

MR01

Particulars of a charge

088445113

Laserform

**A fee is payable with this form.**  
Please see 'How to pay' on the  
last page

**You can use the WebFiling service to file this form online**  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **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**  
You may not use this form to  
register a charge where  
instrument Use form MR01



\*A3M63FSB\*

A10

06/12/2014

#46

COMPANIES HOUSE

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. If the form is 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 will be scanned and placed on the public record. **Do not send the original**

**1 Company details**

Company number 08818214

Company name in full Abengoa Concessions Investments Limited

For official use

→ **Filing 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 21/11/2014

**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 Bank of America, National Association, (London Branch)

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

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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

Brief description

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

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 Taylor Vessip CCP

X

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

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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 Andrew Seager

Company name Taylor Wessing LLP

Address 5 New Street Square

Post town London

County/Region

Postcode EC4A 3TW

Country

DX 41 London London - Chancery Lane

Telephone +44 (0)207 300 7000



**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 £13 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.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 8818214

Charge code: 0881 8214 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st November 2014 and created by ABENGOA CONCESSIONS INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th December 2014

Given at Companies House, Cardiff on 11th December 2014



**Companies House**



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

*Taylor Wessing LLP*  
Taylor Wessing LLP

## Account Charge

To Attention  
**Bank of America, National Association, (acting through its London Branch)**  
2 King Edward Street  
London EC1A 1HQ

insert date

November 21st, 2014

Dear Sirs

We Abengoa Concessions Investments Ltd (a company incorporated in England with company number 08818214 (the **Company**), hereby agree to all the terms and condition set out below, and in particular agree to charge the Deposit (as defined below) as continuing security for the payment and discharge of the Secured Liabilities (as defined below) on the basis set out in this Deed

### 1 Definitions and interpretation

1.1 In this Deed, the following terms have the following meanings

**Accounts** means the bank account in the name of the Company held with the London Branch of the Bank denominated in United States Dollars with account number 22729026 and IBAN number GB64 BOFA 1650 5022 7290 26 (as such account may from time to time be replaced, re-designated or re-numbered) and any sub-accounts thereof

**Base Rate** means, from time to time, the rate per annum determined by the Bank that is equal to the aggregate of three per cent and

- (a) in relation to any amount denominated in euro, the repo rate (the minimum bid rate for main refinancing operations) of the European Central Bank,
- (b) in relation to any amount denominated in sterling, the repo rate of the Monetary Policy Committee of the Bank of England, and
- (c) in relation to any amount denominated in US dollars, the Federal Funds Rate of the Federal Reserve of the United States of America,

or such other rate as the Bank selects (acting reasonably) and notifies to the Company or publishes, on the Bank's website or otherwise, as its Base Rate for the relevant currency

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

**Deposit** means all or any of the amounts now or from time to time standing to the credit of the Accounts, together with any interest accrued or accruing from time to time on any of those amounts and all the other rights and claims of the Company in respect of any of those amounts and the Accounts

**Indemnity** means any indemnity (in the Bank's standard form or as otherwise agreed to by the Bank) entered into by the Company in respect of the Undertaking

**Secured Liabilities** means all moneys, liabilities and other obligations due, owing, incurred or payable or expressed or intended to be due, owing, incurred or payable by the Company to the Bank

- (a) under, or in connection with, the Undertaking (including all liabilities of the Company arising under the Terms and/or the Indemnity applicable to the Undertaking), or
- (b) in respect of any debit balance on any current or other bank account of the Company with the Bank or any interest or other charges incurred in connection with any such bank account, or
- (c) in any other manner or on any other account whatsoever in whatever currency and in any style, name or form,

whether actual or contingent, present or future, joint or several, as principal debtor or surety together with all legal and other costs, charges and expenses (including value added tax or any similar tax thereon) incurred by the Bank in connection with this Deed or the Undertaking, or in connection with any of those moneys, liabilities and other obligations described above, on a full indemnity basis and all interest accruing (both before and after any judgment) on such amounts from the due date to the date of payment at the rate provided for in any relevant agreement between the Bank and the Company or, in the absence of any such agreement, at the rate of two per cent per annum above the applicable Base Rate

**Security** means the Security Interests created or intended to be created pursuant to this Deed

**Security Interest** means any mortgage, charge, assignment by way of security, pledge, hypothecation, lien, right of set-off, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or any other security interest of any kind whatsoever, or any agreement, whether conditional or otherwise, to create any of the same, or any agreement to sell or otherwise dispose of any asset on terms whereby such asset is or may be leased to or re-acquired by the person selling it (or a person connected to the person selling it)

