



Registration of a Charge

Company Name: **YEW CARE LIMITED**

Company Number: **02934020**



XA68S2CV

Received for filing in Electronic Format on the: **08/06/2021**

Details of Charge

Date of creation: **27/05/2021**

Charge code: **0293 4020 0007**

Persons entitled: **SHAWBROOK BANK LIMITED**

Brief description: **ALL OF THAT FREEHOLD LAND KNOWN AS WESTERHAM PLACE
NURSING HOME, QUEBEC SQUARE, WESTERHAM TN16 1TD
REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER K737382.**

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:

TROWERS & HAMLINS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2934020

Charge code: 0293 4020 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th May 2021 and created by YEW CARE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th June 2021 .

Given at Companies House, Cardiff on 9th June 2021

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

EXECUTION VERSION

dated 27 May 2021

(1) Willowmead Residential Home Ltd

(2) Wren House Limited

(3) Yewcare Limited

(4) Featherton House Limited

(5) Eastwick Healthcare Limited; and

(6) Eastwick Barn Limited

(each a Chargor and collectively the Chargors)

and

Shawbrook Bank Limited

(as Lender)

Debenture

(To: The Chief Land Registrar. Note: This Debenture contains (in clause 5.1) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of the Lender to enter a restriction in the Proprietorship Register and (in clause 5.3.3) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of the Lender to enter a notice on the Charges Register.)

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Deed

dated **27 May 2021**

Parties

- (1) **Willowmead Residential Home Ltd** registered as a company limited by shares under the laws of England and Wales with registration number 05055111 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Willowmead**);
- (2) Wren House Limited registered as a company limited by shares under the laws of England and Wales with registration number 04182547 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Wren**);
- (3) **Yewcare Limited** registered as a company limited by shares under the laws of England and Wales with registration number 02934020 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Yewcare**);
- (4) **Featherton House Limited** registered as a company limited by shares under the laws of England and Wales with registration number 06976037 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Featherton**);
- (5) **Eastwick Healthcare Limited** registered as a company limited by shares under the laws of England and Wales with registration number 08259085 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Eastwick**);
- (6) **Eastwick Barn Limited** registered as a company limited by shares under the laws of England and Wales with registration number 02407613 whose registered office is at C/O Healthcare Management Solutions Limited Drakes Court, 302 Alcester Road, Wythall, Birmingham, England, B47 6JR (**Eastwick Barn**);

(Willowmead, Wren, Yewcare, Featherton, Eastwick and Eastwick Barn, each a **Chargor** and collectively the **Chargors**); and

- (7) **Shawbrook Bank Limited** a company incorporated in England and Wales with registration number 00388466 acting through its branch at Lutea House The Drive, Warley Hill Business Park, Great Warley, Brentwood, Essex, CM13 3BE or such other branch as it may select from time to time (the **Lender**).

Introduction

- (A) The Lender has agreed to make loan facilities available to the Chargors in accordance with the terms of the Facility Agreement (as defined below).
- (B) It is a condition precedent to the granting of the loan facilities under the Facility Agreement that the Chargors enter into this Deed to provide security to the Lender for the purposes and on the terms as described below.

(C) It is intended by the parties to this document that it will take effect as a deed.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Account means the accounts listed in Schedule 3 or such other accounts or accounts held by a Chargor as the Lender and a Chargor may from time to time agree in writing;

Account Bank means

Administrator has the meaning given to it by paragraph 1 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002);

Assigned Contracts means the agreements and deeds listed in Schedule 2;

Certificate of Title means any report on or a certificate of title relating to the Mortgaged Property provided to the Lender by each Chargor (or on its behalf);

Collateral Rights means all rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law;

Dangerous Substances means any substance or waste (as defined in the Environmental Protection Act 1990) which is capable of causing harm to man or any living organism supported by the Environment or damaging the Environment or public health or welfare;

Debts means all book and other debts of the Chargors, all other monies due and owing to the Chargors and the benefit of all rights, securities or guarantees in respect of such book and other debts;

Default Rate means the rate of interest calculated in accordance with clause 8.3 of the Facility Agreement;

Environment means the environment as defined in Section 1(2) of the Environmental Protection Act 1990;

Environmental Audit means a full risk assessment of the Security Assets to ascertain the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to the Environment by any activity, including soil, air or water testing of the Security Assets and any other property;

Environmental Law has the meaning given to it in the Facility Agreement;

Environmental Licence means a licence, permit, certificate of registration, consent, or approval, including any conditions which attach thereto, which relates to or affects the Security Assets and which is required by an Environmental Law;

Event of Default has the meaning given to it in the Facility Agreement;

Excluded Property means the property known as Wren House Orchard, Warminster BA12 8TY having title number WT211469;

Facility Agreement means the facility agreement dated on or around the date of this Deed between the Chargors as the original borrowers and the Lender under which the Lender has agreed to make available certain loan facilities to the Chargors;

Finance Documents means the Facility Agreement and other documents as defined in the Facility Agreement;

Financial Collateral shall have the meaning given to that expression in the Financial Collateral Regulations;

Financial Collateral Regulations means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226);

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on the Mortgaged Property and includes all fixtures, fittings, plant, materials, machinery, equipment, installations and apparatus now and from time to time in or on the Mortgaged Property;

Floating Charge Assets means the assets charged pursuant to clause 3.3;

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by or with the authority or on behalf of the Chargors in relation to the Security Assets or any part of them;

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

Intellectual Property means claims and intellectual property rights including all patents, patent applications, trade marks and service marks (whether registered or not), trade mark applications, service mark applications, trade names, registered designs, design rights, copyrights, computer programmes, know-how and trade secrets and all other industrial or intangible property or rights and all licences, agreements and ancillary and connected rights relating to intellectual and intangible property now or from time to time after the date of this deed owned by the Chargors;

Mortgaged Property means all the freehold and leasehold property specified in Schedule 1 and any other freehold or, as the case may be, leasehold property which is the subject of a Security Interest under this Deed;

Occupational Lease Document means any tenancy or licence to occupy or any agreement for any of the same from time to time granted or entered into by the Chargors in respect of any part of the Mortgaged Property and any licence, consent or approval given thereunder;

Planning Acts means the **consolidating Acts** as defined in the Planning (Consequential Provisions) Act 1990 together with the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Localism Act 2011 and all applicable laws, orders, regulations, instruments, by laws, instructions and standards, whether national, regional or local, including any subordinate legislation relating to town and country planning and to the use and/or occupation of a Mortgaged Property;

Receiver means any receiver appointed under this Deed or pursuant to any applicable law, whether alone or jointly, and includes a receiver and/or manager;

Related Rights means, in relation to any asset which comprises the Security Assets:

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

Rent means all amounts payable to or for the benefit of the Chargors by way of rent or licence fee, service charge, dilapidations, ground rent and rent charge in respect of any part of the Mortgaged Property whether under an Occupational Lease Document or otherwise and all other monies payable to or for the benefit of the Chargor in respect of the occupation or use of any part of the Mortgaged Property;

Secured Liabilities means all present and future monies, obligations and liabilities now or hereafter due owing or incurred to the Lender by the Chargors under or in connection with the Finance Documents, in any currency or currencies (whether present or future, actual or contingent) and whether owed by the Chargors as principal or surety or incurred solely or jointly with another, together with all interest accruing thereon and all costs, charges and expenses incurred by the Lender in connection therewith;

Securities means all shares, stock, warrants, debentures, and other securities present and future (certificated or uncertificated) or units in an account of balance (whether held in the name of any Chargor or by a nominee) of any Chargor and all income and rights deriving from or attaching to the same;

Security means the security constituted by or pursuant to this Deed;

Security Assets means all the assets, rights, property and undertaking of each Chargor from time to time mortgaged, charged, assigned or agreed to be assigned to, the Lender by each Chargor under this Deed including, without limitation, the Mortgaged Property;

Security Financial Collateral Arrangement shall have the meaning given to that expression in the Financial Collateral Regulations;

Security Interest means any mortgage, pledge, lien, charge, security assignment, right of set off, hypothecation or security interest or any other agreement or arrangement having

the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement (including, without limitation, title transfer or retention of title) having a similar effect;

Security Period means the period beginning on the date hereof and ending on the date upon which all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of being outstanding;

Sterling means the lawful currency of the United Kingdom;

Tax includes any form of taxation, levy, duty, charge, contribution or impost of whatever nature (including any applicable fine, penalty, surcharge or interest) imposed by any government authority, body or official (whether central, local, state or federal) anywhere in the world competent to impose any of them;

Valuation means any valuation relating to the Mortgaged Property supplied to the Lender by the Chargors (or on its behalf); and

Wren House Lease means the lease in respect of Wren House dated on or around the date of this Deed and made between Willowmead Residential Home Ltd (as landlord) and Wren House Limited (as tenant).

1.2 Interpretation

In this Deed, unless the context otherwise requires, a reference to:

assets includes present and future properties, undertakings, revenues, rights and benefits of every description;

an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing or registration;

a **Chargor** or the **Lender** includes a reference to its respective successors, permitted assigns and permitted transferees;

a **person** includes a permitted body corporate, unincorporated association and partnership, in each case, whether or not having a separate legal personality;

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

one gender shall include a reference to other genders; an individual will be treated as including corporations and vice versa; words importing the singular will be treated as including the plural and vice versa and words importing the whole will be treated as including a reference to any part, in each case except where the context specifically requires otherwise;

this Deed or to any provision of this Deed or any other document (including, without limitation any of the Finance Documents) is a reference to it as amended, restated, supplemented, varied or novated from time to time;

the words **include** or **including** (or any similar term) are not to be construed as implying any limitation and general words introduced by the word **other** (or any similar term) will not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;

a statute, a statutory provision, enactment or an EC Directive or subordinate legislation is a reference to any amendment, modification, extension, consolidation, replacement or re-enactment of any such statute, statutory provision, enactment or EC Directive, whether before or after the date of this Deed;

the making of an administration order shall be treated as including a reference to the appointment of an Administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of any Chargor's property) or paragraph 22 (by any Chargor or the directors of any Chargor) of Schedule B1 to the Insolvency Act 1986; and

the making of an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an Administrator under paragraphs 14 or 22 of that Schedule, or giving notice under paragraphs 15 or 26 of that Schedule of intention to appoint an Administrator.

1.3 **Facility Agreement**

1.3.1 Words and expressions defined in the Facility Agreement will have the same meanings when used in this Deed, unless the context otherwise requires. In the case of inconsistency, definitions set out in the Facility Agreement will prevail.

1.3.2 In the event of any inconsistency, ambiguity or discrepancy between the provisions of the Facility Agreement and the provisions of this Deed, then the provisions of the Facility Agreement shall prevail.

1.4 **Headings**

The clause, paragraph and Schedule headings and the table of contents are inserted for ease of reference only and will not affect construction.

1.5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of Rule 68 of the Land Registration Rules 2003 (as amended) the covenant set out in section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

1.6 **Nature of security over Mortgaged Property**

A reference in this Deed to a **charge or mortgage of or over the Mortgaged Property** includes:

1.6.1 all buildings and Fixtures and fittings (including trade and tenant's Fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Mortgaged Property at any time; and

1.6.2 all Related Rights.

1.7 **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, or to enjoy, any term of this Deed.

1.8 **Qualifying floating charge**

This Deed contains a qualifying floating charge which gives the Lender the power to appoint an Administrator of any Chargor and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3 of this Deed.

1.9 **Avoidance of payments**

If the Lender considers an amount paid by any Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the insolvency, liquidation or administration of the Chargors or otherwise set aside, that amount shall not have been irrevocably and unconditionally paid for the purposes of this Deed.

2 **Payment of Secured Liabilities**

2.1 **Covenant to pay**

Each Chargor covenants with the Lender that it will, on demand, pay and discharge the Secured Liabilities as and when they fall due for payment in the manner provided in the Facility Agreement or relevant Finance Document.

2.2 **Interest on demand**

If any Chargor fail to pay any sum on the due date for payment of that sum the Chargors will pay interest on such sum (before and after any judgment) from the date of demand until the date of payment calculated at the Default Rate.

3 **Security**

3.1 **Fixed charges**

Each Chargor hereby charges in favour of the Lender with full title guarantee as continuing security for the payment and discharge of the Secured Liabilities:

- (a) by way of a first fixed legal mortgage all of that Chargor's right, title and interest in the Mortgaged Property;
- (b) by way of a first fixed legal mortgage all that Chargor's estates or interests in any freehold or leasehold property (except the Excluded Property, or any assets specified in clause 3.1(a) now or in the future belonging to it;

3.1.2 by way of first fixed charge:

- (a) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by any Chargor in connection with the Security Assets or the use of any of the Security Assets and all rights in connection with them;

- (b) the benefit of all other contracts, guarantees, appointments, covenants and warranties relating to the Mortgaged Property and other documents to which the Chargors are a party or which are in its favour or of which it has the benefit relating to letting, development, sale, purchase, use or the operation of the Mortgaged Property or any part of it or otherwise relating to the Mortgaged Property;
- (c) all furniture, furnishings, tools, vehicles, computers, computer software and hardware and office and other equipment and other chattels belonging to any Chargor and not regularly disposed in the ordinary course of business together with the benefit of all contracts, licences and warranties relating to the same;
- (d) all Fixtures;
- (e) all monies from time to time standing to the credit of the Account(s);
- (f) the Securities;
- (g) the Debts and the proceeds of payment or realisation of each of them until payment of such proceeds into the Accounts in accordance with clause 13;
- (h) all choses in action and the Intellectual Property;
- (i) all present and future goodwill, uncalled and called but unpaid capital of each Chargor;
- (j) all its rights and interests in and claims under the Insurances issued in relation to the Security Assets;
- (k) all negotiable instruments at any time drawn, issued or endorsed in favour of or held by or on behalf of, any Chargor, including any such instruments which at any time have been deposited with the Lender (whether or not endorsed by the Lender);
- (l) the benefit of any interest rate swap, currency swap, cap or collar arrangement, future, option, forward rate agreement or other derivative instrument (howsoever described) or any other agreement with the Lender or any third party for protecting or hedging any of the Secured Liabilities at any time; and
- (m) insofar as the legal mortgages referred to in 3.1 or any of the assignments referred to in clause 3.2 shall for any reason be ineffective as a legal mortgage or an assignment, the assets referred to in those clauses.

3.2 Assignments

Each Chargor hereby assigns and agrees to assign by way of security to the Lender with full title guarantee for the payment and discharge of the Secured Liabilities all of that

Chargors rights, titles and interests in, to and under each of the following present and future assets:

- 3.2.1 the benefit of each of the Assigned Contracts and the benefit of any guarantee or security for the performance of each Assigned Contract;
- 3.2.2 all its rights and interests in the Rent and the benefit of any guarantee or security in respect of the Rent;
- 3.2.3 all its rights and interests in and claims under the Insurances;
- 3.2.4 all rights and claims in relation to any Mortgaged Property including, without limitation, all rights and claims against any lessees, tenants, sub-lessees, sub-tenants, licensees or occupiers of the Mortgaged Property from time to time and all guarantors and sureties for the obligations of such persons (whether under the Occupational Lease Documents or otherwise).
- 3.2.5 the benefit of all contracts, deeds, undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargors and relating to the Mortgaged Property and all compensation paid in relation to the Mortgaged Property and all VAT payable on the same;
- 3.2.6 the benefit of any development documents and all undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargors;
- 3.2.7 the benefit of all guarantees, warranties and representations given or made by, and any rights or remedies to which the Chargors may now or in the future be entitled against, all or any professional advisors and contractors in relation to the Mortgaged Property, and any business carried on thereat, and the manufacturer supplier and installers of all plant, machinery, Fixtures and fittings or other items now or hereafter in buildings located on the Mortgaged Property and any other person now or from time to time under contract or under a duty to any Chargor including without limitation the right to prosecute in the name of the Chargors proceedings against any such person and the benefit of all sums recovered in proceedings against all or any such persons; and
- 3.2.8 all claims, remedies, awards or judgments paid or payable to any Chargor (including, without limitation, all liquidated and ascertained damages payable to any Chargor under the above),

provided that, in each case, to the extent (if any) that the benefits, rights, titles, claims and interests assigned under this clause 3.2 are not assignable, such assignment will operate as an assignment of all proceeds received by the Chargors in connection with such benefits, rights, titles, claims and interests.

3.3 **Floating charge**

Each Chargor hereby charges in favour of the Lender with full title guarantee for the payment and discharge of the Secured Liabilities by way of floating charge the whole of that Chargor's undertakings, properties and assets, present and future wherever situate

not from time to time subject to an effective mortgage, fixed charge or assignment under this Deed.

4 Conversion of the Floating Charge

4.1 Notice of conversion

4.1.1 The Lender may from time to time, by notice in writing to any Chargor following the occurrence of an Event of Default which is continuing or if the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other legal process or to otherwise be in jeopardy, convert the floating charge contained in clause 3.3 into a fixed charge as regards any Floating Charge Assets specified in such notice.

4.1.2 The floating charge contained in clause 3.3 may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000.

4.2 Automatic conversion

Notwithstanding anything contained in this Deed, if (without the prior written consent of the Lender);

4.2.1 any Chargor create any Security Interest over or otherwise encumbers any of the Security Assets created by this Deed or attempts to do so other than as permitted under the Finance Documents;

4.2.2 any person levies or attempts to levy any distress, execution, diligence, sequestration or other process against the Security Assets which is not frivolous and vexatious and/or being diligently contested by any Chargor;

4.2.3 a resolution is passed or a petition is presented for the winding up, dissolution, administration or re-organisation of any Chargor other than any petition which is frivolous and vexatious has been disclosed to the Lender and is being diligently contested by that Chargor;

4.2.4 a Receiver or an administrative receiver is appointed over the Security Assets or, if any person entitled to do so, gives notice of intention to appoint a Receiver or an administrative receiver over the Security Assets or files such a notice with the court; or

4.2.5 an Administrator is appointed in respect of any Chargor or the Lender receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of any Chargor,

the floating charge created by this Deed over the Floating Charge Assets shall with immediate effect and without notice automatically convert into a fixed charge.

5 **The Land Registry and further advances**

5.1 **Land registration**

Each Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of the Lender to enter the following restriction (in form P of Schedule 4 to the Land Registration Rules 2003) against that Chargor's title, in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Mortgaged Property:

"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 [the date of this Deed] in favour of Shawbrook Bank Limited (as Lender) referred to in the Charges Register or their conveyancer or an individual identified as an authorised signatory of the Lender".

5.2 **Implied covenants**

For the purposes of Rule 68(1) of the Land Registration Rules 2003, the covenants set out in Sections 2 to 5 (inclusive) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

5.3 **Further advances**

5.3.1 Subject to the terms of the Finance Documents, the Lender is under an obligation to make further advances to the Chargors.

5.3.2 For the purposes of section 94(1)(c) of the Law of Property Act 1925, section 49(3) of the Land Registration Act 2002 and Rule 108 of the Land Registration Rules 2003, the obligation on the Lender to make further advances will be deemed to be incorporated in this Deed as if the same were set out in this Deed.

5.3.3 For the purposes of the Land Registration Rules 2003 and section 49(3) of the Land Registration Act 2002, each Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of the Lender for the entry of a note of the obligation to make further advances on the Charges Register of any registered land forming part of the Mortgaged Property.

6 **Further assurance**

6.1 **Further assurance: general**

Each Chargor shall, at its own expense, promptly do all such acts or execute all such documents (including, without limitation, assignments, transfers, mortgages, charges, notices and instructions) as the Lender or any Receiver may specify (and in such form as the Lender or any Receiver may require) in favour of the Lender or its nominees:

6.1.1 to perfect or protect the security created or intended to be created in respect of the Security Assets (which may include the execution by the Chargors of a mortgage, fixed charge or assignment over all or any of the assets constituting,

or intended to constitute, Security Assets) or for the exercise of the Collateral Rights; and/or

6.1.2 to facilitate the realisation of the Security Assets; and/or

6.1.3 to obtain all necessary consents to procure the registration of this Deed with the registrar of companies (if applicable) and, in respect of the Mortgaged Property, at the Land Registry or on the Land Charges Register, as appropriate.

6.2 **Consents**

Each Chargor will use all reasonable endeavours to obtain (in form and content satisfactory to the Lender) as soon as possible any consents necessary to enable the relevant Security Assets purported to be so charged or assigned to be the subject of an effective fixed charge or assignment pursuant to clauses 3.1 and 3.2 and, immediately upon obtaining any such consent, the relevant Security Asset shall become subject to such Security and that Chargor shall promptly deliver a copy of each such consent to the Lender.

6.3 **Notice of assignment of Assigned Contracts**

Each Chargor will promptly give notice of assignment in the form set out in part I of Schedule 4 to each counterparty to an Assigned Contract to which it is a party and shall procure that each relevant party acknowledges that notice substantially in the form set out in part II of Schedule 4.

6.4 **Notice of charge of Account**

Each Chargor will promptly give notice to the bank(s) at which the Accounts are held (save where such Accounts are held with the Lender) in the form set out in part I of Schedule 5 and shall use reasonable endeavours to procure that the Account Bank acknowledges that notice substantially in the form set out in part II of Schedule 5.

6.5 **Notices of assignment of Insurances**

Each Chargor will promptly give notice of assignment to all insurers in respect of the Insurances in the form set out in part I of Schedule 7 and shall use reasonable endeavours to procure that such insurers acknowledge the notice in the form set out in part II of Schedule 7.

6.6 **Preservation of rights**

Neither the obligations of the Chargors contained in this Deed nor the rights, powers and remedies conferred in respect of the Chargors upon the Lender by the Finance Documents or by law shall be discharged, prejudiced or otherwise affected by:

6.6.1 the winding-up, dissolution, administration or reorganisation of any Chargor or any other person or any change in its status, function, control or ownership;

6.6.2 any of the obligations of any Chargor or any other person under the Finance Documents or under any other security relating to the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;

- 6.6.3 any time or other indulgence being granted or agreed to be granted to any Chargor or any other person in respect of its obligations under the Finance Documents;
- 6.6.4 any amendment to, or any variation, waiver or release of any obligation of any Chargor or any other person under the Finance Documents;
- 6.6.5 any failure to take, or fully to take, any security contemplated by the Finance Documents or otherwise agreed to be taken in respect of any Chargor's or any other person's obligations under the Finance Documents;
- 6.6.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of any Chargor's or any other person's obligations under the Facility Agreement or Finance Documents; or
- 6.6.7 any other act, event or omission which, but for this clause 6.6, might operate to discharge, impair or otherwise affect any of the obligations of any Chargor or any other person or any of the rights, powers or remedies conferred upon the Lender by the Facility Agreement, Finance Documents or by law.

7 Negative pledge and disposal restrictions

7.1 Negative pledge

Save as permitted by the Facility Agreement or Finance Documents, no Chargor will, without the prior written consent of the Lender, create, purport to create, or permit to subsist (in favour of any person other than the Lender) any Security Interest over any of the Security Assets now or in the future, or agree or attempt to do so.

7.2 Disposal of fixed charge assets

Save as permitted by the Facility Agreement or Finance Documents, no Chargor will, without the prior written consent of the Lender (whether by a single transaction or number of related or unrelated transactions, and whether at the same time or over a period of time) sell, transfer, lease out, lend or otherwise dispose of any of the Security Assets charged or assigned by clauses 3.1 and 3.2 or following the crystallisation of the floating charge created by clause 3.3 the Floating Charge Assets charged by clause 3.3 or any interests therein or the right to receive or to be paid the proceeds arising from their disposal or agree or attempt to do so.

7.3 Disposal of Floating Charge Assets

No Chargor will dispose of any of the Floating Charge Assets charged by clause 3.3 other than in the ordinary course of and for the purposes of, carrying on its trading business whilst the floating charge remains uncrystallised.

8 Representations and warranties

8.1 Duration and to whom made

The representations and warranties made by each Chargor in clause 17 (*Representations*) of the Facility Agreement will remain in force (and each of the Repeating Representations

(as defined in the Facility Agreement) will be deemed repeated on each day set out in the Facility Agreement) during the Security Period and are given to the Lender.

9 General undertakings

9.1 Duration and benefit

The undertakings in this clause 9:

9.1.1 shall remain in force during the Security Period; and

9.1.2 and are given to the Lender.

9.2 Not to jeopardise the Security

No Chargor will do or allow to be done anything which could reasonably be expected materially to decrease the value of the Security to the Lender (other than fair wear and tear arising from the use of the Security Assets in the ordinary course of business).

9.3 Law

Each Chargor will comply with all applicable laws, regulations and authorisations affecting the Security Assets.

10 Mortgaged Property

Each Chargor undertakes to the Lender at all times during the Security Period to comply with the provisions set out in clause 21 (*Property Undertakings*) of the Facility Agreement.

11 Insurance

Each Chargor will comply with the provisions set out in clause 20 (*General undertakings*) of the Facility Agreement.

12 Assigned Contracts

12.1 Performance

Each Chargor will remain liable to perform all the obligations to be performed in respect of any of the Assigned Contracts and the Lender will have no obligation of any kind whatsoever in relation to them or be under any liability whatsoever in the event of any failure by any Chargor to perform its obligations in respect of them. Each Chargor agrees to indemnify and hold the Lender harmless from all costs, claims, damages or liabilities whatsoever and howsoever arising out of the performance of or the failure in performance of the Chargor's obligations in respect of the Assigned Contracts.

12.2 No amendments

Save as permitted under the Facility Agreement, no Chargor will, without the prior written consent of the Lender:

12.2.1 amend, supplement, novate or waive any provision of or terminate any Assigned Contract; or

12.2.2 do anything which might jeopardise the enforceability of any Assigned Contract.

13 **Account and Debts**

13.1 **Restriction on dealing**

No Chargor will, without the prior written consent of the Lender deal with its Debts otherwise than by collecting them in the ordinary course of business and will not charge, factor, discount or assign any of its Debts in favour of any third party.

13.2 **Payment**

Each Chargor will collect all Debts charged to the Lender under this Deed and will without delay pay the proceeds of payment or realisation of all such Debts into the Account(s) and pending that payment will hold all money so received upon trust for the Lender.

13.3 **Withdrawal**

No Chargor will withdraw all or any monies standing to the credit of the Account(s) without the Lender's prior written consent or as permitted by the Facility Agreement.

14 **Securities**

14.1 **Calls and other payments**

In relation to the Securities:

14.1.1 each Chargor will duly and promptly pay all calls or other payments due or payable in respect of any Securities and will comply with all other conditions and obligations assumed by it in relation to any of the Securities;

14.1.2 the Lender will not incur any liability in relation to any calls or other payments relating to the Securities;

14.1.3 if any Chargor defaults in complying with its obligations under clause 14.1.1 the Lender may in its absolute discretion make such payments on behalf of the Chargors; and

14.1.4 each Chargor agree to reimburse the Lender on demand all sums expended by the Lender under clause 14.1.3.

14.2 **Notices**

Each Chargor will forward to the Lender any notices, reports, accounts, circulars and other documents relating to the Securities material to the rights of the Lender hereunder promptly after they are received.

14.3 **Rights prior to enforcement**

Until the Security becomes enforceable:

- 14.3.1 each Chargor may exercise or direct all voting and other rights relating to the Securities provided that such exercise does not adversely affect the Securities or the Lender or the Security; and
- 14.3.2 except as otherwise permitted by the Lender in writing or by the Facility Agreement, all interest, dividends and other distributions in relation to the Securities will be paid into the Account(s); but, if paid to the Chargor, the Chargors will immediately upon receipt pay them into the Account(s) and until that payment will hold them on trust for the Lender.

14.4 **Rights after enforcement**

Upon the Security becoming enforceable:

- 14.4.1 the Lender shall be entitled to exercise in the name of any Chargor all voting or other rights in relation to the Securities and that Chargor will (and will procure that its nominees will) comply with any directions the Lender may in its absolute discretion, give concerning the exercise of those rights and powers;
- 14.4.2 the Lender shall be entitled to receive and retain all dividends, and other distributions paid in respect of the Securities;
- 14.4.3 the Lender shall be entitled to exercise or direct the exercise of all voting or other rights in relation to the Securities in such means as it considers fit; and
- 14.4.4 the Lender shall be entitled to complete all instruments of transfer referred to in clause 14.5 and otherwise have any Securities registered in its name or the name of its nominee.

14.5 **Deposit of certificates**

Each Chargor will on the date of acquisition of any Securities, deposit with the Lender, in addition the documents of title and other documentary evidence required by clause 14, such duly executed instruments of transfer (with the name of the transferee, date and consideration left blank) to enable the Lender to vest such Securities in any purchaser upon exercise of the Lender's power of sale.

