



Registration of a Charge

Company name: **BUPA CARE HOMES (ANS) LIMITED**

Company number: **01960990**



X7XNB4V4

Received for Electronic Filing: **21/01/2019**

Details of Charge

Date of creation: **16/01/2019**

Charge code: **0196 0990 0045**

Persons entitled: **BAE SYSTEMS 2000 PENSION PLAN TRUSTEES LIMITED**

Brief description: **ALL THAT LAND AND BUILDINGS KNOWN AS FREELANDS CROFT CARE HOME, REDFIELDS LN, CHURCH CROOKHAM FLEET GU52 0RB AND REGISTERED AT H.M. LAND REGISTRY UNDER TITLE NUMBER HP693209. FOR MORE DETAILS OF THE OTHER PROPERTIES CHARGED, PLEASE REFER TO THE INSTRUMENT.**

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1960990

Charge code: 0196 0990 0045

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th January 2019 and created by BUPA CARE HOMES (ANS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st January 2019 .

Given at Companies House, Cardiff on 23rd January 2019

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 16 January 2019

BUPA CARE HOMES (ANS) LIMITED (1)

and

BAE SYSTEMS 2000 PENSION PLAN TRUSTEES LIMITED (2)

LEGAL CHARGE

WALKER MORRIS LLP
Kings Court
12 King Street
LEEDS
LS1 2HL
Tel: 0113 2832500
Fax: 0113 2459412
Ref: IAA/JLW/BUP00005.353

**WALKER
MORRIS**



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THIS DEED is made on

16 January

2019

BETWEEN:

- (1) **BUPA CARE HOMES (ANS) LIMITED** (company number: 01960990) whose registered office is at 1 Angel Court, London, United Kingdom, EC2R 7HJ (the **Company**); and
- (2) **BAE SYSTEMS 2000 PENSION PLAN TRUSTEES LIMITED** (company number: 03671056) whose registered office is at Warwick House, P O Box 87, Farnborough Aerospace Centre, Farnborough Hampshire GU14 6YU (the **Chargee**).

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATIONS

1.1 In this deed:

Act means the Law of Property Act 1925;

Base RPI Month: November 2018 or, following the first Review Date, the month that falls one year and two months before the relevant Review Date falls;

Book Debts means all book and other debts (including rents) and other moneys, liabilities and monetary claims of any nature whatsoever now or hereafter due, owing or payable to the Company in respect of the Business or the Property (including moneys, liabilities and claims deriving from or in relation to any insurances, Intellectual Property Rights, Care Contract, any other contract or agreement to which the Company is party, or any other assets or rights of the Company, and including the benefit of any judgment or order to pay money and any amounts due or owing from any government or governmental agency including in respect of Taxes) and all other rights of the Company to receive money and any proceeds thereof; and the benefit of (including the proceeds of all claims under) all rights, security interests, securities, guarantees, indemnities, negotiable instruments, letters of credit and insurances of any nature whatsoever now or hereafter owned or held by the Company in relation to any of the foregoing;

Bupa Finance Guarantee means the guarantee given by the First Guarantor as defined in the Underleases and including any substitute guarantee given by another guarantor (a **Replacement Finance Guarantor**) to replace it under the terms of the Underleases;

Bupa Performance Guarantee means the guarantee given by the Second Guarantor as defined in the Underleases and including any substitute guarantee given by another guarantor (a **Replacement Performance Guarantor**) to replace it under the terms of the Underleases;

Bupa Finance means Bupa Finance plc (company number 02779134) whose registered office is at 1 Angel Court, London EC2R 7HJ;

Business means the business carried on by the Company from the Property being a care home;

Business Day means a day (excluding Saturday and Sunday and statutory holidays) on which such commercial banks are generally open for business in London;

Care Contract means a contract between the Company and a customer at the Property;

Charge means the Security granted by the Company in favour of the Chargee under this deed;

Charged Assets means all property, assets and rights of the Company charged by this deed;

Companies Act means the Companies Act 2006 from time to time in force and as it is supplemented and amended;

Current Index Figure: in respect of each Review Date the figure given in the RPI for the month which is two months before the month in which the relevant Review Date falls;

Disposal includes any charge, sale (whether subject to this deed or otherwise), lease, sub-lease, assignment or transfer, or any agreement to enter into any of the foregoing, the grant of an option or similar right, the creation of a trust or other equitable interest in favour of a third party and a sharing or parting with possession or occupation whether by way of licence or otherwise and **Dispose** and **Disposition** shall be construed accordingly;

Documents means

- (a) the BUPA Finance Guarantee;
- (b) the BUPA Performance Guarantee; and

(c) the Underleases;

Environmental Law means any law (which includes an order or decree) any form of delegated legislation, treaty and any directive or regulation made by virtue of powers conferred by a treaty of any Governmental Authority regulating, relating to or imposing liability or standards of conduct concerning, environmental protection matters including without limitation, in relation to the manufacture, process, distribution, use, treatment, storage, disposal, transport or handling of Materials of Environmental Concern as now are or may at any time after this deed be in effect;

Fixed Plant and Equipment means all plant, machinery or equipment of the Company 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 at the Property, whether or not it is removable or intended to form part of the land or building at the Property;

Fixtures means all assets of whatever nature apart from land and buildings forming part of the Property;

Goodwill means the present and future goodwill of the Business insofar as it relates to the Property but excluding any goodwill in the "BUPA" name;

Governmental Authority means any nation or government, any state or political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions or any of the foregoing;

Intellectual Property Rights means patents, registered designs, copyrights, inventions, semi-conductor, topography rights, rights in designs, rights in trade marks and service marks, business names and trade names, get up, logos, domain names, moral rights, rights in confidential information, rights in know-how, database rights, rights protecting goodwill, or reputation and any interests (including by way of licence or sub-licence) in any of the foregoing, and any other intellectual property rights and interests whatsoever now or hereafter owned by the Company or in which it has any interest, in each case whether registered or not and including all applications, rights to apply for and rights to use the same and all fees, royalties and other rights of every kind relating to or deriving from any of the same but in each case only insofar as they relate exclusively to the Business and the Property but excluding anything containing the BUPA brand, anything making reference to the BUPA brand, any trademarks owned by BUPA (but not excluding the name of the nursing home run at the Property) or anything prepared in

contemplation of use in any other business of BUPA; **Licences** means all licences, consents, certificates, registrations, permits, other similar matters required in connection with the Property and the Business;

Loose Plant and Equipment means in relation to the Company, all plant, machinery, equipment and motor vehicles now or at any time owned by the Company for the purposes of the Business as a capital asset which is not Fixed Plant and Equipment;

Materials of Environmental Concern means chemicals, pollutants, contaminants, wastes, toxic substances, petroleum products and distillates and all hazardous substances defined or regulated as such in or under any Environmental Law or any matter capable of causing pollution of the environment or harm to human health;

Planning Acts means any legislation, directions, notices and bye-laws from time to time in force relating to town and country planning, building and construction;

Property means Property described in the Part I of the Schedule together with all buildings thereon and all Fixtures subject to and with the benefit of all rights, easements, covenants, restrictions, stipulations, agreements, declarations and other matters affecting and/or benefiting the same;

Related Rights means in relation to any Charged Asset:

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

Rental Income means the gross rents, licence fees and other moneys receivable now or hereafter at any time by the Company in respect of or arising out of any lease or licence of the Property or any agreement for lease or licence or otherwise without limitation derived by the Company from the Property or otherwise paid to or received by the Company in respect of the Property but not including payments made under any insurance policy relating to the Property or any payments relating to service charges;

Receiver includes a receiver (whether or not an administrative receiver), a receiver and manager and a manager;

Review Date: the first anniversary of 27 December 2018 and every anniversary of that date whilst this Charge subsists and the "relevant Review Date" shall mean any one of them;

Revised Value Threshold: the value ascertained in accordance with paragraph (b) within the definition of Value Threshold below;

Richmond Villages Operations Limited means Richmond Villages Operations Limited (company number 04779288) whose registered office is at 1 Angel Court, London EC2R 7HJ;

RPI: the all items Retail Prices Index officially published from time to time by the Office for National Statistics or any other governmental department ministry or other body upon which the duties in connection with such index may be devolved or any official index replacing it;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent) of:

- (a) Richmond Villages Operations Limited as tenant under the Underleases;
- (b) Bupa Finance or a Replacement Finance Guarantor under the Bupa Finance Guarantee;
- (c) the Company or a Replacement Performance Guarantor under the Bupa Performance Guarantee; and
- (d) the Company under this Charge.

Security means any mortgage, charge, pledge, lien, rights of set off, guarantee, or any other security whatsoever;

Security Period means the period beginning on the date of this deed and ending on the date on which the Secured Liabilities have been irrevocably and unconditionally satisfied in full and no further Secured Liabilities are capable of arising;

Taxes means any present or future taxes, levies, duties, imposts, charges, fees, deductions or withholdings of any nature now or hereafter imposed, levied, collected, withheld or assessed by any taxing authority whatsoever and wheresoever including, without limitation, any penalty or interest payable in connection with any failure to pay or delay in paying the same;

Transaction Obligor means:

- (a) Richmond Villages Operations Limited; (b) BUPA Finance (and any applicable Replacement Finance Guarantor); and
- (c) the Company (and where applicable any Replacement Performance Guarantor);

Underleases means the 38 underleases dated 27 December 2018 and made between the Chargee as landlord (1) Richmond Villages Operations Limited as tenant (2) Bupa Finance PLC and (3) Bupa Care Homes (ANS) Limited in respect of the properties listed in part 3 of the Schedule for a term of 20 years from and including 27 December 2018, and the term Underleases in this deed shall also include and extend to any New Lease (for a further term of 15 years) as defined in the Underleases as and when such New Lease is granted;;

Value Threshold shall be the higher of £10,000,000 and the Revised Value Threshold and the parties to this deed agree that the Revised Value Threshold shall be calculated each Review Date as follows:

- (a) in this paragraph, the President is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf (**President**);
- (b) The Revised Value Threshold at each Review Date shall be the higher of:
 - (i) the Value Threshold immediately before the relevant Review Date (it being acknowledged that the first Value Threshold is £10,000,000 and thereafter the Value Threshold shall be the Revised Value Threshold at the previous Review Date); and
 - (ii) the Indexed Value Threshold (as defined in (c) below).
- (c) The **Indexed Value Threshold** for a Review Date shall be determined by multiplying the Value Threshold immediately before the relevant Review Date by the Current Index Figure, then dividing the product by the index value of the RPI for the Base RPI Month.

- (d) The Chargee shall calculate the Indexed Value Threshold as soon as reasonably practicable and shall give the Company written notice of the Revised Value Threshold as soon as it has been ascertained.
- (e) If it becomes impossible to calculate the Revised Value Threshold for any Review Date by reference to the RPI because of any change in the methods used to compile the RPI after the date of this Charge or because the RPI ceases to be published or for any other reasons whatsoever, or if any dispute or question arises between the parties as to the amount of the Revised Value Threshold for any Review Date or the construction or effect of this Schedule, then the Revised Value Threshold for that Review Date or the disputed matter is to be determined by an arbitrator to be appointed either by agreement between the parties or, in the absence of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors, or any person authorised by him to make appointments on his behalf, on the application of either the Chargee or the Company, this is deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996. The arbitrator is to have full power to determine, on such dates as he considers appropriate, what the increase in the RPI would have been had it continued on the basis assumed for the operation of this Value Threshold review mechanism and in view of the information assumed to be available for it.

VAT means value added tax.

- 1.2 The Company and the Chargee have entered into or purported to enter into a legal charge in the same form as this charge on 27 December 2018 pursuant to the terms of an agreement for sale made 27 December 2018 between Richmond Villages Operations Limited (1) the Chargee (2) Bupa Finance PLC (3) the Company (4) and Richmond Care Villages Holdings Limited (5). It was subsequently identified that a mistake was made in the name and particulars of the Chargee on the front and first pages of that legal charge (although the attestation clause of that legal charge was correct) and in order to remedy such mistake the parties have agreed to enter into this Charge.

1.3 Construction and interpretation

- 1.3.1 Words and phrases which are not defined in this deed but which are defined in the Companies Act or the Insolvency Act 1986 shall be construed as having those meanings.

- 1.3.2 In construing this deed general words introduced by the word 'other' shall not be given a restrictive meaning by reason of the fact they are preceded by words indicating a particular class of acts matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.
- 1.3.3 The headings in this deed are inserted for convenience only and shall not affect its construction or interpretation and references to a clause, Schedule or paragraph are (unless otherwise stated) to a clause in or a Schedule to this deed and to a paragraph of the relevant Schedule.
- 1.3.4 All references in this deed to this deed, the BUPA Finance Guarantee, the BUPA Performance Guarantee, the Underleases or a Document shall unless the context otherwise requires be read and construed as references to this deed, the BUPA Finance Guarantee, the BUPA Performance Guarantee, the Underlease or a Document as the same may from time to time be amended, varied, extended, supplemented, novated or replaced and shall include any document which is supplemental to, is expressed to be collateral with or is entered into pursuant to or in accordance with the terms of this deed, the BUPA Finance Guarantee, the BUPA Performance Guarantee, the Underleases or a Document but this shall not have the effect of extending the liability of the Company beyond its liability on the date of this deed without the prior written consent of the Company unless Bupa Finance or a replacement Finance Guarantor has agreed to the increase or extension of its liability under the Bupa Finance Guarantee.
- 1.3.5 All the provisions of this **deed** are severable and distinct from one another and the illegality, invalidity or unenforceability of any provision of this deed under the law of any jurisdiction shall not affect its validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.
- 1.3.6 Words importing one gender shall where appropriate include the other genders and words importing the singular shall where appropriate include the plural and vice versa.

- 1.3.7 Any reference in this deed to (i) any statute or statutory provision shall unless the context otherwise requires be construed as a reference to such statute or statutory provision as in force at the date of this deed and as subsequently amended, re-enacted or consolidated and shall also include all instruments, orders and regulations for the time being made thereunder or deriving validity therefrom and shall include any successor statute or statutory provision and (ii) another agreement shall be construed as a reference to such other agreement as the same may have been or may from time to time be amended, varied, extended, supplemented, novated or replaced.
- 1.3.8 In this deed the expressions the **Company, Chargee, Richmond Villages Operations Limited, BUPA Finance** or any **Transaction Obligor** shall unless the context otherwise requires include their respective successors or assigns whether immediate or derivative in relation to their respective interests, rights, entitlements and obligations in and under this deed.
- 1.3.9 If two or more persons are included in the expression **Company** then the use in this deed of the word **Company** shall be deemed to refer to such persons both together and separately and the Company's obligations shall be their joint and several obligations and each of them shall be primarily liable by way of indemnity for the liabilities to the Chargee of the other or others of them.
- 1.3.10 References to the **Property** and the **Charged Assets** include any part of it or them and the **Property** includes all covenants and rights affecting or concerning the same. The **Property** also includes any share from time to time held by the Company in any landlord or management company of the Property.

