

Registration of a Charge

Company Name: **EQUITIX INVESTMENT MANAGEMENT LTD**

Company Number: 06273020

Received for filing in Electronic Format on the: 24/05/2023



AC4/DJJC

Details of Charge

Date of creation: 16/05/2023

Charge code: **0627 3020 0023**

Persons entitled: HSBC AMANAH MALAYSIA BERHAD

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT

TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL

INSTRUMENT.

Certified by: REED SMITH LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6273020

Charge code: 0627 3020 0023

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th May 2023 and created by EQUITIX INVESTMENT MANAGEMENT LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th May 2023.

Given at Companies House, Cardiff on 31st May 2023

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





DATED 16 MAY 2023

- (1) EQUITIX NAJM LP
- (2) EQUITIX INVESTMENT MANAGEMENT LTD

(as Chargors)

(3) HSBC AMANAH MALAYSIA BERHAD

(as Financier)

ACCOUNT CHARGE

REFERENCE

NS/405718.00001

Certified 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

Reed Smith LLP

24/05/2023

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THIS DEED is made as a deed on 16 May 2023 between the following parties:

- (1) **EQUITIX NAJM LP** (registered as a limited partnership under the Limited Partnerships Act 1907 with number LP021640) whose registered address is 3rd Floor South Building, 200 Aldersgate Street, London, England, EC1A 4HD, acting by its general partner, Equitix MA GP 24 Limited ('Fund');
- (2) **EQUITIX INVESTMENT MANAGEMENT LTD** (a company incorporated in England and Wales with company number 06273020) whose registered office is at 3rd Floor, South Building, 200 Aldersgate Street, London, England, EC1A 4HD (the 'Manager' and together with the Fund, the 'Chargors'); and
- (3) **HSBC Amanah Malaysia Berhad** (Registration No.: 200801006421 (807705-X)) (a financial institution licensed under the laws of Malaysia whose registered office is at Level 21, Menara IQ, Lingkaran TRX, 55188 Tun Razak Exchange, Kuala Lumpur, Malaysia as financier (the '**Financier**').

WHEREAS:

- (A) The Financier has executed the Murabahah Agreement (defined below) pursuant to which a certain revolving financing facility based on the Shari'ah principle of commodity murababah (via a *tawarruq* arrangement) has been made available to the Fund. Utilisation under the Murabahah Agreement is subject to certain conditions, one of which is that the Chargors enter into this Deed.
- (B) Each Chargor is satisfied that it will receive direct or indirect economic benefits from the amounts advanced under the Murabahah Agreement and that entering into this Deed is for the purposes and to the benefit of each Chargor and its business.
- (C) The Financier and the Chargors intend this Deed to, and it shall, take effect as a deed, notwithstanding the fact that the Financier may only execute this Deed under hand.

THIS DEED WITNESSES as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed (including in the Recitals):

'Acceleration' means an acceleration by the Financier pursuant to clause 23.19(a) (Acceleration) of the Murabahah Agreement.

'Account Bank' means HSBC Bank plc with whom the Facility Investment Account is held.

'Murabahah Agreement' means the up to USD75,000,000 Murabahah Agreement dated on or around the date of this Deed between, amongst others, the Fund and the Financier, as may be amended, restated, supplemented or otherwise modified from time to time.

'Facility Investment Account' means the bank account maintained by the Fund more fully described in Schedule 1 (including any replacement accounts or sub-division or sub-account of such account and re-designation thereof) and all balances standing to the credit of or accrued or accruing on such account.

'Secured Obligations' means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Fund to the Financier under each Finance Document, together with all costs, charges and expenses incurred by the Financier in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents or any other document evidencing or securing any such obligations and liabilities

'Security Asset' means each of the assets, property, undertaking and the interests from time to time charged or intended to be charged by this Deed and the subject matter of each of them

'Security Period' means the period beginning on the date of this Deed and ending on the date upon which the Financier is satisfied that all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full or all of the Security hereby created has been unconditionally released and discharged.

1.2 Interpretation

- (a) Unless expressly defined in this Deed, capitalised terms defined in the Murabahah Agreement have the same meanings when used in this Deed;
- (b) references to 'assets' shall include revenues and the right thereto and property and rights of every kind, present, future and contingent and whether tangible or intangible;
- (c) the expressions 'hereof', 'herein', 'hereunder' and similar expressions shall be construed as references to this Deed as a whole (including all Schedules) and shall not be limited to the particular clause or provision in which the relevant expression appears, and references to this Deed and all like indications shall include references to this Deed as supplemented by any other agreement or instrument supplementing or amending this Deed;
- (d) the word 'including' when used in this Deed means 'including without limitation' except when used in the computation of time periods;
- references to a 'person' shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (f) references to any of the Finance Documents and any other agreement or instrument shall be construed as a reference to the same as amended, varied, restated, extended, supplemented or novated from time to time (including, where relevant, by any accession agreement) and includes any increase in, addition to, extension of or other change to any facility or indebtedness made available under such agreement or instrument;
- (g) unless otherwise specified, references to Clauses and Schedules are references to, respectively, clauses of and schedules to this Deed;
- (h) words importing the singular shall include the plural and vice versa;
- (i) references (by whatever term, including by name) to the Chargors and the Financier shall, where relevant and subject as otherwise provided in this Deed, be deemed to be references to or to include, as appropriate, their respective successors, replacements and assigns, transferees and substitutes permitted by the terms of the relevant Finance Documents;
- a 'successor' includes an assignee or successor in title of any party and any person who under the laws of its jurisdiction of incorporation or domicile has assumed the rights and obligations of any party under this Deed or any other Finance Document or to which, under such laws, any rights and obligations have been transferred;
- (k) the headings in this Deed are for convenience only and shall be ignored in construing this Deed; and
- (I) all references to statutes and other legislation include all re-enactments and amendments of those statutes and that legislation.

1.3 Certificates

A certificate signed by the Financier setting forth the amount of any Secured Obligation due from the Chargors shall be prima facie evidence of such amount in the absence of manifest error.

1.4 Third Party Rights

- (a) A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy any benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.5 Clawback

If the Financier considers that any amount paid or credited to it under any of the Finance Documents is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargors under this Deed and the Security constituted by this Deed will continue and such amount will not be considered to have been irrevocably paid.

1.6 Limited Recourse

The recourse of the Financier against the General Partner and the Manager in respect of the Secured Obligations under this Deed is limited:

- (a) as set out (in relation to the General Partner) in paragraphs (a)(xi)(1)(A), (B) and (C) of clause 1.2 (*Construction*) of the Murabahah Agreement and (in relation to the Manager) as set out in paragraphs (a)(xi)(2)(A), (B), and (C) of clause 1.2 of the Murabahah Agreement; and
- (b) to the enforcement of, and recovery against, the Security Assets and accordingly the Financier agrees that the total amount recoverable against the Chargors under this Deed shall be limited to the proceeds received by the Financier enforcing and realising the Security Assets in accordance with this Deed.

2 **COVENANT**

Each Chargor as primary obligor and not merely as surety, covenants with and undertakes with the Financier that it will pay or discharge the Secured Obligations on the due date therefor in accordance with the terms of the relevant Finance Documents.

3 FIRST FIXED CHARGE

The Chargors, with full title guarantee, as security for the payment of all Secured Obligations charge in favour of the Financier by way of first fixed charge all monies from time to time standing to the credit of the Facility Investment Account and all rights in relation thereto.

4 ACCOUNT

Save as otherwise provided in the Murabahah Agreement, the Financier may, at any time while this Deed is enforceable in accordance with Clause 6 (*Enforcement of Security*), without prior notice:

- (a) set-off, transfer or apply the amounts standing to the credit of the Facility Investment Account in or towards satisfaction of all or any part of the Secured Obligations; and
- (b) demand and receive all and any monies due under or arising out of the Facility Investment Account and exercise all rights that either the Chargors were then entitled to exercise in relation to the Facility Investment Account or might, but for the terms of this Deed, exercise.

5 UNDERTAKINGS

5.1 Duration and with whom made

Subject to Clause 13 (*Release of Security*), the undertakings in this Clause:

- (a) shall remain in force throughout the Security Period; and
- (b) are given by each Chargor to the Financier.

5.2 Undertakings relating to Facility Investment Account

The Chargors shall not withdraw or transfer all or any part of any monies standing to the credit of any Facility Investment Account until the Security Period has expired, except to the extent permitted under the terms of clause 13.2 (Facility Investment Account) of the Murabahah Agreement.

5.3 Notice of Security

Each Chargor holding a Facility Investment Account (and the Manager in relation to any Facility Investment Account to which it has signing rights) shall:

- (i) on the date of this Deed give notice to the Account Bank of the charge constituted under this Deed in respect of each Facility Investment Account, such notice being in the form set out in Part 1 of Schedule 2 (Facility Investment Account); and
- (ii) use reasonable endeavours to procure that the Account Bank delivers an acknowledgement of receipt of such notice to the Financier substantially in the form set out in Part 2 of Schedule 2 (*Facility Investment Account*) or such other form acceptable to the Financier within 1 Business Day of the date of this Deed.

5.4 Negative Pledge

No Chargor shall create or permit to subsist any Security on the Facility Investment Account save as created under this Deed.

6 ENFORCEMENT OF SECURITY

6.1 Enforcement

At any time:

- (a) after the occurrence of an Acceleration; or
- (b) if the Chargors (not acting by an attorney in accordance with Clause 8 (*Power of Attorney*)) request the Financier to exercise any of its powers under this Deed,

the Security created by or pursuant to this Deed is immediately enforceable and the Financier may, without notice to the Chargors or prior authorisation from any court, in its absolute discretion enforce all or any part of that Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Facility Investment Account.

6.2 Powers implied by statute

- (a) The power of sale and any other power conferred on a mortgagee by law (including under Section 101 of the Law of Property Act 1925) as varied or amended by this Deed will be immediately exercisable at any time after the Security constituted by this Deed has become enforceable.
- (b) For the purposes of all powers implied by statute the Secured Obligations shall be deemed to have become due and payable on the date hereof.

7 RIGHT OF APPROPRIATION

To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) apply to the Facility Investment Account, the Financier shall, after the Security created by this Deed has become enforceable in accordance with Clause 6 (*Enforcement of Security*), have the right to, on giving prior notice to the Chargor, appropriate all or any part of the Facility Investment Account in or towards the payment or discharge of the Secured Obligations. For this purpose, a commercially reasonable method of valuing the Facility Investment Account shall be the amount standing to the credit of the Facility Investment Account, together with any accrued profit, at the time of appropriation.

8 POWER OF ATTORNEY

8.1 Appointment and powers

(a) Subject to paragraph (b) below, the Chargors by way of security irrevocably appoint the Financier (the 'Attorney') to be its attorney on its behalf and in its name or otherwise to execute and do all such assurances, acts and things which the Chargors ought to do under the covenants and provisions contained in this Deed (including, without limitation, to make any demand upon or to give any notice or receipt to any person owing moneys to any Chargor and to execute and deliver any charges, legal mortgages, assignments or other security and any transfers of securities) and generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed or by statute on the Financier and (without prejudice to the generality of the foregoing) to seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it or he may deem reasonably proper in or for the purpose of exercising any of such powers, authorities and discretions.

(b) This power of attorney shall only be exercisable upon the occurrence of an Acceleration.

8.2 Ratification

The Chargors shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of the powers granted to him pursuant to Clause 8.1 (Appointment and powers).

8.3 Indemnity

Each Chargor indemnifies the Attorney against any liability, claim, loss, cost, charge or expense arising from the lawful exercise of any power under Clause 8.1 (*Appointment and powers*) (including any cost incurred in enforcing this indemnity), other than such liability resulting from the wilful misconduct, fraud or gross negligence by the Attorney.

9 EFFECTIVENESS OF SECURITY

9.1 Continuing security

- (a) The Security created by or pursuant to this Deed shall remain in full force and effect as a continuing security until released or discharged by the Financier.
- (b) No part of the Security from time to time intended to be constituted by this Deed will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

9.2 Cumulative rights

The Security created by or pursuant to this Deed shall be cumulative, in addition to and independent of every other Security which the Financier may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Financier over the whole or any part of the Facility Investment Account shall merge into the Security constituted by this Deed.

9.3 No prejudice

The security created by or pursuant to this Deed shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargors or any other person by the Financier or by any variation of the terms upon which the Financier holds the security or by any other thing which might otherwise prejudice that Security.

9.4 Waiver of defences

The obligations of, and the Security created by, the Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 9.4, would reduce, release or prejudice any of its obligations under, or the Security created by, this Deed and whether or not known to the Chargors or the Financier including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any Obligor;
- (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, any Obligor or other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any other security;

- (d) any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members, partners or status of, any Obligor or any other person;
- (e) any amendment (however fundamental) or replacement of any document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or security; and
- (g) any insolvency, bankruptcy or similar proceedings.

9.5 Immediate recourse

The Chargors waive any right it may have of first requiring the Financier (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim for payment from any other person before claiming from the Chargors under this Deed. This waiver applies irrespective of any law or any provision of this Deed to the contrary.

9.6 **Deferral of rights**

Until the end of the Security Period, each Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any guarantor of any Obligor's obligations under this Deed;
 and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Financier under this Deed or of any other guarantee or security taken pursuant to, or in connection with, this Deed by the Financier.

10 SUBSEQUENT SECURITY INTERESTS

If the Financier at any time receives or is deemed to have received notice of any subsequent security, assignment or transfer affecting any of the Security Assets or any part of the Security Assets is prohibited by the terms of any Finance Document, the Financier will promptly notify the Chargors and all payments thereafter by or on behalf of the Chargors to the Financier will (in the absence of any express contrary appropriation by the Chargors) be treated as having been credited to a new account of the Chargors and not as having been applied in reduction of the Secured Obligations at the time that notice was received by the Financier.

11 SUSPENSE ACCOUNTS

All monies received, recovered or realised by the Financier (after this Deed has become enforceable in accordance with Clause 6 (*Enforcement of Security*)) under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Financier be credited to any profit bearing suspense or impersonal account(s) maintained by the Financier with a bank, building society or financial institution (including itself) for so long as it may think fit (the profit being credited to the relevant account) pending their application from time to time at the Financier's discretion, in or towards the discharge of any of the Secured Obligations.

12 **DELEGATION BY FINANCIER**

The Financier may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the powers, authorities and discretions which are for the time being exercisable by the Financier under this Deed or any part thereof. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Financier may think fit. The Financier shall not be in any way liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

13 RELEASE OF SECURITY

Upon the expiry of the Security Period, the Financier shall, at the request of the Chargors and the reasonable cost of the relevant Chargors, release and cancel the security constituted by this Deed

and procure the reassignment to the Chargors of the property and assets (if any) assigned to the Financier pursuant to this Deed, in each case without liability to, or any representation or warranty by, the Financier or any of its nominees and return all documents in its possession relating to the assets subject to the Security created by this Deed.

14 NOTICES

Clause 33 (*Notices*) of the Murabahah Agreement shall apply to this Deed as if such clause were set out in full herein.

15 COUNTERPARTS AND EFFECTIVENESS

15.1 Counterparts

This Deed may be executed in any number of counterparts, each of which when executed and delivered constitutes an original of this Deed, but all the counterparts shall together constitute one and the same agreement.

15.2 Effectiveness

This Deed shall come into effect as a deed on the date set forth above.

16 ELECTRONIC SIGNATURE AND VALIDITY OF ELECTRONIC COPIES OF THIS ASSIGNMENT

The parties acknowledge and agree that this Deed and any documents to be executed under this Deed (including any notices) may be executed by a party by way of a digital or electronic signature inserted with the consent and authorisation of that party. Any such digital or electronic signature may be relied on as evidence of the valid execution of this Deed and any documents to be executed under this Deed (including any notice) by that party as if the same had been signed by such party. The parties further agree that any communication or messages transmitted in electronic form are original written documents and not to dispute or challenge the validity or enforceability of such electronic records on the grounds that it is made in electronic form.

17 ENFORCEMENT

17.1 Jurisdiction

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 the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Deed) (a 'Dispute').

17.2 Appropriate Forum

- (a) The parties hereto 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.
- (b) This Clause 16 is for the benefit of the Financier only. As a result, the Financier shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Financier may take concurrent proceedings in any other jurisdiction.

18 GOVERNING LAW

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

IN WITNESS WHEREOF THIS DEED HAS BEEN EXECUTED AS A DEED by the Chargors and has been signed by or on behalf of the Financier and it is intended to be and is hereby delivered as a deed on the date specified above.

SCHEDULE 1 FACILITY INVESTMENT ACCOUNT

Fund	Account	Account details
Fund	Facility Investment Account	

SCHEDULE 2 FORM OF NOTICE AND ACKNOWLEDGEMENT

PART 1 FORM OF NOTICE OF CHARGE

To:	[HSBC Bank plc] (the 'Account	: Bank')
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Account number: [●] (Facility Investment Account)

Sort code: [•]

Account holder: [•]

We hereby notify you that we have charged by way of first fixed charge to HSBC Amanah Malaysia Berhad ('Financier') as financier for itself all our right, title and interest in and to the monies from time to time standing to the credit of the Facility Investment Account.

- 1 We hereby irrevocably and unconditionally authorise and instruct you:
 - (a) Following notice to you from the Financier confirming that an Acceleration(as defined in the Charge) has occurred, to hold all monies from time to time standing to the credit of the Facility Investment Account to the order of the Financier and accordingly to pay all or any part of those monies to the Financier (or as it may direct) promptly following receipt of written instructions from the Financier to that effect:
 - (b) to disclose to the Financier such information relating to us and the Facility Investment Account as the Financier may from time to time request you to provide.
- By countersigning this notice, the Financier authorises you to permit us to withdraw and otherwise deal with funds standing to the credit of the Facility Investment Account until:
 - (a) you receive a notice in writing to the contrary from the Financier and such notice confirms that an Event Default (as defined in the Charge) is continuing;
 - (b) a petition is presented for a winding up order in respect of us or an application is made for an administration order in respect of us or a petition for sequestration is presented in respect of us.

(whichever occurs first).

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Financier and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

for and on behalf of

[ullet]

Countersigned for and on behalf of the Financier:

[Attach form of acknowledgment]

PART 2 FORM OF ACKNOWLEDGEMENT

To: HSBC Amanah Malaysia Berhad

[address]

To: [name of Chargor] ('Chargor')

[address]

Dated: [●]

We acknowledge receipt of the notice of charge ('Notice') of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

- 2 We confirm that:
 - (a) we shall act in accordance with the Notice;
 - (b) as at the date of this acknowledgement we have not received any notice of assignment or charge or other security over the Chargor's interest in the Facility Investment Account in favour of any other person; and
 - (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Facility Investment Account.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of HSBC Bank plc

EXECUTION PAGE

THE CHARGORS

EXECUTED as a **DEED** by **EQUITIX NAJM LP**

acting by its General Partner **EQUITIX MA GP 24 LIMITED**, a company Incorporated in Guernsey acting by

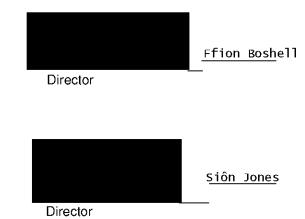


Kees Jager

who, in accordance with the laws of that territory, is acting under the authority of the company.

EXECUTED as a **DEED by EQUITIX INVESTMENT MANAGEMENT LTD**

acting by two directors



THE FINANCIER

HSBC AMANAH MALAYSIA BERHAD

acting by its authorized signatory

Jeremy Registra
Authorised shiretory
Senior Vice President, ISB Country Head of CMB

[Account Charge] RESTRICTED