

# MR01

## Particulars of a charge

150010 / 13



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

You can use the WebF  
Please go to www.com

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

☒ **What this form is NOT**  
You may not use this form to  
register a charge where  
instrument Use form Mf



A37

\*A35VSO2X\*

15/04/2014

#150

COMPANIES HOUSE

TUESDAY

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

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record

### 1 Company details

Company number 5 0 1 6 1 4 9  
Company name in full Aitch Care Homes (London) Limited

27 For official use

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

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date d1 d1 m0 m4 y2 y0 y1 y4

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

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

Name Macquarie Bank Limited (London Branch)

Name

Name

Name

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

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

**MR01****Particulars of a charge****4****Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**

Please use a continuation page if you need to enter more details

Description

1 By way of legal mortgage:

(a) the following properties

No:	Property	Title No. (s)
1	Alderton House, 5 Wellington Street, Littleport, Ely, East Cambridgeshire CB6 1PN	CB326080
2	Ambleside Lodge, 25 Brighton Road, Salfords, Redhill RH1 5DA	SY387946
3	Arundel House, 34 Harold Road, Frinton on Sea CO13 9BE	EX39997

continued on Continuation Page

**5****Fixed charge or fixed security**

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

☒ **Yes**☐ **No****6****Floating charge**

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

☒ **Yes** Continue☐ **No** Go to **Section 7**

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

☒ **Yes****7****Negative Pledge**

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

☒ **Yes**☐ **No**

MR01

Particulars of a charge

8

**Trustee statement ①**

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

☐

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

9

**Signature**

Please sign the form here

Signature

Signature

X Benwin Leighton Paisner LLP X

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

# MR01

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name LLEV 22702 20 35262650

Company name Berwin Leighton Paisner LLP

Address Adelaide House

London Bridge

Post town London

County/Region

Postcode E C 4 R 9 H A

Country

DX 92 LONDON/CHANCERY LN

Telephone +44 (0)20 3400 1000



### Certificate

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



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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



### Important information

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



### How to pay

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

Make cheques or postal orders payable to 'Companies House'.



### Where to send

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

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

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

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



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

# MR01 - continuation page

## Particulars of a charge

4

### Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Description

4.	Ashford House, Folly House, Bagham Cross, Chilham, Canterbury, Ashford, Kent CT4 8DU	K468971
5.	Bradwell House, 14 Brockhill Road, Hythe CT21 4AQ	K168200
6.	Bridgewater House, Oaklands, 21 Old Roar Road, St Leonards on Sea TN37 7HA	HT19274
7.	Byfield Court, Sheppey Way, Bobbing, Sittingbourne, ME9 8PJ	K424075
8.	Cherrycroft, 59 Crowstone Road, Westcliff-on-Sea, Essex SS0 8BG	EX287020
9.	Cloverdale, 19 Vallance Gardens, Hove, East Sussex BN3 2DB	ESX103944
10.	Combe House, Castle Road, Woking, Surrey GU21 4ET	SY398889
11.	Coneyhurst Lodge, 68 St Lawrence Avenue, Worthing, West Sussex BN14 7JJ	WSX131296
12.	Fleetwood House, 9 Maltravers Drive, Littlehampton, West Sussex BN17 5EY	WSX35578
13.	Harwich, Granville House, 8 Granville Road, Littlehampton, West Sussex BN17 5JU	WSX52403

Continued on Continuation Page

# MR01 - continuation page

## Particulars of a charge

4

### Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Description

14.	Kingsdown, 46 Goddington Road, Rochester, Kent ME2 3DE	K584246
15.	Lambourne House, 8 Ursula Avenue, Selsey, Chichester, West Sussex PO20 0HT	WSX293522
16.	Maldon, Belgrave House, 26 Belgrave Road, Seaford, East Sussex, BN25 2EG	ESX149659
17.	Newton House, 404 London Road, Benham Hill, Thatcham, Berkshire, RG18 3AA	BK358314
18.	Rosebank Lodge, 82-84 Mitcham Park, Mitcham, CR4 4EJ	SY158520 and SGL239059
19.	Sheringham House, 54 Old Road East, Gravesend DA12 1NR	K445443
20.	Springfield House, 81 Epple Bay Road, Birchington, CT7 9EW	K196845
21.	White Hatch, Oldfield Road, Horley RH6 7EP	SY380548
22.	Winchester House, 455 Minster Road, Minster on Sea, Sheerness ME12 3NS	K91346
23.	Woodbridge House, 151 Sturdee Avenue Gillingham ME7 2HH	K505335

Continued on Continuation Page

## MR01 - continuation page

### Particulars of a charge

4

#### Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Description

(b) all freehold or leasehold property now vested in Aitch Care Homes (London) Limited;

2 By way of fixed charge.

(a) its interest in any freehold or leasehold property acquired after the date of this charge, and

(b) any rights in respect of any patent, copyright, trademark, trade name, service mark, invention, design, knowhow, confidential information, domain names or any other kind of intellectual property whether registered or unregistered and any registration or application relating to any of the foregoing

DX



**FILE COPY**

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

Company number: 5016149

Charge code: 0501 6149 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th April 2014 and created by AITCH CARE HOMES (LONDON) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th April 2014.

Given at Companies House, Cardiff on 24th April 2014



**Companies House**



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



DATED 11 April 2014

**THE PARTIES LISTED IN SCHEDULE 1**  
as Chargors

**MACQUARIE BANK LIMITED (LONDON BRANCH)**  
as Security Agent

**DEBENTURE – TARGET**

in respect of a facility agreement to finance the acquisition of Aitch Care Homes (London)  
Limited and ACH of London LLP

We certify that save for material redacted pursuant to s.859G  
Companies Act 2006 this copy instrument is a correct copy  
of the original instrument.

*Berwin Leighton Paisner LLP*  
Berwin Leighton Paisner LLP  
Adelaide House  
London Bridge  
London EC4R 9HA



Berwin Leighton Paisner LLP  
Adelaide House London Bridge London EC4R 9HA  
Tel +44 (0)20 3400 1000 Fax +44 (0)20 3400 1111

## Contents

Clause	Name	Page
1	Definitions and Interpretation.....	3
2	Covenant for payment.....	9
3	Security.....	9
4	Crystallisation of floating charge ..	11
5	Perfection of security.....	12
6	Investments...	13
7	Rights of enforcement.....	15
8	Application of receipts.....	17
9	Notices.....	17
10	Discharge.....	18
11	Assignment and transfer.....	18
12	General provisions .....	18
13	Law and jurisdiction ....	22
Schedule	Name	Page
1	Chargors.....	24
2	The Properties and the Accounts.....	25
2	Part 1 The Properties.....	25
2	Part 2 The Accounts .....	26
3	Security Agent's and Receiver's powers .	27
4	Notices.....	30
4	Part 1 Notice of assignment or charge of contract.....	30
4	Part 2 Notice of account assignment .....	33
<b>Execution Pages</b> .....		<b>42</b>

DATED 11 April 2014

## PARTIES

- (1) **THE PARTIES** listed in Schedule 1 (*Chargors*) (the "**Chargors**")
- (2) **MACQUARIE BANK LIMITED (LONDON BRANCH)** as security trustee for the Secured Parties (the "**Security Agent**")

## BACKGROUND

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

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Deed:

"**2008 Act**" means the Care Standards Act 2008 and includes any statutory modification or re-enactment of it for the time being in force or any future legislation or regulations replacing or supplementing this Act intended to regulate the use of property as a care home and operation of business for the Permitted Use

"**Accounts**" means the accounts details of which are set out in Schedule 2, Part 2 (*The Accounts*).

"**Acquisition Agreement**" means the share purchase agreement dated on or about the date of this Deed and made between the Borrower, Aitch Care Homes (London) Limited and ACH of London LLP and the Sellers (as defined therein)

"**Acquisition Documents**" means the Acquisition Agreement, the Disclosure Letter and any other document designated as an "Acquisition Document" by the Agent and the Parent

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

"**Agent**" has the meaning given to the term "Agent" in the Facility Agreement.

"**Agreement for Lease**" means an agreement to grant an Occupational Lease for all or part of a Property.

"**Borrower**" means KTN Almayer Limited, a company with limited liability incorporated under the laws of England and Wales having its registered office at 42 Berkeley Square, Mayfair, London, W1J 5AW, United Kingdom, with registered number 08790813.

"**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

**"Charged Property"** means any freehold or leasehold property from time to time charged pursuant to this Deed.

**"CQC"** means the Care Quality Commission established under the 2008 Act or such other successor or body established as the independent regulator of health and social care in England.

**"Disclosure Letter"** has the meaning given to that term in the Acquisition Agreement.

**"Disposal Proceeds"** means the net disposal proceeds derived from the disposal of a Property or the shares in an Obligor.

**"Event of Default"** means any event or circumstance specified as such in the Facility Agreement.

**"Facility Agreement"** means a facility agreement dated on or about the date of this Deed and made between amongst others the Security Agent (1), the Borrower (2) and the Parent (3) and any agreement entered into under or supplemental to it or amending, restating or novating it.

**"Finance Document"** shall have the meaning ascribed to it by the Facility Agreement.

**"Finance Party"** shall have the meaning ascribed to it by the Facility Agreement

**"Hedging Agreement"** means any master agreement, confirmation, transaction, schedule or other agreement entered into or to be entered into by a Chargor for the purpose of hedging Interest payable under a Facility Agreement.

**"Insurance Policy"** means any policy of Insurance in which a Chargor may at any time have an Interest and any warranty and Indemnity policy of Insurance in which a Chargor may at any time have an Interest

**"Intellectual Property"** means any rights in respect of any patent, copyright, trademark, trade name, service mark, invention, design, knowhow, confidential information, domain names or any other kind of Intellectual property whether registered or unregistered and any registration or application relating to any of the foregoing

**"Investments"** means the existing or future interest of the relevant person in:

- (a) 100,000 ordinary shares in the issued share capital of Aitch Care Homes (London) Limited;
- (b) 1,000 ordinary shares in the issued share capital of Aitch Care Homes (Woking) Limited;
- (c) 60,000 ordinary shares in the issued share capital of Iver House Limited;
- (d) any LLP and the Member's Interest of any Chargor,
- (e) any LLP, its capital and assets;
- (f) any Members' Agreement or partnership agreement relating to an LLP,
- (g) any stocks, shares (including all shares in any residents' or management company connected with the Properties), membership interests, partnership interests, bonds, units or any form of loan or other capital of or in any legal entity; and

(h) any warrant or other right to acquire any such investment,

In each case, including any income, offer, right or benefit in respect of any such investment.

**"Lease Document"** means:

- (a) an Agreement for Lease;
- (b) an Occupational Lease; or
- (c) any other document designated as such by the Agents and a Chargor

**"Licences"** means each and all of the grants, authorities, licences, quotas, certificates, justices and excise licences now or in the future attached to the Charged Assets and/or the business of a Chargor.

**"LLP"** means.

- (a) each Obligor which is a limited liability partnership; and
- (b) any other limited liability partnership in which a Chargor has an interest from time to time.

**"Members' Agreement"** means any members' agreement entered into between any Chargor (as a member) and an LLP relating to that LLP

**"Member's Interest"** means the existing or future interest of a Chargor in and to an LLP, its capital and assets and all Related Rights.

**"Obligor"** shall have the meaning ascribed to it by the Facility Agreement.

**"Occupational Lease"** means any lease or licence or other right of occupation or right to receive rent to which a Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

**"Parent"** means KTN Nostromo Limited, a company with limited liability incorporated under the laws of England and Wales having its registered office at 42 Berkeley Square, Mayfair, London, W1J 5AW, United Kingdom, with registered number 08806657

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

**"Permitted Use"** means the operation of independent and assisted living facilities and as a registered care home with nursing and all purposes ancillary thereto.

**"Property"** means each property details of which are set out in Schedule 2, Part 1 (*The Properties*) including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future,
- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (c) easements, access rights, rights of way, wayleaves and rights attaching to it.

**"Receiver"** means a receiver, administrator or receiver and manager or administrative receiver appointed by the Security Agent under this Deed (whether sole, joint and/or several and including any substitute).

**"Registration"** means the registration of the Properties and the operator and manager of them under the 2008 Act authorising the use of the Properties and references to the Properties or a care home operator or a manager being or being required to be "Registered" shall be to registration under the 2008 Act.

**"Registration Certificate"** means the certificate or other form of record issued by the CQC or appropriate authority or body under the 2008 Act relating to Registration.

**"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.

**"Related Rights"** means, in relation to any asset:

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

both present and future (including all rights against any trustee, nominee, fiduciary or clearing system).

**"Relevant Contracts"** means each and all of the following both present and future.

- (a) each contract in respect of any disposal of any Charged Asset;
- (b) each Lease Document;
- (c) each Acquisition Document;
- (d) the Licences and Registration Certificates;
- (e) any managing agent's agreement;
- (f) a deed of release relating to intellectual property rights and claims dated on or about the date of this Deed and entered into between Henry Smith (1), Aitch Group Limited (2), HT Smith and SL Gay as trustees of the 1991 Smith Family Settlement Trust (3), Aitch Care Homes (London) Limited (4), Aitch Care Homes (Woking) Limited (5), Iver House Limited (6) and ACH of London LLP (7); and
- (g) all other agreements, in which a Chargor has an interest,

In each case, including any guarantees or sureties entered into in respect of them

**"Rental Income"** means the aggregate of all amounts paid or payable to or for the account of any Chargor in connection with the letting, licence or grant of other

rights of use or occupation of any part of a Property, including each of the following amounts:

- (a) rent, licence fees and equivalent amounts paid or payable,
- (b) any sum received or receivable from any deposit held as security for performance of a tenant's obligations;
- (c) a sum equal to any apportionment of rent allowed in favour of any Chargor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of that Property and any fixture and fitting on that Property including any fixture or fitting on that Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement or extension of any Lease Document;
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Lease Document;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease Document;
- (i) any Tenant Contributions; and
- (j) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by any Chargor.

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

**"Secured Party"** shall have the meaning ascribed to it by the Facility Agreement.

**"Security Trust Deed"** means the security trust deed dated on or about the date of this Deed entered into between, amongst others, the Borrower (1), the Parent (2), the Intra-Group Lenders (as defined therein) (3), Macquarie Bank Limited (London Branch) as Agent, Arranger and Security Agent (4).

**"Subordinated Creditor"** has the meaning ascribed to the term "Intra-Group Lenders" in the Security Trust Deed.

**"Subordinated Debt"** means the aggregate of all monies and liabilities of whatever nature (whether actual or contingent, as principal or surety) which are now or may at any future time be outstanding or otherwise due from the Chargors to the Subordinated Creditors on any account or in any manner.

**"Subordinated Loan Agreement"** means any loan agreement (whether written or unwritten) between any Chargor and any Subordinated Creditor constituting Subordinated Debt

**"Tenant Contributions"** means any amount paid or payable to a Chargor by any tenant under a Lease Document or any other occupier of a Property, by way of:

- (a) contribution to:
  - (i) ground rent,
  - (ii) insurance premia;
  - (iii) the cost of an Insurance valuation;
  - (iv) a service or other charge in respect of any Chargor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to a Property; or
  - (v) a reserve or sinking fund; or
- (b) VAT.

**"VAT"** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a), or imposed elsewhere.

## 1.2 Construction

- 1.2.1 Unless the contrary intention is expressed, all defined terms in the Facility Agreement or the Security Trust Deed have the same meaning when used in this Deed.
- 1.2.2 The construction provisions set out at clause 1.2 (*Construction*) of the Facility Agreement shall apply equally to this Deed.
- 1.2.3 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.
- 1.2.4 Each Chargor gives the same representations and undertakings to the Agent as given by each Obligor in clause 20 (*Representations*), clause 23 (*General Undertakings*) and clause 24 (*Property Undertakings*) (including clause 23.14 (*Negative Pledge*)) of the Facility Agreement, in each case as if set out in full and as if each reference to an Obligor in those clauses was a reference to that Chargor.
- 1.2.5 Clause 33 (*Set-off*) of the Facility Agreement is incorporated in this Deed as if set out in full and with necessary changes
- 1.2.6 Each Chargor acknowledges and accepts the manner in which the Accounts are to be opened, maintained and run in accordance with the Facility Agreement.

## 1.3 Disposition of Property

The terms of any other Finance Document and of any side letters between the Parties are incorporated into each Finance Document to the extent required for the purported disposition of any Property contained in any Finance Document to be a



valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

**1 4 Joint and several Chargors**

Where two or more persons purport to create Security over a Charged Asset under this Deed then:

- (a) they (or such of them as have the joint interest in the relevant Charged Asset) shall be deemed to have jointly mortgaged, charged and/or assigned, as appropriate, their joint interest in the relevant Charged Asset,
- (b) each person shall be deemed to have mortgaged, charged and/or assigned, as appropriate, its individual interest (if any) in the relevant Charged Asset; and
- (c) each person shall be deemed to have confirmed the Security granted by the others

**2 COVENANT FOR PAYMENT**

**2 1 Covenant to pay**

Each Chargor covenants with the Security Agent (as trustee for the Finance Parties) that it will on demand pay and discharge each and all of the Secured Liabilities when due and indemnify and keep each Secured Party indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenant or other obligation of any Chargor to that Secured Party.

**2.2 Survival of obligations**

The payment obligations of each 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 Security Agent as continuing security for the payment and discharge of the Secured Liabilities with full title guarantee.

**3.2 Mortgage**

Each Chargor charges by way of first legal mortgage:

- (a) each Property, and
- (b) any other freehold or leasehold property now vested in that Chargor.

**3.3 Fixed charge**

Each Chargor charges by way of first fixed charge each of the following including all rights of enforcement of the same:

- (a) its interest in any freehold or leasehold property acquired after the date of this Deed;

- (b) all fixtures, fittings, plant, machinery, manuals and other chattels, present and future, in respect of any Charged Property and all guarantees and warranties in respect of any of them;
- (c) all easements, licences and other rights, present and future, relating to any Charged Property in which it has an interest;
- (d) the Accounts and any other accounts of that Chargor present and future maintained with the Security Agent or any other Finance Party and the debts represented by them;
- (e) the Investments;
- (f) its Intellectual Property, present and future;
- (g) if applicable its uncalled capital;
- (h) its goodwill;
- (i) all of its right, title and interest in and to any Members' Agreement;
- (j) each of the items specified in Clause 3.4 (*Assignment*) to the extent not validly and effectively assigned pursuant to that clause; and
- (j) all Related Rights in respect of the above.

#### 3.4 **Assignment**

Each Chargor assigns absolutely each of the following including all rights of enforcement of the same:

- (a) all Rental Income present and future and all operating income present and future;
- (b) all Disposal Proceeds,
- (c) its interest in the Relevant Contracts;
- (d) all book debts and other debts, present and future, payable to that Chargor;
- (e) the Accounts and any other accounts of that Chargor present and future not charged by Clause 3.3 (*Fixed charge*) and the debts represented by them;
- (f) any Insurance Policies in which that Chargor has an interest and all proceeds paid or payable thereunder;
- (g) the benefit of the copyright and similar rights vested in it, present and future, in connection with any Charged Property;
- (h) all causes of action and other rights and remedies in which it has an interest at any time;
- (i) all monies payable to it under any Hedging Agreement, present and future;
- (j) the benefit of any monies paid or payable to it from time to time by way of compensation, endowment, gift, grant or otherwise;
- (k) its interest from time to time in any VAT recoveries;

- (l) Its interest in the Subordinated Debt;
- (m) Its interest in each Subordinated Loan Agreement to which it is a party;  
and
- (n) all Related Rights in respect of the above.

**3.5 Floating charge**

Each Chargor charges by way of floating charge all its assets, property and undertaking both present and future.

**3.6 Application of charges**

The charges created under this Deed expressed to be:

- (a) fixed charges, shall only apply to the extent that they create fixed security,  
and
- (b) floating charges, shall not apply to any Charged Asset which is the subject  
of any fixed security under this Deed

**4 CRYSTALLISATION OF FLOATING CHARGE**

**4.1 Crystallisation by notice**

The Security Agent may at any time by notice in writing to the Chargors convert the floating charge created by Clause 3.5 (*Floating charge*) with immediate effect into a fixed charge as regards any Charged Assets specified in the notice if:

- (a) a Default is continuing; or
- (b) the Security Agent considers that any of the Charged Assets may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal process.

**4.2 Automatic crystallisation**

Notwithstanding Clause 4.1 (*Crystallisation by notice*) and without prejudice to any law which may have a similar effect, the floating charge created by Clause 3.5 (*Floating charge*) will convert automatically with immediate effect into fixed charges as regards all the assets subject to the floating charge if:

- (a) any Chargor creates or attempts to create any Security over any Charged Assets;
- (b) any steps are taken (including the giving of notice, the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or receiver in respect of any Chargor or over all or any part of its assets, or if such person is appointed;
- (c) any other floating charge over any of the Charged Assets crystallises; or
- (d) in any other circumstances prescribed by law.

## **5 PERFECTION OF SECURITY**

### **5.1 Insolvency Act**

For the purposes of paragraph 43 of schedule A1 to the Insolvency Act 1986 nothing in this Deed shall provide for:

- (a) the obtaining of a moratorium in respect of any Chargor pursuant to section 1A of the Insolvency Act 1986; or
- (b) anything done with a view to obtaining such a moratorium,

to be an event causing the floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to being imposed on the disposal of property by that Chargor or a ground for the appointment of a Receiver

### **5.2 Further assurance**

5.2.1 Each Chargor shall execute and do at its own cost and in such form as is reasonably required by the Security Agent:

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

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

5.2.2 Each Chargor shall promptly at its own cost enter into, execute and complete a legal mortgage over any freehold or leasehold property in England and Wales in which it has an interest from time to time and which is not already the subject of a registrable legal mortgage in favour of the Security Agent.

### **5.3 Notices**

5.3.1 If the Security Agent so requests, each Chargor shall serve a notice in the form set out in.

- (a) Schedule 4, Part 1 (*Notice of assignment or charge of contract*) in respect of contracts, Insurance Policies and Subordinated Debt charged or assigned (as applicable) pursuant to Clause 3 (*Security*);
- (b) Schedule 4, Part 2 (*Notice of account assignment*) in respect of Accounts assigned pursuant to Clause 3.4 (*Assignment*); and
- (c) Schedule 4, Part 3 (*Notice of LLP interest charge*) in respect of any charged interest in an LLP.

5.3.2 Each Chargor shall use all reasonable endeavours (other than in relation to a notice concerning any Account, in which case it shall use its best endeavours) to procure that the party to whom a notice served pursuant to Clause 5.3.1 is addressed completes and returns to the Security Agent an acknowledgement in the form of Part B of the relevant notice

5.3.3 To the extent that the Security Agent is the same entity with whom the Accounts are held and the counterparty to any Hedging Agreement it acknowledges that this Deed constitutes notice to it of the charge over the Accounts under

Clause 3.3 (*Fixed charge*) which are held with it and the assignment of any Hedging Agreement under Clause 3.4 (*Assignment*) to which it is the counterparty.

**5.4 Restriction**

- 5.4.1 Each Chargor authorises the Security Agent to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estates:

*"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 [●] in favour of [●] referred to in the Charges Register (or its conveyancer)."*

- 5.4.2 Each Chargor authorises the Security Agent to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estates.

**5.5 Subordinated Loan Agreements**

- 5.5.1 Each Chargor shall duly and promptly perform its obligations under each Subordinated Loan Agreement to which it is a party
- 5.5.2 After the security created by this Deed has become enforceable, the Security Agent may exercise, without any further consent or authority on the part of any Chargor and irrespective of any direction given by any Chargor, each Chargor's rights under each Subordinated Loan Agreement.
- 5.5.3 No Chargor shall take, or omit to take, any action which might result in (a) the alteration or impairment of any rights in the Subordinated Debt or any Subordinated Loan Agreement, (b) any default of any of its obligations under any Subordinated Loan Agreement or in respect of any Subordinated Debt, (c) any right to terminate any Subordinated Loan Agreement or any Subordinated Debt becoming exercisable by any other party to that Subordinated Loan Agreement, or (d) any counterclaims or rights of set-off arising under any Subordinated Loan Agreement or any Subordinated Debt.
- 5.5.4 The Security Agent shall not be under any obligation in relation to any Subordinated Debt or any Subordinated Loan Agreement as a consequence of this Deed and each Chargor shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Subordinated Debt and each Subordinated Loan Agreement to which it is a party.

**5.6 Negative Pledge**

No Chargor shall create or permit to subsist any Security over any of its assets other than the Security created by this Deed or as permitted by the Facility Agreement or as otherwise consented to in writing by the Security Agent.

**6 INVESTMENTS**

**6.1 Investment 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, each Chargor will deposit with the Security Agent in respect of each Investment:

- (a) all certificates, warrants or other documents of title;

- (b) a certified copy of each Members' Agreement along with all other deeds or documents relating thereto as the Security Agent may reasonably require;
- (c) an accession agreement (executed in blank), a unanimous resolution of the Chargors in their capacity as members of any LLP approving the admission of any person as a new member of the LLP who accedes as a result of the enforcement by the Security Agent of the security granted by this Deed, deeds of adherence (in the form set out in Schedule 5 (*Deed of Adherence*)), deeds of transfer (in the form set out in Schedule 6 (*Transfer*)), members' resolutions and letters of resignation of members;
- (d) duly executed undated blank stock transfer forms; and
- (e) 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 Security Agent.

6.1.2 Promptly upon the accrual, offer or issue of any partnership interests, stocks, shares or other securities in respect of the Charged Assets, each Chargor shall notify the Security Agent of that occurrence and procure the delivery to the Security Agent of (a) all certificates or other documents of title representing such items and (b) such accession agreements, unanimous resolutions or other instruments of transfer (executed in blank on its behalf) in respect thereof as the Security Agent may request

#### 6.2 **Voting prior to a Default**

Prior to a Default which is continuing, a 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 that 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), insolvency or matters which would otherwise be prohibited by the Finance Documents.

#### 6.3 **Voting after a Default**

6.3.1 Following a Default which is continuing, the Security Agent may (without notice to or consent from a Chargor and in that Chargor's name or otherwise) exercise any rights (including the right to replace any directors or members, 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.

6.3.2 Following a Default which is continuing and the service of notice upon the relevant Chargor, the Security Agent may (without consent from any Chargor and in the relevant Chargor's name or otherwise) exercise any right to vote in respect of the Investments.

#### 6.4 **Obligations**

Each Chargor shall promptly pay all calls, costs and/or other payments in respect of the Investments and shall give to the Agent and the Security Agent, 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 Agent and the Security Agent promptly of any material occurrence affecting the Investments or any other part of the security granted to the Security Agent and shall give to the Agent and the Security Agent such information as they may reasonably require relating to the Investments.

## **6.5 Compliance with Members' Agreement**

Each Chargor shall comply with each of its obligations under any Members' Agreement to which it is a party and shall indemnify the Security Agent on first demand against any loss, liability, costs or expenses which the Security Agent may suffer as a result of a failure to do so (other than any liability or cost resulting from the Security Agent's gross negligence or wilful default).

## **7 RIGHTS OF ENFORCEMENT**

### **7.1 Enforcement**

7.1.1 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.

7.1.2 The enforcement powers of the Security Agent in connection with this Deed shall be immediately exercisable:

- (a) upon an Event of Default, or
- (b) at the Security Agent's discretion, at the request of the Chargors.

7.1.3 The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.

7.1.4 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 Security Agent or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Secured Liabilities are outstanding and have become due.

### **7.2 Security Agent's and Receiver's powers and rights**

7.2.1 The Security Agent shall have the power:

- (a) 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;
- (b) to appropriate any Charged Assets in accordance with Clause 7.3 (*Right of appropriation*); and
- (c) if this Deed contains a qualifying floating charge for the purposes of the Insolvency Act 1986, to appoint an administrator of any Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.

7.2.2 The Security Agent (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:

- (a) 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 Security Agent and/or any Receiver is an administrative receiver); and

- (b) the powers and rights specified in Schedule 3 (*Security Agent's and Receiver's powers*),

and may exercise them in the name of the relevant Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

### 7.3 **Right of appropriation**

To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of any Chargor under it constitute a "financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Security Agent shall have the right to appropriate all or any part of it in or towards discharge of the Liabilities and transfer title in and to it to the Security Agent. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be:

- (a) in the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
- (b) in the case of investments, the market price determined by the Security Agent by reference to a public index or by such other process as the Security Agent may select, including independent valuation.

In each case, 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.

### 7.4 **Receiver as agent**

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

### 7.5 **Further powers**

If a Chargor defaults in the observance and performance of any obligation to the Security Agent, the Security Agent 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.

### 7.6 **Power of attorney**

- 7.6.1 Each Chargor by way of security irrevocably appoints the Security Agent and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which the Security Agent and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of that Chargor's obligations in connection with this Deed.

- 7.6.2 Each Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its powers



**8 APPLICATION OF RECEIPTS**

**8.1 Priority of payment**

Subject to sums secured by charges having priority to the charges created by this Deed, all monies received by the Security Agent 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 a Chargor or otherwise);
- (b) secondly, (in so far as not contemplated by Clause 8.1(a)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Security Agent (in its capacity as trustee) in relation to the Finance Documents; and
- (c) finally, to the Agent for distribution in accordance with the Facility Agreement.

**8.2 Crediting to suspense account**

The Security Agent 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 Security Agent or that Receiver thinks fit.

**9 NOTICES**

**9.1 Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

**9.2 Addresses**

The address and fax number (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 that identified with its name below or any substitute address, fax number or department or officer as the Party may notify the Security Agent (or the Security Agent may notify the Chargors if the change is made by the Security Agent) by not less than five Business Days' notice.

**9.3 Delivery**

**9.3.1** Any communication or document made or delivered by one person to another person in connection with this Deed will only be effective:

- (a) if by way of fax, when received in legible form, or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address, details provided under Clause 9.2 (*Addresses*), if addressed to that department or officer

**9.3.2** Any communication or document to be made or delivered to the Security Agent shall be effective only when actually received by the Security Agent and then only if

it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

9.3.3 Any communication or document made or delivered to any Chargor in accordance with this Clause 9.3 (*Delivery*) will be deemed to have been made or delivered to each of the Chargors.

9.3.4 Any communication or document which becomes effective, in accordance with Clause 9.3.1 to Clause 9.3.3, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

## 10 **DISCHARGE**

10.1 If the Security Agent is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Security Agent will, at the request and cost of the Chargors, discharge this Deed

10.2 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.

## 11 **ASSIGNMENT AND TRANSFER**

### 11.1 **Assignment by the Chargors**

No Chargor may assign, transfer or otherwise part with its rights or obligations under this Deed.

### 11.2 **Assignment by the Secured Parties**

The Secured Parties may each at any time transfer, assign or novate all or any part of their respective rights, benefits or obligations under this Deed in accordance with the provisions of the Facility Agreement and/or the Security Trust Deed.

## 12 **GENERAL PROVISIONS**

### 12.1 **Trust provisions**

The covenants, undertakings and representations made by each Chargor under this Deed are made in favour of the Security Agent as security trustee for the Secured Parties

### 12.2 **Immediate recourse**

It shall not be necessary for the Security Agent 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 a Chargor or any other person.

### 12.3 **Exercise of powers and liability**

12.3.1 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 Security Agent of any other security at any time held by the Security Agent.

12.3.2 The Security Agent 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 pay the accounts of the prior chargee (which shall be binding on each Chargor). All principal monies, interest, costs, charges and expenses of and

Incidental to such redemption or transfer shall be paid by the Chargors to the Security Agent on demand

- 12.3.3 None of the provisions of this Deed shall be deemed to impose on the Secured Parties or imply on their part any obligation or other liability in relation to the Charged Assets.

**12.4 Tacking**

Each Finance Party must perform its obligations under the Facility Agreement (including any obligation to make further advances).

**12.5 Direction for payment of funds**

Where any part of the Secured Liabilities represents the repayment of monies advanced or other credit given by a Secured Party to a person other than the Chargors, then by this Deed each Chargor directs the payment of those monies or the giving of credit to that person.

**12.6 New accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security or disposed of:

- (a) a Finance Party may close the relevant Chargor's then subsisting account and open a new account with that Chargor, and (unless the relevant Finance Party gives that Chargor written notice otherwise) shall be deemed to have done so,
- (b) all payments made to a Finance Party 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.

**12.7 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.

**12.8 Expenses**

The Chargors must pay the Security Agent within three Business Days of demand the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights against it under this Deed.

**12.9 Rights of third parties**

- 12.9.1 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.
- 12.9.2 The Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

**12.10 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 the legality, validity or enforceability of the remaining provisions in any jurisdiction.

**12.11 Effect as a deed**

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Security Agent.

**12.12 Counterparts**

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

**12.13 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, 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 are not exclusive of any right or remedies provided by law.

**12.14 Chargors' obligations**

Neither the Security created under this Deed nor the obligations of each Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this Clause 12.14 (*Chargors' obligations*), 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 any Secured Party) 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 member of the Group;
- (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.

**12.15 Chargor intent**

Without prejudice to the generality of Clause 12.14 (*Chargors' obligations*), each 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.

**12.16 Appropriations**

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

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (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 no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability under this Deed

**12.17 Deferral of Chargors' rights**

**12.17.1** Until the Secured Liabilities have been irrevocably paid in full and unless the Security Agent otherwise directs, no Chargor will 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.

- (a) to be indemnified by any Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
  - (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under this Deed,
  - (e) to exercise any right of set-off against any Obligor; and/or
  - (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.
- 12.17.2 If any Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 12.17.1 it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 8 (*Application of receipts*).

### 13 LAW AND JURISDICTION

#### 13.1 Governing law

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

#### 13.2 Jurisdiction of English courts

- 13.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, including, without limitation, disputes relating to any non-contractual obligations arising out of or in connection with this Deed (a "**Dispute**").
- 13.2.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 13.2.3 This Clause 13.2 (*Jurisdiction of English courts*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

#### 13.3 Service of process

Without limiting any other mode of service allowed under any relevant law, each Chargor which is not incorporated in England and Wales irrevocably:

- (a) appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
- (b) agrees that failure by a process agent to notify that Chargor of the process will not invalidate the proceedings concerned.

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

**Schedule 1  
Chargors**

<b>Chargors</b>	<b>Jurisdiction of incorporation</b>	<b>Registered number</b>
Aitch Care Homes (London) Limited	England and Wales	05016149
ACH of London LLP	England and Wales	OC 306303 <del>OC 306302</del>
Aitch Care Homes (Woking) Limited	England and Wales	04615854
Iver House Limited	England and Wales	01617631

*ELP or  
Galaxy LP*

**Schedule 2**  
**The Properties and the Accounts**

**Part 1**  
**The Properties**

<b>No.</b>	<b>Property</b>	<b>Title No.(s)</b>	<b>Owner</b>
1	Alderton House, 5 Wellington Street, Littleport, Ely, East Cambridgeshire CB6 1PN	CB326080	Aitch Care Homes (London) Limited
2	Ambleside Lodge, 25 Brighton Road, Salfords, Redhill RH1 5DA	SY387946	Aitch Care Homes (London) Limited
3	Arundel House, 34 Harold Road, Frinton on Sea CO13 9BE	EX39997	Aitch Care Homes (London) Limited
4	Ashford House, Folly House, Bagham Cross, Chilham, Canterbury, Ashford, Kent CT4 8DU	K468971	Aitch Care Homes (London) Limited
5	Beech Trees, 1a Kirkby Road, Woking, Surrey GU21 4RJ	SY278904	Aitch Care Homes (Woking) Limited
6	Bradwell House, 14 Brockhill Road, Hythe CT21 4AQ	K168200	Aitch Care Homes (London) Limited
7	Bridgewater House, Oaklands, 21 Old Roar Road, St Leonards on Sea TN37 7HA	HT19274	Aitch Care Homes (London) Limited
8	Byfield Court, Sheppey Way, Bobbing, Sittingbourne, ME9 8PJ	K424075	Aitch Care Homes (London) Limited
9	Cherrycroft, 59 Crowstone Road, Westcliff-on-Sea, Essex SS0 8BG	EX287020	Aitch Care Homes (London) Limited
10	Cloverdale, 19 Vallance Gardens, Hove, East Sussex BN3 2DB	ESX103944	Aitch Care Homes (London) Limited
11	Combe House, Castle Road, Woking, Surrey GU21 4ET	SY398889	Aitch Care Homes (London) Limited
12	Coneyhurst Lodge, 68 St Lawrence Avenue, Worthing, West Sussex BN14 7JJ	WSX131296	Aitch Care Homes (London) Limited
13	Fleetwood House, 9 Maltravers Drive, Littlehampton, West Sussex BN17 5EY	WSX35578	Aitch Care Homes (London) Limited
14	Harwich, Granville House, 8 Granville Road, Littlehampton,	WSX52403	Aitch Care Homes (London) Limited



No.	Property	Title No.(s)	Owner
	West Sussex BN17 5JU		
15	Ivers, Hains Lane, Marnhull, Sturminster Newton, Dorset DT10 1JU	DT15632	Iver House Limited
16	Kingsdown, 46 Goddington Road, Rochester, Kent ME2 3DE	K584246	Alth Care Homes (London) Limited
17	Lambourne House, 8 Ursula Avenue, Selsey, Chichester, West Sussex PO20 0HT	WSX293522	Alth Care Homes (London) Limited
18	Maldon, Belgrave House, 26 Belgrave Road, Seaford, East Sussex, BN25 2EG	ESX149659	Alth Care Homes (London) Limited
19	Newton House, 404 London Road, Benham Hill, Thatcham, Berkshire, RG18 3AA	BK358314	Alth Care Homes (London) Limited
20	Rosebank Lodge, 82-84 Mitcham Park, Mitcham, CR4 4EJ	SY158520 and SGL239059	Alth Care Homes (London) Limited
21	Sheringham House, 54 Old Road East, Gravesend DA12 1NR	K445443	Alth Care Homes (London) Limited
22	Springfield House, 81 Epple Bay Road, Birchington, CT7 9EW	K196845	Alth Care Homes (London) Limited
23	White Hatch, Oldfield Road, Horley RH6 7EP	SY380548	Alth Care Homes (London) Limited
24	Winchester House, 455 Minster Road, Minster on Sea, Sheerness ME12 3NS	K91346	Alth Care Homes (London) Limited
25	Woodbridge House, 151 Sturdee Avenue Gillingham ME7 2HH	K505335	Alth Care Homes (London) Limited

## Part 2 The Accounts

None specified at this time

**Schedule 3**  
**Security Agent's and Receiver's powers**

**1 Conduct of business**

**(a) Carry on business**

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of a Chargor in all respects and for such purpose to:

- (i) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or
- (ii) acquire any property, chattels, plant, machinery and materials

**(b) Formation of companies**

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases.

**(c) Compromise claims**

To compromise any claim relating to the Charged Assets.

**(d) Borrowing and advancing**

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

**(e) VAT**

To assume and exercise all or any of the power and rights conferred on a Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

**(f) Employees**

To.

- (i) enter into, adopt and/or terminate any contract of employment; and
- (ii) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others

**2 Dealing with a Chargor's assets**

**(a) Possession**

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

**(b) Payments**

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use

(c) Receipts

To give receipts and releases for any sums received.

(d) Carry on works

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.

(e) Assumption of rights

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

(f) Insurance

To effect insurances on such terms as it thinks fit.

(g) Planning permissions and consents

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.

(h) Acquisition of property

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

(i) Negotiation

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

**3 Disposals**

(a) Selling

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:

- (i) for immediate or deferred consideration;
- (ii) in return for a single payment or instalments; and
- (iii) 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.

(b) Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as it thinks fit and:

- (I) with or without any rent, review of rent, fine or premium; and
- (II) whether absolutely or for a term,

and in all cases the terms of which shall bind any subsequent mortgagee.

4 **General**

(a) General powers

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 a Chargor in connection with any of the purposes in this Schedule 3 (*Security Agent's and Receiver's powers*);
- (iii) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (iv) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements

(b) General

All its powers and discretions under this Deed shall be:

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

**Schedule 4  
Notices**

**Part 1**

**Notice of assignment or charge of contract**

**Part A**

From: [Details of Chargor] (the "Chargor")

To: [Details of party to Contract]

Date: [•]

Dear Sirs

**[Description of Relevant Document] (the "Contract")**

We refer to:

- (a) the Contract; and
- (b) a [debenture] (the "**Security Deed**") dated [•] made between the Security Agent (1) and [•] and the Chargor (2)

We give you notice that pursuant to the Security Deed, we have [charged/assigned]<sup>1</sup> all of our present and future right, title, interest and benefit in, under and to the Contract (including all [monies] [rent] payable to us under the Contract) to the Security Agent.

We irrevocably and unconditionally instruct and authorise you:

- (a) to make all payments in connection with the Contract as the Security Agent may direct [Until you are notified otherwise by the Security Agent, the Security Agent directs such sums to be paid to [Insert Chargor bank details]],
- (b) that all our rights in connection with the Contract are exercisable by (or with the consent of) the Security Agent. Until you are notified otherwise by the Security Agent, the Security Agent directs that all such rights powers, discretions and remedies shall continue to be exercisable by us; and
- (c) to disclose any information relating to the Contract which the Security Agent may from time to time request.

No amendment, waiver or release of any right or obligation in connection with the Contract and no termination or rescission of the Contract by us shall be effective without the prior written consent of the Security Agent and in any event no such termination or rescission shall be effective unless you have given notice to the Security Agent.

Notwithstanding anything in this notice or otherwise we (and not the Security Agent nor its appointees) shall be liable under the Contract to perform all the obligations assumed by us under it.

---

<sup>1</sup> Delete as appropriate

Execution copy

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Agent

Signed .....  
For and on behalf of the Chargor

**Part B - Receipt of notice of assignment or charge of Contract**

From: [Details of party to Contract]

To: [Security Agent]  
[Address]

For the attention of [•]

Date: [•]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and further confirm that:

- (a) we have not received notice of any previous assignments or charges of or over the Contract; and
- (b) we agree and will comply with the matters set out in that notice.

Signed ..... ..

For and on behalf of [•]

**Part 2**  
**Notice of account assignment**  
**Part A**

From [Details of Chargor] [(the "Chargor")]  
To: [Details of provider of the relevant Account]

Date: [●]

Dear Sirs

**[Description of relevant Account] (the "Account")**

We refer to the:

- (a) the Account (which expression shall include all monies standing to the credit of such account now or in the future); and
- (b) a [debenture] (the "**Security Deed**") dated [●] made between [●] the Security Agent (1) and [●] and the Chargor (2).

We give you notice that pursuant to the Security Deed, all of our present and future right, title, interest and benefit in, under and to the Account were assigned to the Security Agent

We irrevocably and unconditionally instruct and authorise you:

- (a) not to release any monies from the Account without the prior written consent of the Security Agent;
- (b) that all our rights in connection with the Account are exercisable by (or with the consent of) the Security Agent; and
- (c) to disclose any information relating to the Account which the Security Agent may from time to time request.

By countersigning this letter you confirm that:

- (a) you do not have, and will not make or exercise, any claims or demands, any rights of counterclaim, rights of deduction, set-off or any other equities against us or the Security Agent in respect of the Account; and
- (b) no amendment, waiver or release of any right or obligation in connection with the Account and no termination or rescission of the Account by us shall be effective without the prior written consent of the Security Agent and in any event no such termination or rescission shall be effective unless you have given notice to the Security Agent.

Notwithstanding anything in this notice or otherwise we (and not the Security Agent nor its appointees) shall be liable to perform all the obligations assumed by us in respect of the Account.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.



Execution copy

This letter shall be governed by and construed in accordance with the laws of England

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Agent.

Signed .....  
For and on behalf of the Chargor

**Part B - Receipt of notice of account assignment**

From. [Details of provider of the relevant Account]

To. [Security Agent]  
[Address]

For the attention of [•]

Date: [•]

**[Description of relevant Account]**

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and confirm that.

- (a) we have not received notice of any previous assignments or charges of or over the Account; and
- (b) we agree and will comply with the matters set out in that notice.

Signed .....  
For and on behalf of [•]

**Part 3**  
**Notice of LLP interest charge**

**Part A**

From: [Details of Chargor] (the "**Chargor**")

To [LLP]

Date: [•]

Dear Sirs

**Members' agreement dated [•] made between [Member 1] and [Member 2] as members and [LLP] (the "LLP") as the limited liability partnership (the "Members' Agreement")**

We refer to:

- (a) the Members' Agreement; and
- (b) the debenture (the "**Security Deed**") dated [•] made between, amongst others, the Chargor (1) and [•] (the "**Security Agent**") (2).

We give you notice that pursuant to the Security Deed, we have charged to the Security Agent all of our present and future right, title, interest and benefit in, under and to.

- (a) the Members' Agreement,
- (b) the LLP, its capital and assets (the "**Members' Interests**"), and
- (c) all distributions of profits or capital or of whatsoever nature paid or payable after the date of the Security Deed in respect of the Members' Agreement or all or any of the Members' Interests and any rights, money or property accruing or offered at any time in any manner in respect of the Members' Agreement and the Members' Interests or in substitution or exchange for the Members' Agreement or all or any of the Members' Interests (the "**Related Rights**").

We irrevocably and unconditionally instruct and authorise you:

- (a) to continue to make all payments in connection with the Members' Agreement, the Members' Interests and the Related Rights to us unless and until you receive written notice to the contrary from the Security Agent;
- (b) that all our rights in connection with the Members' Agreement, the Members' Interests and the Related Rights shall continue to be exercisable by us unless and until you receive written notice to the contrary from the Security Agent; and
- (c) to disclose any information relating to the Members' Agreement, the Members' Interests or the Related Rights which the Security Agent may from time to time request.

No amendment, waiver or release of any right or obligation in connection to the Members' Agreement, the Members' Interests or the Related Rights and no

termination or rescission of the Members' Agreement, the Members' Interests or the Related Rights by us shall be effective without the prior written consent of the Security Agent and in any event no such termination or rescission shall be effective unless you have given notice to Security Agent.

Notwithstanding anything in this notice or otherwise we (and not the Security Agent nor its appointees) shall be liable under the Members' Agreement to perform all the obligations assumed by us under it.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Agent, with a copy to us

Signed . . . . .

For and on behalf of the Chargor

Legal 33190865 10/SSHR/22702 00020

**Part B**  
**Receipt of Notice of charge**

From: [LLP]

To: Security Agent  
[Address]

Attn: [•]

Cc: Chargor

Date: [•]

We acknowledge receipt of the notice in the above terms and confirm that:

- (a) we have not received notice of any previous assignments or charges of or over the Members' Agreement, the Members' Interests or the Related Rights; and
- (b) we agree and will comply with the matters set out in that notice.

Signed ..... ..

For and on behalf of [LLP]

Legal 33190865.10/SSHR/22702.00020

## **Schedule 5 Deed of Adherence**

**DATED 20[ ].**

### **PARTIES**

- (1) [•] (a limited liability partnership incorporated and registered in England and Wales under number [•]), the registered office of which is at [•] (the "**LLP**"),
- (2) [•] (registered in England and Wales with number [•]) whose registered office is at [•] and [•] (registered in England and Wales with number [•]) whose registered office is at [•] (the "**Existing Members**");
- (3) The incoming member(s) specified in the schedule to this Deed (the "**Further Member(s)**").

### **BACKGROUND**

By a Limited Liability Partnership Agreement dated [•] (the "**LLP Agreement**") the Members (as defined in that agreement) agreed to regulate their relations as Members of the LLP.

### **IT IS AGREED AS FOLLOWS:**

#### **1 INTERPRETATION**

Save where the context otherwise requires, the words and expressions used in this Deed shall have the meanings respectively assigned to them in the LLP Agreement.

#### **2 ADHERENCE TO LLP**

Each Further Member or the Further Member (as the case may be) covenants with the Members for the time being to observe and perform the terms and conditions of the LLP Agreement on terms that it shall become a Further Member under the LLP Agreement with effect from the date of this Deed.

#### **3 RESIGNATION OF EXISTING MEMBERS**

The Existing Members with effect from the date of this Deed resign as Members of the LLP

#### **4 SUPPLEMENTAL**

- 4 1 This Deed shall be supplemental to and read together with the LLP Agreement
- 4 2 The provisions of clauses [•] to [•] (inclusive) of the LLP Agreement shall apply as if set out in full in this Deed.
- 4 3 For the purposes of clause [•] of the LLP Agreement, the address for service of any Further Member shall be the address stated against its name in the schedule to this Deed of Adherence, subject to notification of a change of address by the (relevant) Further Member to the Designated Members in accordance with that clause.

Draft (1) 02 12 11

Legal 33190865 10/SSHR/22702.00020

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

Legal.33190865.10/SSHR/22702.00020

**Schedule 6  
Transfer**

**DATED**

[•]

**PARTIES**

- 1 *Transferor* [•] (company no. [ ]) whose registered office is at [•]
- 2 *Transferee* [•]

1 **RECITAL**

The Transferor has agreed to transfer its interest in [•] LLP (registered number [•]) (the "Partnership") to the Transferee.

2 **OPERATIVE PROVISIONS:**

- 1 In consideration of the payment by the Transferee to the Transferor of the sum of £ (receipt of which is hereby confirmed by the Transferor), the Transferor hereby transfers to the Transferee with full title guarantee and free from all encumbrances the Transferor's interest in the Partnership.
- 2 The transfer effected in the terms of clause 1 above shall take effect on the execution and delivery of this Deed by the relevant parties
- 3 This Deed may be executed in counterparts each of which shall be deemed to be an original hereof
- 4 The transfer shall be governed by and construed in accordance with the laws of England and Wales.

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



## Chargors

Executed as a deed by **AITCH CARE  
HOMES (LONDON) LIMITED**  
acting by:

)  
)  
)  
[Redacted]

Director

Director/Secretary

Executed as a deed by <sup>AITCH CARE HOMES</sup>  
(member) and <sup>(LONDON) LIMITED</sup>  
<sup>KTN ALMAYER LIMITED</sup>  
(member) for and on behalf of **ACH OF**  
**LONDON LLP** acting by:

)  
)  
)  
)  
[Redacted]

Signature:

[Redacted]

Name: <sup>AS</sup> *[Signature]* **TAYANIE NASENDAN**  
Title:

Duly authorised for and on behalf of **AITCH CARE HOMES (LONDON) LIMITED**

Signature:

[Redacted]

Name:

*KATHAN NASENDAN*

Title:

Duly authorised for and on behalf of **KTN ALMAYER LIMITED**

Signature:

Name:

Title:

Duly authorised for and on behalf of

Signature:

Name:

Title:

Duly authorised for and on behalf of

Executed as a deed by **AITCH CARE  
HOMES (WOKING) LIMITED**  
acting by:

)  
)  
)  
[Redacted]

Director

Director/Secretary

[Redacted]

Executed as a deed by **IVER HOUSE  
LIMITED**  
acting by:

)  
)  
)

Director

Director/Secretary

Address for notices (for all Chargors):  
E-mail:  
Att:

**Security Agent**

**MACQUARIE BANK LIMITED (LONDON BRANCH)**

By

Address  
Fax  
Attn:

Executed as a deed by **IVER HOUSE**  
**LIMITED**  
acting by.

)  
)  
)

Director

Director/Secretary

Address for notices (for all Chargors):  
E-mail:  
Att:

**Security Agent**

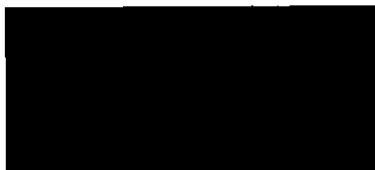
**MACQUARIE BANK LIMITED (LONDON BRANCH)**

By

Address:  
Fax  
Attn



**Neil Hasson**  
Senior Managing Director



**Kenneth Pippin**  
Legal Counsel/Attorney