2 SECURITY

- 2.1 Subject always to clause 2.2, the Company covenants with the Chargee that it will on demand of the Chargee pay and discharge all or any of the Secured Liabilities when the same are due and payable Provided that the security created by this deed shall not become enforceable in respect of any liability which is contingent only.
- 2.2 Notwithstanding the above and any other provision of this deed, the liability of the Company under this deed including, for the avoidance of doubt but without limiting the generality of the foregoing, any liability arising as a result of any action taken under clause 9 or clause 10 is limited to the proceeds of realisation of its interest in the

Charged Assets from time to time and such liability will only be satisfied by the proceeds of sale, disposal or realisation of the Charged Assets. For the avoidance of doubt, the limitation of liability of the Company under this deed shall not limit the liability of the Company under the Bupa Performance Guarantee.

2.3 The Company, as a continuing security for the payment and discharge of the Secured Liabilities and in the manner specified in clause 2.5, charges to the Chargee:

- 2.3.1 by way of legal mortgage the Property;
- 2.3.2 by way of assignment the Rental Income;
- 2.3.3 by way of assignment the proceeds of any Disposal in respect of the Charged Assets, the proceeds of any claim made under any insurance policy relating to the Charged Assets and all deeds and documents from time to time relating to the same and all the proceeds of any insurance from time to time affecting the Charged Assets;
- 2.3.4 by way of first fixed charge, all present and future Intellectual Property Rights;
- 2.3.5 by way of first fixed charge, all present and future Book Debts relating to the Business, the Property and/or the Charged Assets;
- 2.3.6 by way of first fixed charge, all present and future Fixed Plant and Equipment relating to the Business, the Property and/or the Charged Assets;
- 2.3.7 by way of first fixed charge, all present and future Loose Plant and Equipment relating to the Business, the Property and/or the Charged Assets;
- 2.3.8 by way of first fixed charge, all present and future Care Contracts relating to the Business, the Property and/or the Charged Assets;
- 2.3.9 by way of first fixed charge, the Related Rights under or in connection with the Intellectual Property Rights, the Book Debts, the Fixed Plant and Equipment, the Loose Plant and Equipment and the Care Contracts;
- 2.3.10 by way of first fixed charge, all present and future benefit of any authorisation or licence (statutory or otherwise) held solely and exclusively in connection with the Business and which has no relevance to any other business of BUPA;

- 2.3.11 by way of first fixed charge, the right to recover and receive compensation which may be payable to it in respect of any authorisation or licence referred to in clause 2.3.10 above;
 - 2.3.12 by way of assignment all the Goodwill; and
 - 2.3.13 by way of floating charge all unattached furniture, furnishings, equipment, tools and other chattels of the Company now and in the future at the Property and not regularly disposed of in the ordinary course of business.
- 2.4 The Chargee shall be entitled at any time by notice in writing to the Company to convert any of the floating charges into fixed charges as regards any assets specified in the notice.
- 2.5 Every Disposition effected by this deed is made with full title guarantee. The other terms of this deed do not limit or extend any of the covenants implied by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 but create separate and independent obligations having effect cumulatively with those implied covenants.
- 2.6 If or to the extent that the assignment or charging of any Charged Asset is ineffective because of a prohibition on that assignment or charging, the Company shall hold it on trust for the Chargee.
- 2.7 If the prohibition referred to above is due to the fact a consent or waiver must be obtained or a condition must be satisfied, then the Company must seek the consent or waiver or satisfy the condition.
- 2.8 On the waiver or consent being obtained, or the condition being satisfied, the Charged Asset shall be mortgaged, charged or assigned (as appropriate) under this clause and, in relation to such Charged Asset, the trust referred to in clause 2.6 shall terminate.

3 RESTRICTIONS

- 3.1 The Company shall not during the Security Period without the prior consent in writing of the Chargee:
- 3.1.1 create or permit to arise any Security on the Charged Assets whether ranking before, *pari passu* with or after this Charge;

- 3.1.2 except for a Permitted Dealing, grant or agree to grant any lease, agreement for lease or licence in respect of the Charged Assets, or part with or share possession of the Charged Assets or grant any legal or equitable interest in or right over the Charged Assets;
- 3.1.3 accept any surrender of any lease, agreement for lease or licence of the Charged Assets; or
- 3.1.4 vary the terms of any lease, agreement for lease or licence of the Charged Assets;
- 3.1.5 make any Disposition of the Charged Assets or any estate or interest in the Charged Assets other than (except in the case of the Property and subject to clause 3.1.2) in the ordinary course of, and for the purposes of, carrying on the Business.

The provisions of clauses 3.1.2, 3.1.3 and 3.1.4 shall not apply to licences or equivalent rights of occupation granted to individual residents in the ordinary course of carrying on the Business.

- 3.2 For the purposes of clause 3.1.2 "Permitted Dealing" means the grant of a lease or licence in respect of the Property:-

- 3.2.1 for a period not exceeding two years; and
- 3.2.2 when aggregated with other leases or licences at the Property (not being licences or equivalent rights of occupation granted to individual residents in the ordinary course of carrying on the Business), comprising not more than 33% of registered beds;
- 3.2.3 which is excluded from the operation of sections 24 to 28 (inclusive) of the Landlord and Tenants Act 1954.

- 3.3 In respect of a request from the Company to grant a lease or licence which would not constitute a Permitted Dealing, the consent of the Chargee will not be unreasonably withheld or delayed if the Chargee is satisfied that the market value of the Property would not be less than the Value Threshold following the grant of such lease or licence. For these purposes, the market value of the Property will be determined either:-

- 3.3.1 by agreement between the Chargee and the Company; or

3.3.2 if agreement cannot be reached between the Chargee and the Company, by a valuer appointed and instructed by the Chargee at the cost of the Company (such costs to be reimbursed to the Chargee within 5 days of demand)

3.4 The Company shall on the date hereof apply to the Land Registrar on form RX1 (or such other equivalent form as the Land Registry may require) for a restriction to be entered onto the Proprietorship Register of the Property in the form of the restriction set out below

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of a charge dated [date] in favour of [chargee] referred to in the charges register"

and shall do whatever acts or things as may be required in order to procure the entry of such restriction onto the Proprietorship Register of the Property and shall provide evidence of the registration of the same to the Chargee by way of official entries within five working days of the issue by the Land Registry of the same.

4 COVENANTS

4.1 The Company covenants with the Chargee during the Security Period:

- 4.1.1 to keep the Property and all Fixtures now or for the time being on the Property in good and substantial repair and condition and all plant and machinery now or for the time being on the Property in good working order;
- 4.1.2 not to make any structural or material alterations to the Property without the prior written consent of the Chargee or in any manner or by any means prejudice the value or marketability of the Property (as determined by the Chargee or its agent), including, without limitation, by entering into any agreement or arrangement with any third party in respect of the Property, or sever any Fixtures from the Property unless the Company promptly replaces them with others of equal or greater value;
- 4.1.3 to comply with any covenants, stipulations and conditions relating to the Property or its use or enjoyment;

- 4.1.4 to carry on the conduct of the Business in a proper and efficient manner and not, save with the prior written consent of the Chargee, to make any substantial alteration in the nature of the Business and to keep proper books and records and permit the Chargee and any persons authorised by the Chargee to have access to such books and records and to inspect the same;
- 4.1.5 to conduct the Business in accordance with the Company's own operational standards for care homes of a similar type;
- 4.1.6 to comply with all laws, regulations, authorisations, consents, approvals, resolutions, Licences from time to time applicable to the Business;
- 4.1.7 not to enter into any operational agreement or managing agreement in respect of the Business, Property or Charged Assets without the prior written consent of the Chargee, such consent not to be unreasonably withheld or delayed if the Company can demonstrate to the reasonable satisfaction of the Chargee that the entry into, and performance of, any such operational or managing agreement will not:-
- (a) adversely affect the ability to sell the Business, Property and Charged Assets as a going concern and/or trading business or adversely affect the purchase price a third party purchaser would pay for the same; or
 - (b) reduce the market value of the Property to an amount which is less than the Value Threshold;
- 4.1.8 to keep such of the Charged Assets as are insurable insured in the name of the Company with the interest of the Chargee endorsed or noted on the policies in such manner as the Chargee may reasonably require against loss or damage by fire and such other risks as the Chargee shall from time to time require to the full reinstatement value thereof (together with additional amounts estimated as sufficient to cover architects' and surveyors' fees and the costs of demolition site clearance and shoring up (including VAT)) or as the Chargee may decide with such insurance office or underwriters as may from time to time be approved by the Chargee in writing and the Company shall maintain such other insurances as are normally maintained by a prudent company carrying on a similar business;

- 4.1.9 to punctually pay all premiums and other monies necessary for keeping the insurances mentioned in clause 4.1.8 in force and, on demand, lodge the policies and receipts for such payments with the Chargee. Upon default of the same the Chargee may (but shall not be obliged to) take out or renew such insurances in such sums as the Chargee may think expedient and all monies expended by the Chargee under this clause 4.1.9 shall be deemed to be properly paid by the Chargee and shall be reimbursed by the Company to the Chargee within 5 Business Days of demand;
- 4.1.10 to apply all monies which may at any time be received or receivable under any insurances (whether effected by the Company or the Chargee and whether or not effected in pursuance to the covenants in this clause) in replacing, restoring or reinstating the Charged Assets in respect of which the monies were received;
- 4.1.11 to comply with the terms and conditions of any policy of insurance and not to do or omit to do anything whereby any such insurance may become void or voidable in whole or in part;
- 4.1.12 to punctually pay and indemnify the Chargee and any Receiver against all present and future rent, rates, taxes, duties, charges, assessments, and other outgoings now or at any time payable during the Security Period in respect of the Charged Assets or any part of it or by the owner or occupier of it;
- 4.1.13 to manage the Property in accordance with the principles of good estate management and in the case of agricultural property cultivate in accordance with good agricultural practice;
- 4.1.14 to furnish to the Chargee, its agents, representatives and employees from time to time such financial statements (including, without limitation, management accounts if prepared), trading figures, information, valuations and certificates relating exclusively to the assets and liabilities, financial condition, business and affairs of the Business as the Chargee may from time to time reasonably require;
- 4.1.15 not to create or permit to arise or subsist any overriding interest under the Land Registration Act 2002 in relation to the Property nor permit any person to become entitled to any proprietary right or interest which may affect the value of the Property;

- 4.1.16 to promptly inform the Chargee of any event or of the receipt of any notice which may affect the title of the Company to the Charged Assets or which may affect its ability to carry on the Business or the security created by this Charge;
- 4.1.17 to allow the Chargee or its agents with or without surveyors, workmen and others at all reasonable times to enter or inspect the Property and any plant, machinery and other effects used for the purposes of or in connection with the Business to view the state of repair of the Property or carry out an environmental survey on all or any of the Property and to carry out at the Company's expense any repairs to the Property which the Chargee considers necessary (without becoming liable as a mortgagee in possession) and all monies expended by the Chargee under this clause 4.1.17 shall be deemed to be properly paid by the Chargee and shall be reimbursed by the Company to the Chargee within 5 Business Days of demand;
- 4.1.18 where the Property comprises or is or becomes subject to any lease, underlease, tenancy or agreement for lease (the **Lease**):
- (a) to observe and comply with all its obligations under and enforce the due observance and performance of the obligations of all other persons connected with the Lease; and
 - (b) to promptly implement all rent reviews due under the Lease and not to waive, release or vary any of the terms of the Lease or accept a surrender of the same or exercise any power to determine or extend the same or grant any consent or licence or conclude any rent review under the same; and
 - (c) to promptly deliver to the Chargee a duly completed and stamped counterpart of any new lease; and
 - (d) not to serve any notice under section 17 of the Landlord and Tenant (Covenants) Act 1995

Provided that the provisions of clauses 4.1.18 (b) and (d) above shall not apply to a Lease complying with the conditions set out in clauses 3.2.1 to 3.2.3.

- 4.1.19 not to apply for or implement any permission under the Planning Acts or change or permit or suffer to be changed the present use of the Property;
- 4.1.20 to send to the Chargee, within seven days of receipt, copies of any notice, order or proposal under the Planning Acts sent to the Company and affecting the Property or the Business by any competent authority; and
- (a) without delay comply with such notice or order (unless requested by the Chargee to act otherwise); and
 - (b) at the request of the Chargee, and at its own cost, make or join with Chargee in making such objections or representations in respect of such proposal as the Chargee shall require;
- 4.1.21 where the Property at any time is or includes premises in respect of which any Licence or other authorisation of any kind is in force or ought to be in force, under any legislation, to take all necessary steps to take out, renew or maintain the Licence or other authorisation and not to do or allow to happen anything which might affect this;
- 4.1.22 to comply in all respects with all requirements of Environmental Law applicable to the Property in accordance with best practice;
- 4.1.23 promptly to notify the Chargee in writing of any claim or demand made on, or warning or other notice connected with Environmental Law given to the Company in respect of the Property under any Environmental Law and any circumstances which arise whereby any remedial action is likely to be required to be taken by, or at the expense of, the Company in connection with any Environmental Law applicable to the Business or the Charged Assets and to take such remedial action as the Chargee shall require;
- 4.1.24 as soon as reasonably practicable after demand by the Chargee, to provide such specialist reports on Matters of Environmental Concern affecting the Business, or the Charged Assets as the Chargee shall reasonably require;
- 4.1.25 that it shall notify the Chargee of any breach of this deed (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence;

4.1.26 that it shall deliver to the Chargee within 30 days of the date of this deed a written resolution signed by all of its shareholders (in a form satisfactory to the Chargee, acting reasonably) ratifying the execution by the Company of this deed.

4.2 If the Company at any time defaults in complying with any obligations contained in this deed the Chargee shall without prejudice to any other rights it may have as a consequence of such default be entitled to make good such default and the Company irrevocably authorises the Chargee and its representatives by way of security to do all such things (including without limitation entering the Property) necessary or desirable in connection with such action. Any monies so expended by the Chargee shall be deemed to form a part of the Secured Liabilities and Secured Liabilities shall be construed accordingly.

5 VALUE THRESHOLD

5.1 The Company must ensure that at all times the market value of the Property does not fall below the then applicable Value Threshold.

5.2 If the market value of the Property falls below the Value Threshold as determined by a valuation referred to in Clause 6 (Valuations), the Company may, within 45 days of such determination either:-

5.2.1 provide a substitute business and property to be charged in favour of the Chargee as security for payment and discharge of the Secured Liabilities in all respects satisfactory to the Chargee (acting reasonably) together with such valuations, information, documentation and evidence as the Chargee shall reasonably require; or

5.2.2 provide additional security (including, for the avoidance of doubt, cash backing) to be charged in favour of the Chargee as security for the payment and discharge of the Secured Liabilities in all respects satisfactory to the Chargee (acting reasonably) together with such valuations, information, documentation and evidence as the Chargee shall require; and

in either case the Company must reimburse the Chargee within 5 days of demand all fees, costs and expenses properly incurred in respect of the above.

6 VALUATIONS

- 6.1 The Company must supply to the Chargee a copy of any valuation of the Property it obtains, promptly upon obtaining it.
- 6.2 The Chargee may at any time and from time to time either request the Company to produce a valuation of the Property or appoint and instruct a valuer itself to produce a valuation of the Property if it reasonably believes that a valuation of the Property might show that the market value of the Property is less than the Value Threshold. The costs of such valuation shall be borne equally between the Company and the Chargee, and each shall pay their share within 5 days of demand.
- 6.3 Notwithstanding clause 6.2, the Chargee may at any time and from time to time at its own cost either request the Company to produce a valuation of the Property or appoint and instruct a valuer itself to produce a valuation of the Property.
- 6.4 The Company shall, as soon as reasonably practicable following a request, do all things necessary to obtain or assist the Chargee in obtaining each valuation.

7 CO-OPERATION

- 7.1 At any time after the security constituted by this deed has become enforceable the Company shall at the request of the Chargee or any Receiver but at the cost of the Company:
 - 7.1.1 provide such co-operation as the Chargee or any Receiver may reasonably require in connection with the registration of any future operator and manager of the Property under the Health and Social Care Act 2008; and / or
 - 7.1.2 provide such information as the Chargee or any Receiver may reasonably require regarding the operation and management of the Business carried on at the Property; and / or
 - 7.1.3 use its reasonable endeavours to co-operate with any replacement operator or manager of the Property to transition a fully operational care home at the Property, including without limitation co-operating with regulatory authorities to transfer any and all licences and registrations and assisting with the transfer of any relevant contracts, records, data, and accounts; and / or

- 7.1.4 to assist in any TUPE process, including without limitation, in connection with the registered manager of the care home at the Property (or any replacement or successor person); and/or
- 7.1.5 ensure a responsible and efficient transfer of the operations at the Property to any replacement operator or manager and shall at all times place the utmost importance on continuing to provide care to residents at the Property until such transfer has been effected.

8 DEPOSIT OF TITLE DOCUMENTS AND FURTHER ASSURANCE

- 8.1 The Company will deliver to the Chargee (or its nominee) all deeds, documents of title, all insurance policies and such other documents relating to the Charged Assets as the Chargee may from time to time require. The Chargee shall be entitled to retain all such documents.
- 8.2 The Company may request the Chargee to produce to the Company or its solicitor any deeds to the Property held by the Chargee, subject to receipt by the Chargee of an acceptable safe custody undertaking, or to supply extracts from or copies of such deeds and the Company will be required to pay the Chargee's costs and expenses in connection with this.
- 8.3 The Company shall, at its own expense, take whatever action (including, without limitation, payment of all stamp duties and other registration fees) the Chargee may require for:
 - 8.3.1 perfecting or protecting this Charge; and
 - 8.3.2 facilitating the realisation of the Charged Assets or the exercise of any right, power or discretion exercisable by the Chargee or any of its delegates or sub-delegates in respect of the Charged Assets, including the execution and delivery of all deeds, instruments, transfers, renunciations, proxies, notices, documents, acts and things in such form as the Chargee may from time to time require and the giving of any notice, order or direction and the making of any registration, which in any such case, the Chargee may think expedient.

9 POWERS OF THE CHARGE

- 9.1 The statutory powers of sale and of appointing a Receiver (as extended by this deed) shall arise at any time after the execution of this deed.

- 9.2 At any time after the Chargee has demanded payment from the Company of any of the Secured Liabilities, or at any time after the occurrence of a breach of this deed which, if capable of remedy (it being acknowledged that failure to act "promptly" or similar or within any particular time limit shall for these purposes be considered capable of remedy), has not been remedied to the satisfaction of the Chargee (acting reasonably) within 15 Business Days of the earlier of (a) the Chargee notifying the Company of such breach and (b) the Company becoming aware of such breach, or if requested by the Company, the Chargee may exercise without further notice and without the restrictions contained in section 103 of the Act all the powers conferred on mortgagees by the Act as varied by this deed and all the powers and discretions conferred by this Charge either itself or by a Receiver appointed by it, without first appointing a Receiver or notwithstanding any such appointment.
- 9.3 The Chargee shall have the power to lease, make agreements for and accept surrenders of leases and to grant options on such terms as it may consider expedient and without the need to observe any of the provisions of sections 99 and 100 of the Act.
- 9.4 The Chargee may in its absolute discretion release from this Charge any part of the Charged Assets.

10 RECEIVER

10.1 Appointment of Receiver

At any time after the Chargee has demanded repayment of all or any of the Secured Liabilities, or at any time after the occurrence of a breach of this deed which, if capable of remedy (it being acknowledged that failure to act "promptly" or similar or within a particular time limit shall for these purposes be considered capable of remedy), has not been remedied to the satisfaction of the Chargee (acting reasonably) within 15 Business Days of the earlier of (a) the Chargee notifying the Company of such breach and (b) the Company becoming aware of such breach, or if the Company requests that a Receiver be appointed then the Chargee may by writing under the hand of any director or manager or other authorised signatory for the time being of the Chargee appoint any person or persons to be a Receiver of the whole or any part or parts of the Charged Assets and of all the rights of the Chargee contained in or conferred by this deed.

10.2 Joint Receivers

Where two or more persons are appointed to be a Receiver the Chargee may in the appointment declare whether any act required or authorised to be done by a Receiver is to be done by all or any one or more of them for the time being holding office and subject thereto any such persons may act jointly and/or severally.

10.3 Powers of Receiver

Any Receiver shall (subject to any limitations or restrictions expressed in the deed or other instrument appointing him but notwithstanding the winding-up or dissolution or bankruptcy at any time of the Company) have:

10.3.1 all the rights, powers and discretions conferred from time to time on receivers by law and/or statute (including the Act), and all the rights, powers and discretions conferred by the Insolvency Act 1986, and all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and

10.3.2 power (without limitation) to:

- (a) take possession of, collect, get in and give receipts binding on the Company for all or any of the Charged Assets and all rents and other income in connection with the Charged Assets whether accrued before or after the date of his appointment in such manner as he thinks fit;
- (b) bring, defend or discontinue any proceedings (including arbitration proceedings) in the name of the Company or otherwise as may seem expedient to him;
- (c) carry on, manage and develop the whole or any part of the Business and/or the Charged Assets, and for this purpose to make use of any of the Company's assets which may be on the Property without being liable to compensate the Company for such use;
- (d) borrow money;
- (e) redeem any security, raise or borrow any money from or incur any liability to the Chargee or others on such terms and secure the payment of any money as he may think fit and so that any such security may be or include a charge on all or any of the Charged Assets;

- (f) without the restrictions imposed by section 103 of the Act or the need to observe any of the provisions of sections 99 and 100 of the Act sell by public auction or private contract, let, surrender or accept surrenders, grant licences or otherwise Dispose of or deal with all or any of the Charged Assets on such terms and conditions as he may think fit in the name and on behalf of the Company or otherwise. Any such sale, lease or Disposition may be for any form of valuable consideration and be payable immediately or by instalments spread over such period as he shall think fit and so that any consideration received becomes charged with the payment of all moneys, obligations and liabilities hereby secured. Plant, machinery, fixtures, fittings and equipment may be severed and sold separately from the premises containing them and the Receiver may apportion any rent relating to the premises sold without the consent of the Company;
- (g) carry out on the Property any new works or complete any unfinished works of building reconstruction maintenance furnishing or equipment;
- (h) on behalf of the Company remove, store, sell or otherwise deal with any chattels not subject to this Charge without being responsible to the Company for any loss;
- (i) promote the formation and trading of companies and arrange for such companies to acquire all or any of the Charged Assets on such terms and conditions as he may think fit;
- (j) make any arrangement or compromise, allow time for payment or enter into, abandon, cancel or disregard any contracts in relation to the Charged Assets as he shall think fit;
- (k) purchase or acquire any land or other property and purchase acquire grant or release any interest in or right over land or the benefit of any covenants (positive or restrictive) affecting land;
- (l) make and effect such repairs and improvements to the Charged Assets as he may think fit and maintain or vary insurance cover;

- (m) make any arrangements or compromise which he thinks fit in relation to any lease of all or part of the Property or to any covenants or restrictions relating to the Property;
- (n) insure the Charged Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds and give indemnities and security to any bondsmen;
- (o) appoint managers, agents, officers and employees;
- (p) without any further consent by or notice to the Company exercise on behalf of the Company all the power and provisions conferred on a landlord or a tenant by any legislation from time to time in force in respect of the Property but without any liability in respect of powers so exercised or omitted to be exercised;
- (q) acquire, renew, extend, grant, vary or otherwise deal with such easements, rights, privileges and licences over or for the benefit of the Charged Assets as he considers expedient;
- (r) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or to the preservation or realisation of the Charged Assets.

10.4 Receiver as Agent

Any Receiver shall so far as the law allows be deemed to be the agent of the Company for all purposes and the Company shall be solely responsible for his acts, defaults, contracts, engagements, omissions, losses, liabilities, misconduct and remuneration and the Chargee shall not be under any liability whatsoever in such regard.

10.5 Remuneration

The remuneration of the Receiver shall be such sum or rate payable in such manner as may be agreed between him and the Chargee at or at any time after his appointment without being limited to the maximum rate specified in section 109(6) of the Act.

10.6 Removal

The Chargee may from time to time under the hand of any director or manager or other authorised signatory for the time being of the Chargee remove any Receiver appointed

by it and may whenever it may deem it expedient appoint or as the case may be apply to the court for the appointment of another qualified person as a new Receiver in place of any Receiver whose appointment may for any reason have terminated.

10.7 Application of Proceeds

Any Receiver shall (so far as the law allows) apply all monies received by him after the discharge of all prior ranking claims and all costs, charges and expenses of and incidental to his appointment and the payment of his remuneration in or towards the satisfaction of the Secured Liabilities in such order as the Chargee may in its absolute and unfettered discretion from time to time conclusively determine.

10.8 Liability

Neither the Chargee nor any Receiver shall be liable to account:

10.8.1 as mortgagee in possession in respect of all or any of the Charged Assets nor be liable for any loss upon realisation whatsoever for which a mortgagee in possession may be liable as such; or

10.8.2 for any money or assets not actually received by it or him whether or not a better price might have been obtained by deferring or advancing any Disposal of the Charged Assets.

11 ONGOING SECURITY

11.1 If following the enforcement of the Security and the disposal and realisation of any of the Charged Assets by the Chargee or a Receiver appointed by it, the Security Period has not ended the Chargee shall, or shall direct the Receiver appointed by it to, deposit the proceeds of the realisation of the Charged Asset(s), remaining after application of proceeds under clause 10.7 (the "**Remaining Proceeds of Realisation**"), into a new deposit account set up in the name of the Company (the "**Deposit Account**") for the purpose of holding such monies and pending such deposit shall hold them on trust for the Company, *but subject always to the security constituted by this deed.* WM

11.2 The Company undertakes to

11.2.1 open the Deposit Account as soon as reasonable practicable after the Chargee has taken steps to enforce the Security; and

11.2.2 charge the amounts held in the Deposit Account in favour of the Chargee as ongoing Security for the Secured Liabilities in such form as the Chargee shall reasonably require which charge shall provide that the Chargee is the sole signatory on, and has sole authority in respect of, the Deposit Account.

11.3 If the Deposit Account is not opened in accordance with the above to the satisfaction of the Chargee, the Chargee or a Receiver appointed by the Chargee shall be entitled to deposit the Remaining Proceeds of Realisation with such financial institution as it shall select, and on such terms as it shall require, without any liability for any losses or liabilities arising as a result thereof;

11.4 The Chargee may, in its discretion, hold any amount of the proceeds of realisation of the Charged Assets in an interest bearing suspense or impersonal account(s) in the name of the Chargee with such financial institution and for so long as the Chargee shall think fit (the interest being credited to the relevant account) for later application in respect of:

11.4.1 any sum to the Chargee, any Receiver or any delegate thereof; and

11.4.2 any part of the Secured Liabilities;

that the Chargee reasonably considers, in each case, might become due or owing at any time in the future.

12 EFFECTIVENESS OF SECURITY

12.1 This Charge:

12.1.1 shall remain in full force and effect as a continuing security unless and until the Chargee discharges it and shall extend to cover the ultimate balance due from the Company to the Chargee;

12.1.2 shall be in addition to and shall be independent of every other security which the Chargee may at any time hold for any of the Secured Liabilities and may be enforced without the Chargee first having recourse to any such security and without taking steps or proceedings against any person;

12.1.3 shall not merge with any prior security held by the Chargee over the whole or any part of the Charged Assets.

- 12.2 Nothing contained in this deed is intended to, or shall operate so as to, prejudice or affect any bill, note, guarantee, mortgage, debenture, pledge, charge or other security of any kind whatsoever which the Chargee may have for the Secured Liabilities or any of them or any right, remedy or privilege of the Chargee thereunder.
- 12.3 Neither the Security nor any remedy of the Chargee in respect of the Security shall be prejudiced by any unenforceability or invalidity of any other agreement or document.

13 WAIVER OF DEFENCES

- 13.1 The obligations of the Company under this deed, the security constituted by this deed, and the rights, powers and remedies of the Chargee hereunder or at law, shall in each case not be discharged, impaired or otherwise affected by (without limitation, and whether or not known to the Company or the Chargee):
- 13.1.1 any time, indulgence, waiver (in whole or in part, and howsoever fundamental) or consent granted to, or composition with the Company, and any other Transaction Obligor or any other person;
 - 13.1.2 any delay or forbearance by the Chargee in exercising its rights or remedies under any Document;
 - 13.1.3 the release of the Company, any other Transaction Obligor, or any other person under the terms of any composition, compromise or arrangement with any creditor of the Company or any other person;
 - 13.1.4 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company, any other Transaction Obligor or any 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;
 - 13.1.5 any incapacity, disability, or lack of power, authority or legal personality of or dissolution or change in the members, constitution, identity, control, function or status of the Company, any other Transaction Obligor or any other person;

- 13.1.6 any amendment, novation, supplement, extension (whether of maturity or otherwise howsoever) or restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of a Document or any other document or security Provided that nothing in this clause shall have the effect of extending the liability of the Company under this deed beyond its liability on the date of this deed without the prior written consent of the Company unless Bupa Finance or a Replacement Finance Guarantor has agreed to the increase or extension under the Bupa Finance Guarantee;
- 13.1.7 any change in the constitution or identity of the Chargee, including (without limitation): (a) the absorption or amalgamation by or of the Chargee with any person; (b) the acquisition of all or part of the Chargee's undertaking or assets by any other person; (c) any reconstruction or reorganisation of the Chargee of any kind; or (d) any assignment, transfer, novation, participation or other disposal (whether in whole or part) of the Chargee's rights and/or obligations under the Documents or any of them;
- 13.1.8 any unenforceability, illegality or invalidity of any obligation of any person under any Document or any other document or security, to the intent that the Company's obligations under this deed shall remain in full force, as if there were no such unenforceability, illegality or invalidity;
- 13.1.9 any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any other person under or in connection with any Document or any other document or security resulting from any insolvency, liquidation, administration, bankruptcy, or dissolution proceedings or similar proceedings or from any law, regulation or order so that each such obligation shall for the purposes of the Company's obligations under this deed be construed as if there were no such circumstance;
- 13.1.10 any other act, omission, matter or thing (whether or not known to the Company or Chargee) which, but for this clause 13, might reduce, release, diminish, discharge, impair, prejudice or otherwise affect the obligations of the Company under this deed, the security constituted by this deed, and/or the rights, powers and remedies conferred upon the Chargee by any Document or law.

- 13.2 Without prejudice to the generality of this clause 13, the Company hereby expressly confirms that it intends that the Security constituted by (or intended to be constituted by) this deed shall, in each case, extend from time to time to any (however fundamental and whether or not more onerous) variation, increase, extension or addition to or of any Documents and/or any facility or amount or accommodation made available under or any amount payable under any of the Documents Provided that nothing in this clause shall have the effect of extending the liability of the Company under this deed beyond its liability on the date of this deed without the prior written consent of the Company unless Bupa Finance or a Replacement Finance Guarantor has agreed to the increase or extension under the Bupa Finance Guarantee.
- 13.3 The Chargee shall not be concerned to see or investigate the powers or authorities of any of the Company or its officers or agents and moneys obtained or Secured Liabilities incurred in purported exercise of such powers or authorities or by any person purporting to be the Company shall be deemed to form a part of the Secured Liabilities and Secured Liabilities shall be construed accordingly.

14 PROTECTION FOR THIRD PARTIES

No third party dealing with the Chargee or any Receiver or its or his agents shall whether before, on or after any contract, Disposition or assurance in relation to any Charged Assets in such third party's favour be concerned to enquire whether the Secured Liabilities have become payable or whether the Receiver is validly appointed or whether any power which the Chargee or any Receiver purports to exercise has become exercisable or whether any of the Secured Liabilities remain undischarged or to see to the application of any money paid to the Chargee or any Receiver nor shall any such third party lending any money to a Receiver be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of any money so borrowed.

15 DELEGATION

The Chargee or any Receiver may at any time delegate by power of attorney or in any other manner to any properly qualified person or persons all or any of the powers, (including the powers of attorney contained in clause 17), authorities, and discretions which are for the time being exercisable by the Chargee or any Receiver under this deed in relation to the Charged Assets or any part of the Charged Assets. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Chargee or Receiver may think fit. Neither the Chargee nor any Receiver shall save for their wilful default or gross negligence be in any way liable or responsible to the Company for any loss or damage arising

from any act, default, omission or misconduct on the part of any such delegate or sub-delegate except to the extent attributable to its wilful misconduct or gross negligence.

16 SUBSEQUENT CHARGES

If the Chargee receives notice of any subsequent charge or other interest affecting any part of the Charged Assets or of any other matter which may cause the Security created by this deed to cease to be a continuing security the Chargee may open a new account or accounts for the Company. If the Chargee does not open a new account in such circumstances then unless the Chargee shall notify the Company to the contrary 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 by or on behalf of the Company to the Chargee shall be credited or deemed to have been credited to the new account and shall not operate to reduce the amount secured by this deed at the time when it received such notice.

17 POWER OF ATTORNEY

17.1 Appointment

The Company by way of security and in order more fully to secure the performance of the Company's obligations under this deed irrevocably appoints the Chargee and the persons deriving title under it and separately any Receiver jointly and severally to be its attorney for and in its name and on its behalf and as the act and deed or otherwise of the Company, at any time after the Chargee has demanded payment or discharge by the Company of the Secured Liabilities, to execute as a deed or under hand (as applicable) and deliver and do all such assurances acts and things which the Company is required to execute and do under the covenants and provisions contained in this deed and to make any demand upon or to give any notice receipt or discharge to any person owing monies to the Company comprised in the Charged Assets and to execute as a deed or under hand (as applicable) and deliver any charges, legal mortgages, assignments or other security and any transfers of securities required to be executed hereunder and generally in its name and on its behalf to exercise all or any of the powers authorities and discretions conferred by or pursuant to this deed or by statute on the Chargee or any such Receiver or which may be required or which the Chargee or any Receiver shall deem fit for carrying any sale, lease, charge, disposal or other dealing by the Chargee or any Receiver into effect or for giving the Chargee or any Receiver the full benefit of this deed and generally to use the name of the Company and to do anything (without prejudice to the generality of the foregoing) which it or he may reasonably deem proper in or for the purpose of exercising any of such powers authorities and discretion.

17.2 Ratification

The Company covenants with the Chargee and separately with any Receiver that on request it will ratify and confirm all security, agreements, documents, acts and things and all transactions entered into by the Chargee or any Receiver (or by the Company at the instance of the Chargee or any Receiver) in the exercise or purported exercise of its or his powers and the Company irrevocably acknowledges and agrees that the power of attorney contained in clause 17.1 is given inter alia to secure the performance of the obligations from time to time owed to the respective donees within the meaning of the Powers of Attorney Act 1971.

17.3 Restriction

The powers contained in this clause 17 shall only be capable of being exercised following the enforcement of the Security under this deed under clause 9 or clause 10.

18 CONSOLIDATION

Section 93 of the Law of Property Act 1925 shall not apply to the security created by this Charge or to any security given to the Chargee pursuant to this Charge. Accordingly the Company is not entitled to redeem the same without at the same time redeeming all other security which the Chargee may then hold over any property or assets of the Company.

19 BENEFIT OF CHARGE

This deed and the Charge shall remain enforceable valid and binding for all purposes notwithstanding any change in the name of the Chargee or its absorption of or by or its amalgamation or consolidation with any other company or other body or any change in the constitution of the Chargee its successors or assigns or the company by which the business of the Chargee may from time to time be carried on and shall be available to such successors assigns or company carrying on that business for the time being.

20 INDEMNITIES

20.1 General

The Company agrees to indemnify the Chargee and any Receiver on demand against all losses, actions, claims, expenses, demands or liabilities whether in contract, tort or otherwise now or hereafter incurred by it or him or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable for anything

done or omitted in the exercise or purported exercise of the powers contained in this deed or occasioned by any breach by the Company of any of its covenants or other obligations under this deed, save for any losses, actions, claims, expenses, demands or liabilities which results from such party's gross negligence or wilful misconduct.

20.2 Taxes

The Company agrees to indemnify the Chargee and any Receiver on demand against all present or future stamp or other taxes or duties and any penalties or interest with respect thereto which may be imposed by any competent jurisdiction in connection with the execution or enforcement of this deed or in consequence of any payment made pursuant hereto being impeached or declared void for any reason whatsoever.

21 PAYMENT AND DISCHARGE

21.1 Reinstatement

Any settlement or discharge under this deed between the Chargee and the Company shall be conditional upon no security or payment to the Chargee by the Company or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and if such condition is not satisfied the Chargee shall be entitled to recover from the Company on demand the value of such security or the amount of any such payment as if such settlement or discharge had not occurred.

21.2 Releases

The Chargee shall at the request and cost of the Company on the expiry of the Security Period duly execute and do all such deeds acts and things as may be necessary to release the relevant Charged Assets.

21.3 Re-assignment

Subject to clause 21.1 on the expiry of the Security Period, the Chargee will at the request and cost of the person then entitled to them discharge this Charge and re-assign to such person the Goodwill and the Rental Income and any other Charged Assets assigned under this deed or such of the same as remain in existence and vested in the Chargee.

22 REMEDIES, TIME OR INDULGENCE

- 22.1 The rights, powers and remedies provided by this deed are cumulative and are not, nor are they to be construed as, exclusive of any powers and remedies provided by law.
- 22.2 No failure on the part of the Chargee to exercise, or delay on the part of the Chargee in exercising any of the rights, powers and remedies provided by this deed or by law shall operate as a waiver or such rights, powers and remedies, nor shall any single or partial waiver preclude any further or other exercise of any such rights, powers and remedies.

23 CERTIFICATE

The certificate of the Chargee as to any amount claimed under this deed shall be conclusive evidence of the amount due in the absence of manifest error.

24 SUBSTITUTE PROPERTY AND RELEASE

It is acknowledged that prior to the date of this Charge, the following standard conveyancing searches have not been provided by the Company to the Chargee in respect of the Property: (i) Highways search and (ii) Drainage search (the **Searches**). The Company shall use reasonable endeavours to provide the results of the Searches to the Chargee as soon as reasonably practicable after the date of this Charge. Where the Searches reveal a matter which is materially adverse to the existing use of the Property as a care home (as determined by the Chargee acting reasonably) the Company shall offer to grant to the Chargee a legal mortgage over a different property owned by the Company of equal or greater value than the Property (the **Substitute Property**), and shall provide to the Chargee the usual conveyancing searches in respect of the Substitute Property. On the grant of the legal mortgage over the Substitute Property, the Chargee shall release the Property from the Charge (and provide a duly completed DS1). The charge of the Substitute Property shall be in the form of this Charge save for the details of the Property and this clause shall be omitted. The Company shall procure that its solicitors at its cost provide a solicitors' undertaking to register the charge of the Substitute Property at the Land Registry. All costs and expenses incurred by the Chargee in respect of the above will be reimbursed by the Company within 5 Business Days of demand by the Chargee.

25 NOTICES

- 25.1 All notices, requests, demands or other communications between the Chargee and the Company shall be given in writing by letter addressed:

- 25.1.1 in the case of the Company, to its registered office or at such other place as the Company may notify to the Chargee in writing or by facsimile transmission to the facsimile number last notified to the Chargee giving such notice or by such other form of electronic communication as may be available, and
- 25.1.2 in the case of the Chargee, to its office at 1 Angel Court, London EC2R 7JH or such other address as the Chargee shall notify to the Company for this purpose from time to time.

25.2 Any demand or notice shall be deemed to be duly served:

- 25.2.1 if delivered by hand at the time of delivery to such address referred to above, or
- 25.2.2 at the expiration of 48 hours after it has been posted and shall be effected notwithstanding that it may be misdelivered or returned undelivered, or
- 25.2.3 at the time of transmission if given or made by facsimile or other form of electronic communication.

26 COUNTERPARTS

This deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same document and either party may enter into this deed by executing a counterpart.

27 ASSIGNMENT

- 27.1 The Chargee shall have the right to assign or transfer all or any of its rights under this deed without the prior written consent of the Company to any assignee of the landlord's interest in the Underleases;
- 27.2 The Company shall not have the right to assign or transfer all or any of its rights under this deed without the prior written consent of the Chargee.

28 THIRD PARTY RIGHTS

A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act (including, without limitation, any right or

remedy arising by virtue of an assignment of the benefit of this deed or any part of this deed which is permitted in accordance with its terms).

29 GOVERNING LAW

This deed, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with English Law and the parties to it submit to the non-exclusive jurisdiction of the English courts but without prejudice to the right of the Chargee to pursue its remedies in any other jurisdiction it thinks fit.

IN WITNESS OF WHICH the parties to this deed have executed it as a deed and delivered it on the date first above written.

SCHEDULE - PART 1 - THE PROPERTY

All that land and buildings known as Freelands Croft Care Home, Redfields Ln, Church Crookham, Fleet GU52 0RB and registered at Land Registry with Title Number HP693209.

PART 2 - THE PLANT AND MACHINERY

Not Used

PART 3 - THE UNDERLEASE PROPERTIES

Property description	Title Number
Suite 11, Richmond Aston-on-Trent Retirement Village Richmond Drive, Aston-on-Trent, Derby DE72 2EA (Aston)	
Suite 15, Aston	
Suite 3, Aston	
Suite 27, Aston	
Suite 31, Aston	
Suite 19, Aston	
Suite 18, Aston	
Suite 4, Aston	
Suite 49, Aston	
Suite 38, Aston	
Suite 26, Aston	
Suite 44, Aston	

Suite 43, Aston	
Suite 36, Aston	
Suite 6 Witney	
Suite 32, Richmond Witney Retirement Village, Coral, The Springs, Witney OX28 5DG (Witney)	
Suite 35, Witney	
Suite 25, Witney	
Suite 39, Witney	
Suite 40, Witney	
Suite 26, Witney	
Suite 38, Witney	
Suite 22, Witney	
Suite 27, Witney	
Suite 12, Witney	
Suite 24, Witney	
Suite 2, Richmond Wood Norton Retirement Village, South Lodge, Evesham Rd, Wood Norton, Evesham WR11 4TH (Wood Norton)	
Suite 3, Wood Norton	
Suite 13, Wood Norton	
Suite 15, Wood Norton	
Suite 16, Wood Norton	

Suite 18, Wood Norton	
Suite 19, Wood Norton	
Suite 27, Wood Norton	
Suite 11, Wood Norton	
Suite 20, Wood Norton	
Suite 25, Wood Norton	
Suite 10, Wood Norton	

EXECUTED AS A DEED by

LASALLE INVESTMENT MANAGEMENT

acting by an authorised signatory as attorney for

BAE SYSTEMS 2000 PENSION PLAN TRUSTEES LIMITED

under a power of attorney dated 23 July 2018 in the

presence of a witness

.....

Authorised Signatory

.....

Signature of witness

.....

Name of witness

.....

.....

.....

Address of Witness

EXECUTED as a Deed (but not delivered)

until the date hereof) by)

Jointly)

acting by an authorised signatory as attorney for)

BUPA CARE HOMES (ANS) LIMITED)

under a power of attorney dated 20.12.2018)

in the presence of the witness named below:)

.....

Authorised Signatory

Witness signature



Name of Witness

ZABINA AKHTAR

Address