14.6 **Liability of the Lender**

Each Chargor agrees with the Lender that neither the Lender nor the Lender's nominee will have any liability:

- 14.6.1 for failing to present any coupon or other document relating to any of the Securities for payment or redemption;
- 14.6.2 for failing to accept any offer relating to any of the Securities;
- 14.6.3 for failing to attend or to vote at any meetings related to the Securities;
- 14.6.4 for failing to notify any Chargor of any matters mentioned in this clause 14 or of any communication received by the Lender in relation to the Securities; or

14.6.5 for any loss arising out of or in connection with the exercise or non-exercise of any rights or powers attaching or accruing to the Securities or which may be exercised by the Lender or any nominee for the Lender under this Deed.

15 Intellectual Property

15.1 Each Chargor shall:

15.1.1 if requested by the Lender at any time, register the interest of the Lender in all or any part of any Intellectual Property;

15.1.2 if requested by the Lender at any time, execute all such documents and do all such things as the Lender may require to record the interest of the Lender in any register relating to the Intellectual Property;

15.1.3 preserve, maintain and renew as and when necessary all Intellectual Property required by any Chargor for carrying on its business; and

15.1.4 promptly notify the Lender of any infringements of the Intellectual Property and take all steps as may be necessary to prevent such infringement and/or recover damages in respect thereof.

16 Deposit of title deeds

Each Chargor will deposit all deeds and documents of title relating to the Security Assets with the Lender and such other documents relating to the Security Assets as the Lender may require from time to time, for the duration of the Security Period, except to the extent that any such Security Assets are released by the Lender pursuant to the terms of the Facility Agreement.

17 Power to remedy

In the case of default by any Chargor in repairing or keeping in repair or insuring the Security Assets or any part thereof or in observing or performing any of the covenants or stipulations affecting the same, that Chargor will permit the Lender or its agents and contractors to enter on the Security Assets and to comply with or object to any notice served on that Chargor in respect of the Security Assets and to effect such repairs or insurance or generally do such things or pay all such costs, charges and expenses as the Lender may consider are necessary or desirable to prevent or remedy any breach of covenant or stipulation or to comply with or object to any notice. Each Chargor will indemnify and keep the Lender indemnified against all losses, costs, charges and expenses reasonably incurred in connection with the exercise of the powers contained in this clause 17.

18 Enforcement of Security

18.1 When Security becomes enforceable

The Security shall be immediately enforceable if an Event of Default occurs and is continuing. After the Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of such Security at the times, in the manner, and on the

terms as it shall think fit and take possession of or hold or dispose of all or any part of the Security.

18.2 **Exercise of powers**

At any time after the Security becomes immediately enforceable, the Lender may, without notice to any Chargor or prior authorisation from any court, in its absolute discretion whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

18.3 **Right of appropriation**

To the extent that any of the Security Assets constitutes Financial Collateral and this Deed and the obligations of any Chargor hereunder constitute a Security Financial Collateral Arrangement the Lender shall have the right, at any time after this Deed has become enforceable, to appropriate all or any part of such Financial Collateral in or towards payment and/or discharge of the Secured Liabilities in such order as the Lender in its absolute discretion may from time to time determine. For this purpose each of the Chargors and the Lender agrees that the value of such Financial Collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the Account(s), together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of Securities, the market price of such Securities at the time the right of appropriation is exercised as determined by the Lender by reference to any recognised market index or by such other process as the Lender may select, including, without limitation, independent valuation. In each case, each of the Chargors and the Lender agrees that the method of valuation provided for in this clause 18 shall constitute a commercially reasonable method of valuation for the purpose of the Financial Collateral Regulations.

18.4 **Possession**

If the Lender, any Receiver or any delegate of any such person takes possession of the Security Assets, it or he may at any time relinquish such possession.

18.5 **No liability as mortgagee in possession**

The Lender will not be liable to account as a mortgagee in possession in respect of all or any part of the Security Assets or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Security Assets to which a mortgagee in possession might otherwise be liable.

18.6 **Power of sale**

The power of sale under this Deed may be exercised notwithstanding that the Lender or the Receiver may have previously waived or refrained from exercising that power; and no demand or notice of sale made or given under this Deed will be waived by the acceptance of any payment on account of the Secured Liabilities, or by any negotiations between the Lender and any Chargor or any other party who is acting as agent for any Chargor or on behalf of it.

18.7 Receiver's liability

All the provisions of clause 18.5 will apply, mutatis mutandis, in respect of the liability of any Receiver and delegate of the Receiver or the Lender or any officer, employee or agent of the Lender, any Receiver or any delegate.

19 Extension and variation of the Law of Property Act 1925

19.1 Extension of powers

The power of sale or other disposal conferred on the Lender and on any Receiver by this Deed will operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power will arise (and the Secured Liabilities will be deemed due and payable for that purpose) on the execution of this Deed.

19.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 will not apply to this Deed or to the exercise by the Lender of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to any Chargor.

19.3 Power of leasing

The statutory powers of leasing may be exercised by the Lender at any time and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it will think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Law of Property Act 1925.

19.4 Non-application

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to clause 3 being:

19.4.1 the words 'other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about' in Section 3(1);

19.4.2 the words 'except to the extent that' and all words thereafter in Section 3(2); and

19.4.3 Section 6(2).

19.5 Application

Section 109(8) of the Law of Property Act 1925 will not apply, and all monies received by the Lender or any Receiver in the exercise of any powers conferred by this Deed will be applied in the following order:

19.5.1 in the payment of:

- (a) all costs, charges, liabilities and expenses incurred by the Lender or any Receiver in the exercise of those powers or incidental to any Receiver's appointment, together with interest at the applicable rate set out in

clause 2.2 (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full; and

(b) any Receiver's remuneration;

19.5.2 in or towards discharge of all liabilities having priority to the Secured Liabilities;

19.5.3 in or towards the satisfaction of the Secured Liabilities in such order as the Lender determines; and

19.5.4 in the payment of any surplus to any Chargor or other person entitled to it.

19.6 **Application of sums received**

No Chargor will have any rights in respect of the application by the Lender of any sums received, recovered or realised by the Lender under this Deed.

20 **Appointment of Receiver**

20.1 **Appointment and removal**

At any time after the Security becomes enforceable, or if requested to do so by any Chargor, the Lender may by deed or otherwise (acting through an authorised officer of the Lender), without prior notice to any Chargor:

20.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Security Assets or an Administrator of any Chargor;

20.1.2 remove (so far as it is lawfully able) any Receiver or an Administrator so appointed; and

20.1.3 appoint another person(s) as an additional or replacement Receiver(s) or Administrator(s).

20.2 **Capacity of Receivers**

Each person appointed to be a Receiver under this Deed will be:

20.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;

20.2.2 for all purposes will be deemed to be the agent of each Chargor which will be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for the Lender; and

20.2.3 entitled to remuneration for his services at a rate to be fixed by the Lender from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

20.3 **Statutory powers of appointment**

The powers of a Receiver will be in addition to all statutory and other powers of the Lender under the Law of Property Act 1925 (as extended by this Deed), an administrative receiver

under the Insolvency Act 1986 or otherwise and such powers will remain exercisable from time to time by the Lender in respect of any part of the Security Assets.

21 Powers of Receiver

21.1 Powers

Every Receiver appointed by the Lender will (in addition to all powers conferred on him by law) have the following powers exercisable in respect of the Security Assets upon such terms and conditions as he thinks fit:

- 21.1.1 to take possession of and generally to manage the Security Assets and any business of each Chargor;
- 21.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract, transaction or arrangement to which any Chargor is or is to be a party;
- 21.1.3 to carry out on any Mortgaged Property (or on any other property which it may in his opinion be necessary or desirable to work upon) any development or new works or complete any unfinished works of building, reconstruction, maintenance, furnishing or equipment and to apply for and obtain all planning permissions, consents or licences as may be necessary or desirable for such purposes;
- 21.1.4 to purchase or acquire any land and purchase, acquire, grant or release any interest in or right over land and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Mortgaged Property;
- 21.1.5 to sell, lease, licence, surrender or accept surrender of leases or licences of, charge or otherwise deal with and dispose of the Security Assets without restriction including (without limitation) power to dispose of any Fixtures separately from the land;
- 21.1.6 to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of any Chargor;
- 21.1.7 to insure the Security Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees indemnities and security;
- 21.1.8 to engage, rely on the advice of and discharge advisers, consultants, officers, managers, agents, workmen and others;
- 21.1.9 to purchase materials, tools, equipment, goods or supplies;
- 21.1.10 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise in relation to the Security Assets or any part of them;
- 21.1.11 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purposes of

the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;

21.1.12 to make any elections for value added tax purposes; and

21.1.13 to do any other acts or things as:

- (a) he may consider to be necessary or desirable for the realisation of the Security Assets or any part thereof;
- (b) as he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law.

22 **Protection of purchasers**

22.1 **Consideration**

The receipt of the Lender or any Receiver will be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, the Lender or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

22.2 **Protection of purchaser**

No purchaser or other person dealing with the Lender or any Receiver will be bound to inquire whether the right of the Lender or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Receiver in such dealings.

23 **Power of attorney**

23.1 **Appointment and powers**

Following the occurrence of an Event of Default, each Chargor by way of security irrevocably appoints the Lender and every Receiver or Administrator and any delegate or sub-delegate severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which:

- 23.1.1 that Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, legal mortgages, assignments or other security and any transfers of the Security Assets), but has failed to do; and/or
- 23.1.2 enable the Lender and any Receiver or Administrator or any delegate or sub-delegate to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Security Assets).

23.2 **Ratification**

The Chargors will ratify and confirm all things lawfully done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

24 **Effectiveness of Security**

24.1 **Continuing Security**

The Security will remain in full force and effect as a continuing security for the Secured Liabilities during the Security Period.

24.2 **Cumulative rights**

The Security and the Collateral Rights will be cumulative, in addition to and independent of every other security which the Lender may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Lender over the whole or any part of the Security Assets will merge into the Security.

24.3 **No prejudice**

Neither the Security nor the Collateral Rights will be prejudiced by any time or indulgence granted to any Chargor or any other person or by any other thing which might otherwise prejudice the Security or any Collateral Right.

24.4 **Remedies and waivers**

No failure on the part of the Lender to exercise, or any delay on its part in exercising, any Collateral Right will operate as a waiver thereof, nor will any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

24.5 **No liability**

None of the Lender, any Receiver or any delegate or sub-delegate will be liable by reason of:

24.5.1 taking any action permitted by this Deed; or

24.5.2 any neglect or default in connection with the Security Assets; or

24.5.3 taking possession of or realising all or any part of the Security Assets

except in the case of negligence or wilful default or fraud upon its part.

24.6 **Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction will in any way be affected or impaired thereby and, if any part of the Security is invalid, unenforceable or ineffective for any reason, that will not affect or impair any other part of the Security.

24.7 **Other security**

The Lender will not be obliged to resort to any guarantees, indemnities, Security Interests or other means of payment now or hereafter held by or available to it before enforcing this Deed and no action taken or omitted by the Lender in connection with any such guarantee, indemnity, Security Interests or other means of payment will discharge, reduce, prejudice or affect the liability of any Chargor or the Secured Liabilities nor will the Lender be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such guarantees, indemnities, Security Interests or other means of payment.

24.8 **Variation**

No variation of the terms of this Deed will be valid unless it is in writing and executed as a deed by the Chargors and confirmed in writing by the Lender.

25 **Release of Security**

Upon the expiry of the Security Period and the Lender not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargors, the Lender will, at the request and cost of the Chargors, release and cancel the Security and procure the reassignment to the Chargors of the property and assets assigned to the Lender pursuant to this Deed and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

26 **Subsequent Security Interests**

If the Lender at any time receives or is deemed to have received notice of any subsequent Security Interest affecting all or any part of the Security Assets or any assignment or transfer of the Security Assets which is prohibited by the terms of this Deed, all payments thereafter by or on behalf of any Chargor to the Lender will be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the Lender received such notice.

27 **Assignment**

27.1 **Right of Lender to assign**

The Lender may at any time assign or otherwise transfer all or any part of its rights under this Deed.

27.2 **Restriction on Chargor**

No Chargor may assign or transfer any of its rights or obligations under this Deed.

27.3 **Confidentiality**

The Lender may give such information relating to any Chargor and the Secured Liabilities as it thinks fit to any person proposing to take an assignment and/or transfer from the Lender and/or to enter into contractual relations with the Lender with respect to this Deed.

28 **Expenses, stamp taxes and indemnity**

28.1 **Expenses**

Each Chargor will, from time to time on demand of the Lender, reimburse the Lender on a full indemnity basis for all the costs and expenses (including legal fees) together with any VAT thereon properly incurred by it or by any Receiver in connection with:

28.1.1 the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the security contemplated in this Deed; or

28.1.2 the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Deed or any proceedings instituted by or against the Lender or any Receiver as a consequence of taking or holding the security or of enforcing the Collateral Rights,

and such expenses will carry interest until so reimbursed at the rate referred to in clause 2.2.

28.2 **Stamp taxes**

Each Chargor will pay all stamp, stamp duty land tax, registration and other Tax to which this Deed, the Security or any judgment given in connection with it is or at any time may be subject and will, from time to time, indemnify the Lender on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Tax.

28.3 **Indemnity**

Each Chargor will, notwithstanding any release or discharge of all or any part of the Security, indemnify the Lender, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by any Chargor of the provisions of this Deed, the exercise or purported exercise of any of the rights and powers conferred on them by this Deed or otherwise relating to the Security Assets.

29 **Payments free of deduction**

All payments to be made under this Deed will be made free and clear of and without deduction or withholding whatsoever for or on account of any Tax except to the extent that any Chargor is required by law to make such payment subject to the deduction or withholding of any Tax. If any Tax or amount in respect of Tax is required to be deducted from any amounts payable or paid by any Chargor, that Chargor will pay such additional amounts as may be necessary to ensure that after the making of the deduction or withholding which is required the relevant recipient receives and retains (free from any liability in respect of any such deduction or withholding) a net amount equal to the full amount which it would have received and retained had no such deduction or withholding been made.

30 **Discretion and delegation**

30.1 **Discretion**

Any power or discretion which may be exercised or any determination which may be made hereunder by the Lender or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

30.2 **Delegation**

Each of the Lender and any Receiver will have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it sees fit, which delegation may include power to sub-delegate and will not preclude either the subsequent exercise of such power, authority or discretion by the Lender or the Receiver itself or any subsequent delegation or revocation thereof.

31 **Perpetuity period**

The perpetuity period under the rule against perpetuities, if applicable to this Deed, will be the period of 125 years from the date of this Deed (as specified in section 5(1) of the Perpetuities and Accumulations Act 2009).

32 **Counterparts**

32.1 **Number of counterparts**

This Deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party.

32.2 **Effectiveness of counterparts**

No counterpart shall be effective until each party has executed and delivered at least one counterpart.

33 **Certification**

Each Chargor hereby certifies that its creation of this Deed in favour of the Lender does not contravene any of the provisions of the Companies Act 2006 or its memorandum and articles of association.

34 **Reorganisation**

This Deed will remain binding on the Chargors notwithstanding any change in the constitution of the Lender or its absorption by, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The Security will remain valid and effective in all respects in favour of the Lender and for any assignee, transferee or other successor in title of the Lender.

35 **Set off**

The Lender may set off any matured obligation due from any Chargor under this Deed against any matured obligation owed by the Lender to that Chargor (whether actual or

contingent, present or future), regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

36 **Payment of monies**

36.1 **Date for payment**

Where neither the Facility Agreement nor this Deed specified the due date for payment of any monies owed by any Chargor to the Lender such monies will be due and payable to the Lender by that Chargor on demand.

36.2 **Currency**

Each Chargor's liability under this Deed is to discharge the Secured Liabilities in Sterling. If at any time the Lender receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than Sterling, then such payment will take effect as a payment to the Lender of the amount in Sterling which the Lender is able to purchase (after deduction of any relevant costs) with the amount of the payment so received in accordance with its usual practice.

36.3 **Currency indemnity**

If a payment is made under a court order or in satisfaction of a claim or proof and is treated by clause 36.2 as a payment of an amount which falls short of the relevant liability of any Chargor expressed in Sterling, that Chargor as a separate and independent obligation will on demand from time to time indemnify the Lender against such shortfall and pay interest on such shortfall from the date of such payment to the date on which the shortfall is paid.

36.4 **Certificates**

A certificate signed by an official of the Lender as to the amount due or owing from any Chargor will be conclusive evidence against that Chargor, except in the case of manifest error.

37 **Notices**

37.1 **Service**

Any notice or communication to be given in connection with this Deed will be in writing and delivered by hand or sent by first class prepaid post or fax and:

37.1.1 sent to the Chargors at:

Address: C/O Healthcare Management Solutions Limited Drakes Court, 302
Alcester Road Wythall, Birmingham, England, B47 6JR

Email: renos@me.com
rezeda.ivoylova@kmgcapitalmarkets.com
mark.martindale@kmgcapitalmarkets.com
maria.keveze@kmgcapitalmarkets.com

antonia.petrou@kmgcapitalmarkets.com

Attention: Renos Sideras
Rezeda Ivoylova
Mark Martindale
Maria Keveze
Antonia Petrou

37.1.2 sent to the Lender at:

Shawbrook Bank Limited
Sunderland
SR43 4AG

Email: WCSlegalnotices@shawbrook.co.uk

Attention: Christos Christodoulou,

unless either party has communicated another address or fax number to the other in which case it must be sent to the last address or fax number so communicated.

37.2 **Receipt by Chargor**

A notice or communication sent by the Lender to the Chargors under clause 37 will be deemed to have been received:

37.2.1 if delivered by hand, at the time of delivery;

37.2.2 if sent by first class pre-paid post, on the next business day after posting; or

37.2.3 if sent by fax, when received in legible form.

37.3 **Receipt by Lender**

Any notice or communication given to the Lender by the Chargors shall be deemed to have been received only on actual receipt.

37.4 **Confirmation in writing**

The Chargors may not rely on any oral notice, waiver, consent, approval, representation, advice, statement or other communication by the Lender or any of its employees, agents or representatives except where such communications are confirmed in writing and signed for the Lender pursuant to clause 37.

37.5 **Electronic communication**

37.5.1 Any communication to be made between any Chargor and the Lender under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that they agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if they:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

37.5.2 Any electronic communication made between any Chargors and the Lender will be effective only when actually received in readable form and in the case of any electronic communication made by any Chargor to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.

37.5.3 Any electronic communication which becomes effective, in accordance with clause 37.5.2 above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following Business Day.

38 **Governing law and jurisdiction**

38.1 **Governing law**

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

38.2 **Exclusive jurisdiction**

The courts of England have exclusive jurisdiction to settle any dispute arising in connection with this Deed (a **Dispute**). The parties agree that these courts are the most appropriate and convenient courts to settle any Dispute that arises under or in connection with this Deed and accordingly neither party will argue to the contrary.

38.3 **Benefit of the Lender**

This clause 38 is for the benefit of the Lender only. As a result the Lender will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed has been executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this Deed.

Schedule 1**Mortgaged Property**

All of that freehold land known as:

Name of Chargor	Description of property	Registered at HM Land Registry under Title No:
Willowmead Residential Home Ltd.	Linden House Nursing Home, 9 College Road, Epsom, KT17 4HF	SY269265
Willowmead Residential Home Ltd.	Wren House, 32 Vicarage Street, Warminster, BA12 8JF and The Coach House, 32A Vicarage Street, Warminster, BA12 8JF	WT186712 and WT74967
Yewcare Limited	Westerham Place Nursing Home, Quebec Square, Westerham TN16 1TD	K737382
Featherston House Limited	Featherston House Nursing Home, Chapel Square, Deddington, Banbury, Oxfordshire, OX15 0UB	ON119810
Eastwick Barn Limited	Patcham Nursing Home and Eastwick Close, Brighton, BN1 8SF	SX40998 and ESX122069

Schedule 2

Assigned Contracts

1. The Wren House Lease.

Schedule 3

Accounts

Intentionally left blank

Schedule 4

Part I

Form of notice of assignment of an Assigned Contract

To: []
[]

Date:

Notice of Assignment

We hereby give notice that by a debenture dated [•] made between [•] (the **Chargor**) (1) and [] (the **Lender**) (2) (the **Debenture**), the Chargor assigned to the Lender all its rights, title and interest present and future in [the [•] between you and [•] dated [•]] [together with all ancillary or other agreements and documents entered into pursuant to or in connection therewith] (each an **Agreement** and together the **Agreements**) as security for the obligations more particularly referred to in the Debenture.

By signing and returning to the Lender the additional copy of this letter, please acknowledge notice of this Debenture and confirm and agree that:

- 1 you have not received notice of any previous assignment, charge, lien or other security interest of or affecting the Agreement(s);
- 2 all monies due or to become due from you to the Chargor under the Agreement(s) will be paid to the Chargor's account number [•] ([•]) with [•] at its [•] (sort code [•]) or to such other account as the Lender (or the Chargor and the Lender) may notify you in writing and without set-off or counterclaim save as provided in the Agreement(s); and
- 3 you will not without prior written consent of the Lender determine, agree to amend or accept a waiver of your obligations under the Agreement(s).

Until the Lender serves written notice to the contrary, the Chargor will be entitled, subject to the provisions of this notice, to exercise its rights under the Agreement(s).

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

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by sending a letter, addressed to us and the Lender in the form attached hereto.

Yours faithfully

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

Part II

Form of acknowledgement of notice of assignment of an Assigned Contract

To: (as Lender)

Copy: [Chargor]

Dated:

Dear Sirs

Acknowledgement of notice

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] and addressed to us by [Chargor] (the **Notice**) and hereby acknowledge the Debenture (as defined the Notice) and accept the instructions and authorisations contained in the Notice.

We also confirm that we will pay all sums due under the Agreement(s) (as defined in the Notice) as directed in the Notice.

Yours faithfully

for and on behalf of

[]

Schedule 5

Part I

Form of notice of charge – Accounts not with the Lender

To: []

Date: _____ 202[]

Dear Sirs

[Lender] (the "**Lender**") and [Chargor] (the "**Company**") HEREBY GIVE NOTICE that by a charge contained in a debenture dated _____ 202[] and made between, inter alios, the Company and the Lender (the "**Debenture**") the Company charged to the Lender by way of first fixed charge all of its present and future right, title and interest in and to all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution, including the following account(s) (each a "**Relevant Account**") maintained with you:

Account number: []
Sort code: []
Branch: []

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:

- a) to disclose to the Lender, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts as the Lender may at any time and from time to time request you to disclose to it;
- b) to hold all moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts to the order of the Lender; and
- c) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Lender in any way relating to the Debenture, any of the Relevant Accounts or the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Lender has agreed that the Company may withdraw any moneys from any of the Relevant Accounts without any reference to or further authority from the Lender except to the extent that the Lender gives you notice to the contrary. Upon and after the giving of such notice, the Company shall cease to be entitled to make any such withdrawal without the prior written consent of the Lender.

The Company confirms that:

- a) in the event of any conflict between communications received from it and from the Lender, the communication from the Lender shall prevail;

- b) none of the instructions, authorisations or confirmations in this Notice of Charge (the "**Notice**") can be revoked or varied in any way except with the Lender's specific written consent; and
- c) any written notice or instructions given to you by the Lender in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Lender at [] for the attention of [].

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

Yours faithfully,

.....
Authorised Signatory
for and on behalf of
[Chargor]

Part II

Form of acknowledgement of notice of charge – Accounts not with the Lender

To: [Lender]

Address: []

Attention: [] _____ 202[]

To: [Chargor]

Address: []

Attention: [] _____ 202[]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We agree to and confirm the following:

- a) we accept and will comply with the terms of the Notice;
- b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Relevant Accounts;
- c) we have not claimed or exercised and will not claim or exercise (except with the Lender's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts, except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- d) we shall not permit the Company to make any withdrawal from any of the Relevant Accounts after receipt by us of a notice from the Lender prohibiting such withdrawals to the extent specified in that notice.

Yours faithfully

.....

Duly authorised signatory
for and on behalf of
[Account bank]

Schedule 6

Part I

Form of notice of assignment of Insurances

To: [Insurer]

Date:

Notice of assignment

We hereby give notice that by a debenture dated [•] made between [•] (**Chargor**) (1) and [•] (the **Lender**) (2) (the **Debenture**) that the Chargor has assigned in favour of the Lender all its rights, title and interest in and to the proceeds of [*insert details of insurance policy*] (the **Policy**).

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

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

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

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

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

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

Yours faithfully

.....

Authorised signatory
for and on behalf of
[Chargor]

Part II

Form of acknowledgement of assignment of Insurances

To: **[Lender]**

Date:

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

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

We confirm that:

- 1 the Policy is in full force and effect;
- 2 as at the date of this letter, the insurance premium payable in relation to the Policy is paid up to date;
- 3 the insurances maintained under the Policy are in all [material respects] in accordance with the requirements of the [Facility Agreement / Finance Documents] and amongst other things:
 - 3.1 the interest of the Lender is noted as co-insured (composite) and first loss payee in respect of any insurance proceeds in excess of [£50,000] for any one claim (other than third party liability claims) on the relevant Policy relating to the insurances, and we hereby confirm that we will provide quarterly notification to the Lender of all claims made under the Policy;
 - 3.2 full terrorism cover applies;
 - 3.3 the Policy includes property owners public liability;
 - 3.4 the Policy provides cover for loss of rent insurance in respect of a period of not less than 3 years;
 - 3.5 the Policy contains a provision to the effect that the relevant insurance shall not be invalidated or otherwise terminated or cancelled or the cover thereunder reduced as against the Lender for non-payment of any premium due or for other cause without the insurer first giving to the Lender 30 days' prior written notice;
 - 3.6 the Policy contains a standard mortgagee protection clause whereby, among other things, the relevant insurances shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Chargor;

- 3.7 the Policy will not be prejudiced, vitiated or avoidable as against a mortgagee in the event of any misrepresentation, act or neglect or failure to disclose on the part of the insured party or parties;
- 3.8 a waiver of the rights of subrogation of the insurer as against the Chargor and the Lender (save in their respective capacities as the insured) and the tenants of the property to which the Policy relates; and
- 3.9 under the terms of the Policy, the Lender shall not in any circumstances be liable for the relevant premium.

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

.....

For and on behalf of
[Insurer]

Signatories

The Chargors

Executed as a deed by)
WILLOWMEAD RESIDENTIAL HOME LTD)
acting by Kevin Mudd) , a director)
and _____) , a director)



Signature of Director:

Signature of Director:

Executed as a deed by)
WREN HOUSE LIMITED)
acting by Kevin Mudd) , a director)
and _____) , a director)



Signature of Director:

Signature of Director:

Executed as a deed by)
YEW CARE LIMITED)
acting by Kevin Mudd) , a director)
and _____) , a director)



Signature of Director:

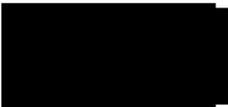
Signature of Director:

Signatories

The Chargors

Executed as a deed by)
WILLOWMEAD RESIDENTIAL HOME LTD)
acting by _____, a director)
and Mark Martindale, a director)

Signature of Director:



Signature of Director:

Executed as a deed by)
WREN HOUSE LIMITED)
acting by _____, a director)
and Mark Martindale, a director)

Signature of Director:



Signature of Director:

Executed as a deed by)
YEW CARE LIMITED)
acting by _____, a director)
and Mark Martindale, a director)

Signature of Director:



Signature of Director:

Executed as a deed by)
FEATHERTON HOUSE LIMITED)

acting by Kevin Mudd) , a director)

and _____) , a director)



Signature of Director:

Signature of Director:

Executed as a deed by)
EASTWICK HEALTHCARE LIMITED)

acting by Kevin Mudd) , a director)

and _____) , a director)



Signature of Director:

Signature of Director:

Executed as a deed by)
EASTWICK BARN LIMITED)

acting by Kevin Mudd) , a director)

and _____) , a director)



Signature of Director:

Signature of Director:

Executed as a deed by)
FEATHERTON HOUSE LIMITED)

acting by _____, a director)

and Mark Martindale, a director)

Signature of Director:

Signature of Director: 

Executed as a deed by)
EASTWICK HEALTHCARE LIMITED)

acting by _____, a director)

and Mark Martindale, a director)

Signature of Director:

Signature of Director: 

Executed as a deed by)
EASTWICK BARN LIMITED)

acting by _____, a director)

and Mark Martindale, a director)

Signature of Director:

Signature of Director: 

Lender

Signed as a deed by)
SHAWBROOK BANK LIMITED)
acting by)
Dasos Kirtsides, a director and)
Peter Chambers)
a director as attorney for)
Shawbrook Bank Limited under a Power of)
Attorney dated 20 April 2021)

Director

Director

