



Registration of a Charge

Company name: **AUDLEY COURT LIMITED**

Company number: **05160167**



X8ZOR5QG

Received for Electronic Filing: **27/02/2020**

Details of Charge

Date of creation: **20/02/2020**

Charge code: **0516 0167 0018**

Persons entitled: **LASALLE INVESTMENT MANAGEMENT**

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: **BRYAN CAVE LEIGHTON PAISNER**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5160167

Charge code: 0516 0167 0018

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th February 2020 and created by AUDLEY COURT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th February 2020 .

Given at Companies House, Cardiff on 28th February 2020

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 20 February 2020

The Parties at Schedule 1
as Chargors

LASALLE INVESTMENT MANAGEMENT
as Security Agent

THIRD PARTY SECURITY AGREEMENT

in respect of a collaboration agreement originally dated 23 December 2016 (as amended or varied from time to time)

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.

Bryan Cave Leighton Paisner LLP
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Contents

Clause	Name	Page
1	Definitions and interpretation.....	1
2	Covenant for payment.....	4
3	Security.....	5
4	Perfection of security.....	5
5	Representations.....	5
6	Covenants	7
7	Rights of enforcement.....	8
8	Application of receipts.....	10
9	Notices.....	11
10	Electronic communication	11
11	Discharge	12
12	Assignment and transfer.....	12
13	General provisions.....	12
14	Law and jurisdiction	17
Schedule	Name	Page
1	Chargors.....	18
2	Security Agent's and Receiver's powers	19
3	Notices	21
3	Part 1 Notice of assignment or charge of Contract.....	21
Execution Page		24

DATED 20 February 2020

PARTIES

- (1) **THE PARTIES** listed in Schedule 1 (*Chargors*) (the "**Chargors**")
- (2) **LASALLE INVESTMENT MANAGEMENT** as security trustee for the Secured Parties (the "**Security Agent**")

BACKGROUND

- (A) The Secured Parties have agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrowers and/or others on the security created by this Deed.
- (B) Each Chargor has agreed to charge 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:

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

"**Borrowers**" means Sunningdale Park Trustees I Limited and Sunningdale Park Trustees II Limited in their capacity as joint trustees of the Audley Sunningdale Park Unit Trust (the "**Sunningdale Borrower**") and Audley Stanbridge Earls Limited (the "**Stanbridge Earls Borrower**").

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

"**Collaboration Agreement**" means a collaboration agreement dated 23 December 2016 made between Berkeley Homes (Oxford and Chiltern) Limited (1) and the Chargors (2) as amended and varied by supplemental agreements dated 22 February 2017 and 8 November 2019 both made between the same parties, and a further variation agreement dated 06 February 2020 entered into by the same parties, and as assigned by the Chargors to the Sunningdale Borrower pursuant to the Collaboration Agreement Assignment Deed.

"**Collaboration Agreement Assignment Deed**" means a deed of assignment of the Collaboration Agreement between the Chargors and the Sunningdale Borrower to be entered into in the agreed form and supplied to the Agent as a condition precedent to the Tranche D1 Utilisation Date under the Facility Agreement.

"**Facility Agreement**" means an up to £106,000,000 facility agreement dated 06 February 2020 and made between amongst others the Security Agent (1) and the Borrowers (2) 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.

"Group" means the Unitholders and their Subsidiaries for the time being.

"Party" means a party to this Deed.

"Receiver" means a receiver 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).

"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) the Collaboration Agreement; and
- (b) the Collaboration Agreement Assignment Deed

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

"Relevant Jurisdiction" means, in relation to a Chargor:

- (a) its Original Jurisdiction;
- (b) England and Wales; and
- (c) any jurisdiction where it conducts its business.

"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 Transaction Obligor to any Secured Party under each Finance Document.

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

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

"Subsidiary" means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50% of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise and, in respect of any entity incorporated or established in Jersey, means a subsidiary within the meaning of articles 2 and 2A of the Companies (Jersey) Law 1991).

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

"Unitholders" means each of:

- (a) ReLF Audley Retirement Living LLP (registered number OC427990) whose registered office is at 65 High Street, Egham, Surrey, TW20 9EY; and
- (b) ReLF Audley Retirement Living II LLP (registered number OC427993) whose registered office is at 65 High Street, Egham, Surrey, TW20 9EY.

"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 (including, without limitation, goods and services tax as provided for under the Goods and Services Tax (Jersey) Law 2007).

1.2 Construction

1.2.1 Unless the contrary intention is expressed, all defined terms in the Facility Agreement have the same meaning here.

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 Unless the contrary intention appears, references in this Deed to:

- (a) **"insolvency"** include any of the following or any steps in relation to the following:
 - (i) any insolvency, bankruptcy, liquidation, reorganisation, administration, receivership or dissolution;
 - (ii) any voluntary arrangement or assignment for the benefit of creditors; or
 - (iii) any similar or analogous event in any jurisdiction whatsoever; and
- (b) any share or other security or investment include:

- (i) any dividend, interest of other distribution paid or payable;
- (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

in each case in respect of that share or other security or investment.

1.2.4 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.

1.2.5 Clause 29 (Application of proceeds) and clause 33 (Set-off) of the Facility Agreement are incorporated in this Deed in each case as if set out in full and with necessary changes.

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 Chargors have an interest in the same Asset then:

- (a) such of them as have a joint interest in the same Asset shall be deemed to have jointly mortgaged, charged or assigned, as appropriate, their joint interest in the relevant Asset;
- (b) each such Chargor shall be deemed to have mortgaged, charged or assigned, as appropriate, its individual interest (if any) in the relevant Asset;
- (c) each such Chargor shall be deemed to have confirmed the Security granted by the others;
- (d) the power of attorney granted under Clause 7.7 (*Power of attorney*) in relation to such Asset shall be deemed to have been granted and ratified by such of the Chargors as have a joint interest in such Asset; and

for, the purposes of this Clause 1.4 (*Joint and several Chargors*), "**Asset**" means any asset, property, undertaking or interest.

2 **COVENANT FOR PAYMENT**

2.1 **Covenant to pay**

Subject to Clause 13.2 (*Limited recourse*) each Chargor covenants with the Security Agent that it will:

- (a) on written demand, pay and discharge each and all of the Secured Liabilities when due; and
- (b) 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 **Fixed charge**

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

- (a) its interest in the Relevant Contracts; and
- (b) all Related Rights in respect of the above.

4 **PERFECTION OF SECURITY**

4.1 **Further assurance**

Each Chargor shall execute and do at its own cost:

- (a) such further additional mortgages, charges, assignments, transfers and conveyances, in such form as is reasonably required by the Security Agent; 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.

4.2 **Notices**

4.2.1 If the Security Agent from time to time so requests, each Chargor shall promptly serve a notice in the form set out in Schedule 3, Part 1 (*Notice of assignment or charge of Contract*) in respect of contracts charged or assigned pursuant to Clause 3 (*Security*) (other than in respect of the Collaboration Agreement).

4.2.2 Each Chargor shall use reasonable endeavours to procure that the party to whom a notice served pursuant to Clause 4.2.1 is addressed promptly completes and returns to the Security Agent an acknowledgement in substantially the form of Part B of the relevant notice or such other form as the Security Agent may agree.

5 **REPRESENTATIONS**

Each Chargor (in respect of itself only) makes the representations and warranties set out in this Clause 5 (*Representations*) to each Secured Party.

5.1 Status

5.1.1 It is a limited liability corporation or company, duly incorporated or established and validly existing under the law of its jurisdiction of incorporation.

5.1.2 It has the power to own its assets and carry on its business as it is being conducted.

5.2 Binding obligations

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations and the Perfection Requirements, legal, valid, binding and enforceable obligations.

5.3 Non-conflict with other obligations

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;
- (b) its constitutional documents or any conditions of its Authorisations; or
- (c) 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.

5.4 Power and authority

5.4.1 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.

5.4.2 No limit on its powers will be exceeded as a result of the grant of Security contemplated by this Deed.

5.5 Validity and admissibility in evidence

5.5.1 Subject to the Legal Reservations and Perfection Requirements, all Authorisations required:

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

have been obtained or effected and are in full force and effect.

5.6 No proceedings

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, 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 (having made due and careful enquiries)) been started or threatened in writing against it.

5.7 **Solvency**

No step has been taken for its insolvency.

5.8 **Legal and beneficial ownership**

Subject to the Legal Reservations and the Perfection Requirements, 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.

5.9 **Effective Security**

Subject to the Legal Reservations and the Perfection Requirements, this Deed is an effective Security over the Charged Assets.

5.10 **No breach**

As at the date of this Deed, there is no outstanding breach of any term of any Relevant Contract.

5.11 **Information**

5.11.1 The written factual information supplied by it or on its behalf to any Finance Party in connection with the Relevant Contracts was true and accurate in all material respects as at the date it was provided or as at any date at which it was stated to be given.

5.11.2 The written information in connection with the Relevant Contracts supplied by it or on its behalf to the lawyers who prepared the Property Reports for the purpose of each Property Report was true and accurate in all material respects as at the date of the relevant Property Report or (if appropriate) as at the date (if any) at which it is stated to be given.

5.11.3 The information referred to in Clause 5.11.1 and Clause 5.11.2 was at the date it was expressed to be given complete and did not omit any information which, if disclosed would make that information untrue or misleading in any material respect as at the date the information was provided or as at the date at which it was stated to be given.

5.11.4 As at the date of this Deed, nothing has occurred since the date of any information referred to in Clause 5.11.1 and Clause 5.11.2 which, if disclosed, would make that information untrue or misleading in any material respect.

5.12 **Repetition**

The representations and warranties set out in this Clause 5 (*Representations*) are made by each Chargor on the date of this Deed and in addition are deemed to be made by each Chargor by reference to the facts and circumstances then existing on the date of each Utilisation Request, on each Utilisation Date and the first day of each Interest Period.

6 **COVENANTS**

Each Chargor gives the undertakings in this Clause 6 (*Covenants*) which remain in force from the date of this Deed until this Deed is discharged.

6.1 **Information**

It shall as soon as reasonably practicable and in any event within five Business Days of written demand supply to the Agent and the Security Agent (in sufficient copies for all the Secured Parties, if the Agent or the Security Agent so requests) such information regarding its financial condition, business and operations as any Secured Party (through the Agent or the Security Agent) may reasonably request.

6.2 **Negative pledge**

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

6.3 **Disposals**

It shall not sell, lease, transfer or otherwise dispose of any Charged Asset except as expressly permitted under a Finance Document.

6.4 **Relevant Contracts**

6.4.1 Each Chargor must:

- (a) perform all its obligations under each Relevant Contract including paying all sums due under it;
- (b) take all steps available to it to procure the prompt performance by the other parties of their obligations under it; and
- (c) not, without the prior written consent of the Security Agent, take any steps to, or agree to:
 - (i) amend, extend, terminate, cancel, modify, rescind, release, vary or waive any terms of any Relevant Contract;
 - (ii) surrender, assign or otherwise dispose of any Relevant Contract; nor
 - (iii) any change of party to any Relevant Contract.

6.4.2 The Chargors shall promptly supply to the Security Agent a copy of any document relating to any of the matters referred to in Clause 6.4.1.

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 which is continuing; or
- (b) at the Security Agent's discretion, at the request of a Chargor.

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 or Receivers 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
- (b) to appropriate any Charged Assets in accordance with Clause 7.3 (*Right of appropriation*).

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 2 (*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 Secured 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 any Receiver.

7.5 **Receivers' joint and several powers**

Where more than one Receiver is appointed under this Deed, they shall have power to act separately unless the Security Agent in the appointment specifies to the contrary.

7.6 **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.

7.7 **Power of attorney**

7.7.1 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 necessary for perfecting, maintaining, preserving, enhancing or enforcing the security in respect of the Relevant Contracts and Related Rights 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.

7.7.2 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.

7.7.3 The power of attorney granted by this Clause 7.7 (*Power of attorney*) shall be exercisable on an Event of Default which is continuing or where a Chargor has failed to do something it is required to do under the terms of the Finance Documents (following the expiry of any applicable grace periods).

8 **APPLICATION OF RECEIPTS**

8.1 **Priority of payment**

Subject to sums secured by Security having priority to the Security created by this Deed, all monies received by the Security Agent and/or any Receiver pursuant to or in the enforcement of this Deed shall be held by the Security Agent and applied 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 ELECTRONIC COMMUNICATION

10.1 Any communication to be made between any two Parties under or in connection with this Deed may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

10.2 Any such electronic communication as specified in Clause 10.1 to be made between a Chargor and the Security Agent may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.

10.3 Any such electronic communication as specified in Clause 10.1 made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Chargor to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

10.4 Any electronic communication which becomes effective, in accordance with Clause 10.3, after 5.00 pm in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

10.5 Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 10 (*Electronic communication*).

11 **DISCHARGE**

11.1 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 reasonable cost of the Chargors, discharge this Deed and execute and deliver such documents necessary to release the Charged Assets from the Security created by this Deed.

11.2 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.

12 **ASSIGNMENT AND TRANSFER**

12.1 **Assignment by the Chargors**

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

12.2 **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.

13 **GENERAL PROVISIONS**

13.1 **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.

13.2 **Limited recourse**

13.2.1 The Chargors' liability under this Deed shall be limited to the proceeds of realisation of the Charged Assets.

13.2.2 The Security Agent agrees that its rights of enforcement in respect of the Secured Liabilities and of all other amounts outstanding under this Deed against each Chargor shall be limited to the rights of enforcement or recovery against the Charged Assets.

13.3 **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.

13.4 **Merger**

This Deed is in addition to, and will not merge in or in any way be prejudiced or affected by the Security Agent taking or holding or releasing, any other Security at any time, and likewise any such other Security is in addition to and will not merge in or in any way be prejudiced or affected by this Deed.

13.5 **Prior security**

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 pass 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.

13.6 **No liability in relation to Charged Assets**

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.

13.7 **Tacking**

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

13.8 **New accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security or disposed of (other than a disposal expressly permitted by the terms of the Facility Agreement):

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

13.9 **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.

13.10 **Expenses**

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

13.11 **Rights of third parties**

- 13.11.1 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.

- 13.11.2 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.

13.12 **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.

13.13 **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.

13.14 **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.

13.15 **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.

13.16 **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 13.16 (*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.

13.17 **Chargor intent**

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.

13.18 **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.

13.19 **Deferral of Chargors' rights**

13.19.1 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.

13.19.2 If any Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 13.19.1 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*).

14 **LAW AND JURISDICTION**

14.1 **Governing law**

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

14.2 **Jurisdiction of English courts**

14.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with this Deed) (a "**Dispute**").

14.2.2 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.

14.2.3 Notwithstanding Clause 14.2.1, 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.

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

Schedule 1
Chargors

Chargors	Jurisdiction of incorporation	Registered number
Audley Sunningdale Park Limited	England & Wales	10471192
Audley Court Limited	England & Wales	05160167

Schedule 2

Security Agent's and Receiver's powers

1 Conduct of business

(a) Collection

To get in, collect or otherwise assume control in respect of all or any of the Charged Assets.

(b) Compromise claims

To compromise any claim relating to the Charged Assets.

(c) VAT

To assume and exercise all or any of the powers and rights conferred on a Chargor in respect of its VAT status, liabilities, advantages or arrangements.

(d) 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 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) 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.

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.

4 **General**

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 in respect of the Charged Assets 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 directly relating to the Charged Assets;
- (ii) using the name of a Chargor in connection with any of the purposes in this Schedule 2 (*Security Agent's and Receiver's powers*); and
- (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.

5 **Powers and discretions**

All its powers and discretions under this Deed shall be exercisable:

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

**Schedule 3
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 Security Agreement (the "**Security Deed**") dated [●] 2020 made between the Chargor (1) and LaSalle Investment Management (the "**Security Agent**") (2).

We give you notice that pursuant to the Security Deed, we have [charged/assigned] 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]]; and
- (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.

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 [●]

EXECUTION PAGE

Chargors

Executed as a deed by **AUDLEY
SUNNINGDALE PARK LIMITED**
acting by: *Jon Austin*

)
)
)

Director

WITNESSES
Director/Secretary *Tracy Moore*

Executed as a deed by **AUDLEY COURT
LIMITED**
acting by: *Jon Austin*

)
)

Director

Director/Secretary

WITNESSES
Tracy Moore

Security Agent

LASALLE INVESTMENT MANAGEMENT

By: 

Daniel Pottorff
Authorised Signatory

By: 

Alan Tripp
Authorised Signatory

Address: One Curzon Street, London W1J 5HD

Attention: Head of Loan Asset Management

Email: loanagencylondon@lasalle.com