



Registration of a Charge

Company name: **MANCHESTER LIFE DEVELOPMENT COMPANY LIMITED**
Company number: **08800093**

Received for Electronic Filing: **09/11/2016**



Details of Charge

Date of creation: **07/11/2016**
Charge code: **0880 0093 0002**
Persons entitled: **HOMES AND COMMUNITIES AGENCY**
Brief description:
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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SQUIRE PATTON BOGGS (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8800093

Charge code: 0880 0093 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th November 2016 and created by MANCHESTER LIFE DEVELOPMENT COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th November 2016 .

Given at Companies House, Cardiff on 10th November 2016

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 7 November 2016

Manchester Life Development Company Limited

(as Assignor)

and

Homes and Communities Agency

(as Agency)

**Security Assignment in respect of the Flour Developments
Limited Facility**

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Deed

dated 7 November 2016

Parties

- (1) **Manchester Life Development Company Limited**, a company registered in England and Wales with company number 08800093 (the "**Assignor**"); and
- (2) **Homes and Communities Agency** of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington WA3 7QH (the "**Agency**").

Introduction

- (A) The Agency has agreed to make credit facilities available on the terms of the Facility Agreement.
- (B) The Assignor has agreed to provide Security to the Agency to secure the payment and discharge of the Secured Liabilities.

Agreed terms

1 Definitions and Interpretation

1.1 In this Deed:-

Borrower means **Flour Developments Limited**, a company incorporated in Jersey with company number 116640 of Elizabeth House 9 Castle Street St Helier Jersey JE2 3RT;

Charged Property means all the property, assets and undertaking of the Assignor which from time to time are, or are expressed to be, the subject of the Security created in favour of the Agency by or pursuant to this Deed;

Contract means any of the contracts set out in Schedule 2 to this Deed;

Counterparty means the counterparty to any of the Contracts;

Default Rate means the rate of interest specified in, and calculated in accordance with, clause 7.5 of the Facility Agreement;

Facility Agreement means the facility agreement dated on or about the date of this Deed made between (1) the Borrower, (2) the Assignor and (3) the Agency;

Finance Documents means the Finance Documents (as defined in the Facility Agreement);

Guarantors has the meaning given thereto in the Facility Agreement;

LPA means the Law of Property Act 1925;

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by the Assignor in relation to the Works referred to in the Facility Agreement (and as therein defined) and/or the assets of the Borrower;

Insured Risks means fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion, malicious damage, landslip, subsidence, burst pipes, environmental pollution, terrorist acts and other such risks as the Agency may, from time to time, require including demolition and site clearance costs and expenses and architects', surveyors' and other professional fees and all other incidental expenses;

Notice of Assignment means a notice of assignment in the form set out in Schedule 1;

Receiver means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property;

Related Rights means in relation to any Charged Property;

- (a) the proceeds of sale of any part of that Charged Property;
- (b) all rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that Charged Property; and
- (c) any moneys and proceeds paid or payable in respect of that Charged Property;

Secured Liability means:

- (a) any liability expressed to be due, owing or payable by the Assignor under or in connection with this Deed or the Facility Agreement; and
- (b) all present and future monies, obligations and liabilities now or hereafter due owing or incurred to the Agency in any manner whatsoever, in any currency or currencies (whether present or future, actual or contingent) as principal or surety or incurred solely or jointly with another, together with all interest accruing thereon and all costs, charges and expenses incurred by the Agency in connection therewith;
- (c) any liability expressed to be due, owing or payable by the Borrower or any Guarantor to the Agency under or in connection with any of the Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise),

(together the "**Secured Liabilities**"); and

Security Period means the period beginning on the date of this Deed and ending on the date on which the Agency is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Liabilities have terminated.

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement have the same meanings in this Deed.

1.3 Interpretation

The principles of interpretation set out in clause 1.2 of the Facility Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument and includes any increase in, extension of or change to any facility made available under that Finance Document or other agreement or instrument.

1.4 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Agency.

1.5 Third party rights

1.5.1 Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.

1.5.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2 Covenant To Pay

2.1 Secured Liabilities

Subject to Clause 2.3, the Assignor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due.

2.2 Interest

Subject to Clause 2.3, the Assignor covenants to pay interest on any sum demanded in accordance with Clause 2.1 until payment (both before and after judgment) at the Default Rate.

2.3 Limited Recourse

Notwithstanding any contrary provision contained in this Deed, it is agreed by the Agency that any payment obligations arising under this Deed shall solely be satisfied by the Agency exercising its enforcement rights under this Deed and the liability of the Assignor to the Agency pursuant to the provisions of this Deed shall be limited to the Charged Property and the Agency shall have no recourse to any other assets of the Assignor.

3 Security

3.1 Assignment

As a continuing security for payment of the Secured Liabilities, the Assignor with full title guarantee:-

- 3.1.1 assigns by way of security all its present and future right, title and interest in and to, and all benefits accruing under or in connection with any Contract and all Related Rights in respect of any Contract in favour of the Agency subject to a proviso for reassignment on redemption;
- 3.1.2 to the extent not assigned or effectively assigned by Clause 3.1.1, charges by way of first fixed charge in favour of the Agency all its present and future right, title and interest in and to, and all benefits accruing under or in connection with any Contract and all Related Rights in respect of any Contract; and
- 3.1.3 all its rights and interests in and claims under the Insurances.

3.2 Dealings

- 3.2.1 Until an Event of Default occurs and is continuing, but subject always to Clauses 4 and 5, the Assignor may continue to deal with each Counterparty in relation to the Contracts.
- 3.2.2 Upon the occurrence of an Event of Default which is continuing, the Assignor shall have no further right to deal with each Counterparty and the Agency may notify each Counterparty that it should deal only with the Agency.

3.3 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Assignor shall hold it on trust for the Agency.

4 Undertakings

The covenants in this Clause 4 remain in force from the date of this Deed until the end of the Security Period.

4.1 The Assignor shall:-

- 4.1.1 duly and promptly perform all its obligations and diligently pursue its rights, and use all reasonable endeavours to procure that all other parties perform their obligations, under each Contract;
- 4.1.2 notify the Agency of any material breach by any person of any term of any Contract or any right of it or any other person to rescind, cancel or terminate any Contract promptly upon becoming aware of it;
- 4.1.3 supply to the Agency all information, accounts and records necessary to enable the Agency to verify all sums payable under any Contract;
- 4.1.4 provide the Agency promptly upon request with any document in its possession, custody or control and provide or assist the Agency in obtaining any document or information which it may require in relation to any Contract; and
- 4.1.5 deliver (or procure delivery of) to the Agency duly executed Notices of Assignment on the date of this Deed and promptly upon entering into any Contract after the date of this Deed and shall use all reasonable endeavours to

procure that each Notice of Assignment is acknowledged by the party to whom it is addressed;

- 4.1.6 If requested by the Agency the Assignor will promptly give notice of assignment to all insurers in respect of the Insurances in the form set out in part I of Schedule 3 and shall use reasonable endeavours to procure that such insurers acknowledge the notice in the form set out in part II of Schedule 3.

4.2 Conduct of claims

The Assignor:-

- 4.2.1 shall promptly notify the Agency of any actual, threatened or anticipated claim relating to any Contract, and shall not, without the Agency's prior written consent, compromise or settle any claim relating to any Contract;
- 4.2.2 shall not, without the Agency's prior written consent, commence any proceedings or refer any dispute to arbitration in connection with any Contract; and
- 4.2.3 authorises the Agency at any time and in any manner (whether in the Agency's name or the Assignor's name) to take, submit to arbitration, institute, stay, settle or discontinue any proceedings relating to any claim under any Contract.

4.3 Payments without deduction

The Assignor shall calculate and make all payments under this Deed without (and free and clear of any deduction for) set-off or counterclaim.

4.4 Assignor remains liable

The Assignor shall remain liable to perform all its obligations under each Contract and the Agency shall be under no obligation or liability as a result of any failure by the Assignor to perform those obligations.

4.5 Insured Risks

Except where insured by the Borrower, the Assignor will insure all of the Site and the Works (which are of an insurable nature) (as such terms are defined in the Facility Agreement) against:

- 4.5.1 the Insured Risks;
- 4.5.2 third party and public liability; and
- 4.5.3 any other risks normally insured against by persons carrying on the same class of business as that carried on by it.

4.6 Replacement value

Any insurance must be in a sum or sums not less than the replacement value of all buildings upon the Site and all works undertaken in carrying out the Works. For this purpose, 'replacement value' means the total cost of rebuilding, reinstating or replacing the

Site, all buildings thereon and all works undertaken in carrying out the Works in the event of their being completely destroyed, together with any relevant architects' and surveyors' fees.

4.7 Insurance company

Any insurance required under this clause must be with an insurance company or underwriters reasonably acceptable to the Agency.

4.8 Application

Subject to the provisions of any lease or prior charge of all or part of the Site or the Works, all monies received or receivable under any insurance must be applied:

4.8.1 in replacing, restoring or reinstating the Site destroyed or damaged; or

4.8.2 if the security constituted by this Deed has become enforceable and if the Agency so directs and the terms of the relevant insurances allow in or towards satisfaction of the Secured Liabilities.

4.9 Co-insurance/Note of interest

The Assignor will procure and ensure that such insurance policy contains such provision for the protection of the Agency as the Agency may from time to time reasonably require.

4.10 Avoidance of policy

The Assignor will not do or permit anything to be done which may make void or voidable any policy of insurance in connection with the Site or the Works or any part thereof.

4.11 Premiums

The Assignor will promptly pay all premiums and do all other things necessary to keep each policy of insurance in force.

4.12 Return of policy

The Assignor will, immediately at the request of the Agency, produce to the Agency the policy, certificate or cover note relating to any insurance policy and the receipt for the payment of the last premium and will if the Agency requests deposit all policies of insurance relating to the Site and the Works with the Agency

5 Restrictions And Further Assurance

5.1 Security

The Assignor shall not create or permit to subsist any Security over any Charged Property otherwise than in accordance with the Finance Documents.

5.2 Disposal

The Assignor shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease,

license, sub license, transfer or otherwise dispose of any Charged Property except as permitted by the Finance Documents.

5.3 General

The Assignor shall not (and shall not agree to):-

- 5.3.1 amend, supplement, substitute, rescind or cancel any Contract or any material provision of any Contract ;
- 5.3.2 release any obligation under any Contract, or waive any material breach of any Contract;
- 5.3.3 make any claim that any Contract is frustrated;
- 5.3.4 permit any party to any Contract to assign any of their rights, or transfer any of their obligations, under that Contract; and
- 5.3.5 take or omit to take any action, the taking or omission of which might result in any alteration or impairment of any of the rights created by any Contract or this Deed, nor exercise any right or power conferred on it by any Contract in any manner adverse to the interests of the Agency.

5.4 Preservation of Contracts

The Assignor shall not take any Security in connection with its liability under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities.

5.5 Preservation of rights

The Assignor shall not do, permit or suffer or to be done anything which may prevent the Agency (or any person claiming title through the Agency) from exercising the rights of the Assignor (including any right to receive payments) under all or any part of any Contract following the occurrence of an Event of Default which is continuing.

5.6 Further assurance

The Assignor shall promptly do whatever the Agency requires:-

- 5.6.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or
- 5.6.2 to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Agency or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Agency or its nominees or otherwise), making any registration and giving any notice, order or direction.

6 Demand And Enforcement

6.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 6.1.1 the occurrence of an Event of Default which is continuing;
- 6.1.2 any request being made by the Assignor to the Agency for the appointment of a Receiver or an administrator, or for the Agency to exercise any other power or right of enforcement available to it.

6.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Agency may (without prejudice to any other rights and remedies and without notice to the Assignor) do all or any of the following:-

- 6.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 6.2.2 apply any sums payable under any Contract in or towards satisfaction of the Secured Liabilities;
- 6.2.3 exercise all the powers and rights of the Assignor under each Contract; and
- 6.2.4 subject to Clause 7.1, appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property.

6.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 6.2, the Agency or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

6.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Agency or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Agency shall have taken possession or appointed a Receiver of the Charged Property.

6.5 Delegation

The Agency may delegate in any manner to any person any rights exercisable by the Agency under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub delegate) as the Agency thinks fit.

7 Receivers

7.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Agency under this Deed shall be in writing under the hand of any officer or manager of the Agency (subject to any requirement for a court order in the case of the removal of an administrative receiver).

7.2 Removal

The Agency may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

7.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- 7.3.1 of the Agency under this Deed;
- 7.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 7.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 7.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and
- 7.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

7.4 Receiver as agent

The Receiver shall be the agent of the Assignor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Assignor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Assignor.

7.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

7.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Agency and the maximum rate specified in section 109(6) of the LPA shall not apply.

8 Application Of Moneys

8.1 Application of moneys

All sums received by virtue of this Deed and/or any other Finance Documents by the Agency or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 8.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Agency in relation to the Finance Documents, or by any Receiver (including legal expenses), together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full or other person entitled to it;
- 8.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Agency or any Receiver;
- 8.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facility Agreement;
- 8.1.4 **fourthly**, in or towards the payment of any secured liabilities under similar lending arrangements between the Agency and each of the Guarantors;
- 8.1.5 **fifthly**, in the payment of the surplus (if any), to the Assignor or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

9 Power of Attorney

9.1 Appointment

The Assignor irrevocably and by way of security appoints:-

- 9.1.1 the Agency (whether or not a Receiver has been appointed);
- 9.1.2 any delegate or sub delegate of, or other person nominated in writing by, an officer of the Agency; and
- 9.1.3 (as a separate appointment) each Receiver,

severally as the Assignor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Assignor which the Assignor could be required to do or execute under any provision of this Deed, or which the Agency in its sole opinion may consider necessary or desirable for perfecting its title to any of the Charged Property or enabling the Agency or the Receiver to exercise any of its rights or powers under this Deed.

9.2 Ratification

The Assignor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 9.1 does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 9.1.

10 Consolidation

10.1 Combination of accounts

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Agency may at any time, without notice to the Assignor, combine or consolidate all or any accounts which it then has in relation to the Assignor (in whatever name) and any Secured Liabilities owed by the Assignor to it, and/or set-off or transfer any amounts standing to the credit of one or more accounts of the Assignor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

10.2 Application

The Agency's rights under Clause 10.1 apply:-

- 10.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 10.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 10.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Agency may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and
- 10.2.4 in respect of any Secured Liabilities owed by the Assignor, however arising.

11 Protection of Third Parties

11.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Agency, as varied and extended by this Deed, and all other powers of the Agency, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

11.2 Purchasers

No purchaser from or other person dealing with the Agency, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

- 11.2.1 to enquire whether any of the powers which the Agency or a Receiver have exercised has arisen or become exercisable;
- 11.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or

11.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

11.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Agency, any Receiver or any person to whom any of them have delegated any of their powers.

12 Protection of Agency and Receiver

12.1 No obligation

Notwithstanding any other term of this Deed the Agency shall not have any obligation or liability under any Contract by reason only of this Deed to:-

12.1.1 perform any of the obligations or duties of the Assignor under any Contract;

12.1.2 make any payment under any Contract;

12.1.3 present or file any claim or take any other action to collect or enforce any claim for the payment of any sum payable under any Contract; or

12.1.4 make any enquiries as to the nature or sufficiency of any payments received by it under this Deed.

12.2 No liability

None of the Agency, any Receiver or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

12.3 Indemnity

The Assignor shall indemnify and keep indemnified the Agency, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

12.3.1 any act or omission by any of them in relation to all or any of the Charged Property;

12.3.2 any payment relating to or in respect of all or any of the Charged Property which is made at any time by any of them;

12.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

12.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed; and

12.3.5 any breach by the Assignor of any of its covenants or other obligations to the Agency,

except in the case of gross negligence or wilful misconduct on the part of that person.

12.4 Interest

The Assignor shall pay interest at the Default Rate on the sums payable under this Clause 12 the date on which the liability was incurred to the date of actual payment (both before and after judgment).

12.5 Indemnity out of the Charged Property

The Agency, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Charged Property in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 12.3 .

12.6 Continuing protection

The provisions of this Clause 12 shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

13 Provisions Relating to the Agency

13.1 Powers and discretions

The rights, powers and discretions given to the Agency in this Deed:-

13.1.1 may be exercised as often as, and in such manner as, the Agency thinks fit;

13.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

13.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

14 Preservation of Security

14.1 Continuing Security

This Deed shall be a continuing security to the Agency and shall remain in force until expressly discharged in writing by the Agency notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

14.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Agency may have now or at any time in the future for or in respect of any of the Secured Liabilities.

14.3 Waiver of Defences

Neither the Security created by this Deed nor the obligations of the Assignor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Agency) including:-

- 14.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 14.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 14.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security 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;
- 14.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 14.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 14.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 14.3.7 an insolvency, liquidation, administration or similar procedure.

14.4 Immediate recourse

The Assignor waives any right it may have of first requiring the Agency to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Assignor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

14.5 Appropriations

During the Security Period the Agency may:-

- 14.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 8.1 apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Assignor shall not be entitled to the same; and
- 14.5.2 hold in an interest-bearing suspense account any moneys received from the Assignor on or account of the Secured Liabilities.

14.6 New Accounts

If the Agency receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Charged Property or if a petition is presented or a resolution passed in relation to the winding up of the Assignor, it may close the current account or accounts and/or open a new account or accounts for the Assignor. If the Agency does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by the Borrower or the Assignor to the Agency shall be credited or be treated as having been credited the new account or accounts and shall not operate to reduce the Secured Liabilities.

14.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Agency confirms on behalf of the Lenders that the Lenders shall make further advances to the Borrower on the terms and subject to the conditions of the Finance Documents.

14.8 Deferral of Assignor's rights

During the Security Period and unless the Agency otherwise directs, the Assignor shall not exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 14.8.1 to receive or claim payment from, or be indemnified by an Obligor;
- 14.8.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;
- 14.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Agency under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Agency;
- 14.8.4 to exercise any right of set-off against any Obligor; and/or to claim or prove as a creditor of any Obligor in competition with the Agency.

15 Release

15.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Agency shall, or shall procure that its appointees will, at the request and cost of the Assignor:-

- 15.1.1 release the Charged Property from this Deed; and
- 15.1.2 re-assign the Charged Property that has been assigned to the Agency under this Deed.

15.2 Reinstatement

If the Agency considers that any amount paid or credited to the Agency under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

15.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

15.2.2 the liability of the Assignor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

15.3 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

16 Miscellaneous Provisions

16.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

16.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

16.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

16.2 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

16.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Agency, 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 rights or remedies provide by law.

16.4 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.

17 Governing Law

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

18 Enforcement

- 18.1 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 or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 18.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 18.3 This Clause 18 is for the benefit of the Agency only. As a result, the Agency shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Agency may take concurrent proceedings in any number of jurisdictions.

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule 1

Form of Notice of Assignment

[Assignor's headed paper]

To: [●] *[insert name and address of Counterparty]*

Attention: [●]

Date: [●]

Dear Sirs

NOTICE OF ASSIGNMENT – *[INSERT DETAILS OF CONTRACT]* DATED ** (THE "CONTRACT")

19 We refer to the Contract.

20 We notify you that:-

20.1 under a deed dated ** between us and the Homes and Communities Agency (the "**Agency**") we have assigned by way of security and charged to the Agency all our right, title and interest in and to, and all benefits accruing under or in connection with the Contract as security for certain obligations owed to the Agency;

20.2 we may not, among other things, agree to amend, supplement, substitute, terminate, rescind or cancel the Contract or any material provision of the Contract, release any obligation under or in connection with the Contract or waive any material breach of the Contract;

20.3 until you receive written notice to the contrary from the Agency, you may continue to deal with us in relation to the Contract and credit all moneys to which we are entitled under the Contract to the following account in our name: ** ***[insert details of account]***. After written notice is given by the Agency we will cease to have any right to deal with you in relation to the Contract and from that time you should deal only with the Agency; and

20.4 you are authorised to disclose information relating to the Contract to the Agency on request.

21 We request that you:-

21.1 after receipt of written notice in accordance with paragraph 20.3, ensure that all moneys to which we are entitled under the Contract are credited to the account of the Agency specified in that notice (and are not paid to us);

21.2 give the Agency written notice of any breach of any term of the Contract as soon as you become aware of it; and

21.3 give the Agency not less than 30 days' written notice of your terminating, rescinding or cancelling/giving notice to terminate or cancel the Contract.

22 Please sign and return the enclosed copy of this notice to the Agency (with a copy to us) to confirm that you:

- 22.1 agree to the terms of this notice and to act in accordance with its provisions;
- 22.2 have not received notice that the Assignor assigned its rights under the Contract to a third party or created any other interest (whether by way of security or otherwise) in the Contract in favour of a third party; and
- 22.3 have not claimed or exercised, nor do you have any outstanding right to claim or exercise against the Assignor, any right of set-off, counter-claim or other right relating to the Contract.
- 23 The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully

.....
For and on behalf of
Manchester Life Development Company Limited

[on acknowledgement copy]

To: **Homes and Communities Agency**

Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington WA3 7AH

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 22.

For and on behalf of
[Insert name of Counterparty]

Date

Schedule 2

Contracts

- 1 Appointment of architect between (1) the Assignor and (2) Buttress Architects Limited;
- 2 Appointment of architect between (1) the Assignor and (2) Studio Egret West Limited ;
- 3 Appointment of contractor between (1) the Assignor and (2) Eric Wright Construction Limited;
- 4 Appointment of project manager between (1) the Assignor and (2) Mace Limited
- 5 Appointment of quantity surveyor between (1) the Assignor and (2) MA Cost Consulting Limited;
- 6 Appointment of multi-disciplinary consultants between (1) the Assignor and (2) Ove Arup & Partners Limited; and
- 7 the Performance Bond.

Schedule 3

Part I

Form of notice of assignment of Insurances

To: [Insurer]

Date:

Notice of assignment

We hereby give notice that by an assignment dated [•] made between [•] (the **Assignor**) (1) and [•] (the **Agency**) (2) (the **Assignment**) that the Assignor has assigned in favour of the Agency all its rights, title and interest in and to the proceeds of [*insert details of insurance policy*] (the **Policy**).

We hereby instruct you with effect from the date you receive this notice to:

- 1 make all payments under or in respect of the Policy to the Agency or as the Agency may specify in writing from time to time;
- 2 note the interest of the Agency as co-insured (composite) on the Policy;
- 3 disclose to the Agency without further approval from us such information regarding the Policy as the Agency may from time to time request; and
- 4 send a copy of all notices issued by you in respect of the Policy to the Agency.

All rights, interests and benefits accruing to the Assignor under the Policy belong to and are exercisable by the Agency.

The instructions in this letter may not be revoked or amended without the prior written consent of the Agency.

This letter and all non contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by signing and returning a copy of this letter addressed to us and to the Agency in the form attached hereto.

Yours faithfully

.....
Authorised signatory
for and on behalf of
[Assignor]

Schedule 3

Part II

Form of acknowledgement of assignment of Insurances

To: [Agency]

Date:

We acknowledge receipt of the notice dated [•] (the **Notice**) and addressed to us by [•] (the **Assignor**) in relation to the Policy (as defined in the Notice) and we accept the instructions and authorisations contained in the Notice and confirm that:

- 1 we shall comply with the terms of the notice;
- 2 we have not received notice of any other interest relating to the Policy; and
- 3 no amendment or termination of the Policy shall be effective until the expiry of 30 days after the date we have given the Agency written notice of such amendment or termination.

We confirm that:

- 4 the Policy is in full force and effect;
- 5 as at the date of this letter, the insurance premium payable in relation to the Policy is paid up to date;
- 6 the Insurance is in all material respects in accordance with the requirements of the Finance Documents and amongst other things:
 - 6.1 the interest of the Agency is noted as co insured (composite) and first loss payee in respect of any insurance proceeds in excess of £50,000 for any one claim (other than third party liability claims) on the relevant policy relating to the Insurances, and we hereby confirm that we will provide quarterly notification to the Agency of all claims made under the policy;
 - 6.2 full terrorism cover applies;
 - 6.3 includes property owners public liability;
 - 6.4 provides cover for loss of rent insurance in respect of a period of not less than 3 years;
 - 6.5 the policy contains a provision to the effect that the relevant Insurance shall not be invalidated or otherwise terminated or cancelled or the cover thereunder reduced as against the Agency for non-payment of any premium due or for other cause without the insurer first giving to the Agency 30 days' prior written notice;

- 6.6 the Policy contains a standard mortgagee protection clause whereby, among other things, the relevant Insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Assignor;
- 6.7 the Policy will not be prejudiced, vitiated or avoidable as against a mortgagee in the event of any misrepresentation, act or neglect or failure to disclose on the part of the insured party or parties;
- 6.8 a waiver of the rights of subrogation of the insurer as against the Assignor and the Agency (save in their respective capacities as the insured) and the tenants of the property to which the Policy relates; and
- 6.9 under the terms of the Policy relating to the insurances, the Agency shall not in any circumstances be liable for the relevant premium.

This letter and all contractual obligations arising out of or in connection with it shall be governed by, and outlined in accordance with, the laws of England.

.....

For and on behalf of
[Insurer]

Signatory Page

the common seal of)

HOMES AND COMMUNITIES AGENCY)

is hereunto affixed in the presence of:)

Authorised Signatory

executed as a deed by)

MANCHESTER LIFE DEVELOPMENT COMPANY)

LIMITED)

in the presence of:)

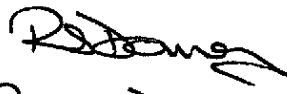


witness signature

name

address

occupation


Rachel Dancy
Town Hall, Albert Square, Manchester M60 9LA
Chartered Accountant

signed by