



**Registration of a Charge**

Company name: **MANCHESTER QUAYS HOLDING LIMITED**

Company number: **08625433**



X6CFHEL5

Received for Electronic Filing: **09/08/2017**

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**Details of Charge**

Date of creation: **07/08/2017**

Charge code: **0862 5433 0002**

Persons entitled: **CBRE LOAN SERVICES LIMITED AS SECURITY AGENT**

Brief description: **100 ORDINARY SHARES OF £1.00 EACH IN MANCHESTER QUAYS LIMITED (COMPANY NUMBER 08611587).**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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.**





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

Company number: 8625433

Charge code: 0862 5433 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th August 2017 and created by MANCHESTER QUAYS HOLDING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th August 2017 .

Given at Companies House, Cardiff on 11th August 2017

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

DATED 7 August 2017

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MANCHESTER QUAYS HOLDING LIMITED (1)

AND

CBRE LOAN SERVICES LIMITED (2)

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CHARGE OVER SHARES

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DMS-9925197 - 2.0 - 06.07.2017

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THIS DEED is made on

7 August 2017

**BETWEEN:**

- (1) **MANCHESTER QUAYS HOLDING LIMITED** a company incorporated in England and Wales with company number 08625433 whose registered office is 2 Atherton Street, Manchester, M3 3GS (the "**Chargor**"); and
- (2) **CBRE LOAN SERVICES LIMITED**, a company incorporated in England and Wales with company registration number 05469838 and whose registered office is at St. Martin's Court, Paternoster Row, London EC1Y 7HP in its capacity as Security Agent (the "**Security Agent**").

**IT IS AGREED THAT:**

**1 INTERPRETATION**

**1.1 Terms defined in Facility Agreement**

Except where this deed expressly states otherwise, each term used in this deed which is defined in the Facility Agreement has the same meaning as in the Facility Agreement, construed in accordance with the Facility Agreement.

**1.2 Terms expressly defined in this Deed**

In this deed:

<b>Borrower</b>	Manchester Quays Limited, a company incorporated in England and Wales with company number 08611587 whose registered office is 2 Atherton Street, Manchester M3 3GS;
<b>Delegate</b>	any delegate, agent, attorney or trustee appointed by the Security Agent;
<b>Default Rate</b>	the rate specified in clause 4.4 ( <i>Default interest</i> ) of the Facility Agreement;
<b>Discharge Date</b>	the date with effect from which the Security Agent confirms to the Chargor that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments of the Finance Parties cancelled;
<b>Distribution Rights</b>	<ol style="list-style-type: none"><li>(a) all dividends, distributions, interest and other income paid or payable on any Share;</li><li>(b) all shares or other property derived from any Share (whether by way of conversion, consolidation, subdivision, substitution, redemption, bonus, preference, option or otherwise); and</li></ol>

- (c) all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to any Share.

<b>Enforcement Party</b>	any of the Security Agent, a Lender, a Receiver or a Delegate;
<b>Expenses</b>	all fees, discounts, commissions and other banking or service charges, legal and other professional fees, premiums, costs or expenses, in each case calculated on a full indemnity basis and together with VAT, properly incurred by any Enforcement Party in connection with the Secured Property, the preparation, negotiation and creation of this deed, taking, perfecting, enforcing or exercising any power under this deed, the appointment of any Receiver or Delegate, the breach of any provision of this deed and / or the protection, realisation or enforcement of this deed, and includes any payments made under clause 8.4 (Power to remedy), and also includes the costs of transferring to the Security Agent or the Receiver any security ranking in priority to the security constituted by this deed, or the amount required to be paid to secure the unconditional and irrevocable discharge of such security (if applicable);
<b>Facility Agreement</b>	the facility agreement dated on or around the date of this deed and made between, amongst others, Manchester Quays Limited as Borrower, North West Evergreen Limited Partnership acting by its general partner North West Evergreen (GP) Limited as Lender and CBRE Loan Services Limited as Agent and Security Agent, as the same may be varied, amended, modified, supplemented or replaced;
<b>Insolvency Act</b>	Insolvency Act 1986;
<b>Interest</b>	interest at the rate provided in and calculated and compounded in accordance with the Facility Agreement from time to time both before and after judgement
<b>Lender</b>	North West Evergreen Limited Partnership acting by its general partner North West Evergreen (GP) Limited;
<b>LPA</b>	Law of Property Act 1925;
<b>Party</b>	a party to this deed;
<b>Receiver</b>	any one or more receivers and managers or (if the Security Agent so specifies in the relevant appointment) receivers appointed by the Security Agent pursuant to this deed in respect of the Chargor or in respect of the Secured Property or any of them;
<b>Rights</b>	any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation

or otherwise and whether from contribution or otherwise;

<b>Secured Obligations</b>	the aggregate of all indebtedness and all obligations or liabilities of any kind which may now or at any time in the future be due, owing or incurred by any Obligor to the Finance Parties under the Finance Documents, whatever their nature or basis, in any currency or currencies and however they are described together with Interest and Expenses;
<b>Secured Property</b>	the assets charged at clause 3 (Charging clause) and includes any part or parts of them;
<b>Security Period</b>	the period beginning on the date of this deed and ending on the Discharge Date;
<b>Shares</b>	all shares owned by the Chargor in the Borrower specified in Schedule 1 (the Shares), and any shares in the future owned by the Chargor in the Borrower from time to time or any in the Borrower in which it has an interest; and
<b>Third Parties Act</b>	the Contracts (Rights of Third Parties) Act 1999.

### **1.3 Construction**

In this deed:

- (a) any reference to:
- (i) the word "assets" includes present and future property, revenue, rights and interests of every kind;
  - (ii) the word "guarantee" includes any guarantee or indemnity and any other financial support (including any participation or other assurance against loss and any deposit or payment) in respect of any person's indebtedness;
  - (iii) the word "indebtedness" includes any obligation for the payment or repayment of money, whatever the nature or basis of the relevant obligation (and whether present or future, actual or contingent);
  - (iv) the word "law" includes law established by or under statute, constitution, treaty, decree, regulation or judgment, common law and customary law and the word "lawful" and similar words and phrases are to be construed accordingly;
  - (v) the word "person" includes any individual, company, corporation, firm, government, state or any agency of a state and any association, partnership or trust (in each case, whether or not it has separate legal personality);
  - (vi) the word "regulation" includes all guidelines, official directives, regulations, requests and rules (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational agency, body or



- department or of any regulatory or other authority or organisation (whether statutory or non-statutory, governmental or non-governmental);
- (vii) the word "security" includes any assignment by way of security, charge, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect;
  - (viii) the word "set-off" includes analogous rights and obligations in other jurisdictions; and
  - (ix) the word "tax" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);
- (b) where something (or a list of things) is introduced by the word "including", or by the phrase "in particular", or is followed by the phrase "or otherwise", the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
  - (c) each reference to the "Chargor", the "Agent", the "Security Agent", "the Arranger", the "Finance Parties", any "Party" or "Obligors" includes its successors in title and its permitted assignees or permitted transferees;
  - (d) unless this deed expressly states otherwise, (a) each reference in this deed to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as amended or re-enacted since the date of this deed and (b) each reference in this deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force from time to time (whether amended or re-enacted since the date of this deed);
  - (e) each reference to this deed (or to any other agreement or deed) means, at any time, this deed (or as applicable such other agreement or deed) as amended, novated or supplemented, at that time, provided that the relevant amendment, novation or supplement does not breach any term of this deed or of any Finance Document;
  - (f) each reference to the singular includes the plural and vice versa, as the context permits or requires;
  - (g) the index and each heading in this deed is for convenience only and does not affect the meaning of the words which follow it;
  - (h) each reference to a clause or Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or Schedule to this deed;
  - (i) wherever this deed states that the Chargor must not take a particular step without the consent of the Security Agent, the Security Agent has discretion whether to give its consent and can impose conditions on any such consent it gives;
  - (j) Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts created by this deed or any other Finance Document; and
  - (k) an Event of Default is "**continuing**" if it has not been remedied or waived in writing by the Security Agent.

#### **1.4 Third Party Rights**

- (a) A person who is not an Enforcement Party has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this deed except to the extent that this deed or any other Finance Document expressly provides for it to do so.
- (b) No consent of any person who is not a Party is required to rescind or vary this deed at any time.
- (c) This clause 1.4 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Third Parties Act.

### **2 COVENANT TO PAY**

#### **2.1 Covenant**

The Chargor hereby, as primary obligor and not merely as surety, covenants with the Security Agent that it will pay, discharge and perform the Secured Obligations when due and demanded and in the manner provided in the Finance Documents.

### **3 CHARGING CLAUSE**

#### **3.1 Grant of Security**

The Chargor, as a continuing security for the payment, discharge and performance of the Secured Obligations, charges and agrees to charge in favour of the Security Agent:

- (a) by way of first legal mortgage, the Shares;
- (b) by way of first equitable mortgage, the Distribution Rights from time to time accruing to or on the Shares. and
- (c) to the extent not validly and effectively charged by way of mortgage pursuant to clauses 3.1(a) or 3.1(b), by way of first fixed charge, the Shares and Distribution Rights and each Chargor's interest in the Shares and Distribution Rights.

#### **3.2 Full Title Guarantee and Implied Covenants**

All the security created or given under this deed is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

#### **3.3 Release**

On the Discharge Date the Security Agent will, at the request and cost of the Chargor, release the Secured Property from the security constituted by this deed.

#### **3.4 Limited Recourse**

Notwithstanding any contrary provision contained in this deed, it is agreed by the Security Agent that any payment obligations arising under this deed shall solely be satisfied by the

Security Agent exercising its enforcement rights under this deed and the liability of the Chargor to the Security Agent pursuant to the provisions of this deed shall be limited to the Secured Property and the Security Agent shall have no recourse to any other assets of the Chargor.

#### **4 NON-COMPETITION**

The Chargor warrants to the Security Agent that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Borrower, its liquidator, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Chargor under this Deed but:

- (a) if any of the Rights is taken, exercised or received by the Chargor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Chargor on trust for the Security Agent for application in or towards the discharge of the Secured Obligations under this Deed; and
- (b) on demand by the Security Agent, the Chargor shall promptly transfer, assign or pay to the Security Agent all Rights and all monies from time to time held on trust by the Chargor under this clause 4.

#### **5 DEPOSIT OF CERTIFICATES AND TRANSFERS**

##### **5.1 The Chargor must:**

- (a) promptly deposit with the Security Agent on the date of this deed (or, in relation to any Secured Property acquired by it, or in which it has acquired an interest, after the date of this deed, promptly following receipt of its share certificate(s) in respect of such Secured Property or interest) all share certificates or other documents of title or evidence of ownership in relation to any Share or to the Distribution Rights; and
- (b) at the same time that it deposits the certificates or documents referred to in clause 5.1(a), deliver to the Security Agent instruments of transfer in respect of the relevant Shares executed in blank (except for the number and class of Shares and the name of the transferor) and left undated.

##### **5.2 The Security Agent may retain any certificates, documents or instruments of transfer delivered to it pursuant to this deed until the Discharge Date and if, for any reason it ceases to hold any such certificate, document or instrument before such time, it may by notice to the Chargor require that the relevant certificate, document or instrument be redelivered to it and the Chargor must immediately comply (or procure compliance) with such notice.**

##### **5.3 The Security Agent may at any time following the occurrence of an Event of Default which is continuing complete the instruments of transfer on behalf of the Chargor in favour of itself or such other person as it shall select, and the Chargor shall procure that such instruments of transfer are forthwith registered in the relevant company and that share certificates in the name of the Security Agent and/or its nominee(s) in respect of the Shares to which such instrument of transfer relates are delivered to the Security Agent as soon as reasonably practicable, but in any event no later than 5 Business Days after the date upon which the Security Agent has delivered the relevant instrument of transfer. The Security Agent or its nominee, having been registered as the transferee of such Shares, may at any time thereafter re-transfer such Shares to the Chargor, and the Chargor shall procure that the relevant instrument of transfer is forthwith registered in the relevant company and that the share certificate(s) in the name of the Chargor together with a further instrument of transfer executed in accordance with clause 5.1(b) relating to such Shares, are forthwith delivered to the**

Security Agent.

## **6 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

### **6.1 Negative Pledge**

The Chargor is not to create, extend or permit to subsist any security over any of the Secured Property.

### **6.2 Restrictions on Disposals**

The Chargor is not to sell, transfer or otherwise dispose of his interest (whether legal or beneficial) in the Secured Property.

### **6.3 Exceptions**

Clauses 6.1 (Negative pledge) and 6.2 (Restrictions on disposals) do not apply:

- (a) to the security created or required to be created by this deed; or
- (b) to any security or transaction to which the Security Agent has given its written consent; or
- (c) to any security permitted under the Facility Agreement.

## **7 REPRESENTATIONS AND WARRANTIES**

The Chargor represents and warrants to the Security Agent on the date of this deed and on each subsequent date upon which the representations and warranties set out in the Facility Agreement are repeated and upon which there are Secured Obligations outstanding as follows:

### **7.1 Power and Enforceability**

The Chargor has the power to enter into this deed and to perform his obligations and exercise his rights under it and, subject to the Legal Reservations, the obligations expressed to be assumed by the Chargor under this deed are (and at all relevant times have been) legal, valid, binding and enforceable obligations.

### **7.2 No Event of Default**

- (a) No Event of Default is continuing or would reasonably be expected to result from the execution of this deed or from effect being given to its provisions.
- (b) No person who holds any other security over the Secured Property or over any other asset of the Chargor has enforced or given notice in writing of its intention to enforce such security.

### **7.3 Non-Conflict with Other Obligations**

Neither the execution of this deed by the Chargor, nor the Chargor's compliance with its terms will:

- (a) conflict with or result in any breach of any law or regulation applicable to it;
- (b) cause any limitation on any of its powers or on the right or ability of its directors to exercise those powers to be exceeded; nor
- (c) constitute a default, acceleration of payment or termination event (however described) under any agreement or instrument binding upon it.

### **7.4 Authorisations**

All Authorisations required for the execution, delivery, issue, validity or enforceability of this deed or of the performance of the Chargor's obligations or the exercise of their rights under this deed have been obtained and have not been (and the Chargor is not aware of any circumstance having arisen whereby they might be) withdrawn.

### **7.5 Priority of Security**

The legal and equitable mortgages and fixed charges contained in clause 3.1 (*Grant of security*) constitute first priority security over the assets which are expressed to be secured by such mortgages and charges and those assets are not subject to any prior or *pari passu* security.

### **7.6 Matters relating to the Shares**

- (a) The Shares specified in Schedule 1 (the *Shares*) are at the date of this deed the only shares existing in the Borrower and the only Shares legally and beneficially owned by the Chargor. The Chargor is the sole owner of his holdings of the Shares specified in Schedule 1 (*the Shares*)
- (b) The Chargor is and will remain the only beneficial owner of the Secured Property and (save where the Shares have been registered in the name of the Security Agent or its nominee pursuant to the provisions of this deed) he and/or his respective nominees are and will remain the absolute legal owners of their respective holdings of the Shares subject to the provisions of this deed.
- (c) The Shares are fully paid and none of the Secured Property is subject to any lien, charge, equity, encumbrance, option to purchase or similar rights of any person other than the Security Agent or as permitted by the Facility Agreement.
- (d) The Security Agent is entitled to be registered or to require a nominee to be registered as member of each of the relevant companies to which the Shares relate without any right of the board of directors of any such company to refuse registration or to consent to such registration only subject to satisfaction of conditions.

## **8 UNDERTAKINGS**

The Chargor undertakes to the Security Agent in the terms of the following provisions of this clause 8, all such undertakings to commence on the date of this deed and to continue throughout the Security Period:

### **8.1 Matters relating to Shares**

- (a) The Chargor will promptly upon receipt of the same deliver to the Security Agent copies of all material notices, circulars, letters, reports accounts and other communications with shareholders relating to their respective holdings of the Shares.
- (b) The Chargor will pay all calls or other payments due and payable (save for any being contested in good faith and which would not have an adverse effect on the security created by this deed) in respect of any of the Secured Property.
- (c) Save with the prior written consent of the Security Agent the Chargor will not:
  - (i) take any action whereby or as a consequence whereof the rights attaching to the Shares are altered or diluted or the issued capital of any of the companies whose Shares are charged by this deed increased;
  - (ii) participate in any rights issue relating to the Shares; or
  - (iii) apply for, or consent to, the conversion of any Shares held in certificated form into uncertificated form.

### **8.2 Not to jeopardise Security**

The Chargor will not do anything or allow anything to be done which may in any way depreciate, jeopardise or otherwise prejudice the value to the Security Agent of the security constituted by this deed or the priority of its ranking as expressed in this deed.

### **8.3 Further Assurance**

The Chargor will at all times (and forthwith upon the Security Agent's written request) but at the Chargor's expense take all steps (including the making of all filings and registrations and the payment of all fees and taxes) and execute all documents necessary (a) to render effective and valid any security or any right or power created or intended to be created or evidenced under or by this deed but which is or may be ineffective or invalid, (b) to perfect or protect any such security or to facilitate its enforcement or realisation, (c) to protect the Security Agent's position under this deed or any other deed or document entered into pursuant to this deed or (d) in connection with the exercise of any of any rights or powers by any Enforcement Party under or in relation to this deed, and so that any security document required to be executed pursuant to this clause will be in such form and will contain such provisions as the Security Agent may reasonably require.

### **8.4 Power to Remedy**

If the Chargor fails to comply with any of the covenants and undertakings set out or referred to in clauses 8.1 to 8.3 inclusive the Chargor will allow (and hereby irrevocably authorise) the Security Agent and/or any other Enforcement Party to take such action (including the making

of payments) on behalf of the Chargor as is necessary to ensure that such covenants are complied with.

#### **8.5 Expenses**

The Chargor will pay all Expenses within 10 Business Days of written demand. If the Chargor does not do so, the Expenses will bear Interest at the Default Rate from and including the date of demand to and including the date of actual payment.

### **9 DIVIDENDS AND VOTING RIGHTS**

9.1 Until the occurrence of an Event of Default which is continuing, the Chargor:

- (a) will be entitled to receive and retain all dividends, distributions, interest and other monies paid on or derived from its holdings of the Shares;
- (b) will be entitled to exercise all voting and other rights and powers attaching to its holdings of the Shares, provided that he will not exercise any such voting rights or powers in a manner which would prejudice the value of, or the ability of the Security Agent to realise the security created by this deed; and
- (c) shall give to the Security Agent reasonable notice of the manner in which he proposes to exercise the rights and powers referred to in clause 9.1(b).

9.2 Upon the occurrence of an Event of Default which is continuing, the Security Agent may exercise or refrain from exercising voting or other rights and powers as it thinks fit and may retain any dividends, payments or other distributions, but in any case the Security Agent will not be under any duty to ensure that any dividend, distributions or other monies payable in respect of those Shares are duly and promptly paid or received by it or its nominee or to verify that the correct amounts are paid or received by it or its nominee or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Shares.

9.3 After the occurrence of an Event of Default which is continuing, and in the event that any Shares are registered in the name of the Chargor or its respective nominee(s), the Chargor shall and shall procure that its respective nominee(s) shall:

- (a) comply with the directions of any Enforcement Party in respect of the exercise of the voting and other rights and powers attaching to the Shares and shall deliver to such Enforcement Party as directed such forms of proxy or other Authorisation as may be appropriate to allow any Enforcement Party to exercise such rights and powers; and
- (b) hold in trust for and promptly pay or deliver to the Security Agent any Distribution Rights received by the Chargor respectively.

### **10 ENFORCEABILITY**

For the purposes of all powers implied by the LPA or any other applicable statute, the Secured Obligations shall be deemed to have become due and payable and this deed will become immediately enforceable and the powers of the Security Agent and any Receiver will become exercisable pursuant to the terms of the Facility Agreement, but, as between the

Security Agent and the Chargor, the power of sale and other powers conferred by this deed shall be exercisable only upon the occurrence of an Event of Default which is continuing (unless there has been a request from the Chargor to the Security Agent for the appointment of a Receiver, in which case they shall be exercisable when so provided or at any time following the making of such request as the case may be).

## **11 ENFORCEMENT OF SECURITY**

- 11.1 At any time after the Security Agent's power of sale has become exercisable, the Security Agent may appoint one or more than one Receiver in respect of the Secured Property and if more than one Receiver is appointed the Receiver may act jointly and severally or individually.
- 11.2 The Security Agent may remove the Receiver and appoint another Receiver and the Security Agent may also appoint an alternative or additional Receiver.
- 11.3 The Receiver will, so far as the law permits, be the agent of the Chargor and the Chargor will be jointly and severally responsible for the acts or defaults of the Receiver and will be liable on any contracts or obligations made or entered into by the Receiver. The Security Agent will not be responsible for any misconduct, negligence or default of the Receiver.
- 11.4 The remuneration of the Receiver may be fixed by the Security Agent but will be payable by the Chargor. The amount of the remuneration will form part of the Secured Obligations.
- 11.5 The Receiver will have the power on behalf and at the cost of the Chargor:
- (a) to do or omit to do anything which he considers appropriate in relation to the Secured Property; and
  - (b) to exercise all or any of the powers conferred on the Receiver or the Security Agent under this deed or conferred upon administrative receivers by the Insolvency Act (even if he is not an administrative receiver), or upon receivers by the LPA or any other statutory provision (even if he is not appointed under the LPA or such other statutory provision).
- 11.6 Without prejudice to the general powers set out in clause 11.5, a Receiver will also have the powers and discretions set out in Schedule 2 (*Receiver's specific powers*).
- 11.7 If (notwithstanding any representation or warranty to the contrary contained in this deed) there shall be any security affecting the Secured Property which ranks in priority to the security created by this deed and the holder of such prior security takes any steps to enforce such security, the Security Agent or any Receiver may, at its option, take a transfer of, or repay the indebtedness secured by, such security.
- 11.8 The Security Agent may, at any time after this deed has become enforceable pursuant to clause 10 (*Enforceability*), exercise, to the fullest extent permitted by law, all or any of the powers authorities and discretions conferred on a Receiver by this deed, whether as attorney of the Chargor or otherwise and whether or not a Receiver has been appointed.
- 11.9 The Security Agent may, in writing, either in its appointment of a Receiver or by subsequent notice to that Receiver, restrict the right of such Receiver to exercise all or any of the powers conferred on Receivers by this deed.



## **12 APPLICATION OF PROCEEDS**

### **12.1 Recoveries by Receiver**

The proceeds arising from the exercise of the powers of the Receiver will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Receiver in or towards discharging or satisfying the Secured Obligations.

## **13 PROTECTION OF THIRD PARTIES**

### **13.1 No Duty to Enquire**

A buyer from or other person dealing with any Enforcement Party will not be concerned to enquire whether any of the powers which such Enforcement Party has exercised or purported to exercise have arisen or become exercisable and may assume that such Enforcement Party is acting in accordance with this deed.

### **13.2 Receipt Conclusive**

Receipt by the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser of the Secured Property and shall relieve such purchaser of any obligation to see to the application of any monies paid to or by the direction of the Security Agent or any Receiver.

## **14 PROTECTION OF SECURITY AGENT**

### **14.1 Security Agent's Receipts**

The Security Agent's obligation to account (whether to the Chargor or to any other person) shall be limited to the Security Agent's own actual receipts which the Security Agent must distribute or pay to the person entitled (or who the Security Agent, acting reasonably, believes to be entitled) in accordance with the requirements of this deed.

### **14.2 Exclusion of Liability**

- (a) No Enforcement Party will be liable to the Chargor for any expense, loss liability or damage incurred by the Chargor arising out of the exercise of its rights or powers or any attempt or failure to exercise those rights or powers except any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.
- (b) The Chargor may not take any proceedings against any officer, employee or agent of the Security Agent in respect of any claim it might have against the Security Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to this deed. Any officer, employee or agent of the Security Agent may rely on this clause 14 under the Third Parties Act.

### **14.3 Effect of Possession**

If the Security Agent or any Receiver registers itself or any nominee as the holder of the Shares or otherwise enters into possession of the Secured Property this will not oblige either the Security Agent or the Receiver to account as mortgagee in possession.

#### **14.4 Chargor's Indemnity**

The Chargor agrees with the Security Agent to indemnify each Enforcement Party within 10 Business Days of written demand against any costs, loss or liability incurred by it in respect of:

- (a) any exercise of the powers of the Security Agent or the Receiver or any attempt or failure to exercise those powers; and
- (b) anything done or omitted to be done in the exercise or purported exercise of the powers under this deed or under any appointment duly made under the provisions of this deed.

### **15 POWER OF ATTORNEY**

#### **15.1 Grant of Power**

The Chargor irrevocably and by way of security appoints the Security Agent and each Receiver and any person nominated for the purpose by the Security Agent or the Receiver (in writing, under hand, signed by an officer of the Security Agent or by the Receiver) to be the attorney of the Chargor, (with full power of substitution and delegation), for the purposes set out in clause 15.2 below.

#### **15.2 Extent of Power**

The power of attorney granted in clause 15.1 above allows the Security Agent, the Receiver or such nominee in the name of the Chargor and on its behalf and as its act and deed:

- (a) to perfect the security given by the Chargor under this deed where the Chargor has failed to take such actions as directed by the Security Agent or the Receiver; and
- (b) to execute and deliver any document or do any act or thing which the Chargor may, ought or have agreed to execute or do under this deed or which the Security Agent, the Receiver or such nominee may in their absolute discretion, acting reasonably, consider appropriate in connection with the exercise of any of the rights, powers authorities or discretions of the Security Agent or the Receiver under, or otherwise for the purposes of, this deed.

#### **15.3 Ratification**

The Chargor covenants with the Security Agent to ratify and confirm all acts or things made, done or executed by any attorney exercising or purporting to exercise the powers conferred in accordance with this clause 15.

### **16 APPLICATION, VARIATION AND EXTENSION OF STATUTORY PROVISIONS**

#### **16.1 Conditions applicable to Power of Sale etc.**

- (a) For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of clause 10 (*Enforceability*)), the conditions set out in that section as to when such powers arise do not apply and the Secured Obligations become due and the statutory power of sale and other powers of enforcement arise immediately

following the execution of this deed.

- (b) The Security Agent and any Receiver may exercise the statutory power of sale conferred by the LPA free from the restrictions imposed by section 103 of the LPA, which shall not apply to this deed.

#### **16.2 Extension of Powers of Sale, etc.**

- (a) The power of sale and the other powers conferred by the LPA or otherwise are extended and varied to authorise the Security Agent in its absolute discretion to do all or any of the things or exercise all or any of the powers which a Receiver is empowered to do or exercise under this deed.
- (b) The Security Agent and any Receiver shall also have and enjoy all the other powers, privileges, rights and protections conferred by the LPA and the Insolvency Act on mortgagees, receivers or administrative receivers (each as amended and extended by this deed and whether or not a receiver or administrative receiver has been appointed) but so that if there is any ambiguity or conflict between the powers contained in such statutes and those contained in this deed, those contained in this deed shall prevail.

#### **16.3 Consolidation of Mortgages**

The restriction on the consolidation of mortgages in Section 93 of the LPA does not apply to this deed nor to any security given to the Security Agent pursuant to this deed.

#### **16.4 LPA provisions relating to Appointment of Receiver**

Section 109(1) of the LPA shall not apply to this deed.

#### **16.5 Application of Proceeds**

Sections 105, 107(2), 109(6) and 109(8) of the LPA will not apply to the Security Agent nor to a Receiver appointed under this deed.

#### **16.6 Insolvency Act**

The Security Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act.

### **17 OTHER MISCELLANEOUS PROVISIONS**

#### **17.1 Powers, Rights and Remedies Cumulative**

The powers, rights and remedies provided in this deed are in addition to (and not instead of), powers, rights and remedies under law.

#### **17.2 Exercise of Powers, Rights and Remedies**

If an Enforcement Party fails to exercise any power, right or remedy under this deed or delays its exercise of any power, right or remedy, this does not mean that it waives that power, right

or remedy. If an Enforcement Party exercises, or partly exercises, a power, right or remedy once, this does not mean that it cannot exercise such power right or remedy again, fully or in part.

### **17.3 Discretion**

(a) The Security Agent may decide:

- (i) whether and, if so, when, how and to what extent (i) to exercise its rights under this deed and (ii) to exercise any other right it might have in respect of the Chargor (or otherwise); and
- (ii) when and how to apply any payments and distributions received for its own account under this deed,

and the Chargor has no right to control or restrict the Security Agent's exercise of this discretion.

(b) No provision of this deed will interfere with the Security Agent's right to arrange its affairs as it may decide (or oblige it to disclose any information relating to its affairs), except as expressly stated.

### **17.4 Set-off and Combination of Accounts**

(a) No right of set-off or counterclaim may be exercised by the Chargor in respect of any payment due to the Security Agent under this deed.

