extent necessary to ensure that the relevant Assignor shall pay each amount due by the same under the Finance Documents on the due date for payment therefor; and
 - (b) to execute and deliver and otherwise perfect and do, any deed, assurance, agreements, instruments, act or thing which it ought to execute and do under the terms of this Deed, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Security Agent under this Deed or otherwise for any of the purposes of this Deed.
- 6.2 Each Assignor covenants with the Security Agent to ratify and confirm all such acts and things made, done or executed by the attorney in accordance with the terms of this Deed.

7 Undertakings

- 7.1 Each Assignor, at the request of the Security Agent, shall promptly send to each of the Feeder Investors (and send a copy at the same time to the Security Agent), upon receipt of a written notice from the Security Agent declaring that an Event of Default has occurred and is continuing, a notice of assignment in the form set out in schedule 1 (Form of notice to Feeder Investors) and use its reasonable endeavours to procure that each Feeder Investor promptly delivers a copy of such notice duly acknowledged to the Trustee and the Security Agent.
- 7.2 No Assignor shall do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Finance Parties of the Security created by or under this Deed.

8 Warranties

Each Assignor hereby represents and warrants to the Security Agent that:

- (a) subject to the Legal Reservations, the Security constituted by this Deed constitutes first ranking Security over its Trust Rights; and
- (b) save for the Security created by this Deed, it has not assigned, charged, pledged or otherwise created Security over its Trust Rights.

9 Other security

- 9.1 The Security created by this Deed is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, any other Security, right of recourse or other right whatsoever which any Finance Party may now or at any time hereafter hold or have (or would apart from this Security hold or have) as regards the Assignors or any other person in respect of the Secured Liabilities.
- 9.2 The powers which this Deed confers on the Security Agent are cumulative, without prejudice to its powers under the general law, and may be exercised as often as the Security Agent thinks appropriate. The Security Agent may, in connection with the exercise of its powers, join or concur with any person in any transaction, scheme or arrangement whatsoever and each Assignor acknowledges that the powers of the Security Agent shall in no circumstances whatsoever be suspended, waived or otherwise prejudiced by anything other than an express waiver or variation in writing.

10 Protection of Security Agent

The Security Agent shall not be liable in respect of any loss or damage which arises out of the exercise, or the attempted or purported exercise of, or the failure to exercise any of its powers, unless such loss or damage is caused by its gross negligence or wilful misconduct.

11 Ancillary provisions

- (a) The Security constituted by this Deed shall be and remain a continuing security for the payment of the Secured Liabilities and shall apply notwithstanding any fluctuation in or the intermediate payment of any part or full satisfaction of the Secured Liabilities and notwithstanding any change in the constitution of the Assignors or any of them or the invalidity or enforceability of this Deed in respect of any one Assignor and the charges, covenants and provisions contained in this Deed.
- (b) Each Assignor shall be deemed to be a principal debtor, and the sole, original and independent obligor for the Secured Liabilities owed by it and its Trust Rights shall be deemed to be a principal security for the Secured Liabilities owed by it and the liability of each of the Assignors under this Deed and the assignments contained in this Deed shall not be impaired by any forbearance, neglect, indulgence, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by any Finance Party, or by any other act, event or matter whatsoever whereby the liability of the Assignors or any of them (as a surety only) or the charges contained in this Deed (as secondary or collateral charges only) would, but for this provision, have been discharged.

12 Covenant to release

Once all Secured Liabilities have been paid in full and the Finance Parties have no contingent liability to advance further monies to, or incur further liability on behalf of any Assignor or otherwise the Security Agent shall promptly at the request and cost of the relevant Assignor, take any action reasonably necessary to re-assign the relevant Assignor's Trust Rights to such Assignor (including, without limitation, the giving of notice of reassignment to any Feeder Investor).

13 Miscellaneous

- 13.1 If any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law (in a particular jurisdiction), the validity, legality and enforceability of the provisions in that jurisdiction or the validity, legality and enforceability of any provision of this Deed in any other jurisdiction shall not in any way be affected or impaired.
- 13.2 If this Deed or any provision of this Deed becomes invalid, illegal or unenforceable in any respect under any law (in a particular jurisdiction) in respect of or against one Assignor such invalidity, illegality or unenforceability shall not in any way affect or impair the validity, legality or enforceability of this Deed in respect of or against any other Assignor and shall continue to be valid, legal and enforceable against such other Assignor, notwithstanding such invalidity, illegality or enforceability.
- 13.3 No failure to exercise and no delay in exercising on the part of the Security Agent any right, remedy, power or privilege arising under or by virtue of this Deed shall operate as a waiver thereof nor shall any single defective or partial exercise thereof preclude any other or further exercise of that or any other right, remedy, power or privilege and the rights and remedies provided in this Deed are cumulative and not exclusive of any other rights or remedies provided by law.
- 13.4 The contents of any certificate signed by any officer of the Security Agent as to the amount of the Secured Liabilities or as to any determination made by the Security Agent under or for the purposes of this Deed shall (in the absence of manifest error) as against the Assignors be conclusive evidence of that matter in any legal proceedings.
- 13.5 Each Assignor agrees at the cost and expense of such party to execute and deliver such further documents and do such other acts and things as the Security Agent may reasonably request in order to give effect to the purposes of this Deed and the due performance by such Assignor of its obligations hereunder.
- 13.6 Each Assignor acknowledges that this Deed does not contravene any provisions of the Trust Documents or of any other agreement or document binding on any party hereto and has been executed in accordance with the Trust Deed.
- 13.7 Any notice or demand under this Deed to or upon any Assignor shall be in writing and shall be deemed to have been properly served upon the relevant Assignor if it is served in accordance with the Facility Agreement.

14 Counterparts

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into

under or in connection with this Deed by e-mail attachment shall be an effective mode of delivery.

15 Governing law

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

16 Enforcement and jurisdiction

16.1 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 (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 16 is for the benefit of the Security Agent. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

16.2 Service of process

- (a) The Civil Procedure Rules regarding service and deemed service will not apply to any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed, which shall instead be served in accordance with this clause 16.2.
- (b) Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clauses 36 (Notices) of the Facility Agreement (excluding, for this purpose, clause 36.6 (Electronic communication) and clause 36.7 (Use of websites)).

This Deed has been executed as a deed and delivered on the date given at the beginning of this Deed.

Schedule 1

Form of Notice to Feeder Investors

To: *[Insert name and address of Feeder Investor]*

Dated:

Dear Sirs

Re: Trust deed constituting Equitix V B Trust dated 30 July 2018 (as amended on 7 January 2019) (Agreement)

We notify you that Intertrust Corporate Services (UK) Limited (**Trustee**) in its capacity as trustee of Equitix V B Trust (**Trust**) and Equitix Investment Management Limited (**Manager**) have assigned to The Royal Bank of Scotland International Limited (**Security Agent**) as security trustee for itself and certain other secured parties all their respective rights, title and interest in respect of the Feeder Commitments (to the extent of the proceeds thereof) and their respective rights to issue Feeder Drawdown Notices and to otherwise require the Feeder Investors to contribute the Feeder Commitments (together the **Rights**) as security for certain obligations owed by the AIV Fund to the Security Agent and certain other secured parties.

Capitalised terms not otherwise defined in this notice shall have the meanings given to them in the Agreement.

1 We further notify you that:

- (a) you may continue to deal with the Trustee and the Manager in relation to the Agreement unless and until you receive written notice to the contrary from the Security Agent. Thereafter the Trustee and the Manager will cease to have any of such rights to deal with you in respect of the Rights and therefore from that time you should deal only with the Security Agent in respect of the Rights;
- (b) you are authorised to disclose information in relation to the Rights to the Security Agent on request;
- (c) after receipt of any notice in accordance with paragraph 1 above, you must pay all monies to which the Trustee is entitled under the Agreement in respect of the Rights direct to the Security Agent (and not to the Trustee) unless the Security Agent otherwise agrees in writing; and
- (d) the provisions of this notice may only be revoked with the written consent of the Security Agent.

2. Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Manager and the Trustee) by way of confirmation that:

- (a) you agree to the terms set out in this notice and to act in accordance with its provisions;
- (b) you have not received notice that the Trustee or the Manager has assigned its Rights under the Agreement to a third party or created any other interest (which has not been validly released) (whether by way of security or otherwise) in the Agreement in favour of a third party; and

- (c) you have no outstanding right to claim or exercise against the Trustee or the Manager any right of set-off or counter claim relating to the Rights.

The provisions of this notice are governed by, and construed in accordance with, English law.

Yours faithfully

for and on behalf of
Intertrust Corporate Services (UK) Limited as trustee for Equitix V B Trust

for and on behalf of
Equitix Investment Management Limited
manager of Equitix V B Trust

(On Acknowledgement Copy)

To: The Royal Bank of Scotland International Limited

Address: 250 Bishopsgate
London
EC2M 4AA

Copy to: Equitix Investment Management Limited
10 - 11 Welken House
Charterhouse Square
London
EC1M 6EH

Intertrust Corporate Services (UK) Limited as trustee for Equitix V B Trust
35 Great St. Helen's
London EC3A 6AP

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 2(a) to (c) of such notice.

.....
for and on behalf of ***(Insert name and address of Feeder Investor)***

Dated:

SIGNATURES TO THE DEED

The Assignors

Executed as a deed by)
Intertrust Corporate Services (UK) Limited as)
trustee for **Equitix V B Trust**, acting by a) Director
director in the presence of

.....
Signature of witness



Name *AGNIESZKA PALISSE*

Address *35 Great St Helen's*

..... *London EC3A 6AP*

Address: 35 Great St. Helen's
London EC3A 6AP
United Kingdom

Fax No: +44 207 398 6325

<p>Executed as a Deed by Equitix Investment Management Limited as manager of Equitix Fund V LP by a director in the presence of</p>	<p>))))</p>	<p>..... Dir </p>
<p> Signature of Witness</p>		
<p>Name <u>BEN ADAMS</u></p>		
<p>Address <u>WELKEN HOUSE 10-11 CHARTERHOUSE</u> <u>SQUARE LONDON EC1M 6EH</u></p>		
<p>Address: Welken House, 10-11 Charterhouse Square, London, EC1M 6EH Fax No: +44 (0)20 7250 7330</p>		

The Security Agent

Executed as a deed

by A. L. MARCHANT

as duly authorised attorney

for and on behalf of National Westminster Bank

Plc acting as agent for **The Royal Bank of**

Scotland International Limited

in the presence of

Authorised Signatory

Signature of witness

Name ALFIE COCKS

Address 1 Princes Street, London

Address: 250 Bishopsgate
London EC2M 4AA

Attention: Tony O'Flynn