

# MR01

## Particulars of a charge

136342/13

**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 for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR0

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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  
scanned and placed on the public record **Do not send the original**



LD2

\*L4B4B2DY\*

07/07/2015

#67

COMPANIES HOUSE

TUESDAY

### 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 29/06/2015

### 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, N A , London Branch (and its  
successors in title and permitted transferees)

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

Brief description

N/A

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** Linklaters 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 David Chew

Company name Linklater LLP

Address One Silk Street

Post town London

County/Region London

Postcode E C 2 Y 8 H Q

Country UK

DX 10 CDE

Telephone 020 7456 5412



### 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 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th June 2015 and created by ABENGOA CONCESSIONS INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th July 2015

LC

Given at Companies House, Cardiff on 14th July 2015



**Companies House**



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

Dated 29 June 2015

**ABENGOA CONCESSIONS INVESTMENTS LIMITED**  
(as **Chargor**)

**BANK OF AMERICA, N A , LONDON BRANCH**  
(as **Collateral Agent**)

and

**BANK OF AMERICA, N A , LONDON BRANCH**  
(as **Lender and Secured Party**)

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**SECURITY AGREEMENT**

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Certified that, save for material redacted pursuant to section 8596 of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

*Linklaters LLP*  
*7 July 2015*

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**THIS SECURITY AGREEMENT** (this “**Security Agreement**”) is entered into as a deed on

29 June 2015

**BETWEEN:**

- (1) **ABENGOA CONCESSIONS INVESTMENTS LIMITED**, a company organised and existing under the laws of England and Wales with its registered office at Great West House (GW1), Great West Road, Brentford, Middlesex, Greater London, United Kingdom TW8 9DF with company registration number 08818214 (the “**Borrower**”),
- (2) **ABENGOA CONCESSIONS INVESTMENTS LIMITED**, a company organised and existing under the laws of England and Wales with its registered office at Great West House (GW1), Great West Road, Brentford, Middlesex, Greater London, United Kingdom TW8 9DF with company registration number 08818214 as borrower under the Facility Agreement (the “**Chargor**”),
- (3) **BANK OF AMERICA, N.A., LONDON BRANCH**, a national banking association chartered under US law by the office of the Comptroller of the Currency, charter number 13044, with its head office at 100 North Tryon Street, Charlotte, North Carolina, United States of America, acting through its London branch at 2 King Edward Street, London, EC1A 1HQ, United Kingdom, with company number FC 002984 as collateral agent under the Facility Agreement (the “**Collateral Agent**”), and
- (4) **BANK OF AMERICA, N.A., LONDON BRANCH**, a national banking association chartered under US law by the office of the Comptroller of the Currency, charter number 13044, with its head office at 100 North Tryon Street, Charlotte, North Carolina, United States of America, acting through its London branch at 2 King Edward Street, London, EC1A 1HQ, United Kingdom, with company number FC 002984 as lender under the Facility Agreement (the “**Lender**” and “**Secured Party**”)

**WHEREAS:**

- (A) The Lender has agreed to provide the Facility to the Chargor in accordance with the terms and conditions set out in the Facility Agreement and the other Finance Documents
- (B) The Custodian has agreed to provide direct custody services to the Chargor and open and maintain one or more custody accounts (referred to herein as the “**Accounts**” as defined below) to hold certain assets of the Chargor, in accordance with the terms and conditions set out in the Custody Documents
- (C) The Chargor wishes to grant security over all of the rights, title, benefit and interest in the Charged Property in favour of the Secured Party as security for the Secured Obligations and is required to enter into this Security Agreement as a condition of the Finance Documents.

**IT IS AGREED AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Incorporation by reference**

Unless the context otherwise requires or unless otherwise defined in this Security Agreement, words and expressions defined in the Facility Agreement shall have the same meanings when used in this Security Agreement

## 1 2 Definitions

In this Security Agreement

**"Account Control Agreement"** means the segregated account control agreement dated on or about the date of this Security Agreement (as may be amended or restated from time to time) between the Custodian, the Chargor and the Secured Party,

**"Accounts"** means the Cash Collateral Account and the Share Collateral Account, and all rights of the Chargor in relation thereto and the reference to **"Account"** shall be construed accordingly,