**Security Period** means the period commencing on the date of this Deed and ending on the date upon which the Bank notifies the Company in writing that all the Secured Liabilities have been irrevocably discharged in full

**Terms** means any terms for issuance of the Undertaking (in the Bank's standard form or as otherwise agreed by the Bank) agreed by the Company in respect of the Undertaking

**Undertaking** means the letter of credit dated 23 October 2013 issued by the Bank in favour of Arizona Public Service Company, for and on behalf of Arizona Solar One LLC, as modified, amended, renewed or extended from time to time in accordance with the provisions of the Indemnity

## 1.2 In this Deed (unless otherwise provided)

- (a) words importing the singular shall include the plural and vice versa,
- (b) references to
  - (i) paragraphs are to be construed as references to the paragraphs of this Deed,
  - (ii) any document shall be construed as references to that document, as amended, varied, novated, supplemented or restated,
  - (iii) any statute or statutory provision shall include any statute or statutory provision which amends, extends, consolidates or replaces the same,
  - (iv) **assets** shall include revenues and property and the right to revenues and property and rights of every kind, present, future and contingent and whether tangible or intangible (including uncalled share capital),

- (v) a **person** shall be construed so as to include that person's successors in title and assigns and permitted transferees and shall also be construed as including references to an individual, firm, partnership, joint venture, company, corporation, body corporate, unincorporated body of persons or any state or any agency of a state, and
  - (c) the word **including** shall be construed as being by way of illustration or emphasis only and shall not be construed as limiting the generality of any preceding words
- 1 3 The headings in this Deed are for convenience only and shall be ignored in construing this Deed
- 1 4 Except as expressly provided in paragraph 4 2, the Company and the Bank do not intend that any term of this Deed shall be enforceable solely by virtue of the Contracts (Third Parties) Act 1999 by any person who is not a party to this Deed and no consent of any third party is required for any variation or termination of this Deed
- 1 5 This Deed constitutes a Security Financial Collateral Arrangement for the purposes of the Financial Collateral Arrangements (No 2) Regulations 2003 (S I 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements and is not required to be registered in the United Kingdom at Companies House<sup>1</sup>
- 1 6 The Company hereby undertakes that it shall on or before the date of this Deed credit the Account with cash collateral in an amount equal to USD 45,000,000 (forty five million US dollars)

## **2 Undertaking to pay**

The Company covenants with the Bank to pay and discharge all Secured Liabilities due, payable or owing by the Company at the time or times when, and in the currency or currencies in which, the same are expressed to be due, payable or owing by the Company in connection with the Undertaking

## **3 Charge**

The Company charges and agrees to charge the Deposit, and all its right, title and interest in the Deposit, to the Bank with full title guarantee by way of first fixed charge as continuing security for the payment and discharge of the Secured Liabilities

## **4 Enforcement of the Security**

- 4 1 At any time while any amount of the Secured Liabilities is due and unpaid (and without prejudice to any other right or remedy of the Bank), the Security shall be enforceable and all powers conferred by this Deed or by any law or regulation shall become exercisable and, without prejudice to the generality of the foregoing, the Bank may, without prior notification to the Company and without the restrictions contained in section 103 of the Law of Property Act 1925, apply all or any part of the Deposit (whether on or before the expiry of any fixed or minimum period for which the Deposit has been placed with the Bank) in or towards satisfaction of the Secured Liabilities and may exercise all the powers conferred on mortgagees by the Law of Property Act 1925 as varied or extended by this Deed The Bank may apply the Deposit in such order as the Bank may from time to time conclusively determine Section 93 of the Law of Property Act 1925 shall not apply to this Deed

- 4 2 Neither the Bank nor its agents, managers, officers, employees, delegates and advisers shall be liable for any claim, liability, loss, cost, damage or expense incurred or arising in connection with the exercise or purported exercise of any rights, powers and discretions under this Deed in the absence of fraud, gross negligence or wilful misconduct. Each agent, manager, officer, employee, delegate and adviser of the Bank may enforce the provisions of this paragraph in accordance with and within the meaning of the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **5 Conditions of the Deposit**

Regardless of the terms on which moneys are credited to the Account, the Company will be entitled to repayment of the Deposit if and only if

- (a) the Secured Liabilities have been paid and discharged in full, and
- (b) the Bank remains under no further obligation to make banking or other facilities available to the Company,

and until that time neither the Company nor anyone claiming through the Company will request, demand or claim to be entitled to withdraw the Deposit except (without prejudice to the Bank's rights under this Deed) as the Bank may in its absolute discretion from time to time permit.

