



Registration of a Charge

Company name: **Goldcrest Land PLC**

Company number: **01660121**



X61THCYY

Received for Electronic Filing: **09/03/2017**

Details of Charge

Date of creation: **07/03/2017**

Charge code: **0166 0121 0097**

Persons entitled: **BARCLAYS BANK PLC (AS SECURITY AGENT)**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

PINSENT MASONS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1660121

Charge code: 0166 0121 0097

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th March 2017 and created by Goldcrest Land PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th March 2017 .

Given at Companies House, Cardiff on 10th March 2017

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 7 March **2017**

**(1) THE COMPANIES LISTED IN SCHEDULE 2
(AS CHARGORS)**

and

**(2) BARCLAYS BANK PLC
(AS SECURITY AGENT)**

DEBENTURE



Pinsent Masons

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THIS DEBENTURE is made on 7 March 2017

BETWEEN:-

- (1) **THE COMPANIES LISTED IN SCHEDULE 2** (the "**Chargors**" and each a "**Chargor**"); and
- (2) **BARCLAYS BANK PLC** (company number: 01026167) whose registered office is at 1 Churchill Place, London, E14 5HP in its capacity as security trustee for the Finance Parties (the "**Security Agent**").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Debenture:-

"Additional Land" means any estate, right or interest in or over land which is the subject of Security (other than solely in respect of the floating charge granted pursuant to: (a) Clause 3.2 (*Floating Charge*) of this Debenture; or (b) the corresponding provision of any other Security Document) granted in favour of the Security Agent under any other Finance Document, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Additional Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes "**Additional Land**" excludes heritable property situated in Scotland

"Charged Property" means all the assets and undertaking of each Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Security Agent by or pursuant to this Debenture

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

"Enforcement Action" means:-

- (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand;
- (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge);
- (c) the making of any demand against any Chargor in relation to any guarantee, indemnity or other assurance against loss in respect of any Secured Liabilities;
- (d) the exercise of any right of set-off against any Chargor in respect of any Secured Liabilities

excluding any right of set off under a netting arrangement with any Chargor's clearing bank;

(e) the suing for, commencing or joining of any legal or arbitration proceedings against any Chargor to recover any Secured Liabilities; or

(f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to any Chargor

"Enforcement Date" means the date on which the Security Agent for and on behalf of the Finance Parties first takes Enforcement Action

"Event of Default" means any event or circumstance specified in Clause 24 (*Events of Default*) of the Facilities Agreement

"Facilities Agreement" means the revolving credit facilities agreement for £10,000,000 dated 13 March 2015 between, amongst others, (1) the Chargors as obligors and (2) Barclays Bank PLC as arranger, as agent, as original lender and as security agent

"Fixed Charge Properties" means any estate, right or interest in or over land of any Chargor that is subject to a charge by way of legal mortgage, fixed charge or other fixed security, in favour of the Security Agent

"Fixed Plant and Equipment" means all plant, machinery or equipment of any Chargor of any kind which does not for any reason constitute a Fixture, but is now or at any time directly or indirectly attached by any means and for any purpose to any land or building, whether or not it is removable or intended to form part of the land or building

"Fixtures" means all things of any kind now or at any time affixed to the Land or Additional Land for any purpose, including, without limitation, trade and tenants fixtures

"Insurances" means any policy of insurance or assurance in which any Chargor has an interest and all claims and rebates of premium under any such policy

"Intellectual Property" means any of the following in which any Chargor has an interest:-

(a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above

(b) any invention, copyright, design right or performance right

(c) any trade secrets, know-how and confidential

information and

- (d) the benefit of any agreement or licence for the use of any such right

"Land"

means any estate, right or interest in or over land which is described in Schedule 1, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes **"Land"** excludes heritable property situated in Scotland

"Loose Plant and Equipment"

means, in relation to any Chargor, all plant, machinery, equipment and motor vehicles now or at any time owned by that Chargor as a capital asset which is not Fixed Plant and Equipment

"LPA"

means the Law of Property Act 1925

"Monetary Claims"

means all book and other debts and monetary claims now or in the future owing to any Chargor (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt

"Notice of Charge"

means a notice of charge in such form as may be specified by the Security Agent

"Receiver"

means a receiver or receiver and manager, administrative receiver or other similar officer (including, without limitation, the Viscount) of the whole or any part of the Charged Property

"Related Rights"

means in relation to any Charged Property

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

"Secured Liabilities"

means all present and future liabilities and obligations of each Chargor to the Finance Parties (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the

Security Agent or the Finance Party in question was the original creditor in respect thereof) including without limitation interest, commission, costs, charges and expenses charged by the Security Agent or any Finance Party at rates agreed between it and the relevant Chargor, or in the absence of express agreement, in accordance with the Security Agent's or that Finance Party's normal practice for the time being

"Secured Party"

means a Finance Party, a Receiver or any Delegate

"Securities"

means all the right, title and interest of any Chargor, now or in the future, in any:-

- (a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person
- (b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person and
- (c) units or other interests in any unit trust or collective investment scheme

"Security"

means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Debenture, all words and expressions defined or whose interpretation is provided for in the Finance Documents shall have the same meanings in this Debenture.

1.3 Interpretation

In this Debenture, unless the context otherwise requires:-

- 1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;
- 1.3.2 the term "**assets**" includes all property, rights and revenues whatsoever, and wheresoever, present and future;
- 1.3.3 references to a "**guarantee**" include an indemnity or any other form of surety;
- 1.3.4 a Default or an Event of Default is "**continuing**" if it has not been remedied or waived;
- 1.3.5 all references to documents include all variations and replacements of such documents and supplements to such documents;
- 1.3.6 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;

- 1.3.7 references to persons include bodies corporate, unincorporated associations and partnerships; and
- 1.3.8 words and phrases defined in the Companies Act 2006 have the same meanings in this Debenture but the word "**company**" includes any body corporate.

1.4 **Statutes and headings**

In this Debenture:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Debenture.

1.5 **Clauses and Schedules**

In this Debenture references to "**Clauses**" are to the clauses or sub-clauses of this Debenture and references to the "**Schedule**" are to the schedule to this Debenture unless otherwise stated. The Schedule shall be treated as an integral part of this Debenture and references to this Debenture shall include the Schedule.

1.6 **Acknowledgment**

- 1.6.1 Each Chargor acknowledges that the Security Agent will enter into this Debenture for itself and as trustee for the Finance Parties who shall be entitled to the full benefit of this Debenture. The perpetuity period for the trusts constituted by this Deed shall be 125 years. The provisions of the Facilities Agreement with respect to the rights and obligations of the Security Agent shall apply to the Security Agent as if set out in this Debenture.
- 1.6.2 The parties acknowledge that this Debenture is a Security Document.

2. **COVENANT TO PAY**

2.1 **Secured Liabilities**

Each Chargor covenants that it will on demand of the Security Agent pay and discharge any or all of the Secured Liabilities when due.

2.2 **Interest**

Each Chargor covenants to pay interest to the Security Agent upon any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after any judgment) at three per cent. above the interest rate that would have otherwise been applicable to that overdue sum under the Facilities Agreement.

3. **CHARGES**

3.1 **Mortgages and Fixed Charges**

As continuing security for payment of the Secured Liabilities, each Chargor with full title guarantee charges to the Security Agent (as trustee for and on behalf of the Finance Parties) all its right, title and interest from time to time in each of the following assets:-

- 3.1.1 by way of first legal mortgage all Land now vested in that Chargor;
- 3.1.2 by way of first fixed charge all Additional Land acquired by that Chargor after the date of this Debenture;
- 3.1.3 by way of first fixed charge:-
 - (a) the Securities;
 - (b) the Intellectual Property in respect of the Fixed Charge Properties;
 - (c) the Monetary Claims;
 - (d) the Fixed Plant and Equipment in respect of the Fixed Charge Properties;
 - (e) the Loose Plant and Equipment in respect of the Fixed Charge Properties;
 - (f) the Accounts;
 - (g) the Insurances in respect of the Fixed Charge Properties;
 - (h) the Related Rights under or in connection with the Land, the Insurances, the Intellectual Property, the Fixed Plant and Equipment and the Loose Plant and Equipment, in each case in respect of the Fixed Charge Properties;
 - (i) the Related Rights under or in connection with the Securities, the Accounts and the Monetary Claims; and
 - (j) its present and future goodwill and uncalled capital.

3.2 **Floating Charge**

As continuing security for payment of the Secured Liabilities, each Chargor with full title guarantee charges to the Security Agent (as trustee for and on behalf of the Finance Parties) by way of first floating charge the whole of its undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by this Debenture, including, without limitation, any heritable property of that Chargor situated in Scotland.

3.3 **Trust**

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the relevant Chargor shall hold it on trust for the Security Agent.

3.4 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Debenture.

4. CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation: By Notice

The Security Agent may at any time by notice in writing to the Chargors convert the floating charge created by Clause 3.2 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

- 4.1.1 the Enforcement Date has occurred;
- 4.1.2 the Security Agent considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or
- 4.1.3 the Security Agent considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Debenture.

4.2 Crystallisation: Automatic

The floating charge created by Clause 3.2 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to the floating charge if:-

- 4.2.1 any Chargor creates or attempts to create any Security (other than as permitted pursuant to the terms of the Finance Documents) over any of the Charged Property; or
- 4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or
- 4.2.3 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of any Chargor, over all or any part of its assets, or if such person is appointed.

4.3 Crystallisation: Moratorium where directors propose voluntary arrangement

The floating charge created by Clause 3.2 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:-

- 4.3.1 the obtaining of a moratorium; or
- 4.3.2 anything done with a view to obtaining a moratorium,
under Schedule A1 to the Insolvency Act 1986.

5. PERFECTION OF SECURITY

5.1 Notices of Charge

Each Chargor shall deliver to the Security Agent (or procure delivery of) Notices of Charge duly executed by, or on behalf of, the relevant Chargor:-

- 5.1.1 in respect of the Insurances, on the date of this Debenture and promptly upon purchasing any further Insurance after the date of this Debenture;
- 5.1.2 in respect of each Account, on the date of this Debenture and promptly upon the opening of any further Account after the date of this Debenture (other than any Account held with the Security Agent); and

- 5.1.3 in respect of any other asset which is the subject of a charge pursuant to Clause 3.1.3, promptly upon the request of the Security Agent from time to time,

and in each case shall use all reasonable endeavours to procure that each notice is acknowledged by the party to whom such Notice of Charge is addressed.

- 5.2 If the Security Agent is the institution with whom the Borrower has any bank account the Security Agent acknowledges that for the purposes of Clause 5.1.2 this Debenture constitutes notice to it of the charge over the bank accounts under clause 3.1.3(f) and 3.1.3(i) which are held with it.

5.3 Delivery of Documents of Title

Each Chargor shall upon the execution of this Debenture (or, if later, upon receipt or entitlement thereof), deposit with the Security Agent, or provide an undertaking from a solicitor to hold to the order of the Security Agent, and the Security Agent during the continuance of this security shall be entitled to hold, or have held to its order, all deeds, certificates and other documents of title relating to Land, the Securities and the Insurances. In the case of the Securities, each Chargor shall also deliver such stock transfer forms or other instruments of transfer (stamped and executed in blank by the relevant Chargor) as the Security Agent may request.

5.4 Application to the Land Registry

Each Chargor and the Security Agent shall apply to the Land Registry for the following to be entered into on the register of the title to any Land now or in the future owned by each Chargor:-

- 5.4.1 a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] 2017 in favour of Barclays Bank PLC referred to in the charges register (Form P)".

- 5.4.2 a notice that the Security Agent is under an obligation to make further advances on the terms and subject to the conditions of the Finance Documents and the security created by the charge dated [] 2017 in favour of Barclays Bank PLC has been created for the purpose of securing such further advances.

6. FURTHER ASSURANCE

6.1 General

Each Chargor shall, at its own expense, at any time when required by the Security Agent, execute and deliver to the Security Agent:-

- 6.1.1 a valid legal mortgage of any Land now or in the future owned by it;
- 6.1.2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land now or in the future belonging to it;
- 6.1.3 a legal assignment or other fixed Security over all or any of the Charged Property;

6.1.4 where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Security Agent may require; and

6.1.5 a notice to any third party of any of the charges or assignments created by or pursuant to this Debenture,

in each case, in the Security Agent's standard form or such other form as the Security Agent may require.

6.2 Other acts

Without prejudice to Clause 6.1 (*General*), each Chargor shall, at its own expense, at any time when required by the Security Agent, do and concur in all acts or things as the Security Agent may deem necessary or desirable for the purpose of the creation, perfection, protection or maintenance of any of the Security intended to be created by this Debenture over all or any of the Charged Property or to facilitate the enforcement of that Security, or the exercise of any powers or discretions intended to be vested in the Security Agent or any Receiver by this Debenture.

7. RESTRICTIONS ON DEALING

7.1 Negative Pledge

Each Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security over all or any part of the Charged Property, except as expressly permitted under the terms of the Finance Documents.

7.2 Disposals

Each Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture, except as expressly permitted under the terms of the Finance Documents, sell, transfer, assign, lease or hire out, factor, discount, licence, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until:-

7.2.1 the floating charge created by Clause 3.2 (*Floating Charge*) is converted into a fixed charge; or

7.2.2 the occurrence of the Enforcement Date,

each Chargor may hold, enjoy and deal with, in accordance with the Finance Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage.

8. SECURITIES

8.1 Securities: Before Enforcement Date

Prior to the occurrence of the Enforcement Date, each Chargor shall, subject to the Finance Documents:-

8.1.1 pay all dividends, interest and other monies arising from the Securities into an Account; and

8.1.2 exercise all voting rights in relation to the Securities for any purpose not inconsistent with the terms of the Finance Documents.

8.2 Securities: After Enforcement Date

After the occurrence of the Enforcement Date, the Security Agent may at its discretion (in the name of the relevant Chargor or otherwise and without any further consent or authority from that Chargor):-

- 8.2.1 exercise (or refrain from exercising) any voting rights in respect of the Securities;
- 8.2.2 apply all dividends, interest and other monies arising from the Securities in accordance with Clause 16 (*Application of Moneys*);
- 8.2.3 transfer the Securities into the name of such nominee(s) of the Security Agent as it shall require; and
- 8.2.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities,

in each case, in such manner and on such terms as the Security Agent may think fit and the proceeds of any such action shall form part of the Charged Property.

8.3 Securities: Payment of Calls

Each Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Securities which are not fully paid (unless reasonably contested), and in any case of default by any Chargor in such payment, the Security Agent may, if it thinks fit, make such payment on behalf of the relevant Chargor in which case any sums paid by the Security Agent shall be reimbursed by the relevant Chargor to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed at the rate notified to the relevant Chargor by the Security Agent.

8.4 Securities: Exercise of Rights

No Chargor shall exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Security Agent, would prejudice the effectiveness of, or the ability of the Security Agent to realise, the security created by or pursuant to this Debenture.

9. ACCOUNTS

9.1 Accounts: Notification and Variation

Each Chargor, during the subsistence of this Debenture:-

- 9.1.1 shall promptly deliver to the Security Agent on the date of this Debenture (and, if any change occurs after the date of this Debenture, on that date), details of each Account maintained by it with any bank or financial institution (other than with the Security Agent); and
- 9.1.2 shall not, without the Security Agent's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account unless such account closure is notified in advance to the Security Agent.

9.2 Accounts: Operation Before Enforcement Date

Subject to the terms of the Finance Documents, each Chargor shall, prior to the occurrence of the Enforcement Date, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account.

9.3 **Accounts: Operation After Enforcement Date**

After the occurrence of the Enforcement Date, no Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Security Agent.

9.4 **Accounts: Application of Moneys**

The Security Agent shall, upon the occurrence of the Enforcement Date, be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with Clause 16 (*Application of Moneys*).

10. **MONETARY CLAIMS**

10.1 **No dealing with Monetary Claims**

No Chargor shall at any time during the subsistence of this Debenture, without the prior written consent of the Security Agent or as permitted pursuant to the terms of the Finance Documents, sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing.

10.2 **Proceeds of Monetary Claims**

Each Chargor shall get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

11. **INSURANCES**

11.1 **Insurances: Undertakings**

In accordance with and subject to the Facilities Agreement (the terms of which shall prevail), each Chargor shall at all times during the subsistence of this Debenture:-

11.1.1 keep the Charged Property insured with those insurances normally maintained by a prudent company in the same business as that Chargor would insure and with an insurance office or underwriters to be approved by the Security Agent in writing from time to time and otherwise in accordance with the terms of the Finance Documents;

11.1.2 if required by the Security Agent, cause each Insurance relating to the Charged Property (other than any Bare Land Site) to contain (in form and substance satisfactory to the Security Agent) an endorsement naming the Security Agent as loss payee in respect of all claims;

11.1.3 promptly pay all premiums and other moneys payable under all its Insurances or procure that such is done and, promptly upon request, produce to the Security Agent a copy of each policy and evidence (acceptable to the Security Agent) of the payment of such sums (or procure that such is done) and not do or omit to do or permit or suffer to be done or omitted to be done, anything which might render any Insurance required by this clause void, voidable or unenforceable; and

11.1.4 if required by the Security Agent, provide a copy of all Insurances relating to the Charged Property to the Security Agent.

11.2 **Insurance: Default**

If any Chargor defaults in complying with Clause 11.1 (*Insurance: Undertakings*), the Security Agent may effect or renew any such Insurance on such terms, in such

name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Security Agent in doing so shall be reimbursed by the Chargors to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

11.3 **Application of Insurance Proceeds**

All moneys received under any Insurance relating to the Charged Property shall, prior to the occurrence of the Enforcement Date, be applied in accordance with the terms of the Finance Documents. After the occurrence of the Enforcement Date, each Chargor shall hold such moneys upon trust for the Security Agent pending payment to the Security Agent for application in accordance with Clause 16 (*Application of Moneys*) and each Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Charged Property.

12. **LAND AND ADDITIONAL LAND**

In accordance with and subject to the Facilities Agreement (the terms of which shall prevail), each Chargor shall (with the intent that this Clause 12 (*Land*) shall apply in relation to all Land or Additional Land now vested in that Chargor or acquired by that Chargor after the date of this Debenture):-

12.1 **Repair and Alterations**

12.1.1 keep or cause to be kept all buildings and Fixtures from time to time on or in any of its Land or Additional Land and all other plant, machinery and equipment belonging to it in good and substantial repair and good working order;

12.1.2 not, without the prior written consent of the Security Agent, make or permit the making of any alteration or addition to any of its Land or Additional Land (other than internal non-structural alterations) or commit or permit any person to commit any waste upon or injure or in any manner or by any means lessen the value of its Land or Additional Land or sever or permit to be severed from any of its Land or Additional Land any Fixtures except for the purpose of replacing them as soon as practicable with others of equal or greater value; and

12.1.3 permit any authorised representative of the Security Agent at any time, but subject to the terms of any occupation lease and reasonable notice, to enter any of its Land or Additional Land for any purpose without becoming liable to account as a mortgagee in possession and to inspect and test any work being carried out and, where any breach of covenant, defect, disrepair or unauthorised alteration, improvement or addition shall be found, remedy all such breaches and execute all such repairs or removals as the Security Agent may require within 28 days after notice (or immediately, in case of emergency);

12.2 **Statutes**

12.2.1 comply with the provisions of all statutes and the requirement of any competent authority affecting any of its Land or Additional Land or the use of any of its Land or Additional Land or anything done on any Land or Additional Land; and

12.2.2 ensure that all consents and approvals under all statutes and the regulations and codes of practice of any competent authority affecting any of its Land or Additional Land have been obtained and are complied with, and produce on demand such evidence as the Security Agent may require to satisfy itself

that such consents and approvals have been obtained and are complied with;

12.3 Leases

- 12.3.1 pay the rents and observe and perform all covenants, conditions, agreements or obligations on its part to be observed and performed contained in any lease under which any of its Land or Additional Land is held by that Chargor and any licence, consent or approval given under any lease, and use its best endeavours to enforce observance and performance of the lessor's covenants in any lease;
- 12.3.2 not accelerate or defer payment of any moneys payable under any such lease and where any lease contains a provision for the review of rent promptly notify the Security Agent of any attempt by the lessor to implement a review but not agree the reviewed rent or appoint or agree to the appointment of a third party to determine a rent review without the prior written consent of the Security Agent;
- 12.3.3 not apply for any licence, consent or approval under any such lease or any superior lease without the prior written consent of the Security Agent; and
- 12.3.4 promptly give notice to the Security Agent if any Chargor receives notice under section 146 of the LPA or any proceedings are commenced for forfeiture of any such lease or any superior lease or the lessor or any superior lessor re-enters or attempts to re-enter thereunder and at the request of the Security Agent but at the cost of the relevant Chargor take such steps as the Security Agent may require in relation thereto;

12.4 Power of Leasing

not, without the prior written consent of the Security Agent, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of any of its Land or Additional Land or confer or permit to be conferred upon any person any contractual licence, right or interest to occupy or use or grant any licence or permission to assign, underlet or part with possession of the whole or any part of its Land or Additional Land or agree to do any of the foregoing, and sections 99 and 100 of the LPA shall not apply to this Debenture;

12.5 Compulsory Acquisition

not without the prior written consent of the Security Agent enter into any negotiations with any competent authority with regard to the compulsory acquisition of any of its Land or Additional Land or consent to the compulsory acquisition of any of its Land or Additional Land, and, if so requested by the Security Agent, permit the Security Agent or its authorised representatives to conduct such negotiations or to give such consent on the relevant Chargor's behalf;

12.6 Outgoings

pay as and when the same become due all rates, taxes, duties, charges, assessments and other outgoings payable in respect of its Land and Additional Land; and

12.7 Encumbrances

comply with:-

- 12.7.1 all obligations, covenants, exceptions, reservations, licences, approvals, consents, stipulations, restrictions and conditions to which it is subject

including, but without limitation, those relating to any of its Land or the use or enjoyment of any of its Land or Additional Land or imposed upon the relevant Chargor as owner, occupier or user, as the case may be, of any of its Land or Additional Land; and

- 12.7.2 its obligations under any Security having priority to the Security created by or pursuant to this Debenture.

13. DEMAND AND ENFORCEMENT

13.1 Enforcement

This Debenture shall become enforceable in respect of and against each Chargor:-

- 13.1.1 upon any demand being made by the Security Agent under any Finance Document for payment of any of the Secured Liabilities by any Chargor;
- 13.1.2 upon the occurrence of any Event of Default which is continuing;
- 13.1.3 upon any request being made by any Chargor to the Security Agent for the appointment of a Receiver or for the Security Agent to exercise any other power or right available to it;
- 13.1.4 upon the occurrence of any event causing, or purporting to cause, the floating charge created by this Debenture to become fixed in relation to any Charged Property; or
- 13.1.5 upon the passing of any resolution, or the presentation of a petition, for winding up of any Chargor or the making of an application for an administration order in relation to any Chargor or the taking of any steps in relation to the appointment of an administrator of any Chargor.

13.2 Demand for payment

Any demand for payment, and any other notice to be given by the Security Agent under this Debenture, shall be in writing and may be signed by any authorised signatory on behalf of the Security Agent, and may be made or given to any Chargor at any place of business of that Chargor, or the registered office of that Chargor:-

- 13.2.1 by delivering it to any such place; or
- 13.2.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00am on the next Business Day after posting, and proof of posting shall be proof of delivery); or
- 13.2.3 by sending it by fax to any fax number of that Chargor (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).

13.3 Powers on enforcement

At any time after this Debenture has become enforceable, the Security Agent may (without prejudice to any other rights and remedies and without notice to any Chargor) do all or any of the following:-

- 13.3.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the LPA; and

- 13.3.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA.

14. RECEIVERS

14.1 Appointment

At any time after this Debenture has become enforceable in respect of and against any Chargor (or all of them), the Security Agent may appoint any person or persons to be a Receiver or Receivers of all or any part of the Charged Property of the Chargor or Chargors charged under this Debenture or an administrator of the Chargor or Chargors. An appointment over part only of such Charged Property shall not preclude the Security Agent from making any subsequent appointment over any other part of such Charged Property.

14.2 Appointment in writing

The appointment of a Receiver shall be in writing, and may be signed by any authorised signatory on behalf of the Security Agent. Where more than one person is acting at any time as Receiver, they shall have power to act severally as well as jointly.

14.3 Remuneration

The Security Agent may from time to time determine the remuneration of the Receiver (which shall not be subject to the limit in section 109(6) of the LPA) and may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

14.4 Powers

The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the relevant Chargor goes into liquidation from which time he shall act as principal and shall not become the agent of the Security Agent, and the Receiver shall have and be entitled to exercise in relation to the Charged Property all the powers:-

- 14.4.1 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 14.4.2 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 14.4.3 and rights that an absolute owner would have in relation to any Charged Property; and
- 14.4.4 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

15. POWER OF ATTORNEY

15.1 Appointment

Each Chargor hereby irrevocably and by way of security appoints:-

- 15.1.1 the Security Agent (whether or not a Receiver has been appointed); and also

15.1.2 (as a separate appointment) each Receiver,

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

15.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 15.1 (*Appointment*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 15.1 (*Appointment*).

16. APPLICATION OF MONEYS

16.1 Application of moneys

All sums received by virtue of this Debenture by the Security Agent or the Receiver shall, subject to the payment of any claim having priority to this Debenture, be paid or applied in the following order of priority:-

16.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Security Agent, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;

16.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Security Agent may at its discretion require; and

16.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,

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

17. CONSOLIDATION

17.1 Combination of accounts

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Security Agent shall have the right at any time or times after this Debenture has become enforceable, without notice to the relevant Chargor, to combine or consolidate all or any accounts which it then has in relation to that Chargor (in whatever name) and any Secured Liabilities owed by that Chargor to the Security Agent, and/or to set-off or transfer any amounts standing to the credit of one or more accounts of that Chargor in or towards satisfaction of any Secured Liabilities owed to the Security Agent on any other account or otherwise.

17.2 Application

The Security Agent's rights under Clause 17.1 apply:-

17.2.1 whether or not any demand has been made under this Debenture, or any liability concerned has fallen due for payment;

17.2.2 whether or not any credit balance is immediately available or subject to any restriction;

17.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Security Agent may for the purpose of exercising its right elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and

17.2.4 in respect of any Secured Liabilities owed by any Chargor, whether owed solely or jointly, certainly or contingently, presently or in the future, as principal or surety, and howsoever arising.

18. PROTECTION OF THIRD PARTIES

18.1 Statutory powers

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

18.2 Purchasers

No purchaser from or other person dealing with the Security Agent, any person to whom it has delegated any of its powers, or the Receiver shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, or whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise of any such power, and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

18.3 Receipts

The receipt of the Security Agent or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other person dealing with the Security Agent.

19. PROTECTION OF THE SECURITY AGENT AND ANY RECEIVER

19.1 No liability

The Security Agent and any Receiver shall not be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise any of their respective powers under this Debenture.

19.2 Not mortgagee in possession

Without prejudice to any other provision of this Debenture, entry into possession of any Charged Property shall not render the Security Agent or the Receiver liable:-

19.2.1 to account as mortgagee in possession;

19.2.2 for any loss on realisation; or

19.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Security Agent or the Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to go out of such possession.

19.3 Indemnity

Each Chargor shall indemnify and keep indemnified the Security Agent, every Receiver, and any person who acts as the servant, agent, delegate or attorney of any of them, against all claims, costs, expenses and liabilities which they may suffer or incur arising in any way out of the taking or holding of this Debenture, the exercise or purported exercise of any right, power, authority or discretion given by it, or any other act or omission in relation to this Debenture or the Charged Property.

19.4 Currency protection

If any amount due to be paid to the Security Agent is, for any reason, paid in a currency (the "**currency of payment**") other than the currency in which it was expressed to be payable (the "**contractual currency**"), the Security Agent may wherever it thinks fit apply the amount of the currency of payment received by it in the purchase, in accordance with its normal practice, of the contractual currency, and if this results in any shortfall below the amount due in the contractual currency, after deducting all taxes, costs and commissions payable in connection with that purchase, each Chargor shall indemnify the Security Agent against the amount of the shortfall.

19.5 Continuing protection

The provisions of this Clause 19 shall continue in full force and effect notwithstanding any release or discharge of this Debenture, or the discharge of any Receiver from office.

20. PROVISIONS RELATING TO THE SECURITY AGENT

20.1 Powers and discretions

The rights, powers and discretions given to the Security Agent in this Debenture:-

20.1.1 may be exercised as often as, and in such manner as, the Security Agent thinks fit;

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

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

20.2 Certificates

A certificate by an authorised officer of the Security Agent as to any sums payable to the Security Agent under this Debenture shall (save in the case of manifest error) be conclusive and binding upon the Chargors for all purposes.

20.3 Assignment

The Security Agent may assign this Debenture to any successor in title to any of the Secured Liabilities and the Security Agent may disclose any information in its possession relating to any Chargor, its affairs or the Secured Liabilities to any actual or prospective assignee.

20.4 Delegation

The Security Agent may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the rights, powers and discretions which are for the time being exercisable by it under this Debenture.

21. **PRESERVATION OF SECURITY**

21.1 **Continuing Security**

This Debenture shall be a continuing security to the Security Agent and shall remain in force until expressly discharged in writing by the Security Agent notwithstanding any intermediate settlement of account or other matter or thing whatsoever and shall be without prejudice and in addition to any other right, remedy or Security of any kind which the Security Agent may have now or at any time in the future for or in respect of any of the Secured Liabilities.

21.2 **No Merger**

This Debenture is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Security Agent may at any time hold for any other Secured Liabilities.

21.3 **Waiver of Defences**

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

21.3.1 any time, waiver or consent granted to, or composition with, any Chargor or other person;

21.3.2 the release of any Chargor or any other person under the terms of any composition or arrangement with any person;

21.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

21.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;

21.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;

21.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or

21.3.7 an insolvency, liquidation, administration or similar procedure.

21.4 **Order of Recourse**

This Debenture may be enforced against each Chargor without the Security Agent first having recourse to any other right, remedy, guarantee or Security held by or available to any of them.

21.5 Suspense Accounts

The Security Agent may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Debenture on a separate or suspense account to the credit either of the Chargors or any of them or, at the sole discretion of the Security Agent if an Event of Default has occurred and is continuing, of the Security Agent as the Security Agent shall think fit without any intermediate obligation on the Security Agent's part to apply the same or any part of it in or towards the discharge of the Secured Liabilities.

21.6 New Accounts

If the Security Agent receives notice of any subsequent charge or other security interest affecting any of the Charged Property, the Security Agent shall be entitled to close any Chargor's then current account or accounts and to open a new account or accounts for that Chargor. If the Security Agent does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made for the credit of the relevant Chargor shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from that Chargor to the Security Agent at the time when it received such notice.

21.7 Tacking

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

21.8 Reinstatement

If any payment by any Chargor or discharge given by the Security Agent (whether in respect of the obligations of any Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:-

21.8.1 the liability of the relevant Chargor and the Security created by this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

21.8.2 the Security Agent shall be entitled to recover the value or amount of that Security or payment from the relevant Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

22. RELEASE

22.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Security Agent shall, or shall procure that its appointees will, at the request and cost of the relevant Chargor:-

22.1.1 release the Charged Property from this Debenture; and

22.1.2 re-assign the Charged Property that has been assigned to the Security Agent under this Debenture.

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

23. **MISCELLANEOUS PROVISIONS**

23.1 **Severability**

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

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

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

23.2 **Costs, charges and expenses**

All costs, charges and expenses incurred or paid by the Security Agent or by the Receiver in the exercise of any power or right given by this Debenture or in relation to any consent requested by any Chargor, or in perfecting or otherwise in connection with this Debenture, the other Finance Documents or the Charged Property, all sums recoverable under Clause 19 (*Protection of the Security Agent and any Receiver*) and all costs of the Security Agent (on an indemnity basis) of all proceedings for the enforcement of this Debenture or for obtaining payment of moneys by this Debenture secured, shall be recoverable from any Chargor as debts, may be debited by the Security Agent at any time to any account of the relevant Chargor and shall bear interest until payment at the rate or rates applicable to the account to which they are debited, or, if there is no such rate, at 3 per cent. over the Security Agent's base rate.

23.3 **Contracts (Rights of Third Parties) Act 1999**

The Security Agent, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.

23.4 **Counterparts**

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

24. **NOTICES**

The provisions of Clause 32 (*Notices*) of the Facilities Agreement shall have effect as if set out in full in this Debenture.

25. **GOVERNING LAW**

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

EXECUTED AND DELIVERED AS A DEED by the Chargors and executed by the Security Agent on the date set out at the beginning of this Debenture.

SCHEDULE 1

DETAILS OF LAND

[None at the date of this Deed]

SCHEDULE 2
THE CHARGORS

Company name	Company number
Goldcrest Land PLC	01660121
Goldcrest Homes (Britannia Developments) Limited	04650375
Goldcrest Homes (Downs Development) Limited	04518628
Goldcrest Land (England) Limited	04849715
Goldcrest Homes (Construction) Limited	02668702
Goldcrest Homes (London) Limited	05657615
Yopro One Limited	05729018
Goldcrest Property Ltd	05729154
Goldcrest Architects Ltd	05591032

The Chargors

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
GOLDCREST LAND PLC acting by:

)
)
)

Director

Director/Secretary

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
**GOLDCREST HOMES (BRITANNIA
DEVELOPMENTS) LIMITED** acting by:

)
)
)

Director

Director/Secretary

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
**GOLDCREST HOMES (DOWNS DEVELOPMENT)
LIMITED** acting by:

)
)
)

Director

Director/Secretary

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
GOLDCREST LAND (ENGLAND) LIMITED acting
by:

)
)
)

Director

Director/Secretary

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
GOLDCREST HOMES (CONSTRUCTION) LIMITED
acting by:

)
)
)

Director

Director/Secretary

EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
GOLDCREST HOMES (LONDON) LIMITED acting
by:

)
)
)

Director

Director/Secretary

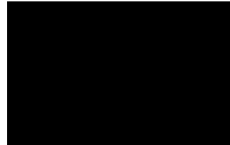
EXECUTED (but not delivered
until the date hereof) **AS A DEED** by
YOPRO ONE LIMITED acting by:

)
)
)

Director

Director/Secretary

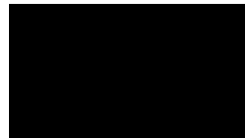
EXECUTED (but not delivered)
until the date hereof) **AS A DEED** by)
GOLDCREST PROPERTY LTD acting by:)



Director

Director/Secretary

EXECUTED (but not delivered)
until the date hereof) **AS A DEED** by)
GOLDCREST ARCHITECTS LTD acting by:)



Director

Director/Secretary

The Security Agent

EXECUTED as a Deed
By **BARCLAYS BANK PLC**
acting by
its duly authorised attorney
in the presence of:



Name of witness:
BARCLAYS BANK PLC
Real Estate Team
Level 17, 1 Churchill Place, London
E14 5HP
Occupation of witness:

)
)
)
)
)

Signature of witness