**"Assets"** means all Collateral and other assets, including any certificates and documents of or evidencing title to the same (and the claim represented thereby), all dividends, distributions and interest on and other proceeds of the Collateral or other assets, whether capital or income, and all property distributed, paid, accruing or offered at any time on, to, in respect of or in substitution for, any of such Collateral or other assets, any cash balances in or credited to the Accounts,

**"Broadly Distributed Public Offering"** means a broadly distributed public offering of the relevant Shares, in which, for the avoidance of doubt, (a) no one purchaser (other than a book-runner in such offering, which may be the Secured Party or an Affiliate of the Secured Party, for purposes of such distribution) acquires a number of such securities representing more than 50 % of the voting power of the Issuer's outstanding voting securities, and (b) such securities are eligible to be sold to a purchaser who is not, and has not been for the immediately preceding 3 months, an "affiliate" (within the meaning of Rule 144 under the Securities Act) of the relevant Issuer without any volume restrictions or "holding period" requirements under the Securities Act,

**"Charged Property"** means the Assets of the Chargor subject to the Security granted to the Secured Party created or expressed to be created by this Security Agreement,

**"Custodian"** means Bank of America, N A through its Global Custody and Agency Services (GCAS) division in London,

**"Custody Agreement"** means the custody agreement dated on or about the date of this Security Agreement (and as may be amended from time to time) between the Custodian and the Chargor,

**"Custody Documents"** means the Custody Agreement and the Account Control Agreement,

**"Default Rate"** means the rate at which interest is payable under Clause 9.3 (*Default Interest*) of the Facility Agreement,

**"Existing Secured Party"** has the meaning given to it in Clause 19.1 (*Transfer by the Secured Party*) of this Security Agreement,

**"Event of Default"** means each "Event of Default" set out in Clause 23 (*Events of Default*) of the Facility Agreement,

**"Facility Agreement"** means the USD 200,000,000 margin loan facility agreement dated on or about the date of this Security Agreement (and as may be amended or restated from time to time) between the Parties and the Calculation Agent (as defined therein), under which the Lender has agreed to make available a secured margin loan to the Chargor,



**“Financial Collateral Regulations”** means the Financial Collateral Arrangements (No 2) Regulations 2003 (S I 2003/3226) as amended by the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (S I 2010/2993),

**“New Secured Party”** has the meaning given to it in Clause 18.1 (*Transfer by the Secured Party*) of this Security Agreement

**“Party”** means each of the parties to this Security Agreement from time to time, and “Parties” shall be construed accordingly,

**“Receiver”** means an administrator, a receiver and manager or (if the Collateral Agent so specifies in the relevant appointment) receiver in each case appointed under this Security Agreement,

**“Related Rights”** means

- (a) any dividend, interest or other cash or non-cash distribution paid or payable in relation to any Share Collateral,
- (b) any right, money, benefits, proceeds or property in respect of or derived from, accruing or offered at any time in relation to any Share Collateral by way of redemption, substitution, conversion, exchange, reorganisation, restructuring, takeover offer, merger, bonus or preference, under option rights or otherwise, and
- (c) any right in connection with any of the foregoing which arises in connection with (i) any Share Collateral being transferred to a clearance system or financial intermediary, and (ii) any interest in or to any Share Collateral being acquired while that Share Collateral is in a clearance system or held through a financial intermediary,

**“Secured Obligations”** means all money, obligations or liabilities due, owing or incurred to the Secured Party by the Chargor under any Finance Document at present or in the future, whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon (for the avoidance of doubt including any interest accrued pursuant to Clause 9.3 (*Default interest*) of the Facility Agreement) and all losses incurred by the Secured Party in connection therewith, and

**“Security Period”** means the period commencing on the date of this Security Agreement and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full

### 1.3 Construction

- (a) The provisions of Clauses 1.2 (*Construction*) and 1.3 (*Currency symbols and definitions*) of the Facility Agreement shall apply to this Security Agreement as if set out in full with references to “this Agreement” being treated as references to this Security Agreement
- (b) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand

### 1.4 Other References

- (a) In this Security Agreement, unless a contrary intention appears, a reference to
  - (i) the Lender, the Secured Party, the Collateral Agent, the Chargor, the Custodian or any other person is, where relevant, deemed to be a reference to

or to include, as appropriate, that person's successors in title, permitted assignees and transferees, and in the case of the Lender, any person for the time being appointed as Lender in accordance with the Finance Documents,

- (ii) any Finance Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended or novated, including by way of increase of the facilities or other obligations or addition of new facilities or other obligations made available under them or accession or retirement of the Parties to these agreements but excluding any amendment or novation made contrary to any provision of any Finance Document, and
  - (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Security Agreement and any reference to this Security Agreement includes its schedules
- (b) The index to, and the headings in, this Security Agreement are inserted for convenience only and are to be ignored in construing this Security Agreement

#### **1 5 Miscellaneous**

- (a) Notwithstanding any other provisions of this Security Agreement, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Security Agreement to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by the Chargor or a ground for the appointment of a Receiver
- (b) The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Security Agreement and no rights or benefits expressly or impliedly conferred by this Security Agreement shall be enforceable under that Act against the Parties by any person who is not a Party
- (c) Notwithstanding any term of this Security Agreement, no consent of a third party is required for any termination or amendment of this Security Agreement

#### **2. COVENANT TO PAY**

The Chargor as primary obligor covenants with the Secured Party that it will duly and punctually pay or discharge, without deduction, set-off or counterclaim, all of the Secured Obligations on the date(s) when such Secured Obligations are expressed to become due, and comply with any payment or delivery obligations, in the manner provided in the Finance Documents and any other agreements, instruments, notices or arrangements pursuant to which such obligations arise (including any grace periods thereunder), subject to the other provisions of this Security Agreement

#### **3. CREATION OF SECURITY**

- 3 1 All the Security created under this Security Agreement (i) is created in favour of the Secured Party, as continuing security for the payment, discharge and performance of all the Secured Obligations and (ii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994
- 3 2 The Chargor hereby charges and agrees to charge by way of first fixed charge the Share Collateral, all Related Rights and the Cash held in the Cash Collateral Account (in each case from time to time owned by it or in which it has an interest) and each relevant Account.

The Security constituted by this Security Agreement shall be a continuing security, shall remain in full force and effect as a continuing security unless and until released or discharged by the Secured Party pursuant to this Security Agreement, and shall not be satisfied by any intermediate payment or satisfaction of the whole or any part of the obligations secured hereby but shall secure the ultimate balance thereof. The Security constituted by this Security Agreement shall be in addition to and shall not be affected by any other security now or subsequently held by the Secured Party for all of or any of the obligations secured by this Security Agreement.

#### **4. FURTHER ASSURANCE**

##### **4.1 General**

- (a) The Chargor shall promptly (and at its own expense) do all such acts (including payment of all stamp duties or fees) or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions on terms equivalent or similar to those set out in this Security Agreement (in each case as a deed or otherwise)) as the Secured Party may reasonably specify (and in such form as the Secured Party may reasonably require)
  - (i) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Security Agreement or for the exercise of any rights, powers and remedies of the Secured Party provided by or pursuant to this Security Agreement or by law, and/or
  - (ii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Security Agreement
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Secured Party by or pursuant to this Security Agreement)

#### **5. SHARE COLLATERAL**

- 5.1 The Chargor must, promptly on receipt of a written request from the Collateral Agent or the Secured Party, and to the extent it is permitted to do so by law and subject to any contractual confidentiality duties, supply the Collateral Agent or the Secured Party (as applicable) with a copy of any information supplied by it to the Custodian and/or supplied to it under any applicable law or regulation or by any listing or other authority and which relates to the Chargor, the Issuer or the Shares (to the extent such information is not publicly available)

- 5.2 No Secured Party or Receiver is obliged to

- (a) perform any obligation of the Chargor,
- (b) make any payment or enquiry as to the nature or sufficiency of any payment received by it or the Chargor, or
- (c) present or file any claim or take any action to collect or enforce the payment of any amount to which it is entitled under this Security Agreement,

in respect of any Shares

#### **6. RESTRICTIONS ON DEALING**

The Chargor shall not

(a) create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property,

(b) sell, transfer, lend or otherwise dispose of all or any part of the Charged Property,

except as permitted by the Facility Agreement or with the prior consent of the Collateral Agent

## **7. PROTECTION OF SECURITY**

The Chargor shall not withdraw or attempt to withdraw any Asset in whole or any part from any Account except as expressly permitted by the Facility Agreement

## **8. ENFORCEMENT OF SECURITY**

### **8.1 Enforcement Powers**

(a) For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due on the date of this Security Agreement. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement powers conferred by this Security Agreement shall be immediately exercisable at any time when an Event of Default has occurred in respect of which the Administrative Agent has served notice on the Borrower in accordance with Clause 23.17 (*Acceleration*) of the Facility Agreement

(b) When exercising the Secured Party's power of sale with respect to the Charged Property (other than cash), the Parties agree that the Collateral Agent shall, without limitation, have the power to sell and/or to instruct the Custodian to sell, all or any of the Charged Property in any manner permitted by law upon such terms as the Secured Party shall in its absolute discretion determine and communicate to the Collateral Agent (but subject to that Secured Party complying with its general duties under law with respect to any sale of the Charged Property)

(c) The sale of the Charged Property may, without limitation, be effected (i) as a block, a series of blocks or otherwise on or off the stock exchange or (ii) directly to a third party or a number of third parties via accelerated book build or such other strategies determined by the Secured Party, in each case, at a value determined by the Secured Party taking into account such factors as it considers relevant including market conditions from time to time (but subject to that Secured Party complying with its general duties under law with respect to any sale of the Charged Property)

### **8.2 Statutory Powers**

The powers conferred on mortgagees, receivers or administrative receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Security Agreement, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Security Agreement, those contained in this Security Agreement shall prevail

### **8.3 Exercise of Powers**

All or any of the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Security Agreement, and all or any of the rights and powers conferred by this Security Agreement on a Receiver (whether expressly or impliedly), may be exercised by the Secured Party or any Receiver without further notice to the Chargor at any

time when an Event of Default has occurred in respect of which the Administrative Agent has served notice on the Borrower in accordance with Clause 23 17 (*Acceleration*) of the Facility Agreement, irrespective of whether the Secured Party has taken possession or appointed a Receiver of the Charged Property

#### **8 4 Disapplication of Statutory Restrictions**

The restriction on the consolidation of mortgages and on power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this Security Agreement

#### **8 5 Appropriation under the Financial Collateral Regulations**

- (a) The Security created pursuant to this Security Agreement is, to the extent permitted by law, intended to qualify as a financial collateral arrangement within the meaning of the European Collateral Directive (2002/47 EC) as amended from time to time, and as implemented in England in the Financial Collateral Regulations. To the extent the assets charged under this Security Agreement constitute "financial collateral" and this Security Agreement and the obligations of the Chargor under this Security Agreement constitute a "security financial collateral arrangement" (in each case for the purposes of and as defined in the Financial Collateral Regulations), the Secured Party will have the right after the Security created pursuant to this Security Agreement has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations, subject to and in accordance with the Financial Collateral Regulations. For the avoidance of doubt, if the Security created by this Security Agreement has not become enforceable, the Secured Party shall not have any right to appropriate or otherwise use any Charged Property
- (b) Where any financial collateral is appropriated the value of any Charged Property so appropriated will be determined by the Collateral Agent as the amount which is the Collateral Agent's estimate (acting in a commercially reasonable manner) of the net proceeds that would be realised on a sale of such Charged Property on the date of appropriation

#### **8 6 Voting**

At all times prior to the disposition of any Shares by the Secured Party pursuant to this Clause 8, the Chargor shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Shares credited to the Share Collateral Account for all purposes not inconsistent with the terms of this Security Agreement, the Facility Agreement, any other Finance Document or any other instrument or agreement referred to herein, provided that the Chargor agrees that the Chargor will not vote any Shares in any manner that is inconsistent with the terms of this Security Agreement, the Facility Agreement, any other Finance Document or any such other instrument or agreement or would reasonably be expected to have a material adverse effect on the value of such Shares or the Secured Party's interest therein. For the avoidance of doubt, the Secured Party shall not have any voting rights with respect to any Share Collateral, except to the extent that the Secured Party (i) appropriates any relevant Shares or (ii) buys any relevant Shares in a sale or other disposition, in either case pursuant to this Clause 8

#### **8 7 Share Collateral**

- (a) Notwithstanding anything to the contrary herein or in any Finance Document, the Chargor and the Secured Party agree that, in relation to each of the Shares credited to the Share Collateral Account, the Secured Party shall not

- (i) be entitled to exercise its rights or remedies hereunder in a manner that would cause it (together with, without duplication, any Affiliate of it and any other person subject to aggregation of such Shares with it under Section 13 of the Exchange Act and the rules promulgated thereunder) to become at any one time the beneficial owner (within the meaning of Section 13 or of the Exchange Act and the rules promulgated thereunder) of more than 9 0 % of such Shares then outstanding,
- (ii) knowingly sell or otherwise dispose of, in one transaction or a series of transactions, any Shares in a manner that would result in any Person (together with all Persons who may form a group (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder) with such Person) becoming the beneficial owner of more than 9 5 % of the voting power of the outstanding voting securities of the Issuer, and
- (iii) knowingly sell or otherwise dispose of, in one transaction or a series of transactions, to any one Person (together with all Persons who may form a group (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder) with such Person), an amount of Shares in excess of 9 5 % of such Shares then outstanding,

*provided that*, notwithstanding the foregoing restrictions contained in the immediately preceding clauses (b) and (c), the Secured Party shall be permitted to sell or otherwise dispose of the relevant Shares credited to the Share Collateral Account (A) in a Broadly Distributed Public Offering, and/or (B) over a securities exchange or similar anonymous trading platform, provided that, in the case of this clause (B), the purchaser is not identifiable by the Secured Party, or its Affiliate effecting such transaction, using commercially reasonable efforts

- (b) The Parties acknowledge and agree that large blocks of equity securities are customarily sold by the seller retaining an investment bank or other financial institution (a “**Block Dealer**”) to send notification of such sale via e-mail and/or telephone calls, using a marketing team reasonably familiar with the issuer and the market for such equity securities, to ten or more sophisticated equity investors who maintain accounts with such Block Dealer (or its affiliates) (but generally not to retail investors) soliciting such investors to submit bids to purchase the offered securities from which bids the Block Dealer will build a book of bids for purposes of determining the market clearing price for such offered securities, which price is typically expected to be determined within a few hours of the commencement of such offering but can be determined as soon as, for example, 30 minutes thereafter or as long as, for example, three Scheduled Trading Days thereafter Furthermore, the Parties acknowledge and agree that (i) any number of Secured Parties may exercise their respective rights pursuant to this Clause 8 7(b) substantially concurrently or in prompt succession (including at the same time on the same day), (ii) one or more Secured Parties may solicit, from any particular investor that maintains accounts with each of such Secured Parties (or their respective affiliates), bids to purchase the relevant Shares and (iii) the events or circumstances giving rise to certain Events of Default (including, for example, those arising from, or in connection with, a Lender Termination Event and/or the LTV Ratio being equal to or in excess of the Maximum LTV Ratio), and/or the event of a foreclosure on a large block of equity securities pledged by a major shareholder, may reduce the number of investors interested in participating in the market for such equity securities and/or the price any such investor is willing to bid for such equity securities As a result, any such sale may result in prices and terms less favourable to the Chargor and / or the Secured Party than those that could be obtained by selling or otherwise disposing of such Shares in

multiple transactions, over multiple days, in a broadly distributed offering and/or in the absence of, or at a time later than the occurrence of, any adverse events or circumstances. For the avoidance of doubt, the Secured Party shall not be limited to foreclosing in accordance with foregoing procedures in this Clause 8 7(b) and may also foreclose using any other method or procedure that satisfies the applicable requirements set forth in this Security Agreement

- (c) The Chargor hereby (i) acknowledges that selling or otherwise disposing of the Shares credited to the Share Collateral Account in accordance with the restrictions and other provisions set forth in this Clause 8 7 may result in prices and terms less favourable to the Chargor and / or the Secured Party than those that could be obtained by selling or otherwise disposing of such Shares in a single transaction to a single purchaser and (ii) agrees and acknowledges that (A) no method of sale or other disposition of such Shares shall be deemed commercially unreasonable because of any action taken or not taken by the Secured Party in order to comply with such restrictions or otherwise comply with such provisions or because of any such less favourable prices or terms and (B) the Secured Party shall have no liability or responsibility for any such action taken or not taken by it or any such less favourable prices or terms

#### **8 8 Application of Charged Property**

At any time when an Event of Default has occurred in respect of which the Administrative Agent has served notice on the Borrower in accordance with Clause 23 17 (*Acceleration*) of the Facility Agreement, the Collateral Agent may and is hereby irrevocably and unconditionally authorised, without further enquiry and without either giving notice to the Chargor or obtaining any consent, to apply the whole or part of the Charged Property in or towards payment of the Secured Obligations in accordance with this Clause 8

#### **8 9 Implied Covenants for Title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 3 (*Creation of Security*)
- (b) It shall be implied in respect of Clause 3 (*Creation of Security*) that the Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities and rights conferred by or under any enactment)

### **9. RECEIVERS**

#### **9 1 Appointment of Receiver**

- (a) Subject to paragraph (d) below, at any time after an Event of Default has occurred in respect of which the Administrative Agent has served notice on the Borrower in accordance with Clause 23 17 (*Acceleration*) of the Facility Agreement, or if so requested by the Chargor, the Collateral Agent (acting for and on behalf of the Secured Party) may by writing under hand signed by any officer or manager of the Collateral Agent, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Security Agreement

- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Deed
- (d) The Collateral Agent (acting for and on behalf of the Secured Party) shall be entitled to appoint a Receiver save to the extent prohibited by section 72A Insolvency Act 1986

## **9 2 Powers of Receiver**

A Receiver appointed under this Security Agreement shall have (subject to any limitations or restrictions which the Collateral Agent may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this Security Agreement), so that the powers set out in Schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Chargor, the Receiver shall have power to

- (a) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver,
- (b) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property, and
- (c) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 9 2 (*Powers of Receiver*), or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Chargor for all such purposes,

and in each case may use the name of the Chargor and exercise the relevant power in any manner which he may think fit

## **9 3 Receiver as Agent**

The Receiver shall be the agent of the Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Secured Party will not be responsible for any misconduct, negligence or default of a Receiver

## **9 4 Removal of Receiver**

The Collateral Agent may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason

## **9 5 Remuneration of Receiver**

The Collateral Agent may from time to time fix the remuneration of any Receiver appointed by it



## **10. APPLICATION OF PROCEEDS**

### **10 1 Order of Application**

All moneys received or recovered by the Secured Party pursuant to this Security Agreement shall (subject to the claims of any person having prior rights thereto) be applied in accordance with Clause 10 3 (*Application against Secured Obligations*) below notwithstanding any purported appropriation by the Chargor

### **10 2 Section 109 Law of Property Act 1925**

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Security Agreement

### **10 3 Application against Secured Obligations**

Subject to Clause 10 1 (*Order of Application*) above, any moneys or other value received or realised by the Secured Party from the Chargor or a Receiver under this Security Agreement shall be applied towards satisfaction of the Secured Obligations in accordance with Clause 26 2 (*Partial Payments*) of the Facility Agreement

### **10 4 Suspense Account**

- (a) Until the Secured Obligations are paid in full, the Secured Party may place and keep (for such time as it shall determine) any money received, recovered or realized pursuant to this Security Agreement or on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the Chargor or the Secured Party, at the discretion of the Secured Party) and the Receiver may retain the same for the period which it and the Secured Party consider expedient without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations
- (b) If the Security created under this Security Agreement is enforced at a time when no amount is due under the Finance Documents but at the time when amounts may or will become due, the Secured Party (or Receiver) may pay the proceeds of recoveries into a suspense account

## **11. PROTECTION OF SECURED PARTY AND RECEIVER**

### **11 1 No Liability**

No Secured Party nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence or wilful default under the Finance Documents

### **11 2 Possession of Charged Property**

Without prejudice to Clause 11 1 (*No Liability*) above, if the Secured Party or any Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession

### **11 3 Primary liability of the Chargor**

The Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of the Chargor under this Security

Agreement and the charges contained in this Security Agreement shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Secured Party, or by any other act, event or matter whatsoever whereby the liability of the Chargor (as a surety only) or the charges contained in this Security Agreement (as secondary or collateral charges only) would, but for this provision, have been discharged

#### **11.4 Delegation**

The Secured Party may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Security Agreement to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Secured Party will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate unless the Secured Party was grossly negligent or exercised wilful default in making the delegation

#### **11.5 Cumulative Powers**

The powers which this Security Agreement confers on the Secured Party and any Receiver appointed under this Security Agreement are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Secured Party may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Secured Party and any Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment

### **12. POWER OF ATTORNEY**

The Chargor, by way of security irrevocably appoints the Secured Party, any Receiver and any person nominated for the purpose by the Collateral Agent, the Lender or any Receiver (in writing and signed by an officer of the Collateral Agent, the Lender or Receiver as applicable) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Security Agreement, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Secured Party or any Receiver under this Security Agreement or otherwise for any of the purposes of this Security Agreement, and the Chargor covenants with the Secured Party and any Receiver to ratify and confirm all such acts or things made, done or executed by that attorney

### **13. PROTECTION FOR THIRD PARTIES**

#### **13.1 No Obligation to Enquire**

No purchaser from, or other person dealing with the Secured Party or any Receiver (or their agents) shall be obliged or concerned to enquire whether

- (a) the right of the Secured Party or any Receiver to exercise any of the powers conferred by this Security Agreement has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power, or

- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters

**13 2 Receipt Conclusive**

The receipt of the Secured Party or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Secured Party or that Receiver

**14. REINSTATEMENT AND RELEASE**

**14 1 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this Security Agreement that amount shall not be considered to have been paid

**14 2 Discharge Conditional**

Any settlement or discharge between the Chargor and the Secured Party shall be conditional upon no security or payment to the Secured Party by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of the Secured Party under this Security Agreement) the Secured Party shall be entitled to recover from the Chargor the value which the Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred

**14 3 Covenant To Release**

At the end of the Security Period, the Secured Party shall, at the request and cost of the Chargor, execute any documents (in each case as a deed or otherwise) (or procure that its nominees execute any documents) or take any action which may be necessary to release the Charged Property from the Security constituted by this Security Agreement

**15. CURRENCY CLAUSES**

**15 1 Conversion**

All moneys received or held by the Secured Party or any Receiver under this Security Agreement may be converted into any other currency which the Secured Party considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Collateral Agent's spot rate of exchange then prevailing for purchasing that other currency with the existing currency

**15 2 No Discharge**

No payment to the Secured Party (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Secured Party has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Secured Party shall have a further separate cause of action against the Chargor and shall be entitled to

enforce the Security constituted by this Security Agreement to recover the amount of the shortfall

**16. RULING OFF**

If the Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Facility Agreement) it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

**17. REDEMPTION OF PRIOR CHARGES**

The Collateral Agent may, at any time when an Event of Default has occurred in respect of which the Administrative Agent has served notice on the Borrower in accordance with Clause 23.17 (*Acceleration*) of the Facility Agreement, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Collateral Agent or the Custodian (as the case may be) all principal moneys and interest and all losses incidental to any such redemption or transfer.

**18. CHANGES TO THE PARTIES**

**18.1 Transfer by the Secured Party**

- (a) The Secured Party (the “**Existing Secured Party**”) may at any time assign, novate or otherwise transfer all of its rights under the Finance Documents (including this Security Agreement) in accordance with Clause 25 (*Changes to the Parties*) of the Facility Agreement. Upon any such assignment, novation or transfer of the Existing Secured Party’s rights under the Facility Agreement, the relevant assignee, novatee or the transferee (the “**New Secured Party**”) shall have the benefit of the Transaction Security constituted by this Security Agreement in accordance with its terms as if it were the original Security Party.
- (b) Upon the novation of all of its rights and obligations under the Finance Documents in accordance with Clause 25 (*Changes to the Parties*) of the Facility Agreement, the Existing Secured Party shall have no further rights and obligations under this Security Agreement and the New Secured Party shall assume all such rights and obligations as if it were the original Secured Party.
- (c) If, upon the assignment of all of the Existing Secured Party’s rights under the Finance Documents in accordance with Clause 25 (*Changes to the Parties*) of the Facility Agreement, the New Secured Party undertakes to the Chargor to be bound by obligations equivalent to the obligations of the Existing Secured Party under the Finance Documents (including this Security Agreement), the Existing Secured Party shall be fully and finally released and discharged from any and all its existing and future obligations and liabilities contained or arising under this Security Agreement and the Chargor shall not demand or claim the performance of such obligations by the Existing Secured Party.

## **18.2 Changes to Parties**

The Chargor agrees to be bound by the terms of Clause 25 (*Changes to the Parties*) of the Facility Agreement and, for the purposes of Clause 18.1 above, authorises the Secured Party to execute on its behalf, by way of the power of attorney granted in Clause 12 (*Power of Attorney*), any document the Secured Party considers necessary or reasonably desirable in relation to the creation, perfection or maintenance of the Transaction Security created pursuant to this Security Agreement and any transfer, novation or assignment contemplated by the provisions of the Finance Documents for which the consent of the Borrower or Chargor either (a) is not required or (b) has been, or has been deemed to have been, given pursuant to Clause 25 (*Changes to the Parties*) of the Facility Agreement

## **19. MISCELLANEOUS**

### **19.1 Certificates Conclusive**

A certificate or determination of the Secured Party as to any amount payable under this Security Agreement will be conclusive and binding on the Chargor, except in the case of manifest error

### **19.2 Counterparts**

This Security Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Security Agreement

### **19.3 Invalidity of any Provision**

If any provision of this Security Agreement is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way

### **19.4 Conflict**

In the event of any conflict between any provision of this Security Agreement and the terms of the Facility Agreement, the terms of the Facility Agreement shall prevail

### **19.5 Amendments**

Save where expressly contemplated herein, no variation, waiver or amendment to this Security Agreement shall be effective unless made in writing and executed by each Party

### **19.6 Covenants**

Any covenant of the Chargor under this Security Agreement (other than a payment obligation) remains in force during the Security Period

## **20. GOVERNING LAW**

This Security Agreement and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law

## **21. INCORPORATION OF TERMS**

The provisions of Clauses 28 (*Notices*), 31 (*Remedies and Waivers*) and 36 (*Enforcement*) of the Facility Agreement apply to this Security Agreement as though they were set out in full in this Security Agreement except that

- (a) references to “this Agreement” or “the Finance Documents” are to be construed as references to this Security Agreement,
- (b) references to “Parties” are to be construed as references to Parties under this Security Agreement,
- (c) references to “the Security Providers” are to be construed as references to the Chargor

**IN WITNESS** whereof this Security Agreement has been duly executed and delivered as a deed on the date first above written

**SIGNATORIES**

**Chargor**

**SIGNED as a DEED and DELIVERED** )  
on behalf of )  
**ABENGOA CONCESSIONS** )  
**INVESTMENTS LIMITED** )

acting by its director/duly authorised attorney: )

Name Daniel Alaminos Echarri )

being a person who, in accordance with the )  
laws of that territory, is acting under the )  
authority of the company )

in the presence of )

Witness

Signature

Name LAIA MACIA )

Address PASO DE LA CASTELLANA 4 )  
MADRID )

**The Lender and Secured Party**

**SIGNED as a DEED and DELIVERED** )  
on behalf of )  
**BANK OF AMERICA, N.A.,** )  
**LONDON BRANCH,** )  
acting by its duly authorised attorney )

Name )

being a person who, in accordance with the )  
laws of that territory, is acting under the )  
authority of the bank )

(signature)

in the presence of )

Witness

Signature

Name.

Address

*Signature page to the Security Agreement*

**SIGNATORIES**

**Chargor**

**SIGNED as a DEED and DELIVERED** )  
on behalf of )  
**ABENGOA CONCESSIONS** )  
**INVESTMENTS LIMITED** )

acting by its director/duly authorised attorney )

Name )

being a person who, in accordance with the )  
laws of that territory, is acting under the )  
authority of the company )

(signature)

in the presence of )

Witness

Signature

Name

Address

**The Lender and Secured Party**

**SIGNED as a DEED and DELIVERED** )  
on behalf of )  
**BANK OF AMERICA, N.A.,** )  
**LONDON BRANCH,** )

acting by its duly authorised attorney )

Name Monuhar Ullah )

Bank of America N A )

being a person who, in accordance with the )  
laws of that territory, is acting under the )  
authority of the bank )

(signature)

in the presence of )

Witness

Signature:

Name IGNACIO CORBAT

Address

**MLFC**  
**2 King Edward Street**  
**London, EC1A 1HQ**

*Signature page to the Security Agreement*



**The Collateral Agent**

**SIGNED** as a **DEED** and **DELIVERED**  
on behalf of  
**BANK OF AMERICA, N.A.,**  
**LONDON BRANCH,**  
acting by its duly authorised attorney

Name. **Monuhar Ullah**  
**Bank of America N A**

being a person who, in accordance with the  
laws of that territory, is acting under the  
authority of the bank

in the presence of

Witness

Name **IGNACIO CORBAT**

Address

Signature

**MLFC**  
**2 King Edward Street**  
**London, EC1A 1HQ**

(signature)

*Signature page to the Security Agreement*