## **6 Set-off**

The Bank may, at any time while an amount of the Secured Liabilities is due but unpaid and without further notice, apply, combine or consolidate any or all credit balances, whether or not then due in any currency held by any office or branch of the Bank for the account of the Company, in or towards satisfaction of the Secured Liabilities. The Bank may also set off any obligation that has fallen due and forms part of the Secured Liabilities (to the extent beneficially owned by the Bank) against any obligation owed by the Bank to the Company, regardless of the place of payment or currency of either obligation and regardless of whether that obligation of the Bank is due. Where such combination, set-off or transfer requires the conversion of one currency into another, such conversion shall be calculated at the then prevailing relevant spot rate of exchange of the Bank (as conclusively determined by the Bank).

## **7 Application of funds**

The Company shall not be concerned with, and shall have no right in respect of, the application by the Bank of any sums received, recovered or realised by the Bank under this Deed, provided, that Bank shall apply any sums recovered hereunder to the repayment of Secured Liabilities.

- 7 1 For the purpose of or pending the discharge of any of the Secured Liabilities the Bank may convert any moneys received, recovered or realised in any currency under this Deed (including the proceeds of any previous conversion under this paragraph) from their existing currency of denomination into any other currency. Such conversion shall be calculated at the then prevailing relevant spot rate of exchange of the Bank (as conclusively determined by the Bank).

## **8 Security Interests**

- 8 1 The Company may not assign, purport to assign or otherwise deal with any benefit, right or interest in, or the whole or any part of the Deposit, nor may it create or purport to create or



permit to subsist any Security Interest over all or any part of or any such benefit, interest or right in, the Deposit except under the terms of this Deed

- 8 2 If at any time the Bank receives actual or constructive notice of any Security Interest or other interest or any other event or matter affecting the Deposit or any part of it, or any of the rights and obligations created by this Deed, the Bank may open a new account or accounts in the name of the Company, but if it does not do so it will nevertheless be deemed to have done so at the time when it received that notice and as from that time all payments made to the Account will be credited or be treated as having been credited to the new account or accounts, and not be appropriated towards or have the effect of reducing or discharging the Secured Liabilities outstanding at the time when the Bank received that notice

## **9 Suspense account**

If the security hereby constituted has become enforceable as herein provided, all moneys received, recovered or realised by the Bank under this Deed (including the proceeds of any currency conversion) may in the discretion of the Bank be credited to any suspense or impersonal account held with the Bank and may be held in such account for so long as the Bank thinks fit until such time as the Bank has irrevocably received, recovered or realised, in freely transferable funds, amounts sufficient to discharge all the Secured Liabilities

## **10 Representations and warranties**

- 10 1 The Bank has entered into this Deed in reliance on the following representation and warranty
- 10 2 The Company represents and warrants to the Bank that the Deposit is in the sole legal and beneficial ownership of the Company, and free from any Security Interests (other than Security Interests created under this Deed)
- 10 3 The representation and warranty in paragraph 10 2 will be deemed repeated by the Company on each day during the Security Period with reference to the facts and circumstances then subsisting

## **11 Nature of the Security**

- 11 1 The rights that the Bank holds under this Deed are in addition to any other rights or security, present or future, held by it from the Company or any other person in respect of the payment or discharge of the Secured Liabilities and will not merge with or prejudice or be prejudiced by any such rights or security or by the variation, non-enforcement, non-perfection or release of any of them, and this may be enforced against the Company without first having recourse to any other rights or security of the Bank
- 11 2 Any release, settlement, satisfaction or discharge between the parties will be conditional on no other security, disposition or payment made or given in respect of the Secured Liabilities being avoided, reduced, set aside, rendered unenforceable or required to be paid away by virtue of any provision, requirement or enactment, whether relating to bankruptcy, insolvency or liquidation or otherwise at any time in force, or by virtue of any obligation to give effect to any preference or priority and if any such security, disposition or payment is avoided, reduced, set aside, rendered unenforceable or required to be paid away, the Bank will be entitled to recover the value or amount of that security, disposition or payment from the Company as if that release, settlement, satisfaction or discharge had not occurred and enforce this Deed subsequently as if such release had not occurred and any such payment not been made
- 11 3 The rights and obligations contained in this Deed and the Security are continuing and will not be considered satisfied or discharged by any intermediate payment or settlement, any fluctuation in the Secured Liabilities or any variation or amendment of the terms of the Undertaking (including any increase in the maximum amount of any liability or the

postponement of any date upon which a payment in respect of any liability would otherwise be due), but will remain in force until the end of the Security Period

## **12 Indemnity**

All costs, charges and expenses incurred by the Bank in relation to this Deed or the Secured Liabilities shall be reimbursed by the Company to the Bank on demand on a full indemnity basis and until so reimbursed shall carry interest as mentioned in the definition of Secured Liabilities from the date of payment to the date of reimbursement

## **13 Discharge of Security**

Upon the conclusion of the Security Period, the Bank will, at the request and cost of the Company, but without recourse or warranty, discharge the security constituted by this Deed

## **14 Notices**

Each notice or other communication to be given under this Deed shall be given in writing in English and, unless otherwise provided, shall be made by fax or letter and shall

- (a) if to the Company, be duly served if sent to the Company at its registered or principal or last known office (or any address in England for service of English process appointed by the Company, where applicable) and shall be deemed to have been received by the Company
  - (i) if sent by fax, on the day on which transmitted,
  - (ii) if delivered by hand, on the day of actual delivery, and
  - (iii) if sent by first class pre-paid post, two Business Days after posting in the case of an address in the United Kingdom, or five days after posting in the case of an address outside the United Kingdom, and
- (b) if to the Bank, be sent to the Bank's branch at the address and for the attention of the department stated at the head of this Deed or such other address or department as may be notified by the Bank and shall be deemed to have been given only on actual receipt by that department of the Bank

## **15 Miscellaneous**

- 15 1 If at any time the Deposit constitutes a time deposit then (subject to the terms of this Deed and subject to any requirement of the Bank to the contrary) that time deposit will be successively re-deposited on maturity for such periods and on such terms concerning interest as may from time to time be agreed between the Bank and the Company in writing (or, failing agreement, for such period and on such terms concerning interest as the Bank may in its discretion decide) and will continue to be held by the Bank on and subject to the terms of this Deed
- 15 2 Subject to any express provision to the contrary, any liberty or power which may be exercised or any determination which may be made under this Deed by the Bank may be exercised or made in the absolute and unfettered discretion of the Bank which shall not be under any obligation to give reasons therefor
- 15 3 Any demand, notification or certificate issued by the Bank specifying any amount due under this Deed shall, in the absence of manifest error, be conclusive and binding on the Company
- 15 4 The Company undertakes to execute and deliver such further documents and to perform such further acts as the Bank may require to implement the purposes of this Deed or any of the transactions contemplated by this Deed, to perfect or protect any Security Interest created (or

intended to be created) pursuant to this Deed, or to facilitate the appropriation or realisation of all or any of the Deposit

- 15 5 Any Security Interest granted to the Bank pursuant to this Deed shall be in addition to and without prejudice to any other Security Interest, guarantee or other credit support that the Bank may hold as security for the obligations of the Company to the Bank
- 15 6 The rights of the Bank under this Deed may be exercised as often as necessary, are cumulative and not exclusive of its rights under the general law, and may be waived only in writing and specifically Delay in exercising or non-exercise of any such right is not a waiver of that right
- 15 7 This Deed shall inure to the benefit of the Bank's or the Company's (as applicable) successors and assigns but the Company may not assign any of its rights under this Deed The Bank may transfer any information it has in respect of the Company to the Bank's successors and assigns
- 15 8 Any amendment, variation, waiver, release or consent by the Bank under this Deed shall only be effective if made in writing and signed the Bank and, in the case of an amendment or variation of this Deed, if signed by or on behalf of the Company
- 15 9 If any provision of this Deed is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed, or (ii) the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Deed
- 15 10 All payments to be made by the Company under this Deed will be made on the due date to such account as the Bank directs in the currency in which the moneys, obligations or liabilities were payable, in immediately available funds in full and without set-off, or counterclaim and without any deductions or withholdings, unless the deduction or withholding is required by law, in which case the Company will ensure that it does not exceed the minimum amount required by law and will immediately pay to the Bank an additional amount so that the Bank receives the same as it would have received if no deduction or withholding had been made
- 15 12 This Deed may be executed in counterparts, all of which when taken together shall constitute a single agreement

## **16 Applicable law**

English law governs this Deed, its interpretation and any non-contractual obligations arising from or connected with it The Company agrees for the benefit of the Bank that the courts of England are to have jurisdiction to settle any disputes that may arise out of, or in connection with, this Deed Nothing in this paragraph shall limit the right of the Bank to bring any legal action or proceedings with respect to this Deed in any competent jurisdiction

[intentionally left blank]

**IN WITNESS** whereof the Company has executed this Deed as a deed with the intention that it be delivered the date written at the beginning of this Deed

EXECUTED as a DEED and DELIVERED by  
**ABENGOA CONCESSIONS INVESTMENTS LTD**  
acting by

Name Santiago Seage

Name Eduard Soler

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary