

MR01

Particulars of a charge

184732/26

Laserform

A fee is payable with this form.
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is r
instrument Use form MR08

THURSDAY



A22 *A3DRKYG3*
07/08/2014 #197
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1 Company details

Company number 0 3 7 2 4 8 9 0

Company name in full Esh Holdings Limited

9 For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 0 1 0 8 2 0 1 4

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Barclays Bank PLC (**Security Trustee**)

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

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4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Not applicable

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature


Signature


X *Adrian Woodard Ltd.* X


This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge

	Presenter information
You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.	
Contact name	ULETCK/330727-170
Company name	Addleshaw Goddard LLP
Address	Milton Gate
60 Chiswell Street	
Post town	London
County/Region	
Postcode	E C 1 Y 4 A G
Country	United Kingdom
DX	47 London
Telephone	020 7606 8855

	Certificate
We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.	

	Checklist
We may return forms completed incorrectly or with information missing.	

Please make sure you have remembered the following

- ☒ The company name and number match the information held on the public Register
- ☒ You have included a certified copy of the instrument with this form
- ☒ You have entered the date on which the charge was created
- ☒ You have shown the names of persons entitled to the charge
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☒ You have given a description in Section 4, if appropriate
- ☒ You have signed the form
- ☒ You have enclosed the correct fee
- ☒ Please do not send the original instrument, it must be a certified copy

 **Important information**

Please note that all information on this form will appear on the public record

 **How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'

 **Where to send**

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland.
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1

 **Further information**

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

CHFP025

06/14 Version 2.0

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FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3724890

Charge code: 0372 4890 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st August 2014 and created by ESH HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th August 2014.

Given at Companies House, Cardiff on 15th August 2014



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated

1 August

2014

ESH HOLDINGS LIMITED
as Chargor

BARCLAYS BANK PLC
as Security Trustee

WE HEREBY CERTIFY THAT THIS IS
A TRUE COPY (AS REDACTED) OF
THE ORIGINAL

Addleshaw Goddard LLP

DATE 6/8/2014
ADDLESHAW GODDARD LLP

SHARE CHARGE

ADDLESHAW GODDARD

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This Deed is made on

1 August 2014

Between

- (1) **Esh Holdings Limited** (registered in England with number 03724890) (**Chargor**), and
- (2) **Barclays Bank PLC** (registered in England with number 01026167) as security trustee for the *Finance Parties* (**Security Trustee** which term shall include any person appointed as security trustee or as additional trustee in accordance with the terms of the Intercreditor Deed)

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed

Borrower means Esh Homes Limited (registered in England with number 08894853)

Facility Agreement means the facility agreement between Esh Homes Limited as Borrower, Barclays Bank PLC as Arranger, Barclays Bank PLC and HSBC Bank plc as Original Lenders and Barclays Bank PLC as Agent and Security Trustee and dated on or about the date of this Deed under which the Original Lenders agree to make available to the Borrower a revolving credit facility

Party means a party to this Deed

Receiver means any receiver, manager or administrative receiver appointed by the Security Trustee in respect of the Chargor or any of the Secured Assets

Related Rights means, in respect of any Share

- (a) all monies paid or payable in respect of that Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Share
- (c) all rights derived from or incidental to that Share

Secured Assets means all of the assets and undertaking of the Chargor the subject of any Security created by or under this Deed in favour of the Security Trustee

Secured Obligations means all monies and liabilities now or after the date of this Deed due owing or incurred by the Chargor to the Finance Parties (or any of them) under the Finance Documents (or any of them) in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Finance Party under any Finance Document, except for any obligation which, if it were included here, would constitute unlawful financial assistance or its equivalent in any other jurisdiction

Security Period means the period beginning on the date of this Deed and ending on the date on which the Security Trustee is satisfied that the Secured Obligations have been irrevocably

and unconditionally satisfied in full and all facilities made available by the Finance Parties (or any of them) under the Finance Documents (or any of them) have been cancelled

Shares means all shares present and future held by the Chargor in the Borrower (including those listed in the schedule)

1 2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed
- (b) In this Deed the term **dispose** includes any sale, lease, licence, transfer or loan
- (c) Clause 1 2 (Interpretation) of the Facility Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to **this Agreement** shall be read as a reference to this Deed

1 3 Third Party Rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999
- (b) Unless expressly provided to the contrary in any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it

2 Covenant to pay

The Chargor covenants with the Security Trustee as security trustee for the Finance Parties, to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Finance Documents

3 Charging provisions

3 1 General

All Security created by the Chargor under clause 3 2 is

- (a) a continuing security for the payment and discharge of the Secured Obligations,
- (b) granted with full title guarantee,
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the relevant Secured Asset, and
- (d) granted in favour of the Security Trustee as security trustee for the Finance Parties

3 2 Fixed charge

The Chargor charges by first fixed charge the Shares together with all Related Rights

4 Continuing security

- 4 1 The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Chargor or any other person of the whole or any part of the Secured Obligations

4 2 Recourse

The Security constituted by this Deed

- (a) is in addition to any other Security which any Finance Party may hold at any time for the Secured Obligations (or any of them), and
- (b) may be enforced without first having recourse to any other rights of any Finance Party

5 Negative pledge

The Chargor shall not create or permit to subsist any Security over any of the Secured Assets

6 Restrictions on disposals

- 6 1 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets

7 Further assurance

- 7 1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require) in favour of the Security Trustee or its nominee(s)

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Trustee or the Finance Parties provided by or pursuant to this Deed or by law, and/or
- (b) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed

- 7 2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Finance Parties by or pursuant to this Deed

- 7 3 Any document required to be executed by the Chargor under this clause 7 will be prepared at the cost of the Chargor

8 Undertakings

The Chargor undertakes to the Security Trustee in accordance with this clause 8 The undertakings in this clause 8 shall remain in force during the Security Period

8.1 General

It shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Finance Parties of the Security created by or under this Deed

8.2 Shares

(a) On the later of

- (i) the date of this Deed, and
- (ii) the date of acquisition of any Shares or Related Rights,

it shall

- (A) deliver to the Security Trustee all certificates of title and other documents of title or evidence of ownership in respect of those Shares or Related Rights, and
- (B) deliver to the Security Trustee such transfer documents (with the transferee left blank) or any other documents as the Security Trustee may require or otherwise request in respect of those Shares and Related Rights

(b) If an Event of Default is continuing, it shall on request by the Security Trustee

- (i) deliver to the Security Trustee such stock transfer forms or other transfer documents as the Security Trustee may require to enable the Security Trustee or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Shares and/or Related Rights referred to in such request,
- (ii) provide to the Security Trustee certified copies of all resolutions and authorisations approving the execution of such transfer forms and registration of such transfers as the Security Trustee may reasonably require,
- (iii) procure that each such transfer is promptly registered by the relevant company or other entity,
- (iv) procure that, immediately on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Shares and/or Related Rights, are delivered to the Security Trustee (or as it shall direct) in each case showing the registered holder as the Security Trustee or its nominee or nominees (as applicable), and
- (v) exercise all voting rights in respect of the Shares and Related Rights only in accordance with the instructions of the Security Trustee

- (c) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to receive and retain all dividends, distributions and other monies receivable in respect of the Shares and Related Rights
- (d) If it receives any dividends, distributions or other monies in respect of any Shares or Related Right at any time when the Security Trustee has made a request under clause 8.2(b) or any steps have been taken to enforce the Security created by or under this Deed, it shall immediately pay such sums received directly to the Security Trustee for application in accordance with clause 30 (Sharing among the Finance Parties) of the Facility Agreement and shall hold all such sums on trust for the Security Trustee pending payment of them to such account as the Security Trustee shall direct
- (e) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to exercise all voting and other rights in respect of the Shares and Related Rights provided that it does not exercise those rights in a manner which is likely to be prejudicial to the interests of the Finance Parties
- (f) It shall make all payments which may become due and payable in respect of any of the Shares and Related Rights. If it fails to make any such payments, the Security Trustee may but shall not be obliged to make such payment on behalf of the Chargor. Any sums so paid by the Security Trustee shall be repayable by the Chargor to the Security Trustee on demand and pending such repayment shall constitute part of the Secured Obligations
- (g) It shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of the Shares and Related Rights and the Security Trustee shall not be required to perform or fulfil any obligation of the Chargor in respect of any Shares or Related Rights
- (h) It shall comply with any notice served on it, under the CA2006 or pursuant to its articles of association or any other constitutional document, in respect of or in connection with the Shares or Related Rights and will promptly provide to the Security Trustee a copy of that notice
- (i) It shall promptly, upon the request of the Security Trustee provide to the Security Trustee a copy of all other notices, reports, accounts and circulars received by it in respect of or in connection with any of the Secured Assets
- (j) It shall ensure that none of the Shares are converted into uncertificated form without the prior written consent of the Security Trustee

8.3 Retention of documents

The Security Trustee may retain any document delivered to it pursuant to clause 8.2 or otherwise until the Security created by this Deed is released and if, for any reason it ceases to hold any such document before such time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor shall immediately comply (or procure compliance) with such notice

9 Power to remedy

- 9.1 If the Chargor fails to comply with any of the undertakings set out in clause 8 (Undertakings) it shall allow and irrevocably authorises the Security Trustee and/or such persons as it shall

nominate, to take such action on behalf of the Chargor as shall be necessary to ensure that it complies with those undertakings

9.2 If the Chargor fails to perform any obligation or other covenant affecting any Secured Asset, the Chargor shall permit the Security Trustee or its agents and contractors

- (a) to comply with or object to any notice served on the Chargor relating to such Secured Asset, and
- (b) to take any action the Security Trustee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice

10 Security power of attorney

The Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 10.

11 Enforcement of security

11.1 When security is enforceable

On the occurrence of any Event of Default which is continuing, any Security created by and under this Deed is immediately enforceable.

11.2 Acts of enforcement

The Security Trustee may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit,
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets,
- (c) appoint one or more persons to be a Receiver to all or any part of the Secured Assets,
- (d) exercise its power of sale under section 101 Law of Property Act 1925 (as amended by this Deed),
- (e) sell all or any of the Secured Assets in any manner permitted by law and on such terms as the Security Trustee shall in its absolute discretion determine, and/or
- (f) apply all dividends and other monies received in respect of the Secured Assets as though they were proceeds of sale

11.3 Right of Appropriation

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (the Regulations), the Security Trustee shall have the right on giving prior notice to the Chargor, at any time after the Security becomes enforceable, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The parties agree that the value of the appropriated Secured Assets shall be determined by the Security Trustee by reference to any available publicly available market price in the absence of which by such other means as the Security Trustee (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, the Chargor agrees that any such determination by the Security Trustee will constitute a valuation "in a commercially reasonable manner".

11.4 Statutory Powers - General

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 (Regulation of exercise of power of sale) and section 93 of the Law of Property Act 1925 (Restriction on consolidation of mortgages) do not apply to the Security constituted by or under this Deed.
- (c) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

11.5 Contingencies

If the Security Trustee enforces the Security constituted by or under this Deed at a time when no amounts are due to the Security Trustee under each the Finance Documents but at a time when amounts may or will become so due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

11.6 Mortgagee in possession - no liability

Neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

11.7 Redemption of prior mortgages

At any time after the Security created by or under this Deed has become enforceable, the Security Trustee may, at the sole cost of the Chargor (payable to the Security Trustee on demand),

- (a) redeem any prior form of Security over any Secured Asset, and/or
- (b) procure the transfer of that Security to itself, and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

11 8 Shares – following an Event of Default

(a)

- (i) At any time while an Event of Default is continuing, or
- (ii) if the Security Trustee reasonably considers that any Security created by or under this Deed is in jeopardy,

the Security Trustee may complete the transfer documents delivered to it under clause 8 2(a)(ii)(B) in favour of itself or such other person or nominee as it shall select

(b) At any time while an Event of Default is continuing and at all times after any steps are taken to enforce the Security created by or under this Deed, the Security Trustee and its nominee or nominees may

- (i) exercise all voting and other rights and power (including without limitation) all the powers given to trustees by the Trustee Act 2000 in respect of the Shares and Related Rights of the Chargor and the Chargor shall not exercise any such rights,
- (ii) sell all or any of the Shares or Related Rights of the Chargor in any manner permitted by law and on such terms as the Security Trustee shall in its absolute discretion determine,
- (iii) collect, recover or compromise and give a good discharge for any monies payable to the Chargor in respect of the Shares or Related Rights, and
- (iv) act generally in relation to the Shares and Related Rights of the Chargor in such manner as the Security Trustee shall determine

12 Receiver**12 1 Appointment of Receiver**

(a)

- (i) At any time after any Security created by or under this Deed is enforceable, the Security Trustee may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 11 2(c)
- (ii) At any time if so requested in writing by the Chargor, without further notice, the Security Trustee may appoint one or more persons to be a Receiver of all or any part of the Secured Assets as if the Security Trustee had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925

(b) Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Security Trustee be in any way responsible for any misconduct, negligence or default of the Receiver

- (c) Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 of the Insolvency Act 1986 (a) obtaining a moratorium, or (b) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 of the Insolvency Act 1986 shall not be grounds for appointment of a Receiver

12.2 Removal

The Security Trustee may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated

12.3 Powers of Receiver

(a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 12.3
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers
- (iii) A Receiver may, (in the name of the Chargor)
 - (A) do all other acts and things which he may consider expedient for realising any Secured Asset, and
 - (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner

(b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed

(c) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor relating in any way to any Secured Asset

(d) Delegation

A Receiver may delegate his powers in accordance with clause 13 (Delegation)

(e) Employees

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor or for itself as Receiver, may

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper, and
- (ii) discharge any such persons appointed by the Chargor

(f) Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Secured Asset as he considers expedient

(g) Receipts

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset

(h) Sale of assets

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit

(i) Deal with Secured Assets

A Receiver may, without restriction vary the terms of or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration, and the Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit

(j) Security

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver

(k) Incidental Matters

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be

incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Chargor for all the purposes set out in this clause 12

12 4 Remuneration

The Security Trustee may from time to time fix the remuneration of any Receiver appointed by it

13 Delegation

13 1 The Security Trustee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Security Trustee and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Trustee and Receiver (as appropriate) may think fit

13 2 The Security Trustee and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate

14 Application of monies

14 1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed

14 2 All monies received by the Security Trustee or any Receiver under this Deed shall be applied in accordance with the terms of the Security Trust Deed

14 3 The Security Trustee and any Receiver may place any money received, recovered or realised pursuant to this Deed in or at an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations

15 Remedies and waivers

15 1 No failure to exercise, nor any delay in exercising, on the part of the Security Trustee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law

15 2 A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given

16 Protection of third parties

16 1 No person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his agents has an obligation to enquire of the Security Trustee, Receiver or others

(a) whether the Secured Obligations have become payable,

(b) whether any power purported to be exercised has become exercisable,

- (c) whether any Secured Obligations or other monies remain outstanding,
- (d) how any monies paid to the Security Trustee or to the Receiver shall be applied, or
- (e) the status, propriety or validity of the acts of the Receiver or Security Trustee

16 2 The receipt of the Security Trustee or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Trustee or any Receiver

16 3 In clauses 16 1 and 16 2 **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them

17 Additional security

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by any Finance Party

18 Settlements conditional

18 1 If the Security Trustee (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid

18 2 Any settlement, discharge or release between the Chargor and any Finance Party shall be conditional upon no Security or payment to or for that Finance Party by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise

19 Subsequent security

If the Security Trustee or any Finance Party receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Security Trustee, all payments made by the Chargor to the Security Trustee or to any other Finance Party shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations

20 Set-off

A Finance Party may set off any matured obligation due from the Chargor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off

21 Notices

Any communication under this Deed or any other Security or Finance Document created by or under this Deed, shall be made and given in accordance with the terms of clause 33 (Notices) of the Facility Agreement

22 Invalidity

Clause 35 (Partial Invalidity) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it

23 Assignment

Each Finance Party may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of each Parent Guarantee

24 Releases

Upon the expiry of the Security Period, the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to each relevant Chargor

- (a) its rights arising under this Deed,
- (b) the Secured Assets from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed

25 Currency clauses

25.1 Clause 31.9 (Currency of account) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it and references to the Obligors shall be construed as references to the Chargor

25.2 If a payment is made to the Security Trustee under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Security Trustee may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargor will remain liable for such shortfall

26 Certificates and determinations

Clause 34.2 (Certificates and determinations) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Document shall be construed as references to this Deed and any Security created by or under it

27 Counterparts

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

28 Governing law

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

29 Enforcement

29.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) **(a Dispute)**
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary
- (c) This clause 29 is for the benefit of the Security Trustee. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions

This Deed has been entered into as a deed on the date given at the beginning of this Deed

The Schedule

The Shares

Name and registered number of entity in which shares are held	Number and class of shares
--	-----------------------------------

Esh Homes Limited (registered in England with number 08894853)	1 ordinary share
--	------------------

SIGNATORIES TO THE DEED


The Chargor

Executed as a deed by *A Radcliffe*
Esh Holdings Limited
 acting by a director in the presence of

)
)
)



Director


 Signature of witness

Name

Richard Brown

Address

Muckle LLP
 Time Central
 32 Gallowgate
 Newcastle upon Tyne NE1 4BF

Address

Esh House, Bowburn North
 Industrial Estate, Bowburn,
 Durham, DH6 5PF

Fax No

0191 377 4571

Attention

Andrew Radcliffe

The Security Trustee

Executed as a deed by
 as attorney for **Barclays Bank PLC** in the
 presence of

)
)
)
)

Duly authorised attorney

Signature of witness

Name

Address

Address 1 Churchill Place, London, E14 5HP

Tel No 020 7116 8266

Attention Robert Insall/Dale Sellers

SIGNATORIES TO THE DEED

The Chargor

Executed as a deed by)
Esh Holdings Limited)
 acting by a director in the presence of) Director

Signature of witness

Name

Address

Address Esh House, Bowburn North
 Industrial Estate, Bowburn,
 Durham, DH6 5PF

Fax No 0191 377 4571

Attention Andrew Radcliffe

The Security Trustee

Executed as a deed by ROBERT INSALL)
 as attorney for Barclays Bank PLC in the)
 presence of) Duly authorised attorney
)

Signature of witness

Name RICHARD LITRE

Address 60 CHISWELL STREET
 LONDON E14 4AL

Address 1 Churchill Place, London, E14 5HP

Tel No 020 7116 8266

Attention Robert Insall/Dale Sellers