

Land Registry  
Transfer of whole of registered title(s)

TR1

1	Title number(s) of the property: MS354732
2	Property: Land lying between Norton Street and, Fraser Street, Liverpool.
3	Date: 5 <sup>th</sup> June 2018.
4	Transferor: ANWYL CONSTRUCTION COMPANY LIMITED <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 435323 <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
5	Transferee for entry in the register: MOUNT GROUP STUDENT NATEX LIMITED <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 10418229 <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee's intended address(es) for service for entry in the register: 111 Mount Pleasant, Liverpool, Merseyside, L3 5TF
7	The transferor transfers the property to the transferee

8 Consideration

- ☒ The transferor has received from the transferee for the property the following sum (in words and figures):

THREE MILLION SEVEN HUNDRED AND FIFTY THOUSAND POUNDS (£3,750,000) together with Value Added Tax of SEVEN HUNDRED AND FIFTY THOUSAND POUNDS (£750,000)

- ☐ The transfer is not for money or anything that has a monetary value
- ☐ Insert other receipt as appropriate:

9 The transferor transfers with

- ☒ full title guarantee
- ☐ limited title guarantee

The covenants for title implied by this title guarantee are varied as set out in panel 11.

10 Declaration of trust. The transferee is more than one person and

- ☐ they are to hold the property on trust for themselves as joint tenants
- ☐ they are to hold the property on trust for themselves as tenants in common in equal shares
- ☐ they are to hold the property on trust:

11 Additional provisions

1. **Variation of title guarantee**

- 1.1 The covenant for title set out in section 2(1)(b) Law of Property (Miscellaneous Provisions) Act 1994 is varied so that the Transferee will be responsible for the costs of complying with that covenant instead of the Transferor.

2. **Indemnity covenants**

- 2.1 The Transferee covenants with the Transferor that the Transferee and its successors in title to the Property will comply with the entries on the Property and Charges Registers of the Title Number and will indemnify the Transferor against all actions, claims, demands and proceedings taken or made against the Transferor and all costs, damages, expenses, liabilities and losses incurred by the Transferor arising from their breach.
- 2.2 The Transferee covenants with the Transferor that the Transferee and its successors in title to the Property will comply with the landlord's obligations in a Lease of land on the east side of Fraser Street, Liverpool dated 17 July 2013 and made between (1) National Express Limited and (2) Insite Poster Properties Limited and will indemnify the Transferor against all actions, claims, demands and proceedings taken or made against the Transferor and all costs, damages, expenses, liabilities and losses incurred by the Transferor arising from their breach.

12 Execution

Signed as a deed by )

**ANWYL CONSTRUCTION** )

**COMPANY LIMITED** )

acting by one director )

in the presence of: )



*Signature of director*

Witness signature:



Name:

**WITNESS**

Steph Brown – Corporate PA

Address:

**Anwyl Group**

Anwyl House, Clos Dewi Sant,

St David's Park, Ewloe, Flintshire, CH5 3DT

**[NB: Please confirm execution clause]**

Signed as a deed by )

**MOUNT GROUP STUDENT** )

**NATEX LIMITED** )

acting by one director )

in the presence of: )

*Signature of director*

Witness signature:

Name:

Address:

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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DATED

5 June

2017

(1) TIER CONSULT (S Y) LIMITED

and

(2) MOUNT GROUP STUDENT NATEX LIMITED

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**PILING & FOUNDATIONS DESIGN CONSULTANT'S  
DEED OF COLLATERAL WARRANTY**

relating to the development of student accommodation at Norton Street, Liverpool

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**SH SMITHS**

The XYZ Building  
2 Hardman Boulevard  
Spinningfields  
Manchester  
M3 3AZ

Ref. M-00498086

THIS DEED is made the

5

day of

June

2017

**PARTIES:-**

- (1) **TIER CONSULT (S Y) LIMITED** (Company Registration No. 07661675) whose registered office is at Military House, 24 Castle Street, Chester, Cheshire, CH1 2DS ("the **Consultant**"); and
- (2) **MOUNT GROUP STUDENT NATEX LIMITED** (Company Registration No. 10418229) whose registered office is at 111 Mount Pleasant, Liverpool, L3 5TF ("the **Beneficiary**", which term includes its successors in title and permitted assigns);

**AGREEMENT**

**1 DEFINITIONS**

Throughout this Deed the following words and expressions which begin with capital letters shall have the following meanings:

"Appointment"	means the contract for the performance of the Services constituted by the Consultant's written offer to the Employer (ref: [ ] ) dated [ ] 2016 and the Employer's acceptance thereof;
"Employer"	means CREATE CONSTRUCTION LIMITED (Company Registration No. 05752195) whose registered office is at 15 Thompson Road, Whitehills Business Park, Blackpool, FY4 5PN;
"Site"	means the area of land comprising the former National Express coach station at Norton Street, Liverpool;
"Works"	means the development of new student accommodation at the Site under any building contract ("Building Contract") entered into or to be entered into for that purpose;
"Services"	means the design and consultancy services to be provided by the Consultant in respect of piling and foundations for the Works, as described in the Appointment.

**2 INTRODUCTION**

- 2.1 The Employer has appointed the Consultant to provide the Services in connection with the Works upon the terms contained in the Appointment.
- 2.2 The Beneficiary has agreed to purchase the Site.
- 2.3 The Consultant has agreed to enter into direct obligations with the Beneficiary in the terms of this Deed.

**3 CONSIDERATION**

In consideration of the payment of £1 (one pound) by the Beneficiary to the Consultant receipt of which the Consultant acknowledges the Consultant has agreed to enter into this Deed with the Beneficiary.



## **4 WARRANTIES**

The Consultant warrants and undertakes to the Beneficiary that:

- 4.1 in respect of such matters as lie within the scope of Services under the Appointment in relation to the Works it has diligently performed and observed and will continue to diligently perform and observe all the obligations it is required to perform and observe under the Appointment and that it, without prejudice to the foregoing, has exercised and will continue to exercise all the reasonable skill care and diligence required by the Appointment in the performance of its Services under the Appointment;
- 4.2 it owes to the Beneficiary the same (but no greater) duty of care that it owes to the Employer under the Appointment (but for the avoidance of doubt not for this purpose taking account of any set-off defence or counterclaim against the Employer under the Appointment nor any agreement to vary the terms of the Appointment that would prejudice the Beneficiary unless the Beneficiary has given its written consent);
- 4.3 it has undertaken and completed, so far as the scope of Services under the Appointment require, any action or activity required by any land remediation plan or report made in respect of the Site; and
- 4.4 notwithstanding any other provision of this Deed, it shall not be entitled to contend in defence of any actions or proceedings under this Deed or otherwise that its liability to the Beneficiary is extinguished, reduced or in any way affected by virtue of the fact that the Employer has suffered no loss or a different loss from the Beneficiary as a consequence of any breach by the Consultant.

## **5 DELETERIOUS MATERIALS**

- 5.1 The Consultant warrants and undertakes to the Beneficiary that it has exercised and will continue to exercise all the reasonable skill, care and diligence required by the Appointment to see that the following materials have not been used and will not be used and are not specified and will not be specified by it for use in the construction of the Works:
  - 1 Substances which have been published as being deleterious/potentially hazardous by the Building Research Establishment or substances that are not in accordance with the Guide *Good Practice in the selection of Construction Materials* (current guide) published by the British Council for Offices unless used in accordance with the recommendation as to good practice contained in section 2 of that report.
  - 2 Any other substance or method of use generally known at the time of use or specification to be deleterious to the durability of the Works and/or the health and safety or to the integrity of buildings and/or other structures and/or plant and machinery or which is not in accordance with the current British Standards Codes of Practice or European Union equivalent for the time being in force at the time of specification and/or use and good building practice as set out in the UK by a recognised body or institution.
- 5.2 Should the Consultant become aware that any substance has been used in the Works other than in accordance with clause 5.1 above, it will inform the Beneficiary immediately. This clause 5 does not apply to materials present on the site at the date of the Appointment.

## **6 INSURANCE**

- 6.1 The Consultant warrants and undertakes to the Beneficiary that it has and shall maintain professional indemnity insurance and continuing for a period of 6 years after the date of Practical Completion of the Works (as defined by the Building Contract) (or 6 years after termination of the Appointment if earlier) with a well-established and reputable insurance office

or underwriter of repute carrying on business in the United Kingdom with a limit of indemnity of not less than £10,000,000 (ten million pounds) for each and every claim except claims relating to pollution and asbestos where an annual aggregate limit will apply PROVIDED ALWAYS that such insurance is available in the United Kingdom market to the business of the Consultant on commercially reasonable rates and terms. Commercially reasonable rates and terms shall include any increase in premium arising as a result of the Consultant's own claims record.

- 6.2 The Consultant shall inform the Beneficiary immediately if such insurance ceases to be available on commercially reasonable rates and terms and with the written approval of the Beneficiary take out such lower level of insurance or cover as is available (if any) in the market to the profession of the Consultant on commercially reasonable rates and terms or discuss means of protecting their respective positions in respect of the Works in the absence of such insurance.
- 6.3 As and when the Consultant is reasonably requested to do so by the Beneficiary the Consultant shall produce for inspection sufficient documentary evidence to prove that the insurance required under this clause is being maintained in accordance with the terms of this Deed.

## **7 COPYRIGHT**

- 7.1 The copyright in all drawings reports specifications bills of quantities calculations and other similar documents including any produced by Autocad all computer software developed by the Consultant and used to generate documents and any designs contained in them all provided by the Consultant in connection with the Services ("the Documents") shall remain vested in the Consultant but the Consultant grants to the Beneficiary with full title guarantee a non-exclusive irrevocable and royalty free licence to copy and use the Documents for all purposes connected with the Works including (without limitation) the construction, completion, reconstruction, alteration, maintenance, operation, letting, promotion, advertisement, reinstatement, use and repair of the Works and provided that whilst the Beneficiary shall have a licence to copy and use the Documents for the extension of the Works such use shall not include a licence to reproduce the designs contained in them for any extensions to the Works. The Consultant shall not be liable for any use of the Documents other than for the purposes for which they were originally produced.
- 7.2 The Consultant agrees and undertakes that it hereby irrevocably waives any rights it may have pursuant to Chapter IV (Moral Rights) of Part 1 of the Copyright Designs and Patent Act 1988 in the Documents, and upon reasonable request from the Beneficiary at any time shall obtain a written waiver from its employees or sub-consultants of any rights that they may have in respect of the same.
- 7.3 The Consultant, exercising the standard of care set out in clause 4.1 above, warrants to the Beneficiary that any of the Documents prepared pursuant to the Appointment by or on behalf of the Consultant shall not in any way infringe any intellectual property rights belonging to any third party and shall fully indemnify the Beneficiary against all fully mitigated and legally enforceable actions, claims, demands, costs, charges, expenses and liabilities of whatsoever nature arising from or incurred by reason of any infringement of any intellectual property rights.
- 7.4 The Beneficiary shall be entitled to assign the licence and/or grant sub-licence(s) to third parties (on a maximum of two occasions only) on the basis that any assignment or sub-licence granted by the Beneficiary shall be subject to identical terms of the Beneficiary's licence in clause 7.1 in this Deed.
- 7.5 Subject to payment by the Beneficiary of the reasonable copying charges of the Consultant the Beneficiary shall be entitled to access to and/or to full and proper copies of the Documents relating to the Works in the possession or control of the Consultant. The Consultant will not claim copyright or a lien in respect of them against the Beneficiary.



## **8        EXTRANEOUS RIGHTS**

- 8.1        This Deed shall not negate nor diminish any duty or liability otherwise owed by the Consultant to the Beneficiary.
- 8.2        The rights and remedies provided by this Deed are and shall be cumulative and shall not exclude any rights or remedies provided by law.
- 8.3        The Consultant's duties and obligations and liability under or pursuant to this Deed shall not be released, diminished or in any other way affected by any independent enquiry into any relevant matter which may be made or carried out by the Beneficiary or any firm, company or party on the Beneficiary's behalf nor by any action or omission by the Beneficiary or any such firm, company or party whether or not such action or omission might give rise to an independent liability of such firm, company or party to the Beneficiary.
- 8.4        This Deed shall be binding upon and shall inure to the benefit of the successors of the parties hereto and the permitted assigns of the Beneficiary.

## **9        ASSIGNMENT**

- 9.1        The benefit of this Deed and/or any of the present or future rights interests and benefits of the Beneficiary hereunder may be assigned on up to two occasions only without consent but no assignment:

9.1.1      to a member of the group of companies (as defined in section 1159 of the Companies Act 2006) of which the Beneficiary forms part; or

9.1.2      by way of security to a funder and/or re-assignment upon redemption

shall count towards the number of assignments which have taken place. Any assignment shall be notified in writing to the Consultant.

- 9.2        The Consultant warrants and undertakes to the Beneficiary not to contend that any person to whom this Deed shall be assigned shall be precluded from recovering under this Deed any loss resulting from any breach of this Deed either by reason that that person is an assignee and not the original promisee hereunder or by reason that the Beneficiary named herein or any intermediate owner of the Beneficiary's interest in the Works shall escape loss resulting from such breach by reason of the disposal of its interest in the same.

## **10       NOTICES**

Any notice provided for in accordance with this Deed shall be in writing and shall be deemed to be duly given if delivered by hand or sent by prepaid recorded delivery or special delivery post to the party named therein at the address of such party shown in this Deed or such other address in the United Kingdom as such party may by notice in writing nominate for the purpose of service and if sent by post shall be deemed to have been received forty-eight hours after the same shall have been posted.

## **11       LIMITATION**


All parties agree that notwithstanding the terms and effect of any provision of the Limitation Act 1980 (including any amendment or re-enactment of the same) to the contrary the Consultant will have no liability to the Beneficiary under this Deed following the expiry of a period of 12 years from the date of Practical Completion of the Works as established pursuant to and for the purposes of the Building Contract (or if sooner 12 years after the termination of the employment of the Consultant under the Appointment) other than in relation to any matter in respect of which legal proceedings are commenced against the Consultant prior to the expiry of such period.

**12 GOVERNING LAW AND INTERPRETATION**

- 12.1 The law of this Deed is English Law and the English Courts shall have jurisdiction with regard to all matters arising from this agreement.
- 12.2 Any reference to "person" "firm" or "company" includes any entity which has legal capacity.
- 12.3 Any term importing the singular number includes the plural number and vice versa.
- 12.4 Clause headings are for convenience only and do not form part of or affect the interpretation of this Deed.
- 12.5 Any reference to any clause schedule or appendix is a reference to that clause of or schedule or appendix to this Deed.
- 12.6 Notwithstanding any other provision of this Deed, nothing in this Deed confers or purports to confer any right to enforce any of its terms on any person who is not a party to it, save for any assignee of this Deed to whom the same shall be expressly assigned pursuant to clause 9 hereof, and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be of no effect in respect of this Deed.
- 12.7 Nothing in this Deed shall create or be deemed to create a partnership or joint venture nor shall it be construed so as to constitute either party to be the agent or employee of the other.

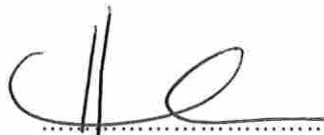
**IN WITNESS** of which this document has been executed and on the date first set out above delivered as a deed.

Executed as a deed by **TIER CONSULT** )  
**(S Y) LIMITED** acting by a director in the )  
presence of: )

  
.....

Director

Signature of witness

  
.....

Name (in BLOCK CAPITALS)

..... HELEN GREEN .....

Address

..... 8 RINGING LANE GARDENS .....

..... SHEFFIELD .....

..... S11 7DB .....

Executed as a deed by **MOUNT GROUP** )  
**STUDENT NATEX LIMITED** acting by a )  
director in the presence of: )

.....

Director

Signature of witness

.....

Name (in BLOCK CAPITALS)

.....

Address

.....

.....

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