



**Registration of a Charge**

Company name: **SWAN COMMERCIAL SERVICES LIMITED**

Company number: **06192065**



X8X6BT0H

Received for Electronic Filing: **22/01/2020**

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**Details of Charge**

Date of creation: **10/01/2020**

Charge code: **0619 2065 0005**

Persons entitled: **HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND)**

Brief description: **THE LAND SITUATED AT HIGH STREET, BASILDON, ESSEX SHOWN (1) EDGED RED AND SHADED GREY, (2) EDGED RED AND SHADED MAUVE AND (3) WITHIN THE REDLINE AND SHADED YELLOW, ON THE PLAN AND COMPRISING TITLE NUMBERS EX277921, EX554617, EX105626, EX506820, EX517887, EX520842, EX524475, EX529485, EX605966, EX613389, EX613390, EX627225, EX627933, EX627940, EX696634 AND EX770809, EXCLUDING THOSE PARTS SHADED LIGHT GREEN, SHADED RED AND SHADED DARK GREEN ON THE PLAN.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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 LLP**



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

Company number: 6192065

Charge code: 0619 2065 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th January 2020 and created by SWAN COMMERCIAL SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd January 2020 .

Given at Companies House, Cardiff on 23rd January 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

10 January

~~2019~~ (BLP)  
2020

**SWAN COMMERCIAL SERVICES LIMITED**

and

**HOMES AND COMMUNITIES AGENCY**  
(trading as Homes England)

**SUPPLEMENTAL SECURITY AGREEMENT**

in respect of a debenture dated 26 March 2019 relating to Swan Commercial Services Limited

BRYAN  
CAVE  
LEIGHTON  
PAISNER **BLP**

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

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**DATED**

10 January ~~2019~~ (BCLP)  
2020

**PARTIES**

- (1) **SWAN COMMERCIAL SERVICES LIMITED** (company number 06192065) whose registered office is at Pilgrim House, High Street, Billericay, Essex, CM12 9XY (the "**Chargor**"); and
- (2) **HOMES AND COMMUNITIES AGENCY** (trading as Homes England) of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington, England, WA3 7QH ("**Homes England**").

**BACKGROUND**

- (A) This Deed is supplemental to the debenture dated 26 March 2019 between the Chargor and Homes England (the "**SCS Debenture**").
- (B) The Chargor enters into this Deed to, *inter alia*, charge by way of legal mortgage the Property in favour of Homes England on the terms described below.
- (C) It is intended by the parties to this document that it will take effect as a deed.

**OPERATIVE PROVISIONS**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

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

"**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.

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

"**Facility Agreement**" means a facility agreement dated 31 January 2019 and made between amongst others Homes England (1) and the Chargor (2) and any agreement entered into under or supplemental to it or amending, restating or novating it.

"**Insurances**" means any policy of insurance in which the Chargor may at any time have an interest relating to any Charged Property.

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

- (a) any stocks, shares (including all shares in any residents' or management company connected with the Property), bonds, units or any form of loan or other capital of or in any legal entity; and
- (b) any warrant or other right to acquire any such investment,

in each case, which relates solely to the Charged Property and including any income, offer, right or benefit in respect of any such investment.

**"Lease Document"** means:

- (c) an Agreement for Lease;
- (d) an Occupational Lease; or
- (e) any other document designated as such by Homes England and the Chargor,

and which relates to the Charged Property.

**"Plan"** means the plan of the Property set out in Schedule 1, Part 2 (*Plan*).

**"Property"** means each property details of which are set out in Schedule 1, Part 1 (*Property Description*), 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.

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

- (a) the Development Documents;
- (b) each contract in respect of any disposal of any Charged Property;
- (c) each Lease Document;
- (d) any managing agent's agreement relating to the Charged Property; and
- (e) all other agreements, in which the Chargor has an interest relating to the Charged Property,

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

**"Rental Income"** means (if relevant) the aggregate of all amounts (excluding the premium received from the grant of a long lease) paid or payable to or for the benefit of the Chargor in respect of or arising out of the letting, licence, use or occupation of all, any or any part of the Charged Property including each of:

- (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 the Chargor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the whole or any part of the Property and any fixture and fitting on the Property including any fixture or fitting on such 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, waiver, extension or release of any Occupational Lease;
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Occupational Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Occupational Lease; and
- (i) 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 any another person) by the Chargor,

but excluding any Tenant Contributions.

## 1.2 **Construction**

- 1.2.1 Unless the contrary intention is expressed, all defined terms in the SCS Debenture have the same meaning here with all necessary modifications and as if they were set out here in full.
- 1.2.2 The construction provisions set out at Clause 1.2 (*Interpretation*) 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 (including any terms incorporated by virtue of Clause 1.2.1 hereof) then the relevant term of the Facility Agreement shall prevail.
- 1.2.4 The Chargor gives the same representations and undertakings to Homes England as given by the Borrower on behalf of each Obligor in Clause 3 (*Representations, Warranties and Covenants*) 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 the Chargor (and with all other necessary modifications).

## 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.



## **2 COVENANT FOR PAYMENT**

### **2.1 Covenant to pay**

The Chargor covenants with Homes England that it will:

- (a) on demand, pay and discharge each and all of the Secured Liabilities when due; and
- (b) indemnify and keep Homes England 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 the Chargor to Homes England.

### **2.2 Survival of obligations**

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

## **3 SECURITY**

### **3.1 General**

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

### **3.2 Mortgage**

The Chargor charges by way of legal mortgage:

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

### **3.3 Fixed charge**

#### **3.3.1 The Chargor charges by way of 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 and which relates to the Laindon Site;
- (b) its interest in the Relevant Contracts, to the extent they have not already been charged pursuant to the SCS Debenture;
- (c) 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;
- (d) all easements, licences and other rights, present and future, relating to any Charged Property in which it has an interest;
- (e) the Investments, to the extent they have not already been charged pursuant to the SCS Debenture; and

- (f) all Related Rights in respect of the above and in respect of the properties referred to in Clause 3.2 (*Mortgage*).

### 3.4 **Assignment**

The Chargor assigns by way of security subject to the provisions of Clause 8 (*Discharge*) each of the following including all rights of enforcement of the same:

- (a) all Rental Income present and future;
- (b) the Disposal Proceeds;
- (c) all book debts and other debts, present and future, payable to the Chargor in so far as they relate to any Charged Property;
- (d) all monies payable to it under any Insurances;
- (e) the benefit of the copyright and similar rights vested in it, present and future, in connection with any Charged Property;
- (f) all causes of action and other rights and remedies in which it has an interest at any time in connection with any Charged Property;
- (g) the benefit of any monies paid or payable to it from time to time by way of compensation, endowment, gift, grant or otherwise in connection with any Charged Property;
- (h) its interest from time to time in any VAT recoveries relating to any Charged Property; and
- (i) all Related Rights in respect of the above.

### 3.5 **Application of charges**

The charges created under this Deed expressed to be fixed charges shall only apply to the extent that they create fixed security.

## 4 **PERFECTION OF SECURITY**

### 4.1 **Further assurance**

The Chargor shall execute and do at its own cost and in such form as is reasonably required by Homes England:

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

as Homes England 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 Homes England from time to time so requests, the Chargor shall serve a notice in the form set out in:

- (a) Schedule 2, Part 1 (*Notice of assignment or charge of Contract*) in respect of contracts charged pursuant to Clause 3 (*Security*); and
- (b) Schedule 2, Part 2 (*Notice of assignment of Rent*) in respect of Rental Income assigned pursuant to Clause 3 (*Security*).

4.2.2 The Chargor shall use all reasonable endeavours to ensure that the party to whom a notice served pursuant to Clause 4.2.1 is addressed completes and returns to Homes England an acknowledgement in the form of Part B of the relevant notice.

## 4.3 Restriction

4.3.1 The Chargor authorises Homes England 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 titles of the Charged Property:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Homes and Communities Agency referred to in the Charges Register (or its conveyancer)."*

4.3.2 The Chargor authorises Homes England to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estates.

## 5 RESTRICTIONS ON DEALINGS

### 5.1 Security

Except as expressly allowed under the Facility Agreement, the SCS Debenture or this Deed, the Chargor must not create or permit to subsist any Security on any of its Charged Assets.

### 5.2 Disposals

Except as expressly allowed under the Facility Agreement, the SCS Debenture or this Deed, the Chargor must not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any of its Charged Assets.

## 6 RIGHTS OF ENFORCEMENT

### 6.1 Enforcement and Homes England's and Receiver's rights and powers

Each of the Chargor and Homes England agree that Clause 7.1 to Clause 7.6 (inclusive) and Schedule 2 (*Homes England's and the Receiver's Powers*) of the SCS Debenture shall apply *mutatis mutandis* to the Charged Property, to the extent applicable.

## **6.2 Power of attorney**

- 6.2.1 The Chargor by way of security irrevocably appoints Homes England 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 Homes England 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 the Chargor's obligations in connection with this Deed.
- 6.2.2 The 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 CONFIRMATION**

The Chargor confirms that any security or guarantee created or given by it under the Finance Documents will continue in full force and effect.

## **8 DISCHARGE**

- 8.1 If Homes England is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, Homes England will, at the request and cost of the Chargor, discharge this Deed.
- 8.2 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.

## **9 GENERAL PROVISIONS**

Clause 9 (*General provisions*) of the SCS Debenture is incorporated in this Deed as if set out in full and shall apply *mutatis mutandis* to the Charged Property.

## **10 FINANCE DOCUMENT**

This Deed is designated a Finance Document.

## **11 LAW AND JURISDICTION**

### **11.1 Governing law**

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

### **11.2 Jurisdiction of English courts**

- 11.2.1 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**").
- 11.2.2 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.

11.2.3 Notwithstanding Clause 11.2.1, Homes England shall not 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.

11.3 **Benefit of Homes England**

This Clause 11 (*Law and jurisdiction*) is for the benefit of Homes England only. As a result Homes England will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Homes England may take concurrent proceedings in any number of jurisdictions.

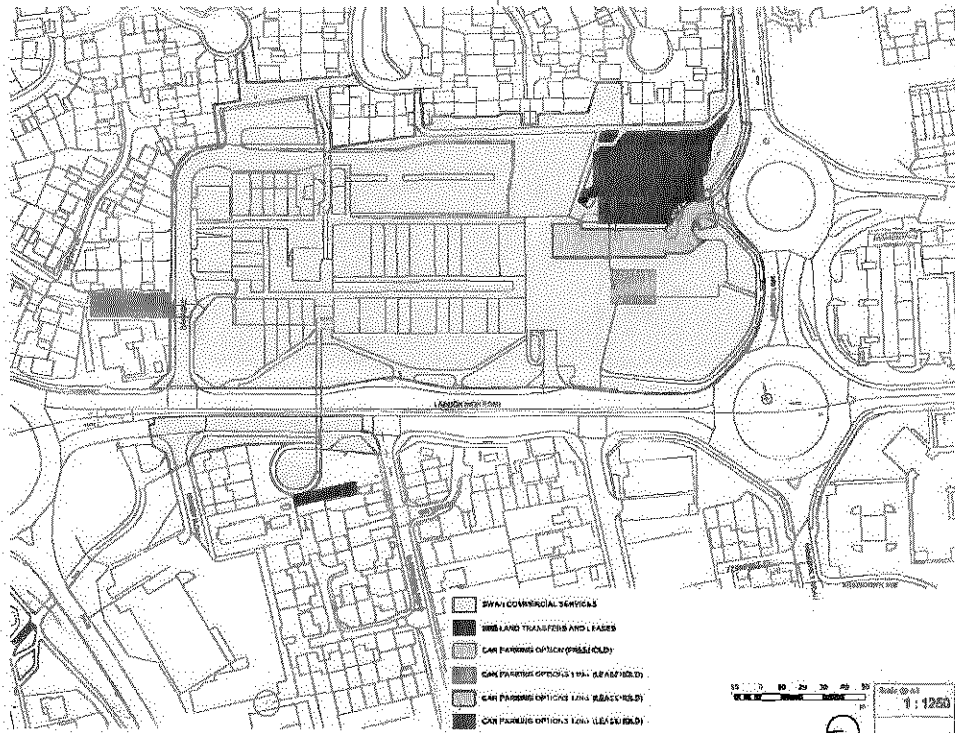
**This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.**

**Schedule 1  
The Properties**

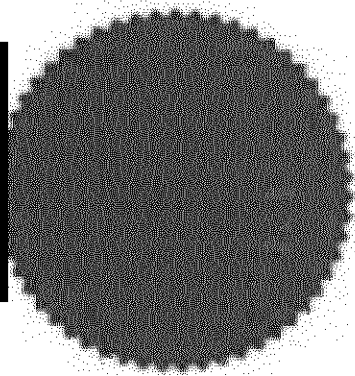
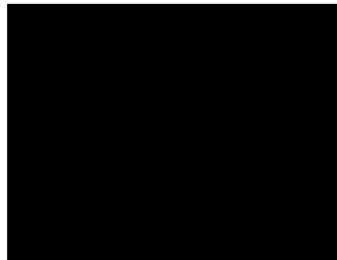
**Part 1  
Property Description**

The land situate at High Street, Basildon, Essex shown (1) edged red and shaded grey, (2) edged red and shaded mauve and (3) within the redline and shaded yellow, on the Plan and comprising title numbers EX277921 , EX554617, EX105626, EX506820, EX517887, EX520842, EX524475, EX529485, EX605966, EX613389, EX613390, EX627225, EX627933, EX627940, EX696634 and EX770809 to the extent so delineated, but excluding those parts shaded light green, shaded red and shaded dark green on the Plan.

## Part 2 Plan



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**Schedule 2  
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 [●] made between the Chargor (1) and [●] ("**Homes England**") (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 Homes England.

We irrevocably and unconditionally instruct and authorise you:

- (a) to make all payments in connection with the Contract as Homes England may direct. [Until you are notified otherwise by Homes England, Homes England 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) Homes England. [Until you are notified otherwise by Homes England, Homes England 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 Homes England 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 Homes England and in any event no such termination or rescission shall be effective unless you have given notice to Homes England.

Notwithstanding anything in this notice or otherwise we (and not Homes England 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 Homes England 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 Homes England.

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: Homes England  
7th Floor, Windsor House  
50 Victoria Street  
London SW1 H0TL

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 assignment of Rent**

**Part A**

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

To: [Details of tenant]

Date: [●]

Dear Sirs

**[Description of Relevant Occupational Lease] (the "Occupational Lease")**

We refer to:

the Occupational Lease; and

security agreement (the "**Security Deed**") dated [●] made between the Chargor (1) and Homes and Communities Agency (trading as Homes England) ("**Homes England**") (2).

We give you notice that pursuant to the Security Deed, we have assigned all of our present and future right, title, interest and benefit in and to the Rent to Homes England.

In this notice:

**"Rent"** means all sums paid or payable arising from the Occupational Lease, including, without limitation:

- (a) rents and equivalent sums reserved or made payable;
- (b) proceeds of insurance in respect of loss of rent or interest on rent;
- (c) receipts from or the value of consideration given for the grant, surrender, amendment, supplement, waiver, extension or release of the Occupational Lease;
- (d) any service charge payments;
- (e) proceeds paid for a breach of covenant or dilapidations under the Occupational Lease and for expenses incurred in relation to any such breach;
- (f) any contribution to a sinking fund paid under the Occupational Lease;
- (g) any contribution to ground rent due under any lease out of which the Chargor derives its interest;
- (h) interest, damages or compensation in respect of any of the items in this definition; and
- (i) any amount which represents VAT chargeable in respect of any such sum.

We irrevocably instruct and authorise you notwithstanding any previous instructions which we may have given to you to the contrary to pay all Rent to our account at [ ] (Account No. [ ]) under reference [ ] or to such other account and/or bank as may from time to time be notified to you by Homes England and otherwise to act in accordance with the instructions of Homes England in connection with the Rent.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and Homes England 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 Homes England.

Signed

For and on behalf of the Chargor

**Part B – Receipt of notice of assignment of Rent**

From: [Details of party to Occupational Lease]

To: Homes England  
7th Floor, Windsor House  
50 Victoria Street  
London SW1 H0TL

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 confirm that:

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

Signed

For and on behalf of [●]

**EXECUTION PAGE**

**Chargor**

Executed as a deed by **SWAN  
COMMERCIAL SERVICES LIMITED**  
acting by \_\_\_\_\_ in the  
presence of \_\_\_\_\_

(BCLP)

Signature of witness:

Name:

Address:

Occupation:

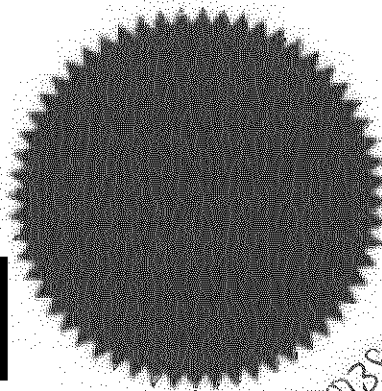
**Homes England**

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

Authorised Signatory

Print name:

Rehanna Chaudhri  
Head of Loan Sales  
Origination



D20138

DATED

10 January ~~2019~~ 2020 (BLP)

**SWAN COMMERCIAL SERVICES LIMITED**

and

**HOMES AND COMMUNITIES AGENCY**  
(trading as Homes England)

**SUPPLEMENTAL SECURITY AGREEMENT**

in respect of a debenture dated 26 March 2019 relating to Swan Commercial Services Limited

BRYAN  
CAVE  
LEIGHTON  
PAISNER 

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



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DATED 10 January 2019 (BAP)  
2020

## PARTIES

- (1) **SWAN COMMERCIAL SERVICES LIMITED** (company number 06192065) whose registered office is at Pilgrim House, High Street, Billericay, Essex, CM12 9XY (the "**Chargor**"); and
- (2) **HOMES AND COMMUNITIES AGENCY** (trading as Homes England) of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington, England, WA3 7QH ("**Homes England**").

## BACKGROUND

- (A) This Deed is supplemental to the debenture dated 26 March 2019 between the Chargor and Homes England (the "**SCS Debenture**").
- (B) The Chargor enters into this Deed to, *inter alia*, charge by way of legal mortgage the Property in favour of Homes England on the terms described below.
- (C) It is intended by the parties to this document that it will take effect as a deed.

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

- (a) any stocks, shares (including all shares in any residents' or management company connected with the Property), bonds, units or any form of loan or other capital of or in any legal entity; and
- (b) any warrant or other right to acquire any such investment,

in each case, which relates solely to the Charged Property and including any income, offer, right or benefit in respect of any such investment.

**"Lease Document"** means:

- (c) an Agreement for Lease;
- (d) an Occupational Lease; or
- (e) any other document designated as such by Homes England and the Chargor,

and which relates to the Charged Property.

**"Plan"** means the plan of the Property set out in Schedule 1, Part 2 (*Plan*).

**"Property"** means each property details of which are set out in Schedule 1, Part 1 (*Property Description*), 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.

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

- (a) the Development Documents;
- (b) each contract in respect of any disposal of any Charged Property;
- (c) each Lease Document;
- (d) any managing agent's agreement relating to the Charged Property; and
- (e) all other agreements, in which the Chargor has an interest relating to the Charged Property,

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

**"Rental Income"** means (if relevant) the aggregate of all amounts (excluding the premium received from the grant of a long lease) paid or payable to or for the benefit of the Chargor in respect of or arising out of the letting, licence, use or occupation of all, any or any part of the Charged Property including each of:

- (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 the Chargor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the whole or any part of the Property and any fixture and fitting on the Property including any fixture or fitting on such 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, waiver, extension or release of any Occupational Lease;
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Occupational Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Occupational Lease; and
- (i) 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 any another person) by the Chargor,

but excluding any Tenant Contributions.

## 1.2 **Construction**

- 1.2.1 Unless the contrary intention is expressed, all defined terms in the SCS Debenture have the same meaning here with all necessary modifications and as if they were set out here in full.
- 1.2.2 The construction provisions set out at Clause 1.2 (*Interpretation*) 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 (including any terms incorporated by virtue of Clause 1.2.1 hereof) then the relevant term of the Facility Agreement shall prevail.
- 1.2.4 The Chargor gives the same representations and undertakings to Homes England as given by the Borrower on behalf of each Obligor in Clause 3 (*Representations, Warranties and Covenants*) 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 the Chargor (and with all other necessary modifications).

## 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.

## **2 COVENANT FOR PAYMENT**

### **2.1 Covenant to pay**

The Chargor covenants with Homes England that it will:

- (a) on demand, pay and discharge each and all of the Secured Liabilities when due; and
- (b) indemnify and keep Homes England 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 the Chargor to Homes England.

### **2.2 Survival of obligations**

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

## **3 SECURITY**

### **3.1 General**

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

### **3.2 Mortgage**

The Chargor charges by way of legal mortgage:

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

### **3.3 Fixed charge**

**3.3.1** The Chargor charges by way of 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 and which relates to the Laindon Site;
- (b) its interest in the Relevant Contracts, to the extent they have not already been charged pursuant to the SCS Debenture;
- (c) 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;
- (d) all easements, licences and other rights, present and future, relating to any Charged Property in which it has an interest;
- (e) the Investments, to the extent they have not already been charged pursuant to the SCS Debenture; and

- (f) all Related Rights in respect of the above and in respect of the properties referred to in Clause 3.2 (*Mortgage*).

### 3.4 **Assignment**

The Chargor assigns by way of security subject to the provisions of Clause 8 (*Discharge*) each of the following including all rights of enforcement of the same:

- (a) all Rental Income present and future;
- (b) the Disposal Proceeds;
- (c) all book debts and other debts, present and future, payable to the Chargor in so far as they relate to any Charged Property;
- (d) all monies payable to it under any Insurances;
- (e) the benefit of the copyright and similar rights vested in it, present and future, in connection with any Charged Property;
- (f) all causes of action and other rights and remedies in which it has an interest at any time in connection with any Charged Property;
- (g) the benefit of any monies paid or payable to it from time to time by way of compensation, endowment, gift, grant or otherwise in connection with any Charged Property;
- (h) its interest from time to time in any VAT recoveries relating to any Charged Property; and
- (i) all Related Rights in respect of the above.

### 3.5 **Application of charges**

The charges created under this Deed expressed to be fixed charges shall only apply to the extent that they create fixed security.

## 4 **PERFECTION OF SECURITY**

### 4.1 **Further assurance**

The Chargor shall execute and do at its own cost and in such form as is reasonably required by Homes England:

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

as Homes England 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 Homes England from time to time so requests, the Chargor shall serve a notice in the form set out in:

- (a) Schedule 2, Part 1 (*Notice of assignment or charge of Contract*) in respect of contracts charged pursuant to Clause 3 (*Security*); and
- (b) Schedule 2, Part 2 (*Notice of assignment of Rent*) in respect of Rental Income assigned pursuant to Clause 3 (*Security*).

4.2.2 The Chargor shall use all reasonable endeavours to ensure that the party to whom a notice served pursuant to Clause 4.2.1 is addressed completes and returns to Homes England an acknowledgement in the form of Part B of the relevant notice.

## **4.3 Restriction**

4.3.1 The Chargor authorises Homes England 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 titles of the Charged Property:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Homes and Communities Agency referred to in the Charges Register (or its conveyancer)."*

4.3.2 The Chargor authorises Homes England to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estates.

## **5 RESTRICTIONS ON DEALINGS**

### **5.1 Security**

Except as expressly allowed under the Facility Agreement, the SCS Debenture or this Deed, the Chargor must not create or permit to subsist any Security on any of its Charged Assets.

### **5.2 Disposals**

Except as expressly allowed under the Facility Agreement, the SCS Debenture or this Deed, the Chargor must not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any of its Charged Assets.

## **6 RIGHTS OF ENFORCEMENT**

### **6.1 Enforcement and Homes England's and Receiver's rights and powers**

Each of the Chargor and Homes England agree that Clause 7.1 to Clause 7.6 (inclusive) and Schedule 2 (*Homes England's and the Receiver's Powers*) of the SCS Debenture shall apply *mutatis mutandis* to the Charged Property, to the extent applicable.

## **6.2 Power of attorney**

6.2.1 The Chargor by way of security irrevocably appoints Homes England 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 Homes England 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 the Chargor's obligations in connection with this Deed.

6.2.2 The 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 CONFIRMATION**

The Chargor confirms that any security or guarantee created or given by it under the Finance Documents will continue in full force and effect.

## **8 DISCHARGE**

8.1 If Homes England is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, Homes England will, at the request and cost of the Chargor, discharge this Deed.

8.2 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.

## **9 GENERAL PROVISIONS**

Clause 9 (*General provisions*) of the SCS Debenture is incorporated in this Deed as if set out in full and shall apply *mutatis mutandis* to the Charged Property.

## **10 FINANCE DOCUMENT**

This Deed is designated a Finance Document.

## **11 LAW AND JURISDICTION**

### **11.1 Governing law**

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

### **11.2 Jurisdiction of English courts**

11.2.1 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**").

11.2.2 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.



11.2.3 Notwithstanding Clause 11.2.1, Homes England shall not 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.

11.3 **Benefit of Homes England**

This Clause 11 (*Law and jurisdiction*) is for the benefit of Homes England only. As a result Homes England will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Homes England may take concurrent proceedings in any number of jurisdictions.

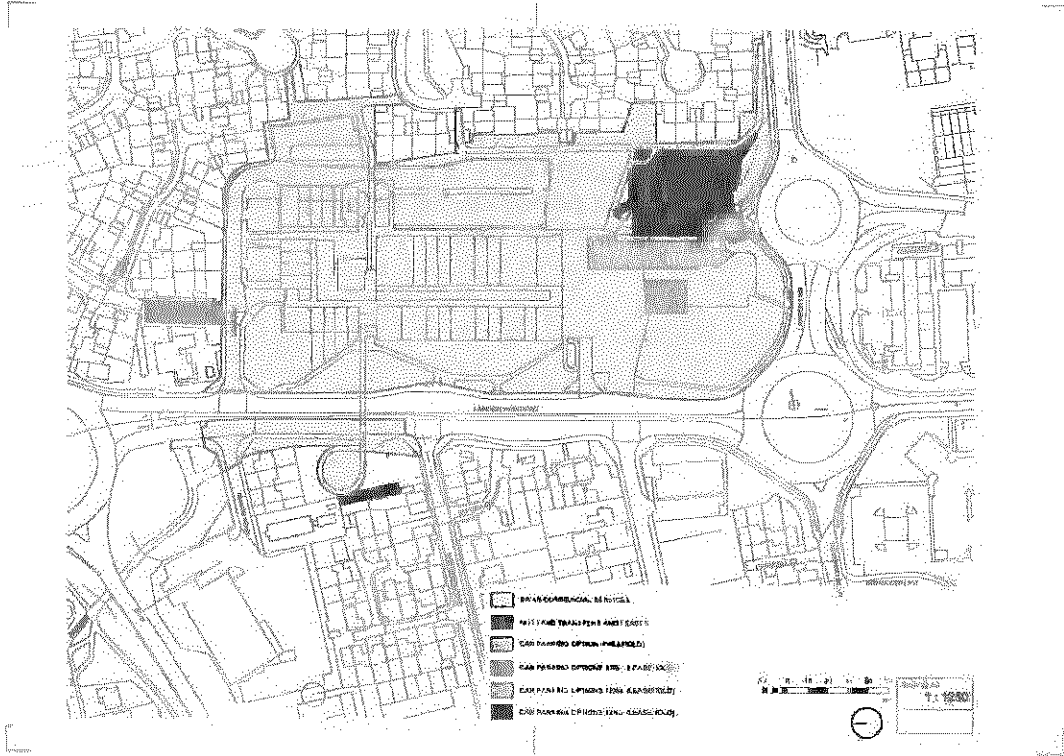
**This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.**

**Schedule 1  
The Properties**

**Part 1  
Property Description**

The land situate at High Street, Basildon, Essex shown (1) edged red and shaded grey, (2) edged red and shaded mauve and (3) within the redline and shaded yellow, on the Plan and comprising title numbers EX277921 , EX554617, EX105626, EX506820, EX517887, EX520842, EX524475, EX529485, EX605966, EX613389, EX613390, EX627225, EX627933, EX627940, EX696634 and EX770809 to the extent so delineated, but excluding those parts shaded light green, shaded red and shaded dark green on the Plan.

## Part 2 Plan



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**Schedule 2**  
**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 [●] made between the Chargor (1) and [●] ("**Homes England**") (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 Homes England.

We irrevocably and unconditionally instruct and authorise you:

- (a) to make all payments in connection with the Contract as Homes England may direct. [Until you are notified otherwise by Homes England, Homes England 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) Homes England. [Until you are notified otherwise by Homes England, Homes England 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 Homes England 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 Homes England and in any event no such termination or rescission shall be effective unless you have given notice to Homes England.

Notwithstanding anything in this notice or otherwise we (and not Homes England 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 Homes England 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 Homes England.

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: Homes England  
7th Floor, Windsor House  
50 Victoria Street  
London SW1 H0TL

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 assignment of Rent**

**Part A**

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

To: [Details of tenant]

Date: [●]

Dear Sirs

**[Description of Relevant Occupational Lease] (the "Occupational Lease")**

We refer to:

the Occupational Lease; and

security agreement (the "**Security Deed**") dated [●] made between the Chargor (1) and Homes and Communities Agency (trading as Homes England) ("**Homes England**") (2).

We give you notice that pursuant to the Security Deed, we have assigned all of our present and future right, title, interest and benefit in and to the Rent to Homes England.

In this notice:

"**Rent**" means all sums paid or payable arising from the Occupational Lease, including, without limitation:

- (a) rents and equivalent sums reserved or made payable;
- (b) proceeds of insurance in respect of loss of rent or interest on rent;
- (c) receipts from or the value of consideration given for the grant, surrender, amendment, supplement, waiver, extension or release of the Occupational Lease;
- (d) any service charge payments;
- (e) proceeds paid for a breach of covenant or dilapidations under the Occupational Lease and for expenses incurred in relation to any such breach;
- (f) any contribution to a sinking fund paid under the Occupational Lease;
- (g) any contribution to ground rent due under any lease out of which the Chargor derives its interest;
- (h) interest, damages or compensation in respect of any of the items in this definition; and
- (i) any amount which represents VAT chargeable in respect of any such sum.

We irrevocably instruct and authorise you notwithstanding any previous instructions which we may have given to you to the contrary to pay all Rent to our account at [ ] (Account No. [ ]) under reference [ ] or to such other account and/or bank as may from time to time be notified to you by Homes England and otherwise to act in accordance with the instructions of Homes England in connection with the Rent.



The instructions and authorisations contained in this letter shall remain in full force and effect until we and Homes England 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 Homes England.

Signed

For and on behalf of the Chargor

**Part B – Receipt of notice of assignment of Rent**

From: [Details of party to Occupational Lease]

To: Homes England  
7th Floor, Windsor House  
50 Victoria Street  
London SW1 H0TL

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 confirm that:

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

Signed

For and on behalf of [•]

EXECUTION PAGE

Chargor

Executed as a deed by **SWAN**  
**COMMERCIAL SERVICES LIMITED**  
acting by  
presence of

in the

Signature of witness:

Name:

LINDA KIRBY

Address:

PILGRIM HOUSE

MUSH STREET

BILLERICAY CM12 9XY.

Occupation:

Asst Company Secretary

Homes England

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

Authorised Signatory

Print name:

