



Registration of a Charge

Company name: **EQUITIX GP 6 PRIMARY INFRASTRUCTURE TOP HOLDINGS LTD**
Company number: **SC645358**



XA03S09C

Received for Electronic Filing: **12/03/2021**

Details of Charge

Date of creation: **08/03/2021**

Charge code: **SC64 5358 0001**

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

Brief description:

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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:

ALLAN LEAL



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 645358

Charge code: SC64 5358 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 8th March 2021 and created by EQUITIX GP 6 PRIMARY INFRASTRUCTURE TOP HOLDINGS LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th March 2021 .

Given at Companies House, Edinburgh on 15th March 2021

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



Companies House



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

EXECUTION VERSION



 **Burness Paull**

For and on behalf of Burness Paull, certified as a true copy of the original document save for the information redacted pursuant to section 859G of the Companies Act 2006, comprising electronically delivered counterparts.

EQUITIX GP 6 PRIMARY INFRASTRUCTURE TOP HOLDINGS LTD
as Chargor

in favour of

THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED
as Security Agent for the Secured Parties

BOND AND FLOATING CHARGE

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BOND AND FLOATING CHARGE delivered on 8 March 2021

by

- (1) **EQUITIX GP 6 PRIMARY INFRASTRUCTURE TOP HOLDINGS LTD**, a company incorporated under the Companies Acts with registered number SC645358 and having its registered office at CMS Cameron McKenna Nabarro Olswang LLP Saltire Court, 20 Castle Terrace, Edinburgh, United Kingdom, EH1 2EN (the “**Chargor**”)

in favour of

- (2) **THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED**, a company with registered number BR19279 and having its registered address at 1 Princes Street, London EC2R 8BP (the “**Security Agent**”)

CONSIDERING THAT:

The Chargor is entering into this bond and floating charge in connection with the Finance Documents.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Instrument:

“**Administrator**” means any administrator appointed pursuant to this Instrument;

“**Debts**” means all book and other debts, of any kind whatsoever now or at any time hereafter (and from time to time) due, owing or payable to the Chargor or in which the Chargor has an interest and the proceeds of the same, including the benefit of any judgement or order to pay a sum of money, and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same but, in the case of the Guarantors, excluding all book and other debts owed to it by: (i) its Subsidiary (whether a direct or indirect Subsidiary) or a limited partnership (or that limited partnership’s general partner) in which it has an interest in; or (ii) any other company which is not an Obligor and which is a joint venture between that Guarantor and a third party to such Guarantor;

“**Declared Default**” means an Event of Default which has resulted in the Agent exercising any of its rights under Clause 25.19 (*Acceleration*) of the Facility Agreement;

“**Equipment**” means all equipment, plant, machinery, tools, vehicles, furniture and other tangible moveable property now or at any time hereafter (and from time to time)

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owned by the Chargor, and any part thereof, together with the benefit of all contracts and warranties relating to the same;

“Facility Agreement” means the revolving facility agreement dated on or around the date of this Instrument between, amongst others, Equitix Capital Eurobond 6 Limited, Equitix Capital Eurobond 6A Limited and Equitix VI Primary Infrastructure Top Holding LP as borrowers, Natwest Markets plc as agent and The Royal Bank of Scotland International Limited as security agent;

“Intellectual Property” means all interests in respect of any patent (including supplementary protection certificates), trade mark, service mark, trade name, registered design, design right, copyright, know-how, utility model, topographical or similar right, moral right, invention, confidential information, trade secret, database right, right in passing off and any other right in intellectual property subsisting anywhere in the world in any of the foregoing whether registered or unregistered and in each case, any registrations, extensions, renewals or applications of or for the same, now or at any time hereafter (and from time to time) owned or held by the Chargor or (to the extent of its interest) in which the Chargor has an interest;

“Property” means all heritable, freehold or leasehold properties owned by the Chargor;

“Receiver” means a person appointed by the Security Agent to be a receiver or receiver and manager or (if permitted by law) an administrative receiver of all or any part of the Secured Assets of the Chargor;

“Restrictions Notice” means a 'restrictions notice' as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006;

“Secured Assets” means the whole of the property (including uncalled capital) which is or may be from time to time while this Instrument is in force comprised in the property and undertaking of the Chargor.

