



Registration of a Charge

Company name: **SOUTH QUAY PROPERTIES LIMITED**

Company number: **02830131**



X6CC1TBT

Received for Electronic Filing: **07/08/2017**

Details of Charge

Date of creation: **26/07/2017**

Charge code: **0283 0131 0009**

Persons entitled: **BARCLAYS BANK PLC**

Brief description: **LEASEHOLD PROPERTY KNOWN AS SECTIONS I AND II HERON QUAYS, MARSH WALL, WEST INDIA DOCK, LONDON (AS SHOWN ON THE PLAN ATTACHED TO THE INSTRUMENT) BEING PART OF THE LAND REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER EGL234067.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.

Certified by:

BERWIN LEIGHTON PAISNER LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2830131

Charge code: 0283 0131 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th July 2017 and created by SOUTH QUAY PROPERTIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th August 2017 .

Given at Companies House, Cardiff on 9th 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

DATED 26 July 2017

SOUTH QUAY PROPERTIES LIMITED
as Chargor

BARCLAYS BANK PLC
as Security Agent

MORTGAGE

in respect of the Deck adjoining Newfoundland

We certify that, save for material redacted pursuant to s.859G Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Berwin Leighton Paisner LLP
Berwin Leighton Paisner LLP
Adelaide House
London Bridge
London EC4R 9HA

7/8/17



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DATED 26 July 2017

PARTIES

- (1) **SOUTH QUAY PROPERTIES LIMITED** (company number 02830131) whose registered office is at One Canada Square, Canary Wharf, London E14 5AB (the "Chargor")
- (2) **BARCLAYS BANK PLC** as security trustee for the Secured Parties (the "Security Agent")

BACKGROUND

- (A) The Secured Parties have agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrower and/or others on the security created by this Deed.
- (B) The Chargor has agreed to charge certain of its assets as security to the Security Agent as set out in this Deed to secure the payment and discharge of the Secured Liabilities.
- (C) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

OPERATIVE PROVISIONS

1 **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Deed:

"Act" means the Law of Property Act 1925.

"Agreement for Lease" has the meaning given to it in the Facility Agreement.

"Borrower" means Vertus NFL Limited (registered in England and Wales with company number 9463336).

"Charged Assets" means each and all of the assets, property, undertaking and other interests from time to time assigned or charged or intended to be assigned or charged by this Deed and the subject matter of each of them.

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"Facility Agreement" means a facility agreement dated 23 March 2016 and made between, among others, the Borrower (1) and the Security Agent (2) as amended and restated on 2 March 2017 and any letter, agreement, charge, deed or other instrument entered into under or supplemental to it.

"Income" means Operating Income and Rental Income.

"Lease Document" means:

- (a) an Agreement for Lease;

- (b) an Occupational Lease; or
- (c) any other document designated as such by the Agent and the Chargor.

"**Occupational Lease**" has the meaning given to it in the Facility Agreement.

"**Operating Income**" means all revenue and income relating to or generated from the Property or the occupation or use of the Property.

"**Party**" means a party to this Deed.

"**Property**" means the property details of which are set out in Part 1 of Schedule 1 (*The Property*) including all:

- (a) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (b) easements, access-rights, rights of way, wayleaves and rights attaching to it.

"**Receiver**" means a receiver or receiver and manager appointed by the Security Agent under this Deed (whether sole, joint and/or several and including any substitute) of the whole or any part of the Charged Assets.

"**Related Rights**" means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) all monies and proceeds paid or payable in respect of that asset,

both present and future (including all rights against any trustee, nominee, fiduciary or clearing system).

"**Rental Income**" means the aggregate of all amounts payable to or for the benefit or account of any Chargor in connection with the letting of the Property or any part thereof, including (without duplication or double counting or limiting the generality of the foregoing) each of the following amounts so payable:

- (a) Rent (and any amount equivalent thereto) payable whether it is variable or not and however or whenever it is described, reserved or made payable;
- (b) any amount payable in respect of rent by any surety or guarantor of any rent;
- (c) any increase of rent payable by virtue of an offer falling within the proviso of Section 3(1) of the Landlord and Tenant Act 1927;
- (d) any rent payable by virtue of a determination made by the Court under Section 24(A) of the Landlord and Tenant Act 1954;

- (e) sums received by the Chargor (and to which that Chargor is beneficially entitled) from any deposit held as security for performance of any tenant's obligations;
- (f) any other monies payable in respect of occupation and/or usage of the Site and every fixture and fitting therein and any and every fixture thereon, on licence or otherwise;
- (g) any profits awarded or agreed to be payable as a result of any proceedings taken or claim made for the same;
- (h) any damages, compensation, settlement or expenses for or representing loss of rent or interest thereon awarded or agreed to be payable as a result of any proceedings taken or claim made for the same net of any costs, fees and expenses paid (and which have not been reimbursed to, and which are not recoverable by, the Chargor from any party) in furtherance of such proceedings so taken or claim so made;
- (i) any monies payable under any policy of insurance in respect of loss of rent or interest thereon;
- (j) any sum payable or the value of any consideration to be given by or on behalf of a tenant for the surrender or variation of any Occupational Lease Document or occupancy agreement; and
- (k) any interest payable on any sum referred to above and any damages, compensation or settlement payable in respect of the same.

"Security Interest" means any mortgage, pledge, lien, charge, assignment by way of security, hypothecation or security interest or any other agreement or arrangement having a similar effect.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document.

"Secured Party" means a Finance Party, a Receiver or any Delegate.

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and includes any other tax replacing it or of a similar fiscal nature.

1.2 **Construction**

- 1.2.1 Unless the contrary intention is expressed, all defined terms in the Facility Agreement have the same meaning here.
- 1.2.2 The construction provisions set out at clause 1.2 (*Construction*) of the Facility Agreement shall apply equally to this Deed.
- 1.2.3 If any provision of this Deed shall conflict with any term of the Facility Agreement then the relevant term of the Facility Agreement shall prevail.
- 1.2.4 The Chargor acknowledges and accepts the manner in which the Accounts are to be opened, maintained and run in accordance with the Facility Agreement.

1.3 Disposition of Property

The terms of any other Finance Document and of any side letters between the Parties are incorporated into each Finance Document to the extent required for the purported disposition of any Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 COVENANT FOR PAYMENT

2.1 Covenant to pay

Subject to Clause 12.2 (*Limited recourse*), the Chargor covenants with the Security Agent that it will:

- (a) on demand, pay and discharge each and all of the Secured Liabilities when due; and
- (b) indemnify and keep each Secured Party indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenant or other obligation of the Chargor to that Secured Party.

2.2 Survival of obligations

The payment obligations of the Chargor under the Finance Documents shall survive the enforcement of the whole or any part of the Charged Assets.

3 SECURITY

3.1 General

All the security created under this Deed is created in favour of the Security Agent as continuing security for the payment and discharge of the Secured Liabilities with full title guarantee.

3.2 Mortgage

The Chargor charges the Property by way of legal mortgage.

3.3 Fixed charge

The Chargor charges by way of fixed charge each of the following including all rights of enforcement of the same:

- (a) all fixtures, fittings, plant machinery, manuals and other chattels in respect of the Property and all guarantees and warranties in respect of any of them;
- (b) all easements, licences and other rights relating to the Property in which it has an interest; and
- (c) all Related Rights in respect of the Charged Assets referred to in this Clause 3.3 (*Fixed charge*) and Clause 3.2 (*Mortgage*).

3.4 **Assignment**

The Chargor assigns subject to the provisions of Clause 10 (*Discharge*) each of the following including all rights of enforcement of the same subject to a proviso for re-assignment on redemption:

- (a) the Income;
- (b) the proceeds of any disposal of the Property;
- (c) the monies payable to it under any insurances relating to the Property;
- (d) all causes of action and other rights and remedies in connection with the Property which it has an interest; and
- (e) all Related Rights in respect of the Charged Assets referred to in this Clause 3.4 (*Assignment*).

4 **PERFECTION OF SECURITY**

4.1 **Further assurance**

Each Chargor shall execute and do at its own cost and in such form as reasonably required by the Security Agent:

- (a) such further additional mortgages, charges, assignments, transfers and conveyances; and
- (b) such assurances, deeds, documents, acts and things,

as the Security Agent may reasonably require to perfect or protect the security created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

4.2 **Notices**

If the Security Agent so requests, the Chargor shall serve a notice of assignment in respect of any Charged Asset in substantially the form set out in Schedule 3 (*Notice of assignment or charge of contract*) and use its reasonable endeavours to procure an acknowledgement of that notice in form and substance satisfactory to the Security Agent (acting reasonably).

4.3 **Restriction**

The Chargor authorises the Security Agent to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estate:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of [●] referred to in the Charges Register (or its conveyancer)."

5 **REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties set out in this Clause 5 (*Representations and warranties*) to each Secured Party.

5.1 **Status**

5.1.1 It is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.

5.1.2 It has the power to own its assets and carry on its business, as it is being conducted.

5.2 **Binding obligations**

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal valid binding and enforceable obligations.

5.3 **Powers and authority**

5.3.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

5.3.2 No limit on its powers will be exceeded as a result of the grant of security contemplated by this Deed.

5.4 **Non-conflict**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation or judicial or official order applicable to it; or
- (b) its constitutional documents; or
- (c) in any respect, which is material to the interests of any Finance Party, any document which is binding upon it or any of its assets in any way unless the relevant conflict has been previously consented to or waived by the appropriate person.

5.5 **No default**

No event is outstanding which constitutes a default under any document which is binding on it or any of its assets to an extent or in a manner which would be likely to have a Material Adverse Effect.

5.6 **Authorisations**

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by this Deed, have been obtained or effected (as appropriate) and are in full force and effect.

5.7 **Registration requirements**

Subject to:

- (a) the Legal Reservations;
- (b) due registration of this Deed under sections 860 and 870 of the Companies Act 2006; and
- (c) due registration of this Deed at the Land Registry under the Land Registration Act 2002,

it is not necessary that this Deed be filed, recorded or enrolled with any authority or that any stamp, registration or similar tax be paid on or in respect thereof.

5.8 **Ranking of security**

Subject to the Legal Reservations, the security conferred by this Deed constitutes, subject (where applicable) to due registration, a security interest of the type and the priority therein described over the Charged Assets therein referred to which are not subject to any prior or *pari passu* Security Interests.

5.9 **Centre of Main Interests**

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**"), its centre of main interest (as that term is used in article 3(1) of the Regulation) is situated in its jurisdiction of incorporation and it has no "establishment" (as that term is used in article 2(h) of the Regulations) in any other jurisdiction.

5.10 **Governing law and enforcement**

Subject to the Legal Reservations:

- (a) the choice of governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions; and
- (b) any judgment obtained in relation to this Deed in the jurisdiction of the governing law of this Deed will be recognised and enforced in its Relevant Jurisdiction.

5.11 **Information**

5.11.1 To the best of its knowledge and belief:

- (a) all written factual information supplied by it or on its behalf to the Finance Parties in connection with this Deed is true, complete and accurate as at its date in all material respects;
- (b) the information referred to in Clause 5.11.1(a) did not omit as at its date any information which, if disclosed, might materially adversely affect the decision of a person considering whether to enter into the Facility Agreement or to provide finance for the Development; and
- (c) nothing has occurred since the date the information referred to in Clause 5.11.1(a) was provided which renders the information contained in it untrue, incomplete, inaccurate or misleading in any material respect which has not been disclosed to the Security Agent prior to the date of this Deed.

5.11.2 It has good and marketable title to its interest in the Property, free from:

- (a) Security Interests (other than those set out in the Security Documents); and
- (b) (except as disclosed in any Certificate of Title in relation to the Property delivered pursuant to Clause 4 (*Conditions Precedent*) of the Facility Agreement) restrictions and onerous covenants,

and all deeds and documents necessary to show good and marketable title to those interests in the Property are in the possession, or held at an appropriate Land Registry or by solicitors acceptable to the Security Agent to the order, of the Security Agent.

5.11.3 Save as disclosed in any Certificate of Title and in any reports delivered pursuant to Clause 4 (*Conditions Precedent*) of the Facility Agreement:

- (a) there subsists no breach of any law or regulation which adversely affects or would reasonably be expected to affect adversely, in any material respect, the value of the Property;
- (b) there are no covenants, agreements, stipulations, reservations, conditions, interest, rights or other matters whatsoever which adversely affect the Property;
- (c) except pursuant to the Finance Documents and the Lease Documents, nothing has arisen or has been created or is subsisting which would be an overriding interest over the Property;
- (d) no facility necessary for the enjoyment and use of the Property is enjoyed on terms entitling any person to terminate or curtail its use;
- (e) as far as it is aware, no Transaction Obligor has received notice of any adverse claim by any person in respect of the ownership of the Property or any interest in it, nor has any acknowledgement been given to any person in respect of the Property; and
- (f) save for the Finance Documents and the Lease Documents to which the Obligors are party, the Property is free from any Security Interest or any tenancies or licence.

5.12 **Information for Certificates of Title**

5.12.1 The information supplied by it or on its behalf to the lawyers who prepared any Certificate of Title in relation to the Property for the purpose of that Certificate of Title was true and accurate in all material respects as at its date or (if appropriate) as at the date (if any) at which it is stated to be given.

5.12.2 The information referred to in Clause 5.12.1 was at the date it was expressed to be given complete and did not omit any information which, if disclosed would make that information untrue or misleading in any material respect.

5.12.3 As at the first Drawdown Date, nothing has occurred since the date of any information referred to in Clause 5.12.1 which, if disclosed, would make that information untrue or misleading in any material respect.

5.13 Valuation

5.13.1 All written information provided by it or on its behalf to the Valuer for the purposes of each Valuation of the Property was materially accurate and no information was knowingly omitted which would make that information misleading to a material extent.

5.13.2 So far as it is aware, there has been no material change to the information provided pursuant to Clause 5.13.1 in relation to the Initial Valuation of the Property between the date such information was provided and the Drawdown Date of the first Loan.

5.14 Environmental Laws

5.14.1 It is in compliance with Clause 6.12 (*Environmental matters*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has a Material Adverse Effect or would result in any liability for a Finance Party.

5.14.2 No Environmental Claim (as defined in Clause 6.12(*Environmental matters*)) in connection with the Property has been commenced or to the best of its knowledge and belief (having made due and careful enquiry) is threatened against any Transaction Obligor where that claim has a Material Adverse Effect or would result in any liability for any Finance Party.

5.14.3 For the purposes of this Clause 5.14 (*Environmental Laws*) the representation and warranty made or deemed to be made is made or is deemed to be made in respect of, or to the extent that it relates to, the Property only.

5.15 Title to Property

It is the legal and beneficial owner of the Property.

5.16 Sanctions

It is not, nor are any of its Subsidiaries or directors, is either:

- (a) aware of, any claim, action, suit, proceedings or investigation involving it with respect to sanction or with regard to any offence or alleged offence under the Bribery Act 2010 and there are no circumstances likely to give rise to any such investigation, enquiry or proceedings;
- (b) listed, or is owned or controlled, directly or indirectly, by any person which is listed, on an SDN List;
- (c) located, organised or resident in a country which is the subject of sanctions by any Authority; or
- (d) a governmental agency, authority, or body or state-owned enterprise of any country which is the subject of sanctions by any Authority.

5.17 Repetition of representations

The representations and warranties set out in this Clause 5 (*Representations and warranties*) are made by the Chargor on the date of this Deed and in addition are deemed to be repeated (except in the case of Clause 5.12.3) by the Chargor by

reference to the facts and circumstances then existing on the date of each Final Request, each Drawdown Date and the first day of each Interest Period.

6 COVENANTS

The Chargor gives the undertakings in this Clause 6 (*Covenants*) which remain in force from the date of this Deed until this Deed is discharged.

6.1 Information

The Chargor shall supply to the Security Agent (in sufficient copies for all the Secured Parties, if the Security Agent so requests) such information regarding the Charged Assets as any Secured Party (through the Security Agent) may reasonably request.

6.2 Negative pledge

6.2.1 It shall not create or permit to subsist any Security Interest over or in respect of the Charged Assets.

6.2.2 Clause 6.2.1 does not apply to:

- (a) any Security Interests created pursuant to this Deed;
- (b) any lien arising by operation of law and in the ordinary course of business and securing amounts not more than 60 days overdue; and
- (c) any Security Interest approved by the Security Agent.

6.3 Disposals

6.3.1 Subject to Clause 19.7 (*Lease Documents*) of the Facility Agreement, it shall not, either in a single transaction or in a series of transactions, whether related or not and whether voluntarily or involuntarily, sell, transfer, lease or otherwise dispose of all or any substantial part of its any Charged Asset without the prior written consent of the Security Agent.

6.3.2 Clause 6.3.1 shall not apply to:

- (a) a Permitted Disposal provided that the provisions of Clause 7.1 (*Mandatory prepayment – disposals*) of the Facility Agreement are complied with in respect of such Permitted Disposal;
- (b) disposals of cash in compliance with its obligations under the Relevant Documents; or
- (c) so long as no Default is continuing designation of the New Deck Lease as an estate common part of the Canary Wharf estate and release of the New Deck Lease in accordance with Clause 22.8 of the Facility Agreement.

6.4 Notices

The Chargor must, within 14 days after the receipt by it of any material application, requirement, order or notice served or given by any public or local or any other authority or any landlord with respect to the Property (or any part of it):

- (a) deliver a copy to the Security Agent; and

- (b) inform the Security Agent of the steps taken or proposed to be taken to comply with the relevant requirement, order or notice.

6.5 Investigation of title

On and following the occurrence of a Default which is continuing, the Chargor must grant the Security Agent or its lawyers on request all facilities within the power of the Chargor to enable the Security Agent or its lawyers to:

- (a) carry out investigations of title to the Property; and
- (b) make such enquiries in relation to any part of the Property as a prudent mortgagee might carry out.

6.6 Title

6.6.1 The Chargor must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Property.

6.6.2 The Chargor may not agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Property (save for minor, immaterial, administrative amendments which could not prejudice the interests of the Finance Parties).

6.6.3 The Chargor must promptly take all such steps as may be necessary to enable the Security Interests created by the Security Documents to be registered, where appropriate, at the Land Registry.

6.7 Notification of Default

The Chargor shall notify the Agent of any Default in connection with which the Chargor has obligations (actual or contingent) under this Deed (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

6.8 Authorisations

The Chargor shall promptly:

- (a) obtain, maintain and comply in all material respects with the terms of; and
- (b) on request by the Agent, supply certified copies to the Agent of,

any authorisation required under any law or regulation to enable it to perform its obligations under, or subject to the Legal Reservations for the validity or enforceability of, any Relevant Document to which it is a party.

6.9 Compliance with laws

- (a) The Chargor shall comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.
- (b) The Chargor shall comply in all material respects with planning laws, planning permissions and planning conditions to which the Property may be subject.

6.10 **Pari passu ranking**

The Chargor shall procure that its obligations under this Deed do and will rank at least *pari passu* with all its present and future unsecured obligations, except for those which are mandatorily preferred by law applying to companies generally.

6.11 **Property costs**

The Chargor shall procure prompt payment of all costs and expenses incurred in relation to repairs and maintenance, and the provision of services, in connection with the Property.

6.12 **Environmental matters**

6.12.1 In this Clause 6.12 (*Environmental matters*):

"Environmental Approval" means any authorisation required under any Environmental Law for the operation of the business of the Chargor conducted on or from properties owned or used by the Chargor;

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law in respect of the Property; and

"Environmental Law" means any applicable law or regulation in respect of the Property which relates to:

- (a) the pollution or protection of the environment;
- (b) the harm to or the protection of human health;
- (c) the conditions of the workplace; or
- (d) any emission or substance capable of causing harm to any living organism or the environment.

6.12.2 The Chargor must:

- (a) comply and use reasonable endeavours to ensure that any relevant third party complies with all Environmental Law in connection with the Property;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals applicable to it in connection with the Property; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law applicable to it in connection with the Property,

where failure to do so has or is reasonably likely to have a Material Adverse Effect or result in any liability for a Finance Party.

6.12.3 The Chargor must, promptly upon becoming aware, notify the Agent of:

- (a) any Environmental Claim in connection with the Property started, or to its knowledge, threatened;

- (b) any circumstances reasonably likely to result in an Environmental Claim in relation to the Property; or
- (c) any suspension, revocation or notification of any Environmental Approval in connection with the Property,

which has or, if substantiated, is reasonably likely to either have a Material Adverse Effect or result in any liability for a Finance Party.

6.12.4 The Chargor must indemnify each Finance Party against any loss or liability which:

- (a) that Finance Party incurs as a result of any actual or alleged breach of any Environmental Law by any person in connection with the Property; and
- (b) would not have arisen if a Finance Document had not been entered into, unless it is caused by that Finance Party's gross negligence or wilful misconduct.

6.13 **Power to Remedy**

6.13.1 If the Chargor fails to perform any obligations under this Deed affecting the Property, the Chargor must allow the Security Agent or its agents and contractors acting reasonably:

- (a) to enter any part of any property upon reasonable notice from the Security Agent save that, if a Default is continuing, no such notice shall be required;
- (b) to comply with or object to any notice served on the Chargor in respect of such property; and
- (c) to take any action that the Security Agent may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

6.13.2 The Chargor must within 3 Business Days of written demand by the Security Agent pay the costs and expenses of the Security Agent or its agents and contractors incurred in connection with any action taken by it under this Clause 6.13 (*Power to Remedy*).

6.13.3 No Finance Party shall be obliged to account as mortgagee in possession as a result of any action taken under this Clause 6.13 (*Power to Remedy*).

6.14 **Taxes**

6.14.1 The Chargor will pay all Tax which it is required to pay in connection with the Property within the relevant time limits set out by Tax legislation.

7 **RIGHTS OF ENFORCEMENT**

7.1 **Enforcement**

7.1.1 The Secured Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.

7.1.2 The enforcement powers of the Security Agent in connection with this Deed shall be immediately exercisable:

- (a) upon the occurrence of an Event of Default which is continuing; or
- (b) at the Security Agent's discretion, at the request of the Chargor.

7.1.3 The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.

7.1.4 In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Security Agent or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and is continuing and that the Secured Liabilities are outstanding and have become due.

7.2 **Security Agent's and Receiver's powers and rights**

7.2.1 The powers and rights set out in this Clause 7.2 are not exercisable prior to the time specified in Clause 7.1.2.

7.2.2 The Security Agent shall have the power to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee.

7.2.3 The Security Agent (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:

- (a) all statutory and other powers and rights (including the powers conferred upon an administrative receiver by Schedule 1 to the Insolvency Act 1986 whether or not the Security Agent and/or any Receiver is an administrative receiver); and
- (b) the powers and rights specified in Schedule 2 (*Security Agent's and Receiver's powers*)

and may exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

7.3 **Receiver as agent**

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Security Agent shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

7.4 **Further powers**

If the Chargor defaults in the observance and performance of any obligation to the Security Agent, the Security Agent or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

7.5 **Power of attorney**

7.5.1 On and from the occurrence of an Event of Default which is continuing, the Chargor by way of security irrevocably appoints the Security Agent and every Receiver severally as its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything

which the Security Agent and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

7.5.2 Subject to Clause 7.5.1, the Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its powers.

8 APPLICATION OF RECEIPTS

8.1 Priority of payment

Subject to sums secured by Security Interests having priority to the Security Interests created by this Deed, all monies received by the Security Agent and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (a) **firstly**, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise);
- (b) **secondly**, (insofar as not contemplated by Clause 8.1(a)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Security Agent (in its capacity as trustee) in relation to the Finance Documents; and
- (c) **thirdly**, to the Agent for distribution in accordance with the Facility Agreement.

8.2 Crediting to suspense account

The Security Agent or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Security Agent or that Receiver thinks fit.

9 NOTICES

The provisions as to notices set out in the Facility Agreement will apply to this Deed as if set out in full here and as if each reference to the "**Borrower**" is a reference to the "**Chargor**".

10 DISCHARGE

10.1 If the Security Agent is satisfied (acting reasonably) that:

- (a) the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full; or
- (b) there is no Default continuing and each of the Term Date and Practical Completion of the Development have occurred,

the Security Agent will promptly, at the request and reasonable cost of the Chargor which have been pre-approved by the Chargor (acting reasonably), discharge this Deed.

11 **ASSIGNMENT AND TRANSFER**

11.1 **Assignment by the Chargor**

The Chargor shall not assign transfer or otherwise part with its rights or obligations under this Deed.

11.2 **Assignment by the Secured Parties**

The Secured Parties may each at any time transfer, assign or novate all or any part of their respective rights, benefits or obligations under this Deed in accordance with the provisions of the Facility Agreement.

12 **GENERAL PROVISIONS**

12.1 **Trust provisions**

The covenants, undertakings and representations made by the Chargor under this Deed are made in favour of the Security Agent as security trustee for the Secured Parties.

12.2 **Limited recourse**

The Security Agent agrees that its rights in respect of the Secured Liabilities against the Chargor shall be limited to the rights of enforcement or recovery against the Charged Assets.

12.3 **Exercise of powers and liability**

12.3.1 This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Security Agent of any other security at any time held by the Security Agent.

12.3.2 The Security Agent may, at any time after the enforcement powers of the Security Agent in connection with this Deed has become enforceable in accordance with Clause 7.1 (*Enforcement*), redeem or transfer to itself any prior Security Interest against the Charged Assets and may settle and pay the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Security Agent on demand.

12.3.3 None of the provisions of this Deed shall be deemed to impose on the Secured Parties or imply on their part any obligation or other liability in relation to the Charged Assets.

12.4 **Tacking**

Each Lender must perform its obligations under the Facility Agreement (including any obligation to make further advances).

12.5 **New Accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest or disposed of:

- (a) a Secured Party may close the Chargor's then subsisting account and open a new account with the Chargor, and (unless the relevant Secured Party

gives the Chargor written notice otherwise) shall be deemed to have done so;

- (b) all payments made to the relevant Secured Party after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Secured Liabilities.

12.6 **Consolidation**

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the security created by this Deed.

12.7 **Expenses**

The Chargor shall forthwith on demand pay the Security Agent the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights against it under this Deed.

12.8 **Rights of third parties**

12.8.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

12.8.2 The Parties and any Secured Party may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

12.9 **Partial invalidity**

The illegality, invalidity or unenforceability for whatever reason of any provision of this Deed in any jurisdiction, shall not affect the legality, validity or enforceability of that provision in any other jurisdiction or legality, validity or enforceability of the remaining provisions in any jurisdiction.

12.10 **Remedies and waivers**

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

12.11 **Chargor's obligations**

Neither the Security Interests created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this Clause 12.11 (*Chargor's obligations*), would reduce, release or prejudice that security or any of its obligations under this Deed (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security Interest over assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, avoidance or termination of any Finance Document or any other document or Security Interest including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security Interest;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest;
or
- (g) any insolvency or similar proceedings.

12.12 **Chargor intent**

Without prejudice to the generality of Clause 12.11 (*Chargor's obligations*), the Chargor expressly confirms that it intends that the Security Interests created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and/or
- (i) any fees, costs and/or expenses associated with any of the foregoing.

12.13 **Appropriations**

Until the Secured Liabilities have been irrevocably paid in full, each Secured Party (or trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Chargor's liability under this Deed.

12.14 **Deferral of Chargor's rights**

12.14.1 Until the Secured Liabilities have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by any Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

12.14.2 If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 10.14.1 it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 8 (*Application of Receipts*).

13 **COUNTERPARTS**

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

14 **LAW AND JURISDICTION**

14.1 **Governing Law**

This Deed and any non-contractual obligations arising out of or in relation to this Deed, shall be governed by English law.

This Deed has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

**Schedule 1
The Property**

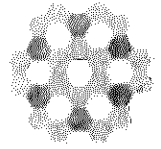
Part 1 – the Property

Property Interest	Title Number	Proprietor	Quality of title	Property Description
Leasehold	The part of title number EGL234067 coloured red on the plan inserted at Part 2 of this Schedule 1.	South Quay Properties Limited	Title absolute	Sections I and II Heron Quays, Marsh Wall, West India Dock, London (as more particularly shown coloured red on the plan inserted at Part 2 of this Schedule 1).

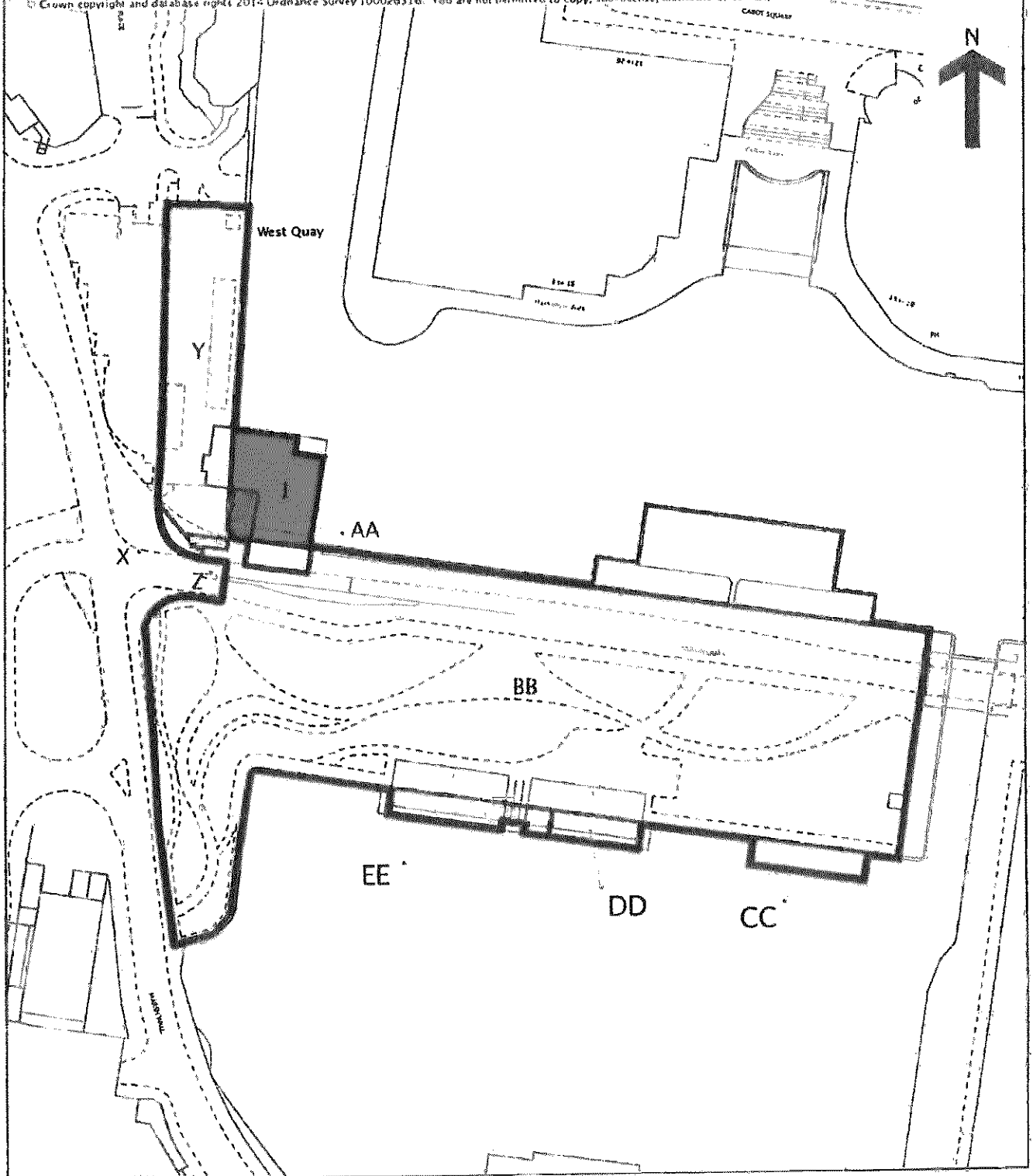
Part 2 – Title Plan

Land Registry
Official copy of
title plan

Title number EGL234067
Ordnance Survey map reference TQ3780SW
Scale 1:1250
Administrative area Tower Hamlets



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Schedule 2
Security Agent's and Receiver's powers

1 Conduct of business

(a) Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of the Chargor in all respects and for such purpose to:

- (i) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or
- (ii) acquire any property, chattels, plants, machinery and materials.

(b) Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases

(c) Compromise claims

To compromise any claim relating to the Charged Assets.

(d) Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Secured Liabilities and with or without security.

(e) VAT

To assume and exercise all or any of the power and rights conferred on the Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

(f) Employees

To:

- (i) enter into, adopt and/or terminate any contract of employment; and
- (ii) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others.

2 Dealing with the Chargor's assets

(a) Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

(b) Payments

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use.

(c) Receipts

To give receipts and releases for any sums received.

(d) Carry on works

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.

(e) Assumption of rights

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

(f) Insurance

To effect insurances on such terms as it thinks fit.

(g) Planning permissions and consents

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.

(h) Acquisition of property

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

(i) Negotiation

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

3 Disposals

(a) Selling

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (i) for immediate or deferred consideration;
- (ii) in return for a single payment or instalments; and
- (iii) for consideration wholly or partly in cash, property or securities in whatever form,

and in all cases the terms of which shall bind any subsequent mortgagee.

(b) Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as it thinks fit and:

- (i) with or without any rent , review of rent, fine or premium; and
- (ii) whether absolutely or for a term,

and in all cases the terms of which shall bind any subsequent mortgagee.

4 **General**

(a) General powers

To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the security charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (i) executing, delivering and completing all or any deeds or other documents;
- (ii) using the name of the Chargor in connection with any of the purposes in this Schedule;
- (iii) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (iv) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

(b) General

All its powers and discretions under this Deed shall be:

- (i) exercisable on such terms and conditions and otherwise as it may think fit; and
- (ii) as if it were the absolute and beneficial owner.

Schedule 3
Notice of assignment or charge of contract

Part A

From: [Details of Chargor] (the "Chargor")

To: [Details of party to Contract]

Date: [●]

Dear Sirs

[Description of Relevant Document] (the "Contract")

We refer to:

- (a) the Contract; and
- (b) a [mortgage] (the "**Security Deed**") dated [●] made between the Security Agent (1) and [●] and the Chargor (2).

We give you notice that pursuant to the Security Deed, we have [charged/assigned] all of our present and future right, title, interest and benefit in, under and to the Contract (including all [monies] [rent] payable to us under the Contract) to the Security Agent.

We irrevocably and unconditionally instruct and authorise you:

- (a) Until you are notified otherwise by the Security Agent, the Security Agent directs such sums to be paid to [*insert Chargor bank details*];
- (b) Until you are notified otherwise by the Security Agent, the Security Agent directs that all such rights powers, discretions and remedies shall continue to be exercisable by us; and
- (c) to disclose any information relating to the Contract which the Security Agent may from time to time request.

No amendment, waiver or release of any right or obligation in connection with the Contract and no termination or rescission of the Contract by us shall be effective without the prior written consent of the Security Agent and in any event no such termination or rescission shall be effective unless you have given notice to the Security Agent.

Notwithstanding anything in this notice or otherwise we (and not the Security Agent nor its appointees) shall be liable under the Contract to perform all the obligations assumed by us under it.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Agent.

Signed
For and on behalf of the Chargor

Part B - Receipt of notice of assignment or charge of Contract

From: [*Details of party to Contract*]

To: [Security Agent]
[Address]

For the attention of [●]

Date: [●]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and further confirm that:

- (a) we have not received notice of any previous assignments or charges of or over the Contract; and
- (b) we agree and will comply with the matters set out in that notice.

Signed

For and on behalf of [●]

EXECUTION PAGE

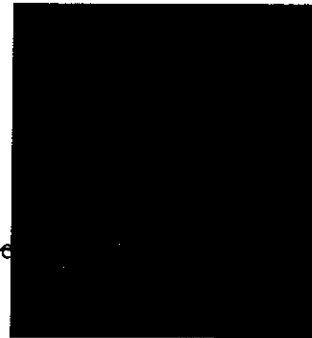
Chargor

Executed as a deed by
SOUTH QUAY PROPERTIES LIMITED
acting by Peter Anderson and
Russell Lyons

)
)
)
)

Director

Director/Sec



Security Agent

Executed and delivered as a deed by
BARCLAYS BANK PLC
acting by

)
)
)



TALA MAGNER

Authorised attorney

In the presence of:

Emma Porter

Name of witness



Signature of witness

Trainee Solicitor

Occupation of witness

BERWIN LEIGHTON PAISNER LLP
ADELAIDE HOUSE
LONDON BRIDGE
LONDON EC4R 9HA

Address of witness

Address: Barclays Bank PLC, 5 The North
Colonnade, Canary Wharf, London, E14 4BB
Fax: +44 (0)20 7773 4893
Attn: Paul Branwhite
Email: paul.branwhite@barclays.com