(b) The Security Agent may at any time following the occurrence of an Event of Default which is continuing and without notice to the Chargor:

- (i) combine or consolidate all or any of the Chargor's then existing accounts with, and liabilities to, the Security Agent;
- (ii) set off or transfer any sums standing to the credit of any one or more of such accounts; and/or
- (iii) set-off any other matured obligation owed by the Security Agent to the Chargor,

in or towards satisfaction of any of the Secured Obligations. The Security Agent is to notify the Chargor in writing that such a transfer has been made.

(c) If any amount is in a different currency from the amount against which it is to be set off, the Security Agent may convert either amount (or both) at any reasonable time and at any reasonable rate.

### **17.5 Power to open New Account**

If the Security Agent receives notice of a subsequent mortgage or charge relating to the Secured Property, it will be entitled to close any account and to open a new account in

respect of the closed account. If the Security Agent does not open such new account, it will be treated as if it had done so at the time when it received such notice.

**17.6 Other Security**

The Chargor authorises the holder of any prior or subsequent security to provide to the Security Agent, and the Security Agent to receive from such holder details of the state of account between such holder and the Chargor.

**17.7 No Assignment by Chargor**

The Chargor must not assign, novate or otherwise deal with its rights or obligations under or interests in this deed.

**17.8 Transfer by Security Agent**

- (a) The Security Agent may at any time assign, novate or otherwise deal with any rights or obligations under or interests in this deed.
- (b) The Security Agent may disclose any information about the Chargor, the Secured Property and/or this deed to any person to whom it proposes to assign or novate or transfer (or has assigned, novated or transferred) any rights or obligations under or interests in this deed or with whom it proposes to enter into (or has entered into) any other dealings in relation to any such rights, obligations or interests.
- (c) Any person to whom the benefit of all such rights has been transferred, subject to such obligations, may enforce this deed in the same way as if it had been a Party.

**17.9 Avoidance of Settlements and Other Matters**

- (a) Any payment made by the Chargor, or settlement or discharge between the Chargor and the Security Agent, is conditional upon no security or payment to the Security Agent by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and accordingly (but without limiting the Security Agent's other rights under this deed) the Security Agent shall be entitled to recover from the Chargor the value which the Security Agent has placed upon such security or the amount of any such payment as if such payment, settlement or discharge had not occurred.
- (b) If the Security Agent reasonably considers that any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or ordered to be refunded or reduced for the reasons set out in clause 17.9(a), then for the purposes of this deed such amount shall not be considered to have been irrevocably paid.

**18 COMMUNICATIONS**

- 18.1 Any notice or demand by the Security Agent hereunder shall be deemed to have been sufficiently given or made if sent by hand or prepaid letter post to the address of the Chargor stated in Schedule 3 or such other address as the Chargor shall notify in writing to the Security Agent for this purpose from time to time.

18.2 Any such notice or demand given or made under clause 18.1 shall be deemed to have been served on the Chargor:

- (a) at the time of delivery to the address referred to in clause 18.1 if sent by hand;
- (b) at the earlier of the delivery or 10.00am on the day after posting (or, if the day after posting be a Sunday or any other day upon which no delivery of letters is made, at the earlier of the time of delivery or 10.00am on the next succeeding day on which delivery of letters is scheduled to be made), if sent by prepaid first class letter post; or
- (c) on the expiry of 72 hours from the time of despatch, in any other case.

18.3 Any notice or communication must be received by the Security Agent at the address of its branch, office or department mentioned under its name on the first page of this deed (or such other address as the Security Agent may notify to the Chargor in writing for this purpose).

## **19 GOVERNING LAW AND JURISDICTION**

### **19.1 Governing law**

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

### **19.2 Jurisdiction**

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "Dispute"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This clause 19.2 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, each Enforcement Party may take concurrent proceedings in any number of jurisdictions.

## **20 THIS DEED**

### **20.1 Consideration**

The Chargor has entered into this deed in consideration of the Security Agent agreeing to provide (or to continue to provide) finance facilities to the Borrower on the terms agreed between them.

### **20.2 Execution of this Deed - Counterparts**

If the Parties execute this deed in separate counterparts, this deed will take effect as if they had all executed a single copy.

### **20.3 Execution of this Deed - Formalities**

This deed is intended to be a deed even if any Party's execution is not in accordance with the formalities required for the execution of deeds.

#### **20.4 Partial Invalidity**

- (a) If, at any time, any provision of this deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.
- (b) If any Party is not bound by this deed (or any part of it) for any reason, this does not affect the obligations of each other Party under this deed (or under the relevant part).

#### **20.5 Other Security**

This deed is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other security or guarantee which the Security Agent may now or at any time after the date of this deed hold for or in respect of the Secured Obligations.

#### **20.6 Ownership of this Deed**

This deed and every counterpart is the property of the Security Agent.

#### **20.7 No Conflict**

In the event of any inconsistency between the terms of this deed and the Facility Agreement, the Facility Agreement shall prevail.

**THIS DEED** is made and delivered as a deed on the date given on page 1.

## **SCHEDULE 1**

### **The Shares**

<b>Name of company in which Shares are held</b>	<b>Jurisdiction of registration and company number</b>	<b>Number and class of Shares (and where held by nominees names of nominees)</b>	<b>Owner</b>
Manchester Quays Limited	England and Wales  registration number 08611587	100 ordinary shares of £1 each	Manchester Quays Holding Limited



## **SCHEDULE 2**

### **Receiver's Specific Powers**

The Receiver will have full power and authority:

#### **1 POSSESSION**

- 1.1 To take possession of and generally manage the Secured Property.
- 1.2 To collect and get in all the Distribution Rights.

#### **2 SALE AND DISPOSAL**

Without restriction, to sell, charge, grant or vary the terms or accept surrenders of options or rights over, or otherwise deal with and dispose of the Secured Property or any assets acquired in the exercise of its powers under this deed.

#### **3 ACQUISITION**

To purchase or acquire any assets or rights required or convenient for the exercise of the Receiver's powers under this deed.

#### **4 BORROWING**

For the purpose of exercising any of the rights, powers, authorities and discretions conferred on the Receiver by or pursuant to this deed and/or for defraying any losses or Expenses which may be incurred by him in their exercise or for any other purpose, to raise or borrow any money from the Security Agent or others or to incur any other liability on such terms, whether secured or unsecured, as he may think fit, and whether to rank in priority to this security or not.

#### **5 APPOINTMENTS, ETC.**

To appoint and discharge employees, officers, consultants, advisers, managers, agents, solicitors, accountants or other professionally qualified persons, workmen and others for any of the purposes of this deed or to protect the Secured Property upon such terms as to remuneration or otherwise as he may think fit and to discharge any such persons appointed by the Chargor prior to his appointment.

#### **6 LEGAL ACTIONS AND COMPROMISES**

- 6.1 In the name of the Chargor, to bring, prosecute, enforce, defend and discontinue all such actions, suits and proceedings, in relation to the Chargor, the Secured Property or any business carried on from the Property, as in any case he thinks fit.
- 6.2 To settle, adjust, refer to arbitration or expert determination, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or body who is or claims to be a creditor of the Chargor or relating in any way to the Secured Property.

#### **7 RECEIPTS**

To give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Secured Property.

## **8 CONTRACTS**

To enter into, vary, cancel or waive any of the provisions of any contracts relating to the Secured Property which he shall in any case think expedient in the interests of the Chargor or the Security Agent.

## **9 INSURANCES AND BONDS**

To insure the Secured Property, any assets acquired by him in the exercise of his powers, and effect indemnity insurance or other similar insurance, in every case in such amounts, against such risks and with such offices as he thinks fit, and obtain bonds and give indemnities and security to any bondsmen.

## **10 FORM COMPANY**

10.1 To promote or establish any company or to acquire shares in any company (whether as a subsidiary of the Chargor or otherwise) to facilitate the exercise of his powers under this deed.

10.2 To transfer to any such company all or any of the Secured Property or other assets acquired by him in the exercise of his powers.

10.3 To exercise or cause to be exercised all voting and other rights attaching to, and to charge, sell or otherwise transfer any shares in any such company.

## **11 VOTING RIGHTS**

To exercise all voting and other rights attaching to the Shares and all other stocks, shares and securities owned by the Chargor and comprised in the Secured Property in such manner as he may think fit.

## **12 TRANSACTION**

To carry into effect and complete any transaction which the Receiver thinks is necessary for preservation of the right under this Deed.

## **13 REDEEM SECURITY**

To redeem any prior security (or procure the transfer of such security to himself or another Enforcement Party) and settle and pass the accounts of the person entitled to the 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.

## **14 GENERAL**

Either in the name of the Chargor or in the name of the Receiver, to execute documents and do all other acts or things which the Receiver may consider to be incidental or conducive to any of the Receiver's powers or to the realisation or use of the Secured Property.

### **SCHEDULE 3**

#### **The Chargor**

<b>Name</b>	<b>Address</b>
Manchester Quays Holding Limited	2 Atherton Street, Manchester M3 3GS

## EXECUTION

### The Chargor

EXECUTED as a DEED by  
MANCHESTER QUAYS HOLDING  
LIMITED

acting by one of its directors in the presence  
of a witness:

**Director**

Signature :

Name :

SURESH GORASIA

**Witness**

Signature :

Name :

Address :

Occupation :

GEORGINA SCOTT

THE XYZ BUILDING, 2 HARDMAN BOULEVARD, SPINNINGFIELDS, M3 3AZ

TRAINEE SOLICITOR

**Communications to be delivered to:**

**Address:** 2 Atherton Street, Manchester, M3  
3GS

**The Security Agent**

**EXECUTED as a DEED by  
CBRE LOAN SERVICES LIMITED**

) \_\_\_\_\_  
) Name:  
) \_\_\_\_\_  
) Name:

**Communications to be delivered to:**

**Address:**

St. Martin's Court  
10 Paternoster Row  
London  
EC4M 7HP

**Fax number:** 020 7182 2198

**Attention:**