“Secured Liabilities” means all present and future moneys, obligations and liabilities owed by any Obligor to any Secured Party, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Finance Documents;

“Securities” means all stocks, shares, loan capital, securities, bonds and investments of any kind whatsoever (whether or not marketable) now or at any time hereafter (and from time to time) owned by the Chargor or in which the Chargor has an interest, together with all allotments offered or arising in respect thereof or incidental thereto and all stocks, shares, loan capital, securities, bonds, investments, rights, income, money or property accruing, deriving, offered or paid from time to time by way of dividend, distribution, interest, exchange, capital reorganisation, conversion, redemption, bonus, rights, preference, option or otherwise in respect thereof;

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“Securities Issuer” means the issuer of any Securities;

“Security Period” means the period starting on the date of delivery of this Instrument and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and

“Warning Notice” means a 'warning notice' as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006.

1.2 Construction

1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Instrument, the same meaning in this Instrument.

1.2.2 Unless otherwise provided in this Instrument, the provisions of Clause 1.2 (Construction) of the Facility Agreement apply to this Instrument as though they were set in full in this Instrument, *mutatis mutandis*.

1.2.3 In this Instrument (unless the context requires otherwise) any reference to:

- (a) the Chargor, each Secured Party, each Finance Party, each Obligor, any Securities Issuer, any Administrator or Receiver or any other person shall be construed so as to include their successors in title, permitted assignees, permitted transferees and (in the case of any Administrator or Receiver) lawful substitutes and/or replacements;
- (b) references to permissions and/or prohibitions in the Facility Agreement in this Instrument, to the extent they apply to the Obligors, shall apply *mutatis mutandis* and shall be deemed to refer to the Chargor for the purposes of this Instrument;
- (c) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended (however fundamentally, including any amendment providing for any increase in the amount of any facility or other liability) from time to time with the agreement of the relevant parties and (where such consent is, by the terms of this Instrument or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior consent of the Security Agent;
- (d) the Security constituted by this Instrument becoming **“enforceable”** shall mean that the Security created under this Instrument has become enforceable under Clause 9.1 (Enforcement);

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- (e) a provision of law is a reference to that provision as amended or re-enacted from time to time;
- (f) a time of day is a reference to London time;
- (g) any gender includes a reference to the other genders;
- (h) the singular includes a reference to the plural and vice versa; and
- (i) a clause or schedule is to a clause or schedule (as the case may be) of or to this Instrument.

1.2.4 Clause and schedule headings are for ease of reference only

1.2.5 References in this Instrument to the Secured Liabilities shall be construed in relation to the Finance Documents so as to include (i) any increase or reduction in any amount made available thereunder and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used, (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available thereunder, (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing and (iv) any combination of any of the foregoing.

2 BOND

- 2.1 The Chargor hereby undertakes to the Security Agent (as trustee for the Secured Parties) that it will on demand pay and discharge all Secured Liabilities owing or incurred in the manner and at the time provided for in the Finance Documents.
- 2.2 Neither the undertaking to pay in Clause 2.1 nor the Security constituted by this Instrument shall extend to or include any liability or sum which would, but for this clause, cause such undertaking or Security to be unlawful under any applicable law.
- 2.3 This Instrument secures further advances made or pursuant to the terms of the Finance Documents.
- 2.4 Paragraph 14 of Schedule B1 to the Insolvency Act (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to this Instrument which is accordingly a qualifying floating charge.

Limited recourse

- 2.5 The recourse of the Security Agent against the Chargor in respect of the Secured Liabilities under this Instrument is limited:

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- 2.5.1 as set out in clause 1.6 (Corporate Assets) of the Facility Agreement; and
- 2.5.2 to the enforcement of, and recovery against, the Secured Assets and accordingly the Security Agent agrees that the total amount recoverable against the Chargor under this Instrument shall be limited to the proceeds received by the Security Agent enforcing and realising the Secured Assets in accordance with this Instrument.

3 FLOATING CHARGE

The Chargor as a continuing security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Security Agent a first floating charge over the Secured Assets.

4 NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE

- 4.1 The Chargor hereby undertakes to the Security Agent that it will not at any time except as permitted by the terms of the Facility Agreement or this Instrument or with the prior consent of the Security Agent create or purport to create or permit to subsist any Security on or in relation to the Secured Assets.
- 4.2 Any fixed security granted by the Chargor in favour of the Security Agent (whether before or after the date of execution of this Instrument) shall rank in priority to this Security.
- 4.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 or with the consent of the Security Agent under Clause 4.1 but with no written agreement of the Security Agent as to the ranking of them, this Instrument shall rank in priority to that fixed security or floating charge.

5 UNDERTAKINGS

- 5.1 The Chargor hereby undertakes to the Security Agent that it shall carry on and conduct its business and affairs in a proper and efficient manner and, unless otherwise specifically permitted in the Facility Agreement, it shall:
 - 5.1.1 maintain insurances on and in relation to its business and assets with reputable independent insurance companies or underwriters against those risks and to the extent as is usual for companies carrying on the same or substantially similar business;
 - 5.1.2 at all times that it owns any Property keep all buildings on each Property and all fixtures belonging to it thereon in good and substantial repair and condition;

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- 5.1.3 at all times that it owns any Property not, without the prior written consent of the Security Agent:
- (a) pull down or remove the whole or any part of any buildings forming part of any Property;
 - (b) make any material alterations to any Property;
 - (c) sever or unfix or remove any of the fixtures thereto (except for the purpose of effecting necessary repairs thereto);
- 5.1.4 at all times that it owns any Property within ten Business Days after becoming aware thereof give full particulars to the Security Agent of any notice, order, direction, designation, resolution or proposal having specific application to any Property or to the locality in which it is situated given or made by any planning authority or other public body or authority whatsoever and if required by the Security Agent, forthwith and at the cost of the Chargor take all steps to comply with any such notice, order, direction, designation or resolution and make or join with the Security Agent in making such objections or representations in respect of any such proposal as the Security Agent may reasonably desire;
- 5.1.5 at all times that it owns any Property observe and perform all undertakings, stipulations and conditions to which each Property or the user thereof is now or may hereafter be subjected; and
- 5.1.6 at all times that it owns any Property perform and observe all undertakings and conditions on its part contained in any lease, agreement for lease, licence or other agreement under which any Property or part of any Property is held.
- 5.1.7 at all times that it owns any Property promptly pay all taxes, fees, duties, rates, charges, licence duties, registration charges, insurance premiums and other outgoings in respect of the Properties;
- 5.1.8 notify the Security Agent if it acquires any heritable, freehold or leasehold property, whether registered or unregistered;
- 5.1.9 at all times that it owns any Property procure that no person shall become entitled to assert any proprietary or other like right or interest over any Property or any part thereof without the prior consent of the Security Agent;
- 5.1.10 at all times that it owns any Property permit the Security Agent, any Administrator and any Receiver and any person appointed by either of them to enter upon, inspect and examine (as applicable) any Property upon reasonable prior notice;

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- 5.1.11 at all times that it owns any Equipment to maintain the Equipment in good and serviceable condition (fair wear and tear excepted);
- 5.1.12 at all times that it owns any Equipment promptly to pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and on demand produce evidence thereof to the Security Agent;
- 5.1.13 at all times that it owns any Equipment give the Security Agent such information concerning the location, condition, use and operation of the Equipment as the Security Agent may require and to permit any persons designated by the Security Agent at all reasonable times to inspect and examine the Equipment and the records maintained in connection therewith;
- 5.1.14 at all times that it owns any Intellectual Property take all action to safeguard and maintain its present and future rights in or relating to the Intellectual Property necessary for the business of the Chargor and if requested to do so by the Security Agent, sign or procure the signature of, and comply with all reasonable instructions of the Security Agent in respect of, any document required to make entries in any public register of Intellectual Property which either record the existence of this Instrument or the restrictions on disposal imposed by this Instrument; and
- 5.1.15 notify the Security Agent promptly in the event of any creditor exercising diligence against it or any of the Secured Assets.

