



**Registration of a Charge**

Company Name: **BAXTER HOMES LIMITED**

Company Number: **04437413**



XCZTH9W9

Received for filing in Electronic Format on the: **28/03/2024**

**Details of Charge**

Date of creation: **26/03/2024**

Charge code: **0443 7413 0024**

Persons entitled: **HOMES AND COMMUNITIES AGENCY T/A HOMES ENGLAND**

Brief description:

**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: **DWF LAW LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 4437413

Charge code: 0443 7413 0024

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th March 2024 and created by BAXTER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th March 2024 .

Given at Companies House, Cardiff on 3rd April 2024

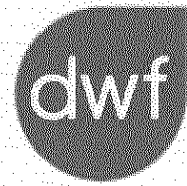
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



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



26<sup>th</sup> MARCH 2024

(1) **BAXTER HOMES LIMITED**  
(as Chargor)

and

(2) **HOMES AND COMMUNITIES AGENCY (trading as HOMES ENGLAND**  
(as Lender)

**SHAREHOLDER SECURITY DOCUMENT**

**DWF Law LLP**  
**1 Scott Place**  
**2 Hardman Street**  
**Manchester M3 3AA**

## CONTENTS

Clause No.	Page No.
1. Definitions and interpretation .....	1
1.2 Construction .....	2
2. Covenant to pay .....	2
2.1 Covenant to pay .....	2
2.2 Survival of obligations .....	3
3. Security .....	3
3.1 General .....	3
3.2 Investments .....	3
3.3 Subordinated Liabilities .....	3
4. Perfection of Security .....	3
4.1 Further assurance .....	3
5. Investments .....	3
5.1 Investments title documentation .....	3
5.2 Voting prior to a failure to pay .....	3
5.3 Voting after a failure to pay .....	4
5.4 Obligations .....	4
6. Representations and warranties .....	4
6.1 Status .....	4
6.2 Binding obligations .....	4
6.3 Non-conflict .....	4
6.4 Power and authority .....	4
6.5 Validity and admissibility in evidence .....	5
6.6 No proceedings pending or threatened .....	5
6.7 Solvency .....	5
6.8 Restriction on transfer .....	5
6.9 Legal and beneficial ownership .....	5
6.10 Investments .....	5
6.11 Subordinated Liabilities .....	5
6.12 Repetition of representations .....	5
7. Covenants .....	5
7.1 Negative pledge .....	6
7.2 Disposals .....	6
8. Subordinated Documents .....	6
9. Rights of Enforcement .....	6
9.1 Enforcement .....	6
9.2 Lender's and Receiver's powers and rights .....	6
9.3 Right of appropriation .....	7
9.4 Receiver as agent .....	7
9.5 Further powers .....	7
9.6 Power of attorney .....	7

SIGNATURE VERSION

10.	Application of receipts .....	7
10.1	Priority of payment .....	7
11.	Crediting to suspense account .....	8
12.	Notices .....	8
12.1	Giving of notices .....	8
12.2	Addresses .....	8
13.	Discharge .....	8
14.	Assignment and transfer .....	8
14.1	Assignment by the Chargor .....	8
14.2	Assignment by the Lender .....	8
15.	General provisions .....	9
15.1	Limited recourse .....	9
15.2	Enforcement .....	9
15.3	Exercise of powers and liability .....	9
15.4	Tacking .....	9
15.6	Consolidation .....	9
15.7	Rights of third parties .....	10
15.8	Partial invalidity .....	10
15.9	Remedies and waivers .....	10
15.10	Chargor's obligations .....	10
15.11	Chargor intent .....	10
15.12	Appropriations .....	11
15.13	Deferral of Chargor's rights .....	11
16.	Counterparts .....	12
17.	Law and jurisdiction .....	12
17.1	Governing Law .....	12
Schedule 1	.....	13
	Investments .....	13
Schedule 2	.....	14
	Lender's and Receiver's powers .....	14
EXECUTION PAGE	.....	16

THIS CHARGE is dated 26<sup>th</sup> MARCH 2024

**BETWEEN**

- (1) **BAXTER HOMES LIMITED** (company number 04437413) whose registered office is 5 Crescent East, Thornton Cleveleys, Lancashire FY5 3LJ (the "**Chargor**"); and
- (2) **HOMES AND COMMUNITIES AGENCY** trading as **HOMES ENGLAND** as chargee (the "**Lender**").

**BACKGROUND**

- (A) The Lender has agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrower on the security created by this Deed.
- (B) The Chargor has agreed to grant security over certain of its assets as security to the Lender as set out in this Deed to secure the payment and discharge of the Secured Liabilities.

**TERMS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1** In this Deed:

"**Act**" means the Law of Property Act 1925.

"**Borrower**" means Baxter Homes (Tithebarn) Limited, a company incorporated in England & Wales with company number 14757038 having its registered office at 5 Crescent East, Thornton Cleveleys, Lancashire FY5 3LJ.

"**Charged Assets**" means each and all of the assets, property, undertaking and other interests from time to time assigned or charged or intended to be assigned or charged by this Deed and the subject matter of each of them.

"**Facility Agreement**" means a facility agreement dated on or around the date of this Deed and made between the Borrower (1) and the Lender (2) and any letter, agreement, charge, deed or other instrument entered into under or supplemental to it.

"**Investments**" means the existing or future interest of the Chargor in the shares listed in Schedule 1 (*Investments*) together with all dividends, interest and other money payable in respect of those shares and all other rights, benefits and proceeds in respect of or derived from those shares (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise).

"**Insolvency Event**" means, in relation to the Chargor:

- (a) it is unable or admits inability to pay its debts as they fall due, is deemed to, or is declared to, be unable to pay its debts under any applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (other than the Lender in its capacity as such) with a view to rescheduling any of its indebtedness;
- (b) the value of its assets are less than its liabilities (taking into account contingent and prospective liabilities);
- (c) a moratorium is declared in respect of any of its indebtedness;
- (d) any expropriation, attachment, sequestration, distress or execution affects any of its assets and is not discharged within 14 days; or
- (e) any legal proceeding or other procedure or step (other than a bankruptcy petition presented on frivolous or vexatious grounds contested by the relevant person in good faith and by appropriate proceedings which is discharged within 14 days of its presentation and before being advertised) is taken in relation to:

- (i) the suspension of its payments, a moratorium of any of its indebtedness, its bankruptcy (by way of voluntary arrangement, scheme of arrangement or otherwise);
  - (ii) a composition, compromise, assignment or arrangement with any of its creditors;
  - (iii) the appointment of a receiver, compulsory manager, trustee in bankruptcy, supervisor or other similar officer in respect of it or any of its assets; or
  - (iv) the enforcement of any Security over any of its assets,
- or any analogous procedure or step is taken in any jurisdiction.

**"Obligor"** has the meaning given to it in the Facility Agreement.

**"Party"** means a party to this Deed.

**"Receiver"** means any one or more receiver or manager, or receiver and manager, appointed by the Lender under this Deed (whether sole, joint and/or several and including any substitute).

**"Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

**"Secured Liabilities"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any capacity whatsoever) of each Obligor to the Lender under each Finance Document.

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

**"Subordinated Document"** has the meaning given to that term in the Subordination Deed

**"Subordinated Liabilities"** has the meaning given to that term in the Subordination Deed

**"Subordination Deed"** means the deed of subordination entered into by the Chargor, the Borrower and the Lender and dated on or about the date of this Deed.

## 1.2 Construction

- (a) Unless the contrary intention is expressed, defined or interpreted all defined terms in the Facility Agreement shall have the same meaning in this Deed.
- (b) The construction provisions set out at Clause 1.2 (*Construction*) of the Facility Agreement shall apply equally to this Deed.
- (c) If any provision of this Deed shall conflict with any term of the Facility Agreement then the relevant term of the Facility Agreement shall prevail.

## 2. COVENANT TO PAY

### 2.1 Covenant to pay

Subject to Clause 15.1 (*Limited recourse*), the Chargor covenants with the Lender that it will:

- (a) on demand, pay and discharge each and all of the Secured Liabilities when due; and
- (b) indemnify and keep the Lender indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenants or other obligations of the Chargor to the Lender.

**2.2 Survival of obligations**

The payment obligations of the Chargor under the Finance Documents shall survive the enforcement of the whole or any part of the Charged Assets.

**3. SECURITY**

**3.1 General**

All the security created under this Deed is created in favour of the Lender as continuing security for the payment and discharge of the Secured Liabilities with full title guarantee.

**3.2 Investments**

The Chargor charges the Investments by way of fixed charge including all rights of enforcement of the same.

**3.3 Subordinated Liabilities**

The Chargor charges by way of first fixed charge all of its rights:

- (a) under each Subordinated Document; and
- (b) in respect of all Subordinated Liabilities.

**4. PERFECTION OF SECURITY**

**4.1 Further assurance**

The Chargor shall execute and do at its own cost and in such form as may be reasonably required by the Lender:

- (a) such further additional mortgages, charges, assignments, transfers and conveyances; and
- (b) such assurances, deeds, documents, acts and things,

as the Lender may reasonably require to perfect or protect the security created or intended to be created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

**5. INVESTMENTS**

**5.1 Investments title documentation**

Upon execution of this Deed (or immediately upon the acquisition of the relevant Investment if that acquisition follows the date of this Deed) and notwithstanding any other term of the Finance Documents, the Chargor will deposit with the Lender in respect of each Investment:

- (a) all certificates, warrants or other documents of title;
- (b) duly executed undated blank stock transfer forms; and
- (c) forms of waiver of any pre-emption rights and any other documents, consents and monies necessary to enable such transfers to be registered by the Lender.

**5.2 Voting prior to a failure to pay**

Prior to the Borrower failing to make a payment demanded by the Lender under the Facility Agreement, the Chargor may continue to exercise all voting and other rights (including the right to collect dividends, interest, principal or other payments of money) relating to the Investments provided that such rights are not exercised in a way which (and the Chargor shall not permit anything which):

- (a) jeopardises the security constituted by the Finance Documents;



- (b) varies the rights attaching to the Investments; or
- (c) relates to a participation in a rights issue or to receiving dividends other than in cash or concerns a merger, consolidation, allotment of shares, change to constitutional documents, transfer of ownership (legal or beneficial), liquidation, striking off, insolvency or matters which would otherwise be prohibited by the Finance Documents.

**5.3 Voting after a failure to pay**

- (a) Following the Borrower failing to make a payment demanded by the Lender under the Facility Agreement, the Lender may (without notice to or consent from the Chargor and in the Chargor's names or otherwise) exercise any rights (including the right to collect dividends, interest, principal or other payments of money but excluding the right to vote) in respect of the Investments and may do anything necessary to complete any transfer form in favour of itself or otherwise.
- (b) Following the Borrower failing to make a payment demanded by the Lender under the Facility Agreement and the service of notice upon the Chargor, the Lender may (without consent from the Chargor and in the Chargor's name or otherwise) exercise any right to vote in respect of the Investments.

**5.4 Obligations**

The Chargor shall promptly pay all calls, costs and/or other payments in respect of the Investments and shall give to the Lender, at the time of issue, copies of all information, offers, notices or other materials supplied to the members of the issuers of the Investments and shall advise the Lender promptly of any material occurrence affecting the Investments or any other part of the security granted to the Lender and shall give to the Lender such information as they may reasonably require relating to the Investments.

**6. REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties set out in this Clause 6 (*Representations and warranties*) to the Lender.

**6.1 Status**

It has the power to own its assets.

**6.2 Binding obligations**

The obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations.

**6.3 Non-conflict**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it; or
- (b) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument unless the relevant conflict has been previously consented to or waived by the appropriate person or such conflict will not have a Material Adverse Effect.

**6.4 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

**6.5 Validity and admissibility in evidence**

Each authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (b) to make this Deed admissible in evidence in England and Wales,

has been obtained or effected and is in full force and effect.

**6.6 No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency are current or, to its knowledge, pending or threatened which would reasonably be expected to be adversely determined and, if adversely determined, are reasonably likely to prevent it from accepting and performing any of its obligations under this Deed, have (to the best of its knowledge and belief) been started or threatened against it.

**6.7 Solvency**

No Insolvency Event has occurred in relation to it.

**6.8 Restriction on transfer**

The constitutional documents of the companies in respect of which the Investments are issued do not and could not restrict or inhibit (whether absolutely, partly, under a discretionary power or otherwise) the transfer of the Investments in relation to the enforcement of the Security created by or under this Deed.

**6.9 Legal and beneficial ownership**

It is and will be the sole legal and beneficial owner of the Charged Assets free from any encumbrance or Security except as created by this Deed or as permitted under the Finance Documents.

**6.10 Investments**

Any shares falling within the definition of Investments are fully paid.

**6.11 Subordinated Liabilities**

Under the terms of any Subordinated Document or otherwise:

- (a) no payments to the Chargor are subject to any rights of set off or similar rights; and
- (b) there is no prohibition on assignment, or other restriction on the creation of security by the Chargor in respect of any of the Subordinated Liabilities or its rights under any Subordinated Document.

**6.12 Repetition of representations**

The representations and warranties set out in this Clause 6 (*Representations and warranties*) are made by the Chargor on the date of this Deed and in addition are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of each Claim, on the date of each Recycled Funding Request, the date of each Funding and the first Business Day of each calendar month.

**7. COVENANTS**

The Chargor gives the undertakings in this Clause 7 (*Covenants*) which remain in force from the date of this Deed until this Deed is discharged.

**7.1 Negative pledge**

It shall not create or permit to subsist any Security over any of its Charged Assets save for the Security created pursuant to this Deed or as permitted under the Finance Documents.

**7.2 Disposals**

It shall not sell, lease, transfer or otherwise dispose of any of its Charged Asset except as permitted under the Finance Documents or with the prior written consent of the Lender.

**8. SUBORDINATED DOCUMENTS**

**8.1 Notice**

The Chargor must, at the request of the Lender, promptly serve notice of charge, in such form as the Lender shall reasonably require on each counterparty to a Subordinated Document and use reasonable endeavours to procure that such counterparty acknowledges that notice in such form or substantially such form as is prescribed by the notice.

**8.2 Subordinated Documents**

The Chargor must supply the Lender and any Receiver with copies of each Subordinated Document and any information and documentation relating to any Subordinated Document or Subordinated Liabilities as from time to time requested by the Lender or by any Receiver.

**8.3 Exercise of Rights**

After the enforcement powers of the Lender in connection with this Deed have become exercisable, the Lender may exercise, without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor, any of the Chargors rights under any Subordinated Document or in respect of any of the Subordinated Liabilities.

**9. RIGHTS OF ENFORCEMENT**

**9.1 Enforcement**

- (a) The Secured Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.
- (b) The enforcement powers of the Lender in connection with this Deed shall be immediately exercisable:
  - (i) upon the Borrower failing to make a payment demanded by the Lender under the Facility Agreement; or
  - (ii) at the Lender's discretion, at the request of the Chargor.
- (c) The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.
- (d) In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Lender or any Receiver shall be entitled to assume without enquiry that the Secured Liabilities are outstanding and have become due.

**9.2 Lender's and Receiver's powers and rights**

- (a) The Lender shall have the power:
  - (i) to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee; and
  - (ii) to appropriate Charged Assets in accordance with Clause 9.3 (*Right of appropriation*).

- (b) The Lender (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to:
  - (i) exercise all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Lender and/or any Receiver is an administrative receiver);
  - (ii) the powers and rights specified in the Schedule; and
  - (iii) exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

### 9.3 Right of appropriation

To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of the Chargor under it constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Lender shall have the right to appropriate all or any part of it in or towards discharge of the Secured Liabilities and transfer title in and to it to the Lender. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be the market price of such financial collateral determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation. The Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

### 9.4 Receiver as agent

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Lender shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

### 9.5 Further powers

If the Chargor defaults in the observance and performance of any obligation to the Lender, the Lender or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

### 9.6 Power of attorney

The Chargor by way of security irrevocably appoints the Lender and every Receiver severally its attorney in its name and on its behalf to execute any documents and do or perfect anything which it is obliged to do under this Deed but has failed to do which the Lender and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

## 10. APPLICATION OF RECEIPTS

### 10.1 Priority of payment

Subject to sums secured by Security having priority to the Security created by this Deed, all monies received by the Lender and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (a) firstly, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise);
- (b) secondly, (insofar as not contemplated by Clause 10.1(a)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Lender (in its capacity as trustee) in relation to the Finance Documents; and

- (c) finally, to the Lender for distribution in accordance with the Facility Agreement.

## **11. CREDITING TO SUSPENSE ACCOUNT**

The Lender or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Lender or that Receiver thinks fit.

## **12. NOTICES**

### **12.1 Giving of notices**

- (a) All notices or other communications under or in connection with this Deed shall be given in writing or, to the extent agreed by the Parties making and receiving the communication, by e-mail or other electronic communication, and for the purpose of this Deed, an electronic communication will be treated as being in writing. Any such notice will be deemed to be given as follows:

- (i) if in writing, when delivered; and
- (ii) if by e-mail or other electronic communication, when received in legible form.

- (b) A notice given in accordance with the above but received on a day which is not a Business Day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

### **12.2 Addresses**

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of a person which is a Party on the date of this Deed, that identified with its name below; or
- (b) in the case where a person becomes a Party after the date of this Deed, that notified in writing to the Lender on or prior to the date on which that person becomes a Party; or

any substitute address or department or officer as the Party may notify the Lender (or the Lender may notify the Chargor if the change is made by the Lender) by not less than five Business Days' notice.

## **13. DISCHARGE**

- (a) If the Lender is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargor, discharge this Deed and release and re-assign the Charged Assets.
- (b) No discharge will be of any effect if any security or payment given or made in respect of the Secured Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

## **14. ASSIGNMENT AND TRANSFER**

### **14.1 Assignment by the Chargor**

The Chargor may not assign transfer or otherwise part with its rights or obligations under this Deed.

### **14.2 Assignment by the Lender**

The Lender may each at any time transfer, assign or novate all or any part of its rights, benefits or obligations under this Deed in accordance with the provisions of the Facility Agreement.

**15. GENERAL PROVISIONS**

**15.1 Limited recourse**

Notwithstanding any other provision of this Deed, the liability of the Chargor to the Lender pursuant to or otherwise in connection with this Deed shall be:

- (a) limited in aggregate to an amount equal to the aggregate amount recovered by the Lender as a result of enforcement of this Deed with respect to the relevant Charged Assets; and
- (b) satisfied only from the proceeds of sale or other disposal or realisation of the relevant Charged Assets pursuant to this Deed.

**15.2 Enforcement**

It shall not be necessary for the Lender before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person. This Clause 15.2 applies irrespective of any law or any provision of a Finance Document to the contrary.

**15.3 Exercise of powers and liability**

- (a) This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Lender of any other security at any time held by the Lender.
- (b) The Lender may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security against the Charged Assets and may settle and pass the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Lender on demand.
- (c) None of the provisions of this Deed shall be deemed to impose on the Lender or imply on it any obligation or other liability in relation to the Charged Assets.

**15.4 Tacking**

The Lender must perform its obligations under the Facility Agreement (including any obligation to make further advances).

**15.5 New Accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security (other than the Security created pursuant to this Deed or as permitted under the Finance Documents) or disposed of:

- (a) the Lender may close the Chargor's then subsisting account and open a new account with the Chargor, and (unless the Lender gives the Chargor written notice otherwise) shall be deemed to have done so;
- (b) all payments made to the Lender after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Secured Liabilities.

**15.6 Consolidation**

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the security created by this Deed.

**15.7 Rights of third parties**

- (a) Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- (b) The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

**15.8 Partial invalidity**

The illegality, invalidity or unenforceability for whatever reason of any provision of this Deed in any jurisdiction, shall not affect the legality, validity or enforceability of that provision in any other jurisdiction or legality, validity or enforceability of the remaining provisions in any jurisdiction.

**15.9 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Lender, 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 right or remedies provided by law.

**15.10 Chargor's obligations**

Neither the Security created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this Clause 15.10, would reduce, release or prejudice that Security or any of its obligations under this Deed (without limitation and whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, avoidance or termination of any Finance Document or any other document or Security including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security; or
- (g) any insolvency or similar proceedings.

**15.11 Chargor intent**

Without prejudice to the generality of Clause 15.10 (*Chargor's obligations*), the Chargor expressly confirms that it intends that the Security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of

the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and/or
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **15.12 Appropriations**

Until the Secured Liabilities have been irrevocably paid in full, the Lender (or trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Chargor's liability under this Deed.

#### **15.13 Deferral of Chargor's rights**

- (a) Until the Secured Liabilities have been irrevocably paid in full and unless the Lender otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:
  - (i) to be indemnified by any Obligor;
  - (ii) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
  - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
  - (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed;
  - (v) to exercise any right of set-off against any Obligor; and/or
  - (vi) to claim or prove as a creditor of any Obligor in competition with the Lender.
- (b) If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 15.13(a) it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligor under or in connection with the Finance Documents to be repaid in full



on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with Clause 10 (*Application of receipts*).

**16. COUNTERPARTS**

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

**17. LAW AND JURISDICTION**

**17.1 Governing Law**

This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by English law.

This Deed has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

**SCHEDULE 1**

**Investments**

100 ordinary shares of £1 in Baxter Homes (Tithebarn) Limited (company number 14757038) held by Baxter Homes Limited.

## SCHEDULE 2

### Lender's and Receiver's powers

#### 1. Conduct of business

##### 1.1 Compromise claims

To compromise any claim relating to the Charged Assets.

##### 1.2 Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Secured Liabilities and with or without security.

##### 1.3 Employees

To employ solicitors, stockbrokers and others.

#### 2. Dealing with the Charged Assets

##### 2.1 Possession

To take possession of, get in, use and/or collect any Charged Asset.

##### 2.2 Payments

To pay any outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership or use.

##### 2.3 Receipts

To give receipts and releases for any sums received.

##### 2.4 Assumption of rights

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any of its Charged Asset.

##### 2.5 Insurance

To effect insurances on such terms as it thinks fit.

#### 3. Disposals

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (a) for immediate or deferred consideration;
  - (b) in return for a single payment or instalments; and
  - (c) for consideration wholly or partly in cash, property or securities in whatever form,
- and in all cases the terms of which shall bind any subsequent mortgagee.

#### 4. General

##### 4.1 General powers

- (a) To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the Security created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (i) executing, delivering and completing all or any deeds or other documents;
  - (ii) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Lender's and Receiver's powers*);
- (b) commencing, carrying out and completing any acts, matters or proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
  - (i) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

#### 4.2 General

All its powers and discretions under this Deed shall be:

- (a) exercisable on such terms and conditions and otherwise as it may think fit; and
- (b) as if it were the absolute and beneficial owner.

EXECUTION PAGE

Chargor

**EXECUTED** (but not delivered until the date hereof) as a **DEED** by **BAXTER HOMES LIMITED**, acting by a director in the presence of:

DIRECTOR

WITNESS

Signature: .....

Name: .....

Address: .....

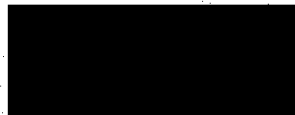
Occupation: .....

Lender

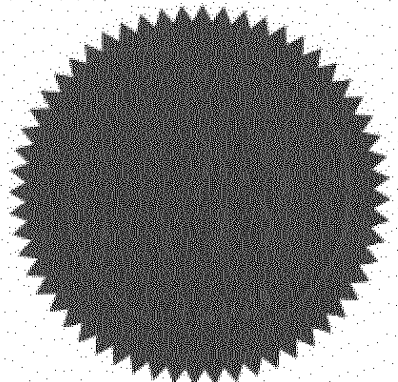
The Common Seal of  
**HOMES AND COMMUNITIES AGENCY**  
was hereunto affixed in the presence of:

)  
) 2792 69

Authorised signatory



Print name: *M. Dazzes*



EXECUTION PAGE

Chargor

EXECUTED (but not delivered until the date hereof) as a DEED by **BAXTER HOMES LIMITED**, acting by a director in the presence of:

DIRECTOR

WITNESS

Signature:

Name:

Address:

Occupation:

Lender

The Common Seal of  
**HOMES AND COMMUNITIES AGENCY**

was hereunto affixed in the presence of:

Authorised signatory

Print name: