



Registration of a Charge

Company name: **LYNG COMMUNITY ASSOCIATION**

Company number: **03977954**



X7JMCC83

Received for Electronic Filing: **27/11/2018**

Details of Charge

Date of creation: **23/11/2018**

Charge code: **0397 7954 0003**

Persons entitled: **BARCLAYS SECURITY TRUSTEE LIMITED**

Brief description: **THE LAND LYING TO THE NORTH OF LYTTLETON STREET, WEST BROMWICH WITH A POSTAL ADDRESS OF 1-11 & 15-33 & 35- 41 (ODDS) AND 32 CHARITY BICK WAY, 201-221 (ODDS) LYNG LANE, 2-10 (EVENS) SOUTHWELL WALK, AND 24-28 TURKS HEAD WAY (EVENS) LYNG ESTATE, WEST BROMWICH REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER WM876758. FOR FURTHER DETAILS PLEASE REFER TO THE CHARGING INSTRUMENT.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ADDLESHAW GODDARD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3977954

Charge code: 0397 7954 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd November 2018 and created by LYNG COMMUNITY ASSOCIATION was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th November 2018 .

Given at Companies House, Cardiff on 29th November 2018

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



Companies House



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

Dated 23 November

2018

**LYNG COMMUNITY ASSOCIATION
as Borrower**

**BARCLAYS SECURITY TRUSTEE LIMITED
as Bank**

FIXED CHARGE

(To: The Chief Land Registrar. Note: This Deed contains (in clause 4 Restrictions on other Securities)) the consent of the Borrower to the lodgement at the Land Registry of an application by or on behalf of the Bank to enter a restriction in the Proprietorship Register and (in clause 4.4 (Restrictions on other Securities)) the consent of the Borrower to the lodgement at the Land Registry of an application by or on behalf of the Bank to enter a notice on the Charges Register.)

BETWEEN:

- (1) **LYNG COMMUNITY ASSOCIATION** a charitable Registered Provider registered at Companies House with registered number 03977954 and registered under the Housing and Regeneration Act 2008 as a Registered Provider with the Social Housing Regulator with registered number L4420 of 3 Frank Fisher Way, West Bromwich, West Midlands, B70 7AW (the "**Association**"); and
- (2) **BARCLAYS SECURITY TRUSTEE LIMITED** (Company Number 10825314) of 1 Churchill Place, London E14 5HP, acting in its capacity as security trustee for and on behalf of the Secured Parties (the "**Bank**").

1 INTERPRETATION

- 1.1 In this Fixed Charge, the following terms have the meanings given to them in this Clause 1.1.

"Barclays Group" means Barclays PLC and any of its Subsidiaries;

"Charged Property" means the property, assets and income of the Association for the time being assigned or charged (whether by way of legal mortgage or fixed charge) to the Bank by or pursuant to this Fixed Charge and each and every part thereof and as more particularly specified in Schedule 1.

"Finance Parties" means:

- (a) Barclays Bank UK PLC;
- (b) Barclays Bank PLC; and
- (c) Barclays Mercantile Business Finance Limited;

"Greater London Authority" means the Greater London Authority as constituted pursuant to Part I of the Greater London Authority Act 1999.

"Homes and Communities Agency" means the Homes and Communities Agency constituted pursuant to Part 1 of the Housing and Regeneration Act and any successor for the time being or any similar future authority carrying on any of the same grant/investment making functions (which for the purposes of this definition does not include the functions of the Social Housing Regulator), and where the context so requires, reference to the Homes and Communities Agency shall include reference to the Greater London Authority (as applicable).

"Housing and Regeneration Act" means the Housing and Regeneration Act 2008 (as amended by the Localism Act 2011).

"Legislation" means any statute or any order instrument or regulation made under it, or any notice or order issued by a government department, the legislative mersing institutions of the European Union Minster or other public regulatory or other authority.

"Planning Acts" means the Town and Country Planning Acts 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Housing and Planning Act 2016 and any other legislation in force at any time.

"Real Property" means all estates and other interests in the properties more particularly specified above (Charged Property) and all buildings, trade and other fixtures, fixed plant and machinery (excluding tenant's fixtures and fittings) from time to time on any such property.

"Registered Provider" has the meaning given to it in the Housing and Regeneration Act

"Regulation Committee" means the Regulation Committee of the Homes and Communities Agency as constituted pursuant to Part 7 of the Localism Act 2011.

"Social Housing Regulator" means the Regulation Committee and any successor or successors for the time being or in each case any similar future authority carrying on any of the same regulatory/supervisory functions as the Regulator of Social Housing (as defined in the Housing and Regeneration Act)

- 1.2 The terms of the documents under which the Obligations (as defined below) arise and of any agreements between the parties to this Fixed Charge in relation to such documents are incorporated into this Fixed Charge to the extent required for any purported disposition of the Charged Property contained in this Fixed Charge to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.3 The Clause headings are for reference only and shall not affect the construction of this Fixed Charge.
- 1.4 A person who is not a party to this Fixed Charge has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Fixed Charge.
- 1.5 The Finance Parties and any nominee, agent, delegate or Receiver may, subject to Clause 1.4 and the Contracts (Rights of Third Parties) Act 1999 or any similar applicable legislation, rely on any clause of this Fixed Charge.
- 1.6 References to "the Bank" shall include persons deriving title under "the Bank" or who are entitled to redeem this security (including "the Finance Parties" where applicable) and shall include references to any of their respective nominees, agents, delegates, successors in title and permitted assigns and transferees.
- 1.7 Notwithstanding any other provision of this Legal Charge, any security created hereunder which, at the time of being enforced, would constitute a regulated mortgage contract under Article 61(3)(a) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 shall not secure any amount payable to Barclays Bank PLC or Barclays Mercantile Business Finance Limited.

2 THE OBLIGATIONS

- 2.1 In this Fixed Charge, the term **"Obligations"** means all monies and liabilities, whether certain or contingent, which now or after the date of this Fixed Charge may be or become due and owing by the Association to the Bank.
- 2.2 The Association acknowledges to the Bank the liability of the Association with respect to the Obligations and further covenants with the Bank that it shall, on the Bank's demand, pay to the Bank all monies constituting the Obligations.

3 LEGAL MORTGAGE AND ASSIGNMENT

- 3.1 The Association with full title guarantee charges with the payment and discharge of the Obligations by way of first legal mortgage, the Real Property.

- 3.2 The Association with full title guarantee assigns to the Bank the benefit to the Association of all rights and claims to which the Association is now or may after the date of this Fixed Charge become entitled to in relation to the Real Property including in particular (but without prejudice to the generality of the foregoing) all rights and claims of the Association against all persons who now are or who at any time have been or may become lessees of the whole or any part of the Real Property and all guarantors and sureties for the obligations of such persons.
- 3.3 The Association agrees that the security granted by it in this Fixed Charge shall be a continuing security in favour of the Bank extending to all beneficial interests of the Association in the assets charged pursuant to this Fixed Charge and to any proceeds of sale or other realisation thereof or of any part thereof.
- 3.4 The security from time to time constituted by or pursuant to this Fixed Charge shall:-
- 3.4.1 be in addition to and shall be independent of every bill, note, guarantee, mortgage or other security which the Bank may at any time hold for any of the Obligations and it is declared that no prior security held by the Bank over the Charged Property or any part thereof shall merge in the security created pursuant to this Fixed Charge; and
- 3.4.2 remain in full force and effect as a continuing security until discharged by the Bank.
- 3.5 If at any time the Obligations have been paid or discharged in full to the satisfaction of the Bank, the Bank will, at the request and cost of the Association, reassign (without recourse or warranty) the property referred to in Clause 3.2 pursuant to this Fixed Charge and the Bank shall release and discharge the security constituted and the Bank shall release the Real Property from the first legal mortgage referred to in Clause 3.1.

4 RESTRICTIONS ON OTHER SECURITIES

- 4.1 The Association shall not grant or permit to subsist any encumbrance over the Charged Property without the consent in writing of the Bank.
- 4.2 The Association consents to an application being made to the Land Registry to enter the following restriction in the Proprietorship Register of any registered land forming part of the Charged 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 [date] in favour of Barclays Security Trustee Limited referred to in the charges register or their conveyancer."
- 4.3 The Association covenants with the Bank that, if so requested by the Bank, it will promptly request the Land Registry to enter a notice of this charge in the form set out in Clause 4.2 above on the Charges Register relating to each property or parcel of land in which it has an interest and to lodge the relevant Land Registration forms.
- 4.4 The Bank is under an obligation to make further advances to the Borrower 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 Bank to make further advances will be deemed to be incorporated in this Deed as if the same were set out in this Deed. For the purposes of the Land Registration Rules 2003 and Section 49(3) of the Land Registration Act 2002, the Association hereby consents to the lodgement at the Land Registry of an application by or on behalf of the Bank 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 Charged Property.

5 FURTHER ADVANCES

- 5.1 In the event that the Bank makes any further advance to the Association, such advance will be deemed to be incorporated in this Fixed Charge as if set out in full in this Fixed Charge.
- 5.2 The Association consents to an application being made to the Land Registry to enter a note of the obligations to make further advances, on the Charges Register of any registered land forming part of the Charged Property and to lodge the relevant Land Registration forms.

6 PERFECTION OF THE BANK'S SECURITY

- 6.1 The covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 6.2 below.
- 6.2 The Association shall from time to time, whenever requested by the Bank and at the Association's cost, execute in favour of the Bank, or as it may direct, such further or other legal assignments, transfers, mortgages, legal or other charges or securities as in each such case the Bank shall stipulate over the Association's estate or interest in any property or assets of whatsoever nature or tenure and wheresoever situate for the purpose of more effectively providing security for the payment or discharge of the Obligations (in accordance with the terms of this Fixed Charge). Without prejudice to the generality of the foregoing, such assignments, transfers, mortgages, legal or other charges, or securities shall be in such form as shall be prepared on behalf of the Bank and may contain provisions such as are contained in this Fixed Charge or provisions to the like effect and/or such other provisions of whatsoever kind as the Bank shall consider requisite for the improvement or perfection of the security constituted by or pursuant to this Fixed Charge.
- 6.3 Unless the same shall be held by, or be required to be delivered to, any holder of a security ranking in priority to that of the Bank, the Association shall immediately upon the execution of this Fixed Charge (or upon becoming possessed thereof at any time after the date of this Fixed Charge) deposit with the Bank all deeds, certificates and other documents constituting or evidencing title to the Real Property referred to in Clause 3.1.

7 ACTION BY THE BANK TO PROTECT ITS SECURITY

If at any time it shall appear to the Bank that any part of the Charged Property shall be in danger of seizure, distress, diligence or other legal process, or that the Bank's security over the Charged Property shall for any other reason be in jeopardy, the Bank shall be entitled without notice to the Association to take possession of and hold the same or to appoint a Receiver over such Charged Property. The provisions of Clause 10 below shall govern the appointment, removal and powers of a Receiver appointed under this Clause as if he were a Receiver appointed under that Clause.

8 INSURANCE

- 8.1 The Association shall at all times during the subsistence of the security constituted by or pursuant to this Fixed Charge comply with all insurance requirements imposed by the terms of any lease, agreement for lease or any tenancy under which the Association derives its estate or interest in any part of the Charged Property and, subject to the foregoing and so far as not inconsistent with the said terms, the Association shall at all such times:-

- 8.1.1 cause all parts of the Charged Property to be insured and to be kept insured in an insurance office or with underwriters approved by the Bank (such approval not to be unreasonably withheld) against loss or damage as the Bank shall direct, to the full reinstatement value thereof, adequate provision also being made for the cost of clearing the site and professional fees incidental thereto and the loss of rents or prospective rents (for a period of not less than three years) and with the interest of the Bank noted on the policy of insurance (or, if the Bank shall so direct, in the joint names of the Association and the Bank);
- 8.1.2 insure against risks and liabilities to employees or third parties and contingencies arising under any Act or at common law as the Bank may from time to time reasonably direct;
- 8.1.3 cause the interest of the Bank in all parts of the Charged Property that are for the time being insured otherwise than in the joint names of the Bank and the Association to be noted by endorsement on the policy or policies of insurance relating thereto;
- 8.1.4 duly and punctually pay all premiums and other moneys payable under all such insurances and promptly upon request by the Bank produce to the Bank the premium receipts or other evidence of the payment thereof; and
- 8.1.5 (if so required by the Bank) deposit all policies and other contracts of insurance and any subsequent endorsements relating to the Charged Property or any part thereof with the Bank or produce the same to the Bank for inspection.
- 8.2 If default shall be made by the Association in complying with Clause 8.1 it shall be lawful for the Bank, but not obligatory on the Bank, to effect or renew any such insurance as is mentioned in Clause 8.1 either in its own name or in its name and that of the Association jointly or in the name of the Association with an endorsement of the Bank's interest. The moneys expended by the Bank on so effecting or renewing any such insurance shall be reimbursed by the Association to the Bank on demand and until so reimbursed shall carry interest at the rate determined by the Bank from time to time applicable to unpaid sums from the date of payment to the date of reimbursement (after as well as before judgment).
- 8.3 All claims and moneys received or receivable under any such insurance as aforesaid exceeding the sum of £10,000 in respect of each property comprised in the Real Property shall (subject to the rights and claims of any prior mortgagee or chargee or any lessor or tenant (other than the Association) of any part of the Charged Property) be held by the Association in trust for the Bank and shall be applied by the Association in repairing, replacing, restoring or rebuilding the property damaged or destroyed or if the Bank shall so require, in repaying or reducing the Obligations.
- 8.4 The Association shall reimburse the Bank on demand for all costs and expenses incurred by it in connection with any proper and reasonable review of the insurances in respect of the Charged Property or any part of the Charged Property.

9 UNDERTAKINGS BY THE ASSOCIATION

- 9.1 The Association undertakes with the Bank that the Association will at all times while there shall subsist any security constituted by or pursuant to this Fixed Charge:-
 - 9.1.1 punctually pay or cause to be paid all rents, rates, taxes duties, assessments and other outgoings payable by the Association in respect of the Charged Property or any part of the Charged Property;

- 9.1.2 repair and keep all buildings, trade and other fixtures, fixed and other plant and machinery forming part of the Charged Property in good and substantial repair and permit the Bank, its officers, employees and agents free access subject to the provision of the tenancies of the Charged Property, at all reasonable times to view the state and condition of the foregoing without becoming liable to account as mortgagee in possession;
 - 9.1.3 promptly after being required to do so by the Bank make good any want of repair in breach of its obligation in Clause 9.1.2 in all buildings, other erections, trade and other fixtures, fixed plant and other machinery forming part of the Charged Property;
 - 9.1.4 comply with all requirements of the Planning Acts and all building and other regulations and bye-laws so far in each case as the same affect any land or buildings forming part of the Charged Property or the user of such Charged Property;
 - 9.1.5 observe and perform the covenants on the part of the lessor reserved by or contained in any lease, agreement for lease or tenancy agreement under which any part of the Charged Property may be held, duly enforce the performance and observance of the tenant's covenants and the conditions contained therein, duly and efficiently implement any provisions therein for the review of any rent thereby reserved, in each case in accordance with the Association's usual policies relating to enforcement and rent review and in accordance with any guidelines issued by the Social Housing Regulator for Registered Providers from time to time;
 - 9.1.6 observe and perform all restrictive and other covenants and stipulations for the time being affecting any part of the Charged Property or the use or the enjoyment of the same or any part of the Charged Property;
 - 9.1.7 comply with the provisions of all statutes for the time being in force and every notice order, direction, licence, consent or permission given or made pursuant to such statutes and the requirements of any competent authority so far as any of the same shall relate to the Real Property or its user or anything done in relation to the Real Property and in particular will not do or omit or suffer to be done or omitted any act matter or thing in on or respecting the Real Property required to be omitted or done by the Planning Acts or any other Act or statutory provision whatever or which shall contravene the provisions of such Act or Acts or statutory provision aforesaid or any of them and will at all times indemnify and keep indemnified the Bank against all actions proceedings costs expenses claims and demands in respect of any such matter or thing contravening the provisions of the said Acts or provision aforesaid or any of them.
- 9.2 The Association covenants that the Association has not before the date of this Fixed Charge carried out or suffered or permitted to be carried out any operations upon the Real Property or put or suffered or permitted to be put the Real Property to any use which is a development within the meaning of the Planning Acts in respect of which any requisite permission has not been obtained or any valid enforcement notice has been or may be made and that all the conditions subject to which consents to develop the Real Property have been granted have been duly complied with.
- 9.3 If at any time the Association shall fail, or shall reasonably be believed by the Bank to have failed, to perform any of the undertakings contained in Clauses 9.1.2, 9.1.3, 9.1.4 and 9.1.7 above, it shall be lawful for the Bank, but the Bank shall be under no obligation, to enter the Real Property with agents appointed by it and architects, contractors, workmen and others and to execute such works and do such other things as may in the opinion of the Bank be required to remedy such failure and take such other steps on or in relation to the Real Property (including

without limitation the payment of money) as may in the opinion of the Bank be required to remedy such failure. The cost to the Bank of such works and steps shall be reimbursed by the Association to the Bank on demand and until so reimbursed shall carry interest at the rate specified in Clause 8.2 above from the date of payment to the date of reimbursement. No exercise by the Bank of its powers under this Clause shall render the Bank liable to account as a mortgagee in possession.

- 9.4 Without prejudice to any other provision of this Fixed Charge, if any sums shall be paid by the Bank (or any such Receiver or Receivers appointed by it) pursuant to any provision of this Fixed Charge the same shall be repaid by the Association on demand with interest at the rate specified in Clause 8.2 above from the time or respective times of the same having been paid.

10 EXTENSION AND VARIATION OF THE LAW OF PROPERTY ACT 1925

- 10.1 Section 103 of the Law of Property Act 1925 shall not restrict the exercise by the Bank of the statutory power of sale conferred on it by section 101 of such Act, which power shall arise and may be exercised by the Bank at any time after the Bank shall have demanded the payment or discharge by the Association of all or any of the Obligations, and the provisions of the said Act relating to and regulating the exercise of the said power of sale, so far as they relate to the security constituted by or pursuant to this Fixed Charge, shall be varied and extended accordingly.
- 10.2 The statutory powers of leasing, letting, entering into agreement for leases or lettings and accepting and agreeing to accept surrenders of leases conferred by sections 99 and 100 of the said Act shall not be exercisable by the Association in relation to any part of the Real Property without the prior written consent of the Bank. The foregoing shall not be construed as a limitation of the powers of any Receiver appointed pursuant to this Fixed Charge and being an agent of the Association. Such statutory powers shall be exercisable by the Bank at any time after the Bank shall have demanded the payment or discharge by the Association of all or any of the Obligations and, whether or not the Bank shall then be in possession of the premises proposed to be leased, so as to authorise the Bank to make a lease or agreement for lease of a premium and for any length of term and generally without any restriction on the kinds of leases and agreements for lease that the Bank may make and generally without the necessity for the Bank to comply with any restrictions imposed by or the other provisions of the said sections 99 and 100. The Bank may delegate such powers to any person and no such delegation shall preclude the subsequent exercise of such powers by the Bank itself or preclude the Bank from making a subsequent delegation of such power to some other person; and any such delegation may be revoked.
- 10.3 The restriction on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to this Fixed Charge.
- 10.4 The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 3 (Legal Mortgage and Assignment). It shall be implied in respect of Clauses 3 that the Association is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

11 APPOINTMENT OF RECEIVER

- 11.1 At any time after having been requested so to do by the Association, or at any time after the Bank shall have demanded the payment or discharge by the Association of all or any of the Obligations, the Bank may appoint one or more persons to be a Receiver (which expression

where used in this Fixed Charge includes a Receiver and Manager and Administrative Receiver) or Receivers of the whole or any part of the Charged Property. The Bank may:-

11.1.1 remove any Receiver previously appointed pursuant to this Fixed Charge; and

11.1.2 appoint another person or other persons as Receiver or Receivers, either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with a Receiver or Receivers previously appointed pursuant to this Fixed Charge.

If at any time and by virtue of any such appointment(s) any two or more persons shall hold office as Receivers of the same assets or income, each one of such Receivers shall be entitled (unless the contrary shall be stated in any of the deed(s) or other instruments) appointing them) to exercise all the powers and discretions conferred pursuant to this Fixed Charge on Receivers individually and to the exclusion of the other or others of them.

11.2 Every such appointment or removal, and every delegation, appointment or removal by the Bank in the exercise of any right to delegate its powers or to remove delegates, may be made either by deed or by instrument in writing under the hand of any officer of the Bank or any person authorised in writing in that behalf by any such officer.

11.3 Every Receiver for the time being holding office by virtue of an appointment made by the Bank pursuant to this Fixed Charge shall (subject to any limitations or restrictions expressed in the deed or other instrument appointing him but notwithstanding any winding-up, administration, voluntary arrangement or dissolution of the Association) have in relation to the Charged Property, or as the case may be, that part of the Charged Property in respect of which he is appointed:-

11.3.1 all the powers (as varied and extended by the provisions of this Fixed Charge) conferred by the Insolvency Act 1986 and the Law of Property Act 1925 on mortgagors and on mortgagees in possession, administrators and receivers appointed under those Acts; and

11.3.2 power in the name or on behalf and at the cost of the Association to exercise all the powers and rights of an absolute owner and do or omit to do anything which the Association itself could do as an absolute owner and irrespective of any such winding-up, administration, voluntary arrangement or dissolution.

11.4 In addition without prejudice to the generality of the foregoing every Receiver for the time being holding office by virtue of an appointment made by the Bank hereunder shall (notwithstanding any winding-up, administration, voluntary arrangement or dissolution of the Association) have the following powers, namely:-

11.4.1 power to take possession of, collect and get in the Charged Property;

11.4.2 power to carry on and manage, or concur in the carrying on of the Association's business, including the power where the Association has one or more Subsidiaries of supervising, controlling and financing such Subsidiary or Subsidiaries (inclusive of any bodies corporate as are referred to in Clause 11.4.6 below) and its or their business or businesses and the conduct thereof;

11.4.3 power to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification), of any project in which the Association was concerned or interested prior to his appointment being a project for the alteration,

improvement, development, completion, construction, modification, refurbishment or repair of any building or land;

- 11.4.4 without the need to observe the restriction imposed by Section 103 of the Law of Property Act 1925 or any need to observe all or any of the restrictions or other provisions of Section 99 of the said Act to sell or transfer or concur in leasing, accept or concur in accepting surrenders or leases, terminate or concur in terminating leases, surrender or concur in surrendering leases, grant or concur to granting licences, terminate or concur in terminating licences of the Charged Property in respect of which the Receiver is appointed in such manner and generally on such terms and conditions as he thinks fit to carry on any such sale, transfer, leasing, termination) surrender or licensing into effect by conveying, assigning, leasing) accepting surrenders, terminating surrendering or licensing. Any such sale) transfer, leasing, acceptance of surrender, termination, surrender or licensing may be for such consideration as the Receiver shall think fit (and whether for a lump sum or a consideration payable in instalments and whether for cash or a consideration other than cash) and may) if thought expedient by the Receiver) be for a consideration of nil; and fixtures and plant and machinery comprised in this security may be severed and sold separately from the premises to which they are affixed or in which they are contained without the consent of the Association being obtained;
- 11.4.5 power to carry any sale, lease or other disposal of any land or buildings and other property and assets into effect by conveying, transferring, assigning or leasing in the name of the Association and for that purpose to enter into covenants and other contractual obligations in the name of and so as to bind the Association;
- 11.4.6 power to promote, or otherwise acquire the share capital of any body corporate with a view to such body corporate becoming a subsidiary of the Association and purchasing, leasing or otherwise acquiring an interest in the whole or any part of the Charged Property or carrying on any business in succession to the Association or any subsidiary of the Association;
- 11.4.7 power to make any arrangement or compromise of claims as he shall think fit;
- 11.4.8 power to effect and renew insurances;
- 11.4.9 power to take or defend proceedings in the name of the Association including proceedings for the compulsory winding-up of the Association and proceedings for directions under Section 35(1) of the Insolvency Act 1986;
- 11.4.10 power to employ, engage and appoint such managers and other employees and professional advisers on such terms as he shall think fit including, without limitation, power to engage his own firm in the conduct of the receivership;
- 11.4.11 power to raise or borrow money from the Bank or any other person to rank for repayment in priority to the security constituted by or pursuant to this Fixed Charge and with or without a mortgage or charge on the Charged Property or any part of it; and
- 11.4.12 power to do all such other things as may seem to the receiver to be incidental or conducive to the realisation of the security constituted by or pursuant to this Fixed Charge.
- 11.5 In making any sale or other disposal of any of the Charged Property in the exercise of their respective powers (including a disposal by the Receiver to any such Subsidiary as is referred

to in Clause 11.4.2) the Receiver or the Bank may accept, as and by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including, without limitation, consideration fluctuating according to or dependent upon profit or turnover and consideration, the amount of which is to be determined by a third party. Any such consideration may be receivable in a lump sum or by instalments and upon receipt by the Receiver shall be and become charged with the payment of the Obligations. Any contract for any such sale or other disposal by the Receiver or the Bank may contain conditions excluding or restricting the personal liability of the Receiver or the Bank separately from the premises to which they are attached without any consent being obtained from the Association.

11.6 All moneys received by any Receiver appointed under this Fixed Charge shall (subject to the rights and claims of any person having a security ranking in priority to the security constituted by or pursuant to this Fixed Charge) be applied in the following order:

11.6.1 in the payment of the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration;

11.6.2 in the payment and discharge of any liabilities incurred by the Receiver on the Association's behalf in the exercise of any powers of the Receiver;

11.6.3 in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of Section 109(8) of the Law of Property Act 1925;

11.6.4 in or towards payment of any debts or claims which are by statute payable in preference to the Obligations but only to the extent to which such debts or claims have such preference;

11.6.5 in or towards the satisfaction of the Obligations; and

11.6.6 any surplus shall be paid to the Association or other person entitled thereto.

The provisions of this Clause 11.6 and Clause 11.8 shall take effect as and by way of variation and extension to the provisions of the said Section 109, which provisions as so varied and extended shall be deemed incorporated in this Fixed Charge.

11.7 Every Receiver so appointed shall be deemed at all times and for all purposes to be the agent of the Association which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

11.8 Every Receiver so appointed shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Bank (or, failing such agreement, to be fixed by the Bank) appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted in accordance with his current practice or the current practice of his firm and without being limited to the maximum rate specified in Section 109(6) of the Law of Property Act 1925.

11.9 Only moneys actually paid by the Receiver to the Bank in satisfaction or discharge of the Obligations shall be capable of being applied by the Bank in satisfaction thereof.

11.10 Neither the Bank nor any Receiver appointed pursuant to this Fixed Charge shall be liable to account as mortgagee or mortgagees in possession in respect of the Charged Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Charged Property for which a mortgagee in possession might as such be liable, and all costs, charges and expenses incurred by the Bank or any such Receiver

(including the costs of any proceedings in relation to this Fixed Charge or to the Obligations) shall be paid by the Association on a full indemnity basis.

12 POWER OF ATTORNEY

12.1 The Association hereby irrevocably appoints the following, namely:-

12.1.1 the Bank;

12.1.2 each and every person to whom the Bank shall from time to time have delegated the exercise of the power of attorney conferred by this Clause; and

12.1.3 any Receiver appointed pursuant to this Fixed Charge and for the time being holding office as such,

jointly and also severally to be the attorney or attorneys of the Association and in its name and otherwise on its behalf and as its act and deed to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which may be required (or which the Bank or any Receiver appointed pursuant to this Fixed Charge shall consider requisite) for carrying out any obligation imposed on the Association by or pursuant to this Fixed Charge (including but not limited to the obligations of the Association under Clause 6.2 above and the statutory covenant referred to in such Clause), for carrying any sale, lease or other dealing by the Bank or such Receiver into effect, for conveying or transferring any legal estate or other interest in land or other property or otherwise howsoever, for getting in the Charged Property, and generally for enabling the Bank and the Receiver to exercise the respective powers conferred on them by or pursuant to this Fixed Charge or by law. The Bank shall have full power to delegate the power conferred on it by this Clause, but no such delegation shall preclude the subsequent exercise of such power by the Bank itself or preclude the Bank from making a subsequent delegation and of such power to some other person, any such delegation may be revoked by the Bank at any time.

12.2 The Association shall ratify and confirm all transactions entered into by the Bank or such Receiver or delegate of the Bank in the exercise or purported exercise of the Bank's or such Receiver's respective powers and all transactions entered into, documents executed and things done by the Bank or such Receiver or delegate by virtue of the power of attorney given by Clause 12.1.

12.3 The power of attorney granted pursuant to this Fixed Charge is as regards the Bank, its delegates and any such Receiver (and as the Association acknowledges) granted irrevocably and for value as part of the security constituted by this Fixed Charge to secure proprietary interests of and the performance of obligations owed to the respective donees within the meaning of Powers of Attorney Act 1971.

13 PROTECTION OF PURCHASERS

No purchaser or other person dealing with the Bank or its delegate or any Receiver appointed pursuant to this Fixed Charge shall be bound to see or inquire whether the right of the Bank or such Receiver to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary, or be concerned to see whether any such delegation by the Bank shall have lapsed for any reason or been revoked.

14 NOTICES

14.1 A demand for payment or any other demand or notice under this Fixed Charge shall be made or delivered to the Association at its registered office and shall be deemed to have been made or delivered when left at that address or if sent by post at noon on the day following the day the letter was deposited in the post.

14.2 Addresses for notices

The address, fax number and (if applicable) email address of the Borrower and the Bank for all notices under, or in connection with, this Deed are:

14.2.1 in the case of the Borrower:

Lyng Community Association
3 Frank Fisher Way,
West Bromwich,
West Midlands,
B70 7AW
Attention: [Borrower to confirm]

14.2.2 in the case of the Bank:

Barclays Security Trustee Limited Business Lending Services
PO Box 16276
One Snowhill
Snowhill Queensway Birmingham
B2 2XE
Attention: [to be confirmed]

or, in each case, such other details as one may notify the other in writing by not less than 7 days' notice.

14.3 Electronic notices

14.3.1 Any communication to be made between the Borrower and the Bank under or in connection with this Deed may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if the Borrower and the Bank:

- (i) 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
- (ii) 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.

- 14.3.2 Any such electronic communication as specified in clause 14.3.1 which is to be made between the Borrower and the Bank may only be made in that way to the extent that the Borrower and the Bank agree (unless and until notified to the contrary) that this is to be an accepted form of communication.
- 14.3.3 Any such electronic communication as specified in clause 14.3.1 will be effective only when actually received (or made available) in readable form, and in the case of any electronic communication made to the Bank only if it is addressed in such a manner as the Bank shall specify for this purpose.
- 14.3.4 Any electronic communication which becomes effective in accordance with clause 14.3.3 after 5.00pm in the place in which the party to whom the relevant communication is sent or made available has its address for the purpose of this Deed shall be deemed only to become effective on the next Business Day in that place.
- 14.3.5 Any reference in this Deed to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 14.3.

15 THE BANK'S REMEDIES

- 15.1 The Bank may at any time or times without discharging or in any way affecting the security created by or pursuant to this Fixed Charge or any remedy of the Bank in respect of such security grant to the Association time or indulgence or abstain from asserting, calling, exercising or enforcing any remedies, securities, guarantees or other rights which it may now or after the date of this Fixed Charge have from or against the Association.
- 15.2 Any receipt release or discharge of the security provided by, or of any liability arising under, this Fixed Charge shall not release or discharge the Association from any liability to the Bank for the same or any other monies which may exist independently of this Fixed Charge.
- 15.3 Where the security given to the Bank pursuant to this Fixed Charge initially takes effect as a collateral or further security then notwithstanding any receipt, release or discharge endorsed on or given in respect of or under the principal security to which this Fixed Charge operates as a collateral or further security, the security provided by or pursuant to this Fixed Charge shall in respect of the Obligations or of any other security guarantee in respect of the Obligations without prejudice either to the security constituted by or pursuant to this Fixed Charge or to the liability of the Association for the Obligations or the exercise by the Bank of any rights, remedies and privileges conferred upon it by this Fixed Charge.
- 15.4 The rights, powers and remedies provided in this Fixed Charge are cumulative and are not; nor are they to be construed as, exclusive of any rights, powers or remedies provided by law.
- 15.5 No failure by the Bank to exercise, or delay on its part in exercising, any of the rights, powers and remedies provided by this Fixed Charge or by law (collectively "**Bank's Rights**") shall operate as a waiver of such Bank's Rights, nor shall any single or partial waiver of any of the Bank's Rights preclude any further or other exercise of that one of the Bank Rights concerned or the exercise of any other of the Bank's Rights.
- 15.6 All the costs, charges and expenses of the Bank incurred by the Bank in relation to this Fixed Charge or the Obligations (including, without limitation, the costs, charges and expenses incurred in the carrying of this Fixed Charge into effect or in the exercise of any of the rights, remedies and powers conferred on the Bank pursuant to this Fixed Charge or in the perfection or enforcement of the security constituted pursuant to this Fixed Charge or in the perfection or

enforcement of any other security for or guarantee in respect of the Obligations) shall be reimbursed by the Association to the Bank promptly on demand on a full indemnity basis. Until so reimbursed the same shall carry interest as mentioned in Clause 8.2 above accruing from the date of the same being incurred by the Bank.

- 15.7 The Bank shall notify the Association on a regular basis of all such costs, charges and expenses as are referred to in Clause 15.6 above.

16 SET OFF

- 16.1 The Bank may at any time and from time to time without notice (but shall not be obliged to) set off (i) any obligation which is due and payable by the Association to the Bank and/or any other member of the Barclays Group and is unpaid against (ii) any obligation (whether or not matured) owed by the Bank and/or any other member of the Barclays Group to the Association as the case may be (with the difference between the amounts in (i) and (ii) being the **Set Off Amount**) regardless of the place of payment, booking branch or currency of either obligation. Pursuant to the rights in the preceding sentence, the Bank may (direct another member of the Barclays Group to) debit an account held by the Association with any member of the Barclays Group by an amount up to and including the Set Off Amount.
- 16.2 If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off and if when converted it leaves the Bank with less than the amount due, the Association must make good the amount of the shortfall on demand.
- 16.3 The Bank may in its absolute discretion estimate the amount of any liability of the Association which is contingent or unascertained and thereafter set off such estimated amount and no amount shall be payable by the Bank to the Association unless and until all Obligations have been ascertained and fully repaid or discharged.

17 PAYMENTS FREE OF DEDUCTION

- 17.1 All payments to be made under this Fixed Charge shall, save as required by law, be made free and clear of and without deduction for taxes, levies, imposts, duties, charges, fees or withholdings of any nature whatsoever now or after the date of this Fixed Charge imposed by any governmental, fiscal or other authority.
- 17.2 If the Association shall at any time be compelled by law to deduct or withhold any amount from any payment to be made pursuant to this Fixed Charge the Association shall concurrently pay to the Bank such additional amount as will result in payment to the Bank of the full amount which would have been received if such deduction or withholding had not been made.

18 DISCLOSURE

- 18.1 The Bank may disclose any information relevant to this Fixed Charge in its possession relating to the Association to:
- 18.1.1 any other member or affiliate of the Barclays Group and our or their officers, directors, employees, auditors, partners, consultants and professional advisers;
 - 18.1.2 a governmental, banking, taxation or other regulatory authority;
 - 18.1.3 any person in connection with a securitisation of all or any part of the loan assets of any member of the Barclays Group from time to time;

- 18.1.4 the Association;
- 18.1.5 any person who may otherwise enter into contractual relations with any member of the Barclays Group in connection with this Fixed Charge;
- 18.1.6 any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or governmental, banking, taxation or other regulatory authority or similar body;
- 18.1.7 any rating agency (including its professional advisers) to enable the rating agency to carry out its normal rating activities;
- 18.1.8 any credit reference agency; and
- 18.2 any other obligor in respect of all or part of the Obligations and any affiliate, holding company or subsidiary thereof.

19 PROVISIONS SEVERABLE

Every provision contained in this Fixed Charge shall be severable and distinct from every other such provision and if at any time anyone or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining such provisions shall not in any way be affected.

20 LAW

This Fixed Charge and any non-contractual obligations arising pursuant to it shall be governed by and construed in accordance with English law.

21 RULES

The Association hereby certifies that its creation of this Fixed Charge in favour of the Bank does not contravene any of the provisions of the rules of the Association.

22 CHARITY

- 22.1 The Charged Property is held by (or in trust for) the Association, a non-exempt charity and the charges set out in this Deed do not fall within section 124(9) of the Charities Act 2011 so that the restrictions imposed by section 124 of the Charities Act 2011 apply.
- 22.2 The restrictions on disposition imposed by sections 117 to 121 (inclusive) of the Charities Act 2011 apply to the Mortgaged Property (subject to section 117(3) of the Charities Act 2011).
- 22.3 The trustees of the Association, being the persons who have general control and management of the Association's administration, certify that:
- (a) they have the power under the provisions establishing the Association and regulating its purposes and administration to effect the charges set out in this Deed; and
 - (b) they have obtained and considered such advice as is referred to in section 124(2) of the Charities Act 2011.
- 22.4 The trustees of the Association are a party to this Deed for the purposes of providing the certificate contained in clause 22.3 above.

SCHEDULE 1

Charged Property

The whole of the Land Registry titles referred to in the security list below to include the properties specifically listed:

Postal Address	Title Number
Land lying to the north of Lyttleton Street, West Bromwich with a postal address of 1-11 & 15 -33 & 35-41 (odds) and 32 Charity Bick Way, 201-221 (odds) Lyng Lane, 2-10 (evens) Southwell Walk, and 24 -28 Turks Head Way (evens) Lyng Estate, West Bromwich	WM876758
Land on the south side of Turks Head Way, West Bromwich with a postal address of 2-30 (evens) Charity Bick Way 2-14 (evens) Old Flour Mills, 1-11 (odds) & 15-35 (odds) The Sidings & 8-22 (evens) Turks Head Way, Lyng Estate, West Bromwich	WM847138

IN WITNESS WHEREOF this Fixed Charge has been executed as a deed by the Association and has been signed by or on behalf of the Bank and is intended to be and is delivered on the date first above written.

Charity Trustees

Executed as a deed on behalf of the charity)
trustees of **Lyng Community Association** by)
[**name of trustees**], two of their number under an)
authority conferred pursuant to section 333 of the)
Charities Act 2011 in the presence of

.....
Signature of witness

Name R. CLOUGH

Address 3 FRANK FISHER WAY

WEST BROMWICH B70 7AW

.....
Signature of witness

Name R. CLOUGH

Address 3 FRANK FISHER WAY

WEST BROMWICH B70 7AW

.....
Trustee

.....
Trustee

Executed as a deed by **LYNG COMMUNITY**)
ASSOCIATION acting by two directors:)

.....
Director

.....
Director

SIGNED BY []
a duly authorised officer
for and on behalf of

BARCLAYS SECURITY TRUSTEE LIMITED

Date _____

IN WITNESS WHEREOF this Fixed Charge has been executed as a deed by the Association and has been signed by or on behalf of the Bank and is intended to be and is delivered on the date first above written.

Charity Trustees

Executed as a deed on behalf of the charity)
trustees of **Lyng Community Association** by)
[**name of trustees**], two of their number under an)
authority conferred pursuant to section 333 of the)
Charities Act 2011 in the presence of

Trustee

Signature of witness

Name

Address

Trustee

Signature of witness

Name

Address

Executed as a deed by **LYNG COMMUNITY ASSOCIATION** acting by two directors:

Director

Director

SIGNED BY []
a duly authorised officer
for and on behalf of

BARCLAYS SECURITY TRUSTEE LIMITED

Date

Signed as a deed by **BARCLAYS SECURITY TRUSTEE LIMITED**
acting by its duly authorised attorney

SIGNATURE:

NAME: **KEVIN CARRUTHERS**

IN THE PRESENCE OF:

SIGNATURE:

WITNESS NAME: **DAVID HICKEY**

ADDRESS: **BARCLAYS, 1 CHURCHILL PLACE, LONDON
E14 5HP**