5.2 Preservation of Debts

The Chargor shall not, except as permitted by the terms of the Facility Agreement or with the prior consent of the Security Agent, sell, factor, discount, release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Debts save as hereinafter expressly provided.

- 5.3 The Chargor shall on the execution of this Instrument deposit with the Security Agent (and the Security Agent shall during the continuance of this security be entitled to hold) all this Instruments and documents of title relating to the Secured Assets as the Security Agent may from time to time require.

6 WARNING NOTICE OR RESTRICTIONS NOTICE

- 6.1 The Chargor represents and warrants to the Security Agent that no Warning Notice or Restrictions Notice has been issued to it in respect of all or any part of the Securities and remains in effect.
- 6.2 The Chargor shall comply with any notice served on it in respect of all or any part of the Securities pursuant to part 21A of the Companies Act 2006 within the timeframe

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specified in that notice and shall deliver a copy of any such notice to the Security Agent promptly upon receipt.

7 REPRESENTATIONS AND WARRANTIES

Representations and warranties

7.1 The Chargor represents and warrants to the Security Agent as follows:

- 7.1.1 subject to the Legal Reservations, it is the owner of the Secured Assets;
- 7.1.2 it has not received or acknowledged notice of any claim which would have a material and adverse effect on the interests of the Finance Parties by any person in respect of the Secured Assets or any interest in them;
- 7.1.3 there are no covenants, undertakings, agreements, reservations, conditions, interests, rights or other matters whatever which materially and adversely affect the Secured Assets;
- 7.1.4 no facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use;
- 7.1.5 at all times that it owns any Property nothing has arisen or has been created or is subsisting which would be an overriding interest in any Property; and
- 7.1.6 subject to the Legal Reservations, this Instrument creates the Security it purports to create and is not liable to be amended or otherwise set aside on its liquidation or otherwise.

Repetition

7.2 The representations and warranties set out in Clause 7.1 (Representations and warranties) will be deemed to be repeated by the Chargor on each day the Repeating Representations are deemed to be repeated by reference to the facts and circumstances then existing.

Notice of breach

7.3 The Chargor will promptly upon becoming aware of the same give the Security Agent notice in writing of any breach of any representation or warranty set out in Clause 7.1 (Representations and warranties).

8 POWER TO REMEDY

8.1 If the Chargor is at any time in breach of any of its obligations contained in this Instrument, the Security Agent shall be entitled (but shall not be bound) to remedy

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such breach and the Chargor hereby irrevocably authorises the Security Agent and its agents to do all things necessary or desirable in connection therewith.

- 8.2 The rights of the Security Agent contained in this Clause 8 are without prejudice to any other rights of the Security Agent hereunder.

9 ENFORCEMENT

- 9.1 In addition to any statutory provisions concerning enforceability or attachment this Security shall become enforceable upon and the Security Agent's powers of appointment and other rights and powers shall become exercisable at any time after the occurrence of a Declared Default and the Security Agent may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 9.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Security Agent shall be entitled so to appoint another person as Receiver in his place.

- 9.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights incidental to ownership of the Secured Assets, including (as regards shares and other securities) any voting rights or rights of enforcing the same together with power to:

- 9.2.1 implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Secured Assets;

9.2.2 make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;

9.2.3 promote or procure the formation of any new company or corporation;

9.2.4 subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;

9.2.5 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Secured Assets or any part thereof to any such new company or corporation and accept as consideration or part of the

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consideration therefor in the name of the Chargor and on its behalf and/or in the name(s) of any nominee(s) or trustee(s) for it, any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;

- 9.2.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 9.2.7 convene an extraordinary general meeting of the Chargor;
- 9.2.8 acquire any property on behalf of the Chargor; and
- 9.2.9 do all such other acts and things as he may consider necessary or desirable for protecting or realising the Secured Assets, or any part thereof, or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Instrument and exercise in relation to the Secured Assets, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid,

subject always to the rights of the Security Agent as holder of this Security.

- 9.3 To the extent that any of the Secured Assets constitutes “financial collateral” and this Instrument and the obligations of the Chargor hereunder constitute a “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the “**Regulations**”) the Security Agent shall have the right after this Security has become enforceable to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.
- 9.4 No person dealing with the Security Agent, any Administrator or any Receiver appointed hereunder, or its agents or brokers, shall be concerned to enquire:
 - 9.4.1 whether the security constituted by this Instrument has become enforceable;
 - 9.4.2 whether any power exercised or purported to be exercised has become exercisable;
 - 9.4.3 whether any money remains due under the Finance Documents;

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- 9.4.4 as to the necessity or expediency of the stipulations and conditions subject to which any sale of any Secured Assets shall be made, or otherwise as to the propriety or regularity of any sale of any of the Secured Assets; or
- 9.4.5 how any money paid to the Security Agent, Administrator or Receiver, or its agents or brokers is to be applied.
- 9.5 At any time after the security constituted by this Instrument shall have become enforceable the Security Agent may:
 - 9.5.1 redeem any prior Security;
 - 9.5.2 procure the transfer thereof to itself; and/or
 - 9.5.3 may settle and pass the accounts of the prior encumbrancer and any account so settled and passed shall be conclusive and binding on the Chargor and all monies paid by the Security Agent to the prior encumbrancer in accordance with such accounts shall as from such payment be due from the Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

10 OFFICE OF RECEIVER

- 10.1 Any Receiver appointed under Clause 9 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Security Agent shall not incur any liability for those (either to the Chargor or any other person) by reason of the Security Agent making his appointment as such Receiver or for any other reason whatsoever.
- 10.2 Any Receiver appointed under Clause 9 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Security Agent (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Instrument.

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11 AMOUNTS RECEIVED

Application of enforcement proceeds

11.1 All monies received by the Security Agent or any Receiver under or by virtue of this Instrument following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Security Agent under this Instrument, in the following order:

- 11.1.1 first in paying all rents, taxes, duties, rates and outgoings affecting any Secured Assets;
- 11.1.2 secondly in paying all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of his powers and all outgoings paid by him;
- 11.1.3 thirdly in paying the Receiver's remuneration (as agreed between him and the Security Agent);
- 11.1.4 fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Finance Documents or otherwise as the Security Agent shall determine; and
- 11.1.5 finally in paying any surplus to the Chargor or any other person entitled to it.

Currencies of denomination

11.2 For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this Instrument from their existing denominations and/or currencies of denomination into such other denominations and/or currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange.

Suspense account

11.3 Until the Secured Liabilities are paid in full, all monies received recovered or realised by the Security Agent under this Instrument may at the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities.

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New accounts

- 11.4 If the Security Agent receives notice of any subsequent charge or other interest affecting all or part of the Secured Assets, the Security Agent may open a new account or accounts for the Chargor in its books and (without prejudice to the Security Agent's right to combine accounts) no money paid to the credit of the Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Security Agent does not open a new account or accounts immediately on receipt of such notice then unless the Security Agent gives express notice to the contrary to the Chargor as from the time of receipt of such notice by the Security Agent all payments made by the Chargor to the Security Agent in the absence of any express appropriation by the Chargor 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 Liabilities.

Security Agent set-off rights

- 11.5 If the Security Agent shall have more than one account for the Chargor in its books the Security Agent may at any time after the security constituted by this Instrument has become enforceable or the Security Agent has received notice of any subsequent charge or other interest affecting all or any part of the Secured Assets and without prior notice forthwith transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit but the Security Agent shall notify the Chargor of the transfer having been made.

12 **POWER OF ATTORNEY AND DELEGATION**

Power of attorney

- 12.1 The Chargor hereby irrevocably appoints the Security Agent and any Receiver to be its mandatary and attorney for it and on its behalf and in its name or otherwise at any time while an Event of Default is continuing to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any document, transfer, assurance, agreement, instrument or act which such Receiver or the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of the Chargor's obligations under this Security.

Ratification

- 12.2 The Chargor ratifies and confirms and agrees to ratify and confirm:
- 12.2.1 all transactions entered into by the Security Agent and/or any Administrator or Receiver in the proper exercise of its or their powers in accordance with this Instrument; and

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12.2.2 all transactions entered into by the Security Agent and/or any Administrator or Receiver in signing, sealing, delivering and otherwise perfecting any assignation, standard security, charge, security, document or other act.

12.3 The Security Agent and any Administrator or Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Instrument (including the power of attorney), on such terms and conditions as it or he shall see fit which shall not preclude exercise of these powers, authorities or discretions by it or him or any revocation of the delegation or subsequent delegation.

13 PROTECTION OF SECURITY

Independent security

13.1 This Instrument shall be in addition to and independent of every other security or guarantee that the Security Agent or any other Finance Party may at any time hold for any of the Secured Liabilities.

Continuing security

13.2 This Instrument shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part.

No waivers; rights cumulative

13.3 No failure to exercise, nor delay in exercising, on the part of the Security Agent or any Finance Party, any right or remedy under this Instrument shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise, or the exercise of any other right or remedy. The rights and remedies of the Security Agent and each Finance Party provided in this Instrument are cumulative and not exclusive of any rights or remedies provided by law.

No Chargor set-off

13.4 The Chargor waives any right of set-off it may have now or at any time in the future in respect of the Secured Liabilities (including sums payable by the Chargor under this Instrument).

14 FURTHER ASSURANCE

14.1 The Chargor must, promptly upon request by the Security Agent or any Receiver or Administrator, at its own expense, take whatever action the Security Agent or a Receiver or Administrator may reasonably require for:

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- 14.1.1 creating, perfecting or protecting any security intended to be created by or pursuant to this Instrument;
- 14.1.2 facilitating the realisation of any Secured Asset;
- 14.1.3 exercising any right, power or discretion conferred on the Security Agent, or any Receiver or any Administrator or any of their respective delegates or sub-delegates in respect of any Secured Asset; or
- 14.1.4 creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this this Instrument) over any assets of the Chargor located in any jurisdiction outside Scotland.

14.2 This includes:

- 14.2.1 the re-execution of this Instrument;
- 14.2.2 the execution of any floating charges, securities, transfers, dispositions and assurances of the Secured Assets, whether to the Security Agent or to its nominee; and
- 14.2.3 the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent (or the Receiver or Administrator, as appropriate) may think expedient.

15 COSTS AND INDEMNITY

- 15.1 The provisions of clause 19 (*Costs and expenses*) of the Facility Agreement are incorporated into this Instrument as if set out in full mutatis mutandis.
- 15.2 The Chargor hereby agrees to indemnify and hold harmless the Security Agent, any Administrator and any Receiver from and against all actions, claims, expenses, demands and liabilities, whether arising out of contract or in delict or in any other way, which may at any time be incurred by him or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable (“**Nominees**”) for anything done or omitted to be done in the exercise or purported exercise of his powers pursuant to this Instrument in each case, save where such action, claim, expense, demand or liability arises as a result of the gross negligence, wilful default or breach of this agreement on the part of the Security Agent, any Administrator, any Receiver or any Nominee.

16 MISCELLANEOUS

Severability

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- 16.1 If any of the provisions of this Instrument is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.

Third Party Rights

- 16.2 This Instrument does not confer on any person who is not a party to this Instrument any right to enforce or otherwise invoke this Instrument or any part of it under the Contract (Third Party Rights) (Scotland) Act 2017.

Demands and notices

- 16.3 Any demand, notice, consent or communication to be made or given by or to the Chargor or the Security Agent under or in connection with this Instrument shall be made and delivered as provided in clause 34 (*Notices*) of the Facility Agreement. Any demand on the Chargor shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

17 ASSIGNATION AND TRANSFER

- 17.1 The Security Agent may at any time without the consent of the Chargor, assign or transfer the whole or any part of its rights under this Instrument to any person to whom it has transferred its rights and obligations under the Facility Agreement in accordance with its terms.
- 17.2 The Chargor may not assign any of its rights or transfer any of its obligations under this Instrument or enter into any transaction which would result in any of these rights or obligations passing to another person.

18 RELEASE OF SECURITY

Release

- 18.1 Subject to Clause 18.3 (Discharge conditional), upon the expiry of the Security Period (but not otherwise) the Security Agent shall at the request and cost of the Chargor, take whatever action is necessary to release the Secured Assets from the security constituted by this Instrument.

Avoidance of payments and reinstatement

- 18.2 If any payment by an Obligor to a Finance Party or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is (a) capable of being avoided or reduced (in the reasonable opinion of the Security Agent) or (b) avoided or reduced in each case as a result of insolvency or any similar event, then:

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- 18.2.1 the liability of each Obligor will continue as if the payment, discharge, avoidance or reduction had not occurred;
- 18.2.2 each Secured Party will be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred; and
- 18.2.3 the Security Agent shall be entitled to enforce this Instrument subsequently as if such payment, discharge, avoidance or reduction had not occurred.

Discharge conditional

- 18.3 Any release, discharge or settlement between the Chargor and the Security Agent or any other Finance Party shall be deemed conditional upon no payment or security received by the Security Agent or such other Finance Party in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement the Security Agent shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such settlement, discharge or release had not occurred and the Chargor agrees with the Security Agent accordingly and charges the Secured Assets and the proceeds of sale thereof with any liability under this clause, whether actual or contingent.

19 **GOVERNING LAW AND JURISDICTION**

- 19.1 This Instrument and any non-contractual obligations arising out of or in connection with it are governed by Scots law.
- 19.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Instrument (including a dispute relating to the existence, validity or termination of this Instrument or any non-contractual obligation arising out of or in connection with this Instrument) (a **"Dispute"**).
- 19.3 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

20 **COUNTERPARTS**

- 20.1 Where executed in counterparts:
 - 20.1.1 this Instrument shall not take effect until all of the counterparts have been delivered; and

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20.1.2 delivery will take place when the date of delivery is agreed between the parties after execution of this Instrument as evidenced by the date inserted in Clause 20.2 of this Instrument.

20.2 Consent to registration

A certificate signed by any official, manager or equivalent account officer of the Security Agent shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment. The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation: IN WITNESS WHEREOF these presents consisting of this and the preceding 17 pages are executed in counterpart as follows and DELIVERED on 8 March 2021:

THE CHARGOR

SUBSCRIBED for and on behalf of
the said **EQUITIX GP 6 PRIMARY
INFRASTRUCTURE TOP
HOLDINGS LTD**

at London

on 26 February 2021
(date of signature)

by JONATHAN SMITH

Print Full Name

Director

before this witness

NATHAN JAMES KING

Print Full Name

Witness

Address

FLAT 20, 36 PENYWERN ROAD,

KENSINGTON, LONDON,

SW5 9SU

EXECUTION VERSION

THE SECURITY AGENT

SUBSCRIBED for and on behalf of
the said **THE ROYAL BANK OF
SCOTLAND INTERNATIONAL
LIMITED**

at London

on 08/ 03/ 2021
(date of signature)

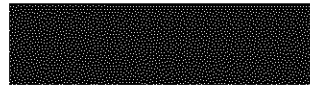
by

Print Full Name

before this witness

Print Full Name

Address



B55.0E1C5331436
Authorised Signatory

Witness