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COMPANIES FORM No. 395

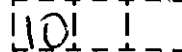
Particulars of a mortgage or charge

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies
(Address overleaf - Note 6)

For official use
Company number



ZC000197

Name of company

* The Manchester Ship Canal Company (the **Chargor**)

Date of creation of the charge

15 December 2006

Description of the instrument (if any) creating or evidencing the charge (note 2)

A Security Agreement dated 15 December 2006 (the **Deed**) between the **Chargor** and the Security Trustee (as defined below).

Amount secured by the mortgage or charge

All present and future obligations and liabilities (whether actual or contingent) of the **Chargor** in its capacity as Borrower (but not for the avoidance of doubt, as a Guarantor) to any Secured Creditor under the Senior Facilities Agreement and in its capacity as **Chargor** under the Deed (including, without limitation, under any amendments, supplements or restatements of any of the Senior Facilities Agreement or in relation to any new or increased advances to it or utilisations by it), except for any obligation or liability which, if it were so included, would result in the Deed (or any covenant or security therein) being:

(a) beyond the powers or capacity of the **Chargor**; or

(b) unlawful or prohibited by any applicable law (the **Secured Liabilities**).

Names and addresses of the mortgagees or persons entitled to the charge

The Royal Bank of Scotland plc (the **Security Trustee**) of
135 Bishopsgate, London as agent and trustee for itself and each of the
Secured Creditors.

Postcode EC2M 3UR

Presentor's name address and
reference (if any):

Allen & Overy LLP
40 Bank Street
Canary Wharf
London, E14 5DU

35448-03119/GDP/PG: 1573669

Time critical reference

For official Use (06/2005)
Mortgage Section

Post room



LD5
COMPANIES HOUSE

367
22/12/2006

Short particulars of all the property mortgaged or charged

Please see continuation sheets.

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

Particulars as to commission allowance or discount (note 3)

Nil

A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

Signed Allen & Overy LLP

Date 22/12/06

On behalf of ~~XXXXXXXXXXXXXXXXXX~~ [chargee] †

† delete as appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
 - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
 - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders must be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is: Companies House, Crown Way, Cardiff CF14 3UZ

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

1. CONSTRUCTION OF SPECIFIC TERMS

1.1 Unless the context otherwise requires, a reference to a Security Asset includes:

- (a) any part of that Security Asset;
- (b) any proceeds of that Security Asset; and
- (c) any present and future assets of that type.

1.2 The provisions of clause 1.2 (Construction) of the Senior Facilities Agreement apply, *mutatis mutandis*, to the Deed.

2. CREATION OF SECURITY

2.1 General

(a) All the Security:

- (i) is created in favour of the Security Trustee;
- (ii) is security for the payment, discharge and performance of all the Secured Liabilities; and
- (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 provided that:
 - (A) the covenant implied under section 4(1)(b) of that act shall not be given under the Deed; and
 - (B) the covenant implied under section 3(1)(a) of that act shall not be breached to the extent to which any property is subject to Permitted Security; and
 - (C) the covenant implied under section 3(1)(b) shall not be breached to the extent to which such rights exercisable by third parties would not be reasonably likely to have a material adverse effect on the business, operations, assets generally or condition (financial or otherwise) of the Chargor.

(b) (i) If the Chargor assigns an agreement under the Deed (or charges it by way of a first fixed charge) and the assignment or charge breaches a term of that agreement because a third party's consent has not been obtained:

- (A) the Chargor must notify the Security Trustee immediately;
- (B) the assignment or charge will not take effect until that consent is obtained;
- (C) unless the Security Trustee otherwise requires, the Chargor must, and each other chargor must ensure that the Chargor will, use all reasonable endeavours to obtain the consent as soon as practicable; and

- (D) the Chargor must promptly supply to the Security Trustee a copy of the consent obtained by it; and
- (ii) Where the Chargor has charged under the Deed by way of floating charge:
 - (A) its rights in respect of an agreement dated prior to the date of the Deed (the **Pre-existing Agreement**) and, with respect to such Pre-existing Agreement, such charge breaches a term of that Pre-existing Agreement because a third party's consent has not been obtained upon the request of the Chargor; or
 - (B) an Excluded Asset,

if and to the extent that the Security Trustee (acting reasonably) is satisfied that the floating charge created by the Chargor will at all times (taking into account any potential future increase in the size or value of such rights and/or asset), following the release of such Pre-existing Agreement or Excluded Asset (as the case may be) from the floating charge, still relate to the whole or substantially the whole of the Chargor's property (or will, together with the other charges in the Deed, relate to the whole or substantially the whole of the Chargor's property):

 - (A) the Security Trustee will release such Pre-existing Agreement or the Excluded Asset (as the case may be) from the floating charge created by the Chargor by executing a form of release; and
 - (B) in relation to the Pre-existing Agreement:
 - I. unless the Security Trustee otherwise agrees, the Chargor must, and each other chargor must ensure that the Chargor will, use all reasonable endeavours to obtain the consent as soon as practicable;
 - II. the Chargor must promptly supply to the Security Trustee a copy of the consent obtained by it; and
 - III. promptly upon the consent being obtained, unless the Security Trustee otherwise agrees, the Chargor must charge such Pre-existing Agreement in favour of the Security Trustee by way of a floating charge.
- (c) The Security Trustee holds the benefit of the Deed on trust for the Secured Creditors.
- (d) The fact that no or incomplete details of any Security Asset are inserted in schedule 1 (Security Assets) of the Deed by which the Chargor became party to the Deed does not affect the validity or enforceability of the Security.
- (e) The fixed charges created by the Chargor pursuant to clauses 2.2 (Land) to 2.10 (Miscellaneous) inclusive of the Deed as described in paragraphs 2.2 (Land) to 2.10 (Miscellaneous) of this Form 395 shall not extend to any of the Excluded Assets.
- (f) (i) The charges and assignments created by the Chargor pursuant to clauses 2.2 (Land) to 2.11 (Floating Charge) inclusive of the Deed shall not extend to any dues, tolls, rates, or charges, of what nature soever, levied or leviable, or hereafter to be levied or leviable, on any ships, or on any goods carried in any ships, in any port of Great Britain or Ireland for any purpose whatever;

- (ii) unless the Security Trustee otherwise requires, the Chargor must use all reasonable endeavours to obtain the consent of the Department of Transport (such consent to be signified by writing under the hand of one of the secretaries or assistant secretaries to the Department of Transport) to charges and assignments being created over its dues, tolls, rates or charges (as aforesaid);
- (iii) the Chargor must promptly supply to the Security Trustee a copy of the consent obtained by it; and
- (iv) promptly upon the consent being obtained, unless the Security Trustee otherwise requires and to the extent possible in accordance with section 24 of the Merchant Shipping Law Amendment Act 1853 (as amended), the Chargor must charge and assign its dues, tolls, rates or charges in favour of the Security Trustee pursuant to a Transaction Security Document to the full extent permitted under applicable laws and under the Chargor's powers and capacity.

2.2 Land

(a) The Chargor charges:

- (i) by way of a legal mortgage all estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use property, which is specified in part 1 of schedule 1 (Security Assets) of the Deed; and
- (ii) (to the extent that they are not the subject of a mortgage under the Deed as referred to in subparagraph (i) above) by way of a first fixed charge all estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use property.

(b) A reference in the Deed to any freehold or leasehold property includes:

- (i) all buildings, erections, fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery on that property owned by the Chargor; and
- (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property and any moneys paid or payable in respect of those covenants.

2.3 Investments

(a) The Chargor charges:

- (i) by way of a legal mortgage all shares in any member of the Group owned by it or held by any nominee on its behalf; including any specified in part 2 of schedule 1 (Security Assets) of the Deed; and
- (ii) (to the extent that they are not the subject of a mortgage under the Deed as referred to in subparagraph (i) above) by way of a first fixed charge its interest in all declarations of trust and nominee agreements in relation to Shares and in all shares (including all shares in any member of the Group), stocks, debentures, bonds, warrants, coupons or other securities and investments (including all Cash Equivalent Investments) owned by it or held by any nominee on its behalf.

- (b) A reference in the Deed to any declaration of trust, nominee agreement, share, stock, debenture, bond, warrant, coupon or other security or investment includes:
- (i) any dividend, interest or other distribution paid or payable; and
 - (ii) any right, money or property accruing or offered at any time by way of conversion, redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

in relation to that declaration of trust, nominee agreement, share, stock, debenture, bond, warrant, coupon or other security or investment.

2.4 Plant and machinery

The Chargor charges by way of a first fixed charge all Plant and Machinery owned by it and its interest in any Plant and Machinery in its possession.

2.5 Credit balances

The Chargor charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any Security Account (if any) and the debt represented by that account.

2.6 Book debts etc.

The Chargor charges by way of a first fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any item under the Deed as referred to in paragraph (a) or (b) above.

2.7 Insurances

- (a) The Chargor assigns absolutely, subject to a proviso for reassignment on redemption, all amounts payable to it under or in connection with each of its Insurances and all of its rights in connection with those amounts.
- (b) To the extent that they are not effectively assigned under the Deed as referred to in paragraph (a) above, the Chargor charges by way of a first fixed charge all amounts and rights described in the Deed as referred to in paragraph (a) above.
- (c) A reference in this Subclause to any amounts excludes all amounts received or receivable under or in connection with any third party liability Insurance and required to settle a liability of an Obligor to a third party.

2.8 Other contracts

- (a) The Chargor assigns absolutely (subject to obtaining any necessary consent to that assignment from any third party), subject to a proviso for re-assignment on redemption, all of its rights in respect of its Relevant Contracts other than those contracts specified in part 3B of schedule 1 (Security Assets) of the Deed;
- (b) To the extent that any right described in the Deed as referred to in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by the

Deed as referred to in paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.

- (c) To the extent that they do not fall within any other Subclause of this clause and are not effectively assigned under the Deed as referred to in paragraph (a) or (b) above, the Chargor charges by way of a first fixed charge all of its rights under each agreement and document to which it is a party including, for the avoidance of doubt:
- (i) the Relevant Contracts specified in part 3B of schedule 1 (Security Assets) of the Deed;
 - (ii) any letter of credit issued in its favour; and
 - (iii) any bill of exchange or other negotiable instrument held by it.

2.9 Intellectual property

The Chargor charges by way of a first fixed charge all of its rights in respect of any Intellectual Property Rights; including any specified in part 4 of schedule 1 (Security Assets) of the Deed opposite its name by which it became party to the Deed.

2.10 Miscellaneous

- (a) The Chargor charges by way of a first fixed charge:
- (i) any beneficial interest, claim or entitlement it has to any assets of any pension fund;
 - (ii) its goodwill;
 - (iii) the benefit of any authorisation (statutory or otherwise) held in connection with its business or the use of any Security Asset;
 - (iv) the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to under the Deed as referred to in paragraph (iii) above; and
 - (v) its uncalled capital.
- (b) There shall be no breach of any term of the Deed as a consequence of the Chargor purporting to grant a "first" fixed charge pursuant to the Deed over an asset which is already subject to Permitted Security on the date on which such Security Interest is granted.
- (c) None of the charges created by clauses 2.3 (Investments), 2.5 (Credit balances), 2.6 (Book debts etc.) and 2.8 (Other contracts) of the Deed shall extend to the rights of the Chargor in respect of any amount standing to the credit of any account referred to in paragraphs (p) and (q) of the definition of Permitted Security in clause 1.1 (Definitions) of the Senior Facilities Agreement.

2.11 Floating charge

- (a) The Chargor charges by way of a floating charge all of its assets whatsoever and wheresoever not otherwise effectively mortgaged, charged or assigned under the Deed or (in relation to assets situated in Scotland) whether or not the same are effectively charged under clause 2 (Creation of Security) of the Deed.

- (b) Except as provided below, the Security Trustee may by notice to the Chargor convert the floating charge created by the Chargor under the Deed into a fixed charge as regards any of the Chargor's assets specified in that notice, if:
- (i) an Event of Default has occurred and is continuing;
 - (ii) the Security Trustee reasonably considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy; or
 - (iii) the Chargor fails to comply, or takes or threatens to take any action which, in the reasonable opinion of the Security Trustee, is likely to result in it failing to comply with its obligations under paragraph (a) of clause 4 (Restrictions on Dealing) of the Deed in respect of those assets.
- (c) The floating charge created under the Deed may not be converted into a fixed charge solely by reason of:
- (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium,
- under section 1A to the Insolvency Act 1986 or any analogous provision under any relevant law.
- (d) The floating charge created under the Deed will (other than in respect of any assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under section 72 of the Insolvency Act 1986 by reason of automatic conversion) (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge over all of the Chargor's assets:
- (i) if an administrator is appointed or the Security Trustee receives notice of an intention to appoint an administrator; or
 - (ii) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor (other than a solvent re-organisation permitted by the terms of the Senior Facilities Agreement).
- (e) The giving by the Security Trustee of a notice under paragraph (b) above in relation to any asset of the Chargor will not be construed as a waiver or abandonment of the Security Trustee's rights to give any other notice in respect of any other asset or of any other right of any other Secured Creditor under the Deed or any other Finance Document.

3. RESTRICTIONS ON DEALINGS

The Chargor shall not:

- (a) create or permit to subsist any Security over any of its assets; or
- (b) either in a single transaction or in a series of transactions (whether related or not) and whether voluntarily or involuntarily sell, lease, transfer or otherwise dispose of any asset,

unless permitted under the Senior Facilities Agreement.

4. CONTINUING SECURITY

The Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

5. FURTHER ASSURANCES

The Chargor must, at its own expense, take whatever action the Security Trustee or a Receiver may require for:

- (a) creating, perfecting or protecting security intended to be created by or pursuant to the Deed or over any asset of the Chargor referred to in the Deed;
- (b) after the Security has become enforceable, facilitating the realisation of any Security Asset;
- (c) facilitating the exercise of any right, power or discretion exercisable by the Security Trustee or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset; or
- (d) creating and perfecting security in favour of the Security Trustee (equivalent to the security intended to be created by the Deed) over any assets of the Chargor located in any jurisdiction outside England and Wales.
- (f) this includes:
 - (i) the re-execution of the Deed;
 - (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Trustee or to its nominee; and
 - (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Trustee may think expedient acting reasonably unless an Event of Default has occurred and is continuing or the Enforcement Date has occurred.

6. WHEN SECURITY BECOMES ENFORCEABLE

6.1 Timing

The Security will become immediately enforceable at any time after the Enforcement Date.

6.2 Enforcement

After the Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of the Security in any manner it sees fit or as the Majority Lenders direct.

The terms used in this Companies Form 395 have the meaning set out below:

Acceding Obligor means a member of the Group which must become a Guarantor within 90 days of the Closing Date as set out in part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement.

Acceptable Bank means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A1 or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or P1 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Agent.

Accession Letter means a document substantially in the form set out in schedule 6 (Form of Accession Letter) of the Senior Facilities Agreement and including only those restrictions on guarantees as are approved by the Agent (acting on the instructions of the Majority Lenders).

Accounting Principles means generally accepted accounting principles in the United Kingdom.

Act means the Law of Property Act 1925.

Acting in concert means a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition of shares in the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Parent.

Additional Borrower means a company which becomes a Borrower in accordance with clause 30 (Changes to the Obligors) of the Senior Facilities Agreement.

Additional Guarantor means a company which becomes a Guarantor in accordance with clause 30 (Changes to the Obligors) (including, without limitation, each Acceding Obligor).

Administrative Party means an Arranger, the Issuing Bank, the Agent or the Security Trustee.

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Agency Fee Letter means the agency fee letter between the Agent, the Security Trustee and the Parent dated on or about the date of the Senior Facilities Agreement setting out any of the fees referred to in clause 17.3 (Agency Fee) of the Senior Facilities Agreement.

Agent means The Royal Bank of Scotland plc as agent for the Lenders under the Senior Facilities Agreement.

Agent's Spot Rate of Exchange means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11.00 a.m. on a particular day.

Ancillary Commencement Date means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall be a Business Day within the Availability Period for the Revolving Facility.

- **Ancillary Commitment** means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under clause 9 (Ancillary Facilities) of the Senior Facilities Agreement, to the extent that amount is not cancelled or reduced under the Senior Facilities Agreement or the Ancillary Documents relating to that Ancillary Facility.

Ancillary Document means each document relating to or evidencing the terms of an Ancillary Facility

Ancillary Facility means any ancillary facility made available by an Ancillary Lender in accordance with clause 5 (Ancillary Facilities) of the Senior Facilities Agreement.

Ancillary Lender means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with clause 9 (Ancillary Facilities) of the Senior Facilities Agreement.

Ancillary Outstandings means, at any time, in relation to an Ancillary Lender and an Ancillary Facility the aggregate (without double counting) of the equivalents (as calculated by that Ancillary Lender) in the Base Currency of the following amounts outstanding to such Ancillary Lender under that Ancillary Facility then in force:

- (a) the principal amount under each overdraft facility and on demand short term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that such credit balance is freely available to be set-off by that Ancillary Lender against liabilities owed to it by any Borrower under that Ancillary Facility);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility (excluding any amounts prepaid or repaid in respect of any such instrument and taking account of any decrease in the liability of the Ancillary Lender in respect of any such instrument as a consequence of any decrease in, or expiry of, the underlying liability in respect of which such instrument was issued); and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

in each case as determined by such Ancillary Lender in accordance with the relevant Ancillary Document or normal banking practice for facilities or financial accommodation of the relevant type.

Arranger means Barclays Capital, Dexia Credit Local, London Branch and The Royal Bank of Scotland plc.

Arrangement Fee and Syndication Letter means the arrangement fee and syndication letter between, among others, the Arrangers, the Parent and RREEF Limited dated on or about the date of the Senior Facilities Agreement setting out any of the fees referred to in clause 17.2 (Arrangement Fee) of the Senior Facilities Agreement.

Availability Period means:

- (a) in relation to Facility A, the period from and including the date of the Senior Facilities Agreement to and including the last day of the Certain Funds Period, subject to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement;
- (b) in relation to Facility B, the period from and including the date of the Senior Facilities Agreement to and including the last day of the Certain Funds Period, subject to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement;
- (c) in relation to the Revolving Facility, the period from and including the date of the Senior Facilities Agreement to and including the date falling one month prior to the Termination Date, subject to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement;

- (d) in relation to Facility D, the period from and including the date of the Senior Facilities Agreement to and including the date falling one year prior to the Termination Date, subject to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement; and
- (e) in relation to Facility E, the period from and including the date of the Senior Facilities Agreement to and including the last day of the Certain Funds Period, subject to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement.

Available Ancillary Commitment means in relation to an Ancillary Facility, an Ancillary Lender's Ancillary Commitment less the Ancillary Outstandings in relation to that Ancillary Facility.

Available Commitment means, in relation to a Facility and a Lender, that Lender's Commitment under that Facility minus (subject to clause 9.8 (Affiliates of Lenders as Ancillary Lenders) of the Senior Facilities Agreement and as set out below):

- (a) the Base Currency Amount of its participation in any outstanding Utilisations under that Facility and, in the case of the Revolving Facility only, the Base Currency Amount of the aggregate of its Ancillary Commitments; and
- (b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date and, in the case of the Revolving Facility only, the Base Currency Amount of its Ancillary Commitment in relation to any new Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

For the purposes of calculating a Lender's Available Commitment in relation to any proposed Utilisation under the Revolving Facility only, the following amounts shall not be deducted from a Lender's Commitment under that Facility:

- (i) that Lender's participation in any Revolving Facility Utilisations made under the Revolving Facility that are due to be repaid or prepaid on or before the proposed Utilisation Date; and
- (ii) that Lender's (or its Affiliate's) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date.

Available Facility means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

Base Case Model means the agreed form financial model including profit and loss, balance sheet and cashflow projections relating to the Group.

Base Currency means sterling.

Base Currency Amount means:

- (a) in relation to a Utilisation, the amount specified in the Utilisation Request delivered by a Borrower for that Utilisation (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of the Senior Facilities Agreement) and, in the case of a Letter of Credit, as adjusted under clause 6.7 (Revaluation of Letters of Credit) at six-monthly intervals; and

- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by the Company pursuant to clause 9.2 (Availability) of the Senior Facilities Agreement (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of the Senior Facilities Agreement,

as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation, or (as the case may be) cancellation or reduction of an Ancillary Facility.

Borrower means the Original Borrower, an Initial Acceding Borrower (but only from the date on which the Agent gives the notice referred to in clause 4.1 (Initial Conditions Precedent) of the Senior Facilities Agreement or an Additional Borrower unless it has ceased to be a Borrower in accordance with clause 30 (Changes to the Obligors) of the Senior Facilities Agreement.

Budget means:

- (a) in relation to the period beginning on the date of the Senior Facilities Agreement and ending 31 March 2007, the Base Case Model in agreed form to be delivered by the Parent to the Agent pursuant to clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement; and
- (b) in relation to any other period, any budget delivered by the Parent to the Agent in respect of that period pursuant to paragraphs (a) and (b) of clause 25.4 (Budget) of the Senior Facilities Agreement.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London, and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day.

Capex Certificate means a certificate substantially in the form of schedule 18 (Form of Capex Certificate)) of the Senior Facilities Agreement.

Capital Expenditure means any expenditure or obligation in respect of expenditure which is in accordance with the Accounting Principles is treated as capital expenditure insofar as such expenditure is not funded by an insurance claim in respect of damage to any tangible assets.

Cash Equivalent Investments means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) commercial paper not convertible or exchangeable to any other security;

- (i) for which a recognised trading market exists;
 - (ii) issued by an issuer incorporated or established in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
 - (iii) which matures within one year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or P-1 or higher by Moody's Investor Services Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (e) any investment accessible within 30 days in money market funds which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or Fitch Rating Ltd or P-1 or higher by Moody's Investor Services Limited and which invest substantially all their assets in securities of the types described in paragraphs(a) to (d) above; or
- (f) any other debt security approved by the Agent,

in each case, to which any member of the Group is beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than one arising under the Transaction Security Documents).

Cayman Property Company means:

- (a) Birkenhead West Float No. 1 Newco Limited (CRN: 175417);
- (b) Birkenhead West Float No. 2 Newco Limited (CRN: 175404);
- (c) Birkenhead West Float No. 3 Newco Limited (CRN: 175395);
- (d) Birkenhead West Float No. 4 Newco Limited (CRN: 175394);
- (e) Birkenhead West Float No. 5 Newco Limited (CRN: 175406);
- (f) Birkenhead West Float No. 6 Newco Limited (CRN: 175426);
- (g) Birkenhead West Float No. 7 Newco Limited (CRN: 175401);
- (h) Birkenhead East Float Newco Limited (CRN: 175416);
- (i) Birkenhead East Float (North Vittoria) Newco Limited (CRN: 175420);
- (j) Birkenhead East Float (South Vittoria) Newco Limited (CRN: 175424);
- (k) Runcorn Newco Limited (CRN: 175388);
- (l) Ellesmere Newco Limited (CRN: 175402); and
- (m) Irwell Newco Limited (CRN: 175419).

Certain Funds Period means the period commencing on the date of the Senior Facilities Agreement and ending on the earliest of 31 December 2006, the first Utilisation Date and the date on which the Sale and Purchase Agreement is terminated or repudiated by either party.

Change of Control occurs if either:

- (a) any person or group of persons other than:
 - (i) the 1997 Billown Settlement Trust (the **Trust**) and/or any companies owned and/or controlled directly or indirectly by the Trust (the **Trust Subsidiaries**); or
 - (ii) the Trust and/or the Trust Subsidiaries and RREEF,
 - (iii) acting in concert gains direct or indirect control of the Parent; or
- (b) the Trust and/or the Trust Subsidiaries ceases to own legally and beneficially at least one-quarter of the issued voting share capital of the Parent.

For the purposes of this definition, **control** of a company means:

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (i) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that company; or
 - (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of that company; or
 - (iii) give directions with respect to the operating and financial policies of that company with which the directors or other equivalent officers of that company are obliged to comply; and/or
- (b) the holding legally and beneficially of more than one-half of the issued voting share capital of that company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

Closing Date means the date of the first Utilisation.

Clydeport Loan Note Documents means the loan note instrument dated 27 January 2003 made between Peel Ports Limited and The Royal Bank of Scotland plc constituting variable rate guaranteed unsecured loan notes due 2008 and the loan notes issued under that instrument.

Collection Account means in relation to the Chargor:

- (a) any account specified in part 5 of schedule 1 (Security Assets) of the Deed opposite its name;
- (b) any Mandatory Prepayment Account; and
- (c) any other account which the Chargor and the Security Trustee have designated a Collection Account.

Commitment means a Facility A Commitment, a Facility B Commitment, a Revolving Facility Commitment, a Facility D Commitment or a Facility E Commitment.

Company means Peel Ports UK Financeco Limited.

Compliance Certificate means a certificate substantially in the form set out in schedule 8 (Form of Compliance Certificate) of the Senior Facilities Agreement or in any other form agreed between the Parent and the Agent (each acting reasonably).

Debenture Stock Cash Collateral Charge Document means the assignment by way of security of deposit and account, charge over account and floating charge set out in a charge document entered into by the Debenture Stock SPV and the Prudential Assurance Company Limited dated 13 October 2005.

Debenture Stock SPV means Peel Ports (IDS) Limited, a company registered in England and Wales with number 5445426.

Deed of Accession means a deed of accession substantially in the form of schedule 5 (Form of Deed of Accession) of the Priority Agreement, with such amendments as the Security Trustee may approve.

Default means an Event of Default or any event or circumstance specified in clause 28 (Events of Default) of the Senior Facilities Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default, **provided that** in relation to any event or circumstance which is subject to a materiality condition or threshold before such event would constitute an Event of Default, such event or circumstance shall not constitute a Default until such materiality condition or threshold has been satisfied **provided further that** a Default (but not an Event of Default) shall be continuing during the period between a failure to comply with clause 26.2(a) or (b) (Financial condition) of the Senior Facilities Agreement and the date on which an Event of Default occurs under clause 28.2(a) (Financial covenants and other obligations) of the Senior Facilities Agreement or, if earlier, the date on which such failure is cured in accordance with clause 26.4 (Equity Cure) of the Senior Facilities Agreement.

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

Disclosure Letter means the Project Lime disclosure letter in respect of the Sale and Purchase Agreement dated on or around the date of the Senior Facilities Agreement from Peel Ports Holdings (Guernsey) Limited to the directors of Infrastructure JVCo (Lime) S.a.r.l.

Documentary Credit means a Letter of Credit or the Facility E Bank Guarantee.

Enforcement Date means the date on which the Agent serves notice on the Parent under clause 28.16 (Acceleration) of the Senior Facilities Agreement.

Event of Default means any event or circumstance specified as such in clause 28 (Events of Default) of the Senior Facilities Agreement.

Excluded Assets means in respect of the Chargor any interests (including any Investments or other securities or the benefit of any indebtedness) in any Unconsolidated Joint Venture owned by the Chargor.

Facility means Facility A, Facility B, the Revolving Facility, Facility D or Facility E.

Facility A means the term loan facility made available under the Senior Facilities Agreement as described in paragraph (a)(i) of clause 2.1 (The Facilities) of the Senior Facilities Agreement.

Facility A Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in part 4 (The Original Lenders) of schedule 1 (The Parties) of the Senior Facilities Agreement (and when designated **A1**, **A2**, **A3**, **A4** or **A5**, the portion of Facility A Commitments so designated) and the amount of any other Facility A Commitment transferred to it under the Senior Facilities Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under the Senior Facilities Agreement,

to the extent not cancelled, reduced or transferred by it under the Senior Facilities Agreement.

Facility A Loan means a loan made or to be made under Facility A (and when designated **Facility A1 Loan**, **Facility A2 Loan**, **Facility A3 Loan**, **Facility A4 Loan** or **Facility A5 Loan**, the portion so designated in paragraph (a)(i) of clause 2.1 (The Facilities) of the Senior Facilities Agreement, or arising in respect of Facility A under clause 15.3 (Consolidation and divisions of Term Loans) of the Senior Facilities Agreement, or the principal amount outstanding for the time being of that loan.

Facility B means the term loan facility made available under the Senior Facilities Agreement as described in paragraph (a)(i) of clause 2.1 (The Facilities) of the Senior Facilities Agreement.

Facility B Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in part 4 (The Original Lenders) of schedule 1 (The Parties) of the Senior Facilities Agreement (and when designated **B1** or **B2**, the portion of Facility B Commitments so designated) and the amount of any other Facility B Commitment transferred to it under the Senior Facilities Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under the Senior Facilities Agreement,

to the extent not cancelled, reduced or transferred by it under the Senior Facilities Agreement.

Facility B Loan means a loan made or to be made under Facility B (and when designated **Facility B1 Loan** or **Facility B2 Loan**, the portion so designated in paragraph (a)(ii) of clause 2.1 (The Facilities) of the Senior Facilities Agreement, or arising in respect of Facility B under clause 15.3 (Consolidation and divisions of Term Loans) of the Senior Facilities Agreement or the principal amount outstanding for the time being of that loan.

Facility D means the term loan facility made available under the Senior Facilities Agreement as described in paragraph (a)(iv) of clause 2.1 (The Facilities) of the Senior Facilities Agreement.

Facility D Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility D Commitment" in part 4 (The Original Lenders) of schedule 1 (The Parties) of the Senior Facilities Agreement and the amount of any other Facility D Commitment transferred to it under the Senior Facilities Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility D Commitment transferred to it under the Senior Facilities Agreement,

to the extent not transferred by it, cancelled or reduced under the Senior Facilities Agreement.

Facility E means the bank guarantee facility made available under the Senior Facilities Agreement as described in paragraph (a)(v) of clause 2.1 (The Facilities) of the Senior Facilities Agreement.

Facility E Bank Guarantee means the bank guarantee to be issued pursuant to Facility E in the form agreed between the Company, the Agent and the Issuing Bank of the Facility E Bank Guarantee.

Facility E Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading **Facility E Commitment** in part 4 (The Original Lenders) of schedule 1 (The Parties) of the Senior Facilities Agreement and the amount of any other Facility E Commitment transferred to it under the Senior Facilities Agreement;
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility E Commitment transferred to it under the Senior Facilities Agreement,

to the extent not cancelled, reduced or transferred by it under the Senior Facilities Agreement.

Facility D Loan means a loan made or to be made under Facility D or the principal amount outstanding for the time being of that loan.

Fee Letters means:

- (a) the Arrangement Fee and Syndication Letter;
- (b) the Agency Fee Letter; and

any other agreement setting out fees referred to in clause 17.4 (Fees payable in respect of Documentary Credits) or clause 17.5 (Interest Commission and Fees on Ancillary Facilities) of the Senior Facilities Agreement.

Finance Document means;

- (a) the Senior Facilities Agreement;
- (b) the Priority Agreement;
- (c) any Accession Letter;
- (d) any Deed of Accession;
- (e) any Ancillary Document;
- (f) any Compliance Certificate;
- (g) any Fee Letter;
- (h) the Hedging Letter;
- (i) any Hedging Agreement;
- (j) any Resignation Letter;

- (k) any Selection Notice;
- (l) any Transaction Security Document;
- (m) any Utilisation Request;
- (n) any Margin Certificate;
- (o) any Capex Certificate; and
- (p) any other document designated as a Finance Document by the Agent and the Parent or the Company.

Finance Party means a Lender, an Ancillary Lender, an Administrative Party or a Hedging Counterparty.

Financial Indebtedness means any indebtedness for or in respect of (without double counting):

- (a) monies borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 180 days after the date of supply;
- (i) any arrangement pursuant to which an asset sold or otherwise disposed of by that person may be re-acquired by a member of the Group (whether following the exercise of an option or otherwise);
- (j) any amount raised by the issue of redeemable shares;
- (k) any amount raised under any other transaction (including any forward sale or purchase agreement) the commercial effect of which is equivalent to a borrowing; and
- (l) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs(a) to (k) above.

Financial Year means the annual accounting period of the Group ending on or about 31 March in each year.

Group means the Parent and each of its Subsidiaries for the time being, being at the date of the Senior Facilities Agreement as set out in part 5 of schedule 1 (The Parties) of the Senior Facilities Agreement.

Guarantee and Indemnity Facility Agreement means the agreement dated 8 June 2005 and made between Peel Ports Investments Limited, Peel Ports Limited and Clydeport Operations Limited and The Governor and Company of the Bank of Scotland.

Guarantor means an Original Guarantor, an Initial Acceding Guarantor (but only from the date on which the Agent gives the notice referred to in clause 4.1 (Initial conditions precedent) of the Senior Facilities Agreement, an Acceding Obligor (but only once clause 27.35 (Conditions subsequent) of the Senior Facilities Agreement has been completed with respect of such Acceding Obligor) or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with clause 30 (Changes to the Obligors) of the Senior Facilities Agreement.

Hedging means any interest rate, inflation or currency swap, derivative transaction or hedging facility.

Hedging Agreement means each master agreement, confirmation or other document evidencing any Hedging provided by a Hedging Counterparty to an Obligor, which Hedging is specified in schedule 3 (Hedging Counterparties and Hedging Agreements) of the Priority Agreement or has been approved by the Senior Agent under clause 12.1 (Accession of Hedging Counterparties) of the Priority Agreement.

Hedging Counterparty means each person (if any) named in schedule 3 (Hedging Counterparties and Hedging Agreements) of the Priority Agreement and any other person which becomes a party to the Priority Agreement as a Hedging Counterparty under clause 12.1 (Accession of Hedging Counterparties) of the Priority Agreement, in each case in its capacity as provider of Hedging to any of the Obligors.

Hedging Letter means a letter between the Agent and the Parent in the agreed form dated on or before the date of the Senior Facilities Agreement (and executed by the Parent) describing the hedging arrangements to be entered into and maintained in respect of certain interest rate liabilities and exposure to inflation.

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

Initial Acceding Borrower means those members of the Group which must become a Borrower on or before the first Utilisation Date as set out in part 2 of schedule 1 (The Parties) of the Senior Facilities Agreement.

Initial Acceding Guarantor means those members of the Group which must become a Guarantor on or before the first Utilisation Date as set out in part 2 of schedule 1 (The Parties) of the Senior Facilities Agreement.

Intellectual Property Rights means a right over:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

- (b) benefit of all applications and rights to use such assets of each member of the Group.

Insolvency means any winding-up, bankruptcy, liquidation, dissolution, administration, examinership, receivership, administrative receivership, re-organisation, moratorium or judicial composition in relation to any Obligor or any analogous proceedings in relation to any Obligor in any jurisdiction.

Insurances means any contract of insurance taken out by or on behalf of the Chargor or under which it has a claim (other than insurance contracts where the payee of any insurance proceeds are third parties which are not members of the Group) including the insurance contracts as listed in part 7 of schedule 1 (Security Assets) of the Deed.

Intercompany Debt means all Liabilities in respect of Financial Indebtedness of any Obligor to any other Obligor including (without limitation) under or in connection with the Intercompany Documents but excluding any Investor Debt (other than Investor Debt owed by Peel Ports UK Financeco Limited to UK Newco 1 and Investor Debt owed by UK Newco 1 to UK Newco 2).

Intercompany Documents means all documents evidencing (or guaranteeing) any Financial Indebtedness payable or owing by one Obligor to another Obligor.

Investor Debt means all Liabilities of any Obligor to any Investor, or any Affiliate (which is not Financeco or a Subsidiary of Peel Ports UK Financeco Limited) of an Investor including, without limitation, under or in connection with the Investor Documents, including any dividends or other distributions and any amount payable to any Investor on a liquidation or other Insolvency of any Obligor but excludes any dividends from time to time declared paid or payable by Peel Ports Holdings (CI) Limited in respect of preference shares in the Peel Ports Holdings (CI) Limited.

Investors means:

- (a) Peel Ports Holdings (Guernsey) Limited (for so long as it is a shareholder of the Parent or a holder of the Investor Loan Notes);
- (b) Infrastructure JVCo (Lime) S.a.r.l (for so long as they are shareholders of the Parent or holders of Investor Loan Notes); and
- (c) any shareholder of the Parent and/or any holder of an Investor Loan Note.

Investor Documents means:

- (a) the memorandum and articles of association of the Parent;
- (b) the Shareholders Agreement (and any related fee letter);
- (c) the Sale and Purchase Agreement;
- (d) the Tax Deed;
- (e) the Investor Loan Note Instrument and Investor Loan Notes;
- (f) the Priority Agreement; and
- (g) the Disclosure Letter.

Investments means:

- (a) the Shares;
- (b) any declarations of trust and/or nominee agreements in relation to the Shares; and
- (c) all other shares, stocks, debentures, bonds, warrants, coupons and other securities and investments,

which the Chargor purports to mortgage or charge under the Deed.

Investor Loan Note Instrument means the 9% unsecured subordinated 2046 loan stock instrument executed by UK Newco 2 on or before Closing.

Investor Loan Notes means the loan notes issued under the Investor Loan Note Instrument.

Issuing Bank means The Royal Bank of Scotland and Barclays Bank plc.

Joint Venture means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with clause 29 (Changes to Lenders) of the Senior Facilities Agreement,

which in each case has not ceased to be a Party in accordance with the terms of the Senior Facilities Agreement.

Letter of Credit means:

- (a) a letter of credit, substantially in the form set out in schedule 11 (Form of Letter of Credit) of the Senior Facilities Agreement or in any other form requested by the Company and agreed by the Agent and the Issuing Bank (each acting reasonably); or
- (b) any guarantee, indemnity or other instrument in a form requested by a Borrower (or the Company on its behalf) and agreed by the Agent and the Issuing Bank (each acting reasonably).

For the purposes of the Senior Facilities Agreement the Facility E Bank Guarantee is not a Letter of Credit.

Liability means in relation to any document or agreement, any present or future liability (actual or contingent) payable or owing under or in connection with that document or agreement whether or not matured and whether or not liquidated, together with:

- (a) any refinancing, novation, deferral or extension of that liability;
- (b) any claim for misrepresentation or breach of warranty or undertaking or on an event of default or under any indemnity in connection with that document or agreement;
- (c) any further advance made under any document or agreement supplemental to that document or agreement, together with all related interest, fees and costs;

- (d) any claim for damages or restitution in the event of rescission of that liability or otherwise in connection with that document or agreement;
- (e) any claim flowing from any recovery of a payment or discharge in respect of that liability on the grounds of preference or otherwise; and
- (f) any amount (such as post-insolvency interest) which would be included in any of the above but for its discharge, non-provability, unenforceability or non-allowability in any Insolvency or other proceedings.

Loan means a Term Loan or a Revolving Facility Loan.

Majority Lenders means:

- (a) (for the purposes of paragraph (a) of clause 41.1 (Required Consents) of the Senior Facilities Agreement in the context of a waiver in relation to a proposed Utilisation of the Revolving Facility (other than a Utilisation on the first Utilisation Date) of the condition in clause 4.2 (Further conditions precedent) of the Senior Facilities Agreement), a Lender or Lenders whose Available Commitments and Available Ancillary Commitments with respect to the Revolving Facility aggregate more than 66 2/3% of the Available Facility and aggregate Available Ancillary Commitments with respect to the Revolving Facility; and
- (b) (in any other case), a Lender or Lenders whose Commitments aggregate more than 66 2/3% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66 2/3% of the Total Commitments immediately prior to that reduction).

Mandatory Prepayment Account means an interest-bearing account:

- (a) held in England or Scotland by a Borrower with the Agent or Security Trustee;
- (b) identified in a letter between the Company and the Agent as a Mandatory Prepayment Account;
- (c) subject to any Security Interest in favour of the Security Trustee which Security Interest is in form and substance satisfactory to the Agent and Security Trustee (each acting reasonably); and
- (d) from which no withdrawals may be made by any members of the Group except as contemplated by the Senior Facilities Agreement,

as the same may be redesignated, substituted or replaced from time to time.

Margin Certificate means a certificate, substantially in the form of schedule 16 (Form of Margin Certificate) of the Senior Facilities Agreement.

MDHC means The Mersey Docks and Harbour Company, a company incorporated in England and Wales with registration number ZC000189

MDHC Loan Note Documents means the MDHC Loan Notes and MDHC Loan Note Instrument, including the guarantee in respect of the MDHC Loan Notes granted by The Governor and Company of the Bank of Scotland and any other documents entered into pursuant to or in connection with any of them.

MDHC Loan Note Instrument means the instrument dated 22 September 2005 pursuant to which the MDHC Loan Notes are constituted.

MDHC Loan Notes means the variable rate guaranteed unsecured loan notes due 2015 of Peel Ports Investments Limited issued pursuant to the MDHC Loan Note Instrument.

Obligor means a Borrower or a Guarantor.

Original Borrower means Peel Ports UK Financeco Limited.

Original Chargors means Peel Ports Holdings (CI) Limited and Peel Ports UK Financeco Limited.

Original Credit Agreement means the credit agreement dated 8 June 2005 between, among others, Peel Ports Holdings Limited, Peel Ports Limited, Peel Ports Investments Limited and the Governor and Company of the Bank of Scotland as mandated lead arranger, agent, issuing bank and security trustee.

Original Guarantor means Peel Ports Holdings (CI) Limited and Peel Ports UK Financeco Limited.

Original Lender means the financial institutions listed in part 4 of schedule 1 (The Parties) of the Senior Facilities Agreement as lenders.

Parent means Peel Ports Holdings (CI) Limited.

Participating Member State means any member state of the European Communities that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

Party means a party to the Senior Facilities Agreement.

Peel Holdco means Peel Holdings (Guernsey) Limited, a company incorporated in Guernsey with registered number 44760.

Permitted Acquisition means:

- (a) an acquisition by a member of the Group (other than a Restricted Obligor) of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal within paragraph (b) of the definition of Permitted Disposal;
- (b) an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
- (c) any acquisition or investment by a member of the Group (other than a Restricted Obligor) in a limited liability company that is expressly set out (in reasonable detail) in the relevant Budget subject to any such acquisitions or investments made in reliance on this paragraph (c) not exceeding £35,000,000 in aggregate since the date of the Senior Facilities Agreement provided that:
 - (i) upon giving effect to such acquisition on a *pro forma* basis, the Parent would be in compliance on a *pro forma* basis with each of the financial covenants contained in clause 26 (Financial Covenants) of the Senior Facilities Agreement as if such acquisition had been made on the first day of the Relevant Period;

- (ii) the target of such acquisition has had positive EBITDA for the period of twelve months prior to the date to which the most recent financial statement or management accounts prior to such acquisition were prepared (such calculation to be made in a manner reasonably satisfactory to the Agent and to be evidenced by a certificate in form and substance reasonably satisfactory to the Agent signed by two directors of the Company and delivered to the Agent at least ten Business Days prior to the consummation of such acquisition); and

after giving effect to such acquisition or investment, no Default is continuing or shall occur as a result of such acquisition or investment;

- (d) an acquisition of shares in a limited liability company by a member of the Group pursuant to a Permitted Share Issue;
- (e) an acquisition by a member of the Group (which is not a Restricted Obligor) of all the shares in an off-the-shelf company or the incorporation by a member of the Group (which is not a Restricted Obligor) of a new limited liability company;
- (f) an acquisition of shares by a member of the Group in a Permitted Joint Venture to the extent permitted under clause 27.9 (Joint Ventures) of the Senior Facilities Agreement provided that a Restricted Obligor may only acquire further shares in a Permitted Joint Venture in which it holds an interest at the date of the Senior Facilities Agreement; or
- (g) an acquisition of war gilts or any other similar securities by the Debenture Stock SPV or another member of the Group provided that such securities are deposited in the account subject to the Debenture Stock Cash Collateral Charge Document after their acquisition,

Permitted Disposal means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b), (f), (i), (k), (l), (n) or (o) is on arm's length terms:

- (a) of any asset made by any member of the Group in the ordinary course of trading of the disposing entity other than stocks, shares and securities;
- (b) of any asset (other than shares in any member of the Group unless, following such disposal, such shares remain subject to a fixed Security Interest under the Transaction Security Document) by a member of the Group (the **Disposing Company**) to another member of the Group (the **Acquiring Company**), but if such asset has a book or market value of more than £10,000 and if less is not part of a series of connected or related transactions which in aggregate relate to assets having a book or market value of more than £10,000 if:
 - (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor or a company identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement;
 - (ii) the Disposing Company had given a Security Interest over the asset, the Acquiring Company must give a Security Interest over that asset or be identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement; and
 - (iii) the Disposing Company is a Guarantor, the Acquiring Company must be:
 - (A) a Guarantor guaranteeing at the time of the disposal an amount no less than that guaranteed by the Disposing Company;

- (B) The Manchester Ship Canal Company provided that whilst it is a Restricted Obligor no more than £500,000 in aggregate value of assets may be transferred to such company in reliance upon this paragraph;
 - (C) MDHC provided that whilst it is a Restricted Obligor, the only assets which may be transferred to MDHC in reliance upon this paragraph are the properties previously transferred from MDHC to Peel Ports Land and Property Investments Limited situated in Liverpool known as Freeport, Sugar Silo in Regent Road, Sandhills Lane and Former Dockyard in Regent Road; or
 - (D) be a company identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement;
- (c) of assets (other than shares or businesses) in exchange for, or the disposal proceeds of which (net of any taxes and costs and expenses of disposal) are applied within 365 days of receipt in the acquisition of other assets comparable or superior as to type, value or quality or in Capital Expenditure of the Group;
 - (d) of assets which are obsolete, redundant or surplus to requirements;
 - (e) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments and of cash in return for another asset acquired pursuant to a Permitted Acquisition or of cash pursuant to a Permitted Loan or any other expenditure of cash which does not breach any other terms of the Finance Documents;
 - (f) constituted by a licence of intellectual property rights permitted by clause 27.26 (Intellectual Property) of the Senior Facilities Agreement;
 - (g) of assets (other than shares in any member of the Group) to a Permitted Joint Venture, to the extent permitted by clause 27.9 (Joint Ventures) of the Senior Facilities Agreement or of its interests in a Joint Venture;
 - (h) arising as a result of any Permitted Security;
 - (i) the novation to Propco 2 on or prior to the Closing Date of:
 - (i) the £20,000,000 bullet swap maturing in 2013 made between Peel Ports Limited and HBOS Treasury Services plc and the £70,000,000 bullet swap maturing in 2013 made between Peel Ports Limited and HBOS Treasury Services plc; and
 - (ii) the balance of the £200,000,000 amortising swap maturing in 2036 made between Peel Ports Limited (and novated to Peel Ports Investments Limited) and HBOS Treasury Services plc, the £395,000,000 amortising swap maturing in 2036 made between Peel Ports Limited (and novated to Peel Ports Investments Limited) and HBOS Treasury Services plc and the £100,000,000 bullet swap maturing in 2026 made between Peel Ports Limited and HBOS Treasury Services plc, to the extent that the swaps referred to in this paragraph (ii) are not consolidated into a single £575,000,000 amortising swap maturing in 2036;
 - (j) of any asset (other than shares in any member of the Group) either (i) with the consent of the Majority Lenders or (ii) with a value (which for these purposes shall be the greater of its book and market value) which when aggregated with the greater of the book and market

value of all other assets disposed of in reliance on this paragraph (j) in aggregate per Financial Year, is not greater than £10,000,000;

- (k) a disposal in accordance with the Master Property Agreement in respect of which a Formula Payment (as defined in the Master Property Agreement) is payable;
- (l) to the extent not covered by paragraph (k) above, the Scheduled Disposals;
- (m) the Transport Business Disposal;
- (n) to the extent not covered by paragraph (k) above, the surrender of any of the leases referred to in paragraphs (e) to (j) of the definition of Property Reorganisation Documents in accordance with the Master Property Agreement; and
- (o) the disposal on or prior to the Closing Date of the entire issued share capital of each of Peel Ports (BIHL) Limited and Peel Ports (M43) Limited.

Permitted Financial Indebtedness means Financial Indebtedness:

- (a) arising under any of the MDHC Loan Note Documents, in each case as in force on the date of the Senior Facilities Agreement and subject always to the terms of the Senior Facilities Agreement; or
- (b) arising under any of the Finance Documents;
- (c) to the extent covered by a Letter of Credit or other letter of credit, guarantee or indemnity issued under an Ancillary Facility;
- (d) permitted by clause 27.30 (Treasury Transactions) of the Senior Facilities Agreement;
- (e) arising under a Permitted Loan or a Permitted Guarantee;
- (f) of any person acquired by a member of the Group after the date of the Senior Facilities Agreement which is incurred under arrangements in existence at the date of acquisition, but not incurred or its principal amount increased or its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of no more than three months following the date of acquisition;
- (g) under finance or capital leases, provided that the aggregate capital value of any items so leased under outstanding leases (excluding the capital value of leases in existence on the date of the Senior Facilities Agreement) by members of the Group does not exceed £20,000,000 (or its equivalent in other currencies) at any time;
- (h) under finance or capital leases which are in existence on the date of the Senior Facilities Agreement provided that the aggregate capital value of all items leased under such leases may not be increased after the date of the Senior Facilities Agreement and the maturity of such finance or capital leases may not be extended in reliance on this paragraph (h);
- (i) an amount raised by a member of the Group (other than a Restricted Obligor) by the issue of redeemable shares;
- (j) the principal amount of which is existing on the date of the Senior Facilities Agreement or which has been incurred after the date of the Senior Facilities Agreement pursuant to a credit agreement which is existing on the date of the Senior Facilities Agreement (including, for

the avoidance of doubt, Financial Indebtedness incurred under the Original Credit Agreement and the Guarantee and Indemnity Facility Agreement) and which, in either case, is to be repaid on the first Utilisation Date;

- (k) Financial Indebtedness arising under the agreements and instruments set out in schedule 13 (Permitted Financial Indebtedness) of the Senior Facilities Agreement provided that the principal or capital amount of any such Financial Indebtedness may not be increased or its maturity extended in reliance on this paragraph (k);
- (l) any Subordinated Debt provided that any Subordinated Debt borrowed by the Company or any of its Subsidiaries shall only be Permitted Financial Indebtedness after the Closing Date if the creditor of such Subordinated Debt is UK Newco 1 or a Subsidiary of the Company (in the case of a borrowing by the Company) or the Company or a Subsidiary of the Company (in the case of a borrowing by any Subsidiary of the Company); and
- (m) not permitted by the preceding paragraphs or as a Permitted Transaction, the outstanding principal amount of which does not exceed £7,500,000 (or its equivalent) in aggregate for the Group at any time in respect of which neither an Investor (or an Affiliate of an Investor which is not a member of the Group) nor a member of the Group, which is not an Obligor, is a creditor.

Permitted Guarantee means:

- (a) the endorsement of negotiable instruments in the ordinary course of trade;
- (b) any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade or an indemnity (which is Permitted Financial Indebtedness) given in respect of such a performance or similar bond issued by a financial institution (including a rental guarantee in respect of real property on normal commercial terms);
- (c) any guarantee:
 - (i) of a Joint Venture granted prior to the date of the Senior Facilities Agreement; or
 - (ii) of a Permitted Joint Venture to the extent permitted by clause 27.9 (Joint Ventures) of the Senior Facilities Agreement;
- (d) any guarantee of Permitted Financial Indebtedness;
- (e) any guarantee given as part of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of Permitted Security; or
- (f) any guarantee or indemnity given under the Finance Documents;
- (g) any indemnity against liabilities (other than Financial Indebtedness) given under the Transaction Documents;
- (h) indemnities given in the ordinary course of trading, or an indemnity in favour of a liquidator of a member of the Group whose liquidation is permitted under the Senior Facilities Agreement;

- (i) indemnities or other assurances against loss on arm's length terms given to a purchaser of any asset disposed of prior to the date of the Senior Facilities Agreement or in accordance with the Senior Facilities Agreement;
- (j) any guarantees given by:
 - (i) any Obligor in respect of any obligation or liability of any other Obligor or a company which is identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement;
 - (ii) any member of the Group which is not an Obligor in respect of any obligation or liability of any other member of the Group;
 - (iii) any member of the Group in respect of the obligations of any other member of the Group before the date of the Senior Facilities Agreement;
- (k) any authorised guarantee agreement (as such term is used in the Landlord and Tenant (Covenants) Act 1995) entered into in respect of leasehold real property disposed of in accordance with the Senior Facilities Agreement;
- (l) a counter-indemnity given by MDHC to the Debenture Stock SPV in respect of its obligations under the Debenture Stock Cash Collateral Charge Document;
- (m) any guarantees in favour of a beneficiary provided that such claims are subordinated under the Priority Agreement from the Closing Date;
- (n) any guarantees by the Parent in respect of the obligations of any Cayman Property Company under the Property Reorganisation Documents; and
- (o) any guarantees given by a member of the Group in addition to those permitted under paragraphs (a) to (n) above provided that the maximum aggregate liability (whether present or future, actual or contingent) of the Group under all such guarantees does not exceed £5,000,000 per Financial Year and the maximum aggregate liability (whether present or future, actual or contingent) of the Restricted Obligors under all such guarantees does not exceed £2,000,000.

Permitted Joint Venture means any investment in any Joint Venture where:

- (a) the Joint Venture is incorporated in the European Union or is listed in schedule 15 (Joint Ventures) of the Senior Facilities Agreement;
- (b) the Joint Venture is engaged in a business substantially the same as that carried on by the Group;
- (c) the Joint Venture is a limited liability company or the investment is made through a newly incorporated special purpose company which is itself a limited liability company; and
- (d) the aggregate (the Joint Venture Investment) of:
 - (i) all amounts subscribed for or otherwise used to acquire shares in, lent to, or invested in all such Joint Ventures by any member of the Group;
 - (ii) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture;

- (iii) the book value of any assets transferred by any member of the Group to any such Joint Venture; and
- (iv) any undervalue from the perspective of members of the Group in trade with or sale to or acquisitions of assets or services from any Joint Venture,

in each case after the date of the Senior Facilities Agreement, when aggregated with the total purchase price in respect of Permitted Acquisitions at any time permitted pursuant to paragraph (c) of the definition of Permitted Acquisition does not exceed £35,000,000 (or its equivalent in other currencies).

Permitted Loan means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
- (b) a loan made to a Joint Venture to the extent permitted under clause 27.9 (Joint Ventures) of the Senior Facilities Agreement;
- (c) a loan made by an Obligor to another Obligor or a company which is identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement or made by a member of the Group which is not an Obligor to another member of the Group which is not an Obligor;
- (d) any loan made by an Obligor to a member of the Group which is not an Obligor so long as the aggregate amount of the Financial Indebtedness under any such loans (not including any such loans permitted under paragraph (c) above) does not exceed £500,000 (or its equivalent) at any time;
- (e) a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group does not exceed £250,000 (or its equivalent) at any time;
- (f) any loan (other than a loan made by a member of the Group to another member of the Group or an Investor) so long as the aggregate amount of the Financial Indebtedness under any loans made in reliance on this paragraph (f) does not exceed £5,000,000 (or its equivalent) per Financial Year;
- (g) a loan to the Debenture Stock SPV in the amount necessary to fund its purchase of gilts or other securities to deposit in the account subject to the Debenture Stock Cash Collateral Charge Document and to fund the payment of expenses under the Debenture Stock Cash Collateral Charge Document; or
- (h) a loan made before the date of the Senior Facilities Agreement by any member of the Group or a loan made after the date of the Senior Facilities Agreement by any member of the Group to any Subsidiary of Peel Holdings (Land and Property) Limited which, in the latter case, is repaid on or prior to the Closing Date,

so long as in the case of paragraphs (c), (d) and (e) above the creditor of such Financial Indebtedness shall (if it is an Obligor) grant security over its rights in respect of such Financial Indebtedness in favour of the Security Trustee on terms acceptable to the Agent (acting on the instructions of the Majority Lenders).

Permitted Security means:

- (a) any lien arising by operation of law or contract having a similar effect and in the ordinary course of trading which secures indebtedness which is no more than 90 days overdue;
- (b) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of a member or members of the Group (including an Ancillary Facility which is an overdraft comprising more than one account) but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set-off against debit balances of members of the Group which are not Obligors or companies identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement and (ii) such arrangement does not give rise to another Security Interest over the assets of Obligors in support of liabilities of members of the Group which are not Obligors or companies identified in part 2 or part 3 of schedule 1 (The Parties) of the Senior Facilities Agreement ;
- (c) any netting or set-off or escrow arrangement entered into by any member of the Group with a trading counterparty in the ordinary course of trading;
- (d) any Security Interest or Quasi-Security over or affecting any asset acquired by a member of the Group after the date of the Senior Facilities Agreement if:
 - (i) the Security Interest or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (iii) the Security Interest or Quasi-Security is removed or discharged within six months of the date of acquisition of such asset.
- (e) any Security Interest or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the date of the Senior Facilities Agreement, where the Security Interest or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
 - (i) the Security Interest or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and
 - (iii) the Security Interest or Quasi-Security is removed or discharged within six months of that company becoming a member of the Group;
- (f) any Security Interest or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading;
- (g) any Security Interest or Quasi-Security (existing as at the date of the Senior Facilities Agreement or which is created pursuant to obligations existing as at the date of the Senior Facilities Agreement) over or affecting any assets of any member of the Group so long as the Security Interest or Quasi-Security is irrevocably removed or discharged by no later than the first Utilisation Date;

- (h) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal;
- (i) any Security Interest or Quasi-Security arising as a consequence of any finance lease permitted pursuant to paragraphs (g), (h) or (m) of the definition of Permitted Financial Indebtedness;
- (j) the Security Interests set out in schedule 14 (Existing Security Interests) of the Senior Facilities Agreement;
- (k) contractual payment set-off rights arising in the ordinary course of trading;
- (l) any Security Interest arising under the Finance Documents or constituted by any rights of set-off contained in any Transaction Document or Treasury Transaction;
- (m) any Security Interest arising in respect of any judgment, award or order or any tax liability for which an appeal or proceedings for review are being diligently pursued in good faith;
- (n) any Security Interest arising under a rent deposit deed entered into on arm's length terms and in the ordinary course of business securing the obligations of a member of the Group in relation to a property leased to that member of the Group;
- (o) the Security Interest constituted by the Debenture Stock Cash Collateral Charge Document;
- (p) any Security Interest over the account containing the proceeds of the Facility B1 Loan in favour of The Governor and Company of the Bank of Scotland as guarantor under the MDHC Loan Note Documents;
- (q) any Security Interest over the account containing the proceeds of the Facility B2 Loan in favour of the Royal Bank of Scotland plc as guarantor under the Clydeport Loan Note Documents; or

any Security Interest or Quasi-Security not permitted by the preceding paragraphs which secures indebtedness of any member of the Group not exceeding £2,000,000 (when taken together with any other indebtedness which has the benefit of a Security Interest or Quasi Security not permitted under the preceding subparagraphs).

Permitted Share Issue means an issue of:

- (a) ordinary, preference, special or deferred shares by the Parent to its shareholders in accordance with the Shareholders Agreement and which by their terms are not redeemable, save at the option of the Parent, and where such issue does not lead to a Change of Control of the Parent;
- (b) shares by a member of the Group which is a Subsidiary to another member of the Group where (if the existing shares of the Subsidiary are the subject of the Transaction Security), the newly issued shares also become subject to the Transaction Security; and
- (c) shares by a member of the Group which is a non-wholly owned Subsidiary on a pro rata basis to each of its shareholders or on a basis which results in a greater than pro rata basis distribution to the Parent or any of its wholly-owned Subsidiaries where (if the existing shares of the Subsidiary are the subject of the Transaction Security), the shares newly issued to the Parent or any of its wholly-owned Subsidiaries also become subject to the Transaction Security.

Permitted Transaction means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security Interest or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;
- (c) any payments or other transactions expressly contemplated by the Structure Memorandum;
or
- (d) the development (including the grant of all necessary licences and rights) of certain areas of those plots of land on the Salford Quays site which are shown hatched black and green on the plan attached as schedule 3 to the Shareholders Agreement (among other things as a facility to be known as "Media City" which will be used by, *inter alia*, the British Broadcasting Corporation) which may cause disruption to, and may require the narrowing (including by building on) or the closure to ordinary traffic of certain sections of, the Manchester Ship Canal above Mode Wheel Lock provided that:
 - (i) such development is conducted in accordance with all relevant statutes and laws;
 - (ii) such development is conducted at the sole cost of Peel Holdco and/or its Subsidiaries (other than members of the Group); and
 - (iii) the workings of the canal downstream from Mode Wheel Lock will be unaffected.

Plant and Machinery means in relation to the Chargor any plant, machinery, computers, office equipment or vehicles owned by the Chargor.

Priority Agreement means the priority agreement dated 15 November 2006 between, amongst others, the Obligors, the Secured Creditors, the Investors, the Agent and the Security Trustee and others, providing for the ranking and relative priorities of the claims of certain creditors of certain members of the Group.

Propco 2 means Peel Land and Property (Ports) Limited (registration number 5892787).

Property Reorganisation Documents means:

- (a) the master agreement dated 27 October 2006 made between Peel Land and Property (Ports) Limited, MDHC, The Manchester Ship Canal Company, Clydeport Operations Limited, The Port of Sheerness Limited, Roadferry Limited, Peel Ports Land and Property Investments (No.2) Limited (**B1 Sub**), the Cayman Property Companies and the Parent (the **Master Property Agreement**);
- (b) each of the option agreements referred to in paragraph 1 of schedule 19 (The Scheduled Disposals) of the Senior Facilities Agreement;
- (c) each of the conditional contracts referred to in paragraph 2.1 of schedule 19 (The Scheduled Disposals) of the Senior Facilities Agreement ;
- (d) each of the option agreements referred to in paragraph 2.2 of schedule 19 (The Scheduled Disposals) of the Senior Facilities Agreement ;

- (e) the lease dated 26 October 2006 of Crown Neat Court Estate, Queensborough title to which is registered at the Land Registry under title number K755194 made between Peel Land and Property (Ports) Limited and B1 Sub;
- (f) the lease dated 26 October 2006 of property at Cullet Drive, Unit 1 Cullet Drive and land lying to the east of Rushenden Road, Queensborough title to which is registered at the Land Registry under title numbers K539937, K495653 and K716607 made between Peel Land and Property (Ports) Limited and B1 Sub;
- (g) the lease dated 26 October 2006 of land and buildings at Sheerness, Kent being part of the land title to which is registered at the Land Registry under title number K845986 made between Peel Land and Property (Ports) Limited and B1 Sub;
- (h) the lease dated 26 October 2006 of land and buildings on the south west side of Carr Lane, Leyland title to which is registered at the Land Registry under title number LA556141 made between Peel Land and Property (Ports) Limited and B1 Sub;
- (i) the lease dated 26 October 2006 of 25 Whistleberry Road, Hamilton title to which is to be registered at the Books of Council and Session and the Land Register of Scotland made between Peel Land and Property (Ports) Limited and B1 Sub;
- (j) any other lease which is executed pursuant to the Master Property Agreement referred to at paragraph (a) above; and
- (k) any other document which evidences or gives effect to the share options or transfers and property options or transfers set out in the Structure Memorandum.

Quasi-Security means:

- (a) selling, transferring or otherwise disposing of to any person who is not an Obligor any of the Obligor's assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
- (b) selling, transferring or otherwise disposing of to any person who is not an Obligor any of the Obligor's receivables on recourse terms;
- (c) entering into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) entering into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

Receiver means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under the Deed.

RREEF means Rreef Pan European Infrastructure Fund LP.

Relevant Contract means in relation to the Chargor:

- (a) any agreement specified in part 3 of schedule 1 (Security Assets) of the Deed; and
- (b) any other agreement to which the Chargor is a party and which the Chargor and the Security Trustee have designated a Relevant Contract.

Relevant Period means each period of 12 months, ending on each Test Date.

Resignation Letter means a letter substantially in the form set out in schedule 7 (Form of Resignation Letter) of the Senior Facilities Agreement.

Restricted Obligor means MDHC and The Manchester Ship Canal Company provided that any such company will cease to be a Restricted Obligor once:

- (a) it has entered into a guarantee in the form of clause 23 (Guarantee and Indemnity) of the Senior Facilities Agreement which is unrestricted in the amount and liabilities guaranteed;
- (b) it has granted security in substantially the same form as other Obligors which are incorporated in England and Wales;
- (c) the Agent has received legal opinions in relation to such guarantees and security in form and substance acceptable to it acting reasonably.

Revolving Facility means the revolving credit facility made available under the Senior Facilities Agreement as described in paragraph (a) (iii) of clause 2.1 (The Facilities) of the Senior Facilities Agreement.

Revolving Facility Commitment means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Revolving Facility Commitment" in part 4 (The Original Lenders) of schedule 1 (The Parties) to the Senior Facilities Agreement and the amount of any other Revolving Facility Commitment transferred to it under the Senior Facilities Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Revolving Facility Commitment transferred to it under the Senior Facilities Agreement,

to the extent not transferred by it, cancelled or reduced under the Senior Facilities Agreement.

Revolving Facility Loan means a loan made or to be made under the Revolving Facility or the principal amount outstanding for the time being of that loan.

Sale and Purchase Agreement means the sale and purchase agreement dated on or around the date of the Senior Facilities Agreement made between, amongst others, Peel Ports Holdings (Guernsey) Limited, Infrastructure JVCo (Lime) S.a.r.l. and the Parent in relation to the sale and purchase of shares in the Parent.

Scheduled Disposal means the disposals set out in schedule 19 (The Scheduled Disposals) of the Senior Facilities Agreement.

Secured Creditors means each Secured Party.

Secured Parties means each Finance Party and each Ancillary Lender (including any Affiliate of a Lender which is an Ancillary Lender) from time to time party to the Senior Facilities Agreement, any Receiver or Delegate.

Security means any Security Interest created, evidenced or conferred by or under the Deed.

Security Account means in relation to the Chargor:

- (a) its Collection Accounts; and

- (b) its Trading Accounts.

Security Assets means all assets of the Chargor the subject of the Security.

Security Interest means a mortgage, charge (fixed or floating), pledge, lien, assignment by way of security, hypothecation, set-off or trust arrangement for the purpose of creating security, reservation of title or security interest or any other agreement or arrangement entered into for the purpose of and having a substantially similar effect.

Selection Notice means a notice substantially in the form set out in part 3 of schedule 3 (Requests) of the Senior Facilities Agreement given in accordance with clause 15 (Interest Periods) of the Senior Facilities Agreement in relation to a Loan.

Senior Facilities Agreement means the Senior Facilities Agreement dated 3 November 2006 as amended and restated on or about 15 December 2006 between, amongst others, the Parent, the Lenders, the Agent and the Security Trustee.

Separation Documents means the documents set out in schedule 21 (The Separation Documents) of the Senior Facilities Agreement.

Shareholders Agreement means the shareholders agreement dated on or around the date of the Senior Facilities Agreement made between, amongst others, Peel Holdco, Peel Ports Holdings (Guernsey) Limited, RREEF, Infrastructure JVCo (Lime) S.a.r.l, the Parent and the Company.

Shares means all shares in any member of the Group the subject of the Security.

Structure Memorandum means the structure paper (including both the slides and accompanying narrative) dated on or around the date of the Senior Facilities Agreement prepared by Travers Smith.

Subordinated Debt means:

- (a) the Financial Indebtedness represented by the Investor Loan Notes;
- (b) any other Financial Indebtedness provided that:
 - (i) such Financial Indebtedness is incurred by the Parent or UK Newco 2 (with no credit support, guarantee, security or other recourse, whether of a legal or commercial nature from any other member of the Group);
 - (ii) the holders of such Subordinated Debt enter into subordination and intercreditor arrangements for the benefit of the Secured Parties in form and substance acceptable to the Majority Lenders it being acknowledged that if the Subordinated Debt constitutes Investor Debt and the creditor of such Subordinated Debt is a party to the Priority Agreement as an Investor then the Priority Agreement constitutes subordination and intercreditor arrangements for the benefit of the Secured Parties which are in form and substance acceptable to the Lenders;
 - (iii) any payment made by a member of the Group under, or with respect to, such Financial Indebtedness is funded solely out of such Financial Indebtedness (in a maximum amount of 3% of the principal amount of such Financial Indebtedness) or out of Permitted Distributions; and
- (c) any Intercompany Debt provided that, after the Closing Date, the creditor of such Intercompany Debt is a party to the Priority Agreement as an Obligor and has entered into a

Transaction Security Document in form and substance acceptable to the Lenders or is a company which is identified in part 3 of schedule 1 (the Acceding Obligors) of the Senior Facilities Agreement.

Subsidiary means:

- (a) in relation to any Obligor and in relation to any security parties detailed in part 5 of schedule 1 (The Parties) of the Senior Facilities Agreement and any provision in the Senior Facilities Agreement referring to consolidated accounts, a subsidiary undertaking within the meaning of Section 258 of the Companies Act 1985; and
- (b) for any other purpose, means in relation to any company or corporation, a company or corporation:
 - (i) which is controlled, directly or indirectly, by the first mentioned company or corporation;
 - (ii) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or
 - (iii) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body but excluding Norco Transport Limited, Teca GmbH, Palletpool Limited and Beirut Container Terminal Consortium SAL.

TARGET means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

TARGET Day means any day on which TARGET is open for the settlement of payments in euro.

Tax Deed means the tax deed dated on or around the Closing Date made between Peel Ports Holdings (Guernsey) Limited, PropCo 2, Infrastructure JVCo (Lime) S.a.r.l. and the Parent.

Term Loan means a Facility A Loan, a Facility B Loan or a Facility D Loan.

Termination Date means 31 December 2013.

Test Date means each of 31 March and 30 September in each year.

Total Commitments means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, the Total Revolving Facility Commitments, the Total Facility D Commitments and the Total Facility E Commitments at the date of the Senior Facilities Agreement.

Total Facility A Commitments means the aggregate of the Facility A1 Commitments, the Facility A2 Commitments, the Facility A3 Commitments, the Facility A4 Commitments and the Facility A5 Commitments, being £1,010,000,000 at the date of the Senior Facilities Agreement.

Total Facility B Commitments means the aggregate of the Facility B Commitments, being £31,779,785 at the date of the Senior Facilities Agreement.

Total Facility D Commitments means the aggregate of the Facility D Commitments, being £120,000,000 at the date of the Senior Facilities Agreement.

Total Facility E Commitments means the aggregate of the Facility E Commitments, being £18,000,000 at the date of the Senior Facilities Agreement.

Total Revolving Facility Commitments means the aggregate of the Revolving Facility Commitments, being £20,000,000 at the date of the Senior Facilities Agreement.

Trading Account means in relation to the Chargor:

- (a) any account specified in part 6 of schedule 1 (Security Assets) of the Deed opposite its name; and
- (b) any other account which is not a Collection Account.

Transaction Documents means:

- (a) the Finance Documents;
- (b) the Investor Documents;
- (c) the Separation Documents; and
- (d) the Property Reorganisation Documents

Transaction Security means the Security Interest created or expressed to be created in favour of the Security Trustee pursuant to the Transaction Security Documents.

Transaction Security Documents means each of the documents listed as being a Transaction Security Document in paragraph 3(h) of part 1 of schedule 2 (Conditions Precedent) of the Senior Facilities Agreement and any document creating a Security Interest required to be delivered to the Agent in parts 3 and 5 of schedule 2 (Conditions Precedent) of the Senior Facilities Agreement together with any other document entered into by any Obligor creating or expressed to create any Security Interest over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents.

Transport Business Disposal means the disposal of all of the issued shares of Roadferry Holdings together with the disposal of any other interest of the Group in Roadferry Holdings and any of its subsidiaries (including for the purposes of this definition, Palletpool Limited) (the **Roadferry Group**) or the disposal of any assets owned by any member of the Roadferry Group (other than any asset transferred or shares disposed of from a member of the Group to a member of the Roadferry Group after the date of the Senior Facilities Agreement).

Treasury Transactions means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

UK Newco 1 means Peel Ports Intermediate Holdco Limited (registration number 5979400).

UK Newco 2 means Peel Ports Shareholder Financeco Limited (registration number 05965116).

Unconsolidated Joint Venture means a Joint Venture whose shares may not be subject to security under its constitution or under the agreement governing the operation of that joint venture.

Utilisation means a Loan or a Documentary Credit.

Utilisation Date means the date on which a Utilisation is made.

Utilisation Request means a notice substantially in the relevant form set out in schedule 3 (Requests) of the Senior Facilities Agreement.

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CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. ZC000197

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED THE 15th DECEMBER 2006 AND CREATED BY THE MANCHESTER SHIP CANAL COMPANY FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY IN ITS CAPACITY AS BORROWER TO ANY SECURED CREDITOR AND IN ITS CAPACITY AS CHARGOR UNDER THE DEED ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 22nd DECEMBER 2006.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 3rd JANUARY 2007.



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES