



Registration of a Charge

Company name: **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED**

Company number: **06622231**



X8F5XQRU

Received for Electronic Filing: **01/10/2019**

Details of Charge

Date of creation: **26/09/2019**

Charge code: **0662 2231 0151**

Persons entitled: **HAMBERLEY PROPERTIES (BASINGSTOKE) S.A.R.L.**

Brief description: **THE LAND AT KEMPSHOTT HILL, BASINGSTOKE COMPRISING PART OF THE LAND REGISTERED WITH TITLE NUMBERS HP316366 (FREEHOLD) AND HP454347 (LEASEHOLD) FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **LESTER ALDRIDGE**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6622231

Charge code: 0662 2231 0151

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th September 2019 and created by MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st October 2019 .

Given at Companies House, Cardiff on 2nd October 2019

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

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Dated 26 SEPTEMBER 2019

(1) MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED

as the Chargor

(2) HAMBERLEY PROPERTIES (BASINGSTOKE) S.A.R.L.

as the Chargee

MORTGAGE

relating to the sale and
purchase of freehold property
for the development of
retirement apartments on land known as
Kempshott Island, Winchester Road
Basingstoke, Hampshire

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THIS DEED is dated 26 SEPTEMBER 2019 and made between:

- (1) **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED** a private limited company incorporated under the laws of England and Wales with company number 06622231 and its registered office being at Fourth Floor, 100 Holdenhurst Road, Bournemouth, Dorset, BH8 8AQ (the **Chargor**) in favour of
- (2) **HAMBERLEY PROPERTIES (BASINGSTOKE) S.A.R.L.** a private limited company incorporated under the laws of the Grand Duchy of Luxembourg as a société à responsabilité limitée, registered with the Luxembourg Register of Commerce and Companies (Registre de Commerce et des Sociétés) under number B 203908 and its registered office being at 6 Avenue Pasteur, L-2310 Luxembourg, Grand Duchy of Luxembourg and whose address for service in England and Wales c/o Patron Capital Advisers LLP, One Vine Street, London W1J 0AH (the **Chargee**).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Sale Agreement shall, unless otherwise defined in this Deed, have the same meaning when used in this Deed and in addition:

Act means the Law of Property Act 1925.

Collateral Rights means all rights, powers and remedies of the Chargee provided by or pursuant to this Deed or by law.

Deferred Payment means the sum of £1,000,000 plus any VAT properly payable on that sum payable pursuant to the Sale Agreement.

Disposal or **Dispose** means any sale, transfer or assent or the grant of a lease.

Mortgaged Property means the freehold property, details of which are set out in Schedule 1 to this Deed.

Permitted Disposal means:

- (a) a Disposal, dedication or adoption of any part of the Mortgaged Property or service within it, or any rights over any part of the Mortgaged Property to or in favour of any statutory undertaking, utility company, local authority or similar body for the provisions and adoption of services, sewers or other infrastructure;
- (b) the dedication, adoption or other Disposal of a part or parts of the Mortgaged Property, the grant of rights or easements to the highway or other competent authority for roads, footpaths, cycle ways, together with any ancillary areas and rights, or other highways works relating to the adoption of such roads, footpaths,

cycle ways and such ancillary areas and rights, or other highway works to be carried out pursuant to any Planning Agreement; or

- (c) the Disposal of land intended for use as an electricity substation, transformer chamber, gas governor, pumping station or similar infrastructure

Planning Agreement means any agreement concluded between a party to the Sale Agreement and Planning Authority, the Highways Authority or any statutory undertaker, regulating the development and /or use of the Mortgaged Property, whether or not under section 106 of the Town and Country planning Act 1990, section 38 or section 278 of the Highways Act 1990, section 46 of the Planning and Compulsory Purchase Act 2004.

Planning Authority means the local planning authority.

Receiver means a receiver or a receiver and manager of any or all of the Mortgaged Property.

Related Rights means, in relation to any asset:

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

Sale Agreement means the agreement for sale of the Mortgaged Property dated 27 February 2017 between the Chargor and the Chargee as amended, varied, novated or supplemented from time to time.

Secured Obligations means all obligations covenanted to be discharged by the Chargor in clause 2.1 (*Covenant to pay*).

Working Day means a day (other than a Saturday or a Sunday) upon which banks are generally open for business in the City of London.

1.2 Interpretation

In this Deed:

- 1.2.1 the rules of interpretation contained in clause 1.2 of the Sale Agreement shall apply to the construction of this Deed;
- 1.2.2 any references to the **Chargor** or the **Chargee** shall be construed so as to include its or their (and any subsequent) successors and any permitted transferees in accordance with their respective interests; and

1.2.3 references in this Deed to any clause or Schedule shall be to a clause or schedule contained in this Deed.

1.3 Third party rights

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

1.4 Inconsistency

In the event of any inconsistency arising between any of the provisions of this Deed and the Sale Agreement, the provisions of the Sale Agreement shall prevail.

1.5 Deed

It is intended that this Deed takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

2. PAYMENT OF SECURED OBLIGATION

2.1 Covenant to pay

The Chargor hereby covenants with the Chargee that it shall discharge all obligations, as and when they fall due in accordance with their terms, which the Chargor may at any time have to the Chargee to pay the Deferred Payment in accordance with the Sale Agreement, provided that neither such covenant nor the security constituted by this Deed shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law.

2.2 Default Interest

If the Chargor fails to pay any sum on the due date for payment of that sum, the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment at the rate of 4 per cent. per annum above the base rate for the time being of the Royal Bank of Scotland plc (or such other clearing bank as the Chargee may reasonably specify by written notice to the Chargor) calculated on a daily basis and compounded monthly.

3. FIXED SECURITY

The Chargor hereby charges with full title guarantee in favour of the Chargee for the payment and discharge of the Secured Obligations, by way of a first fixed charge (which, so far as it relates to the Mortgaged Property, shall be a charge by way of legal mortgage) all the Chargor's right, title and interest from time to time in the following assets in each case both present and future:

3.1.1 the Mortgaged Property;

- 3.1.2 any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of the Mortgaged Property; and
- 3.1.3 all Related Rights.

4. PERFECTION OF SECURITY

4.1 Mortgaged Property: delivery of documents of title

The Chargor shall, as soon as reasonably practicable following the execution of this Deed in respect of the Mortgaged Property deliver to the Chargee (or procure delivery of), and the Chargee shall be entitled to hold and retain, all deeds, certificates and other documents of title relating to such property.

4.2 Application to the Land Registry

- 4.2.1 The Chargor consents to an application being made to the Chief Land Registrar to enter the following restriction in the Proprietorship Register of any property which is, or is required to be, registered and which forms part of the Mortgaged Property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of clause 5.2 of a legal charge dated *26 SEPTEMBER 2019* and made between (1) Hamberley Properties (Basingstoke) S.A.R.L. and (2) McCarthy & Stone Retirement Lifestyles Limited have been complied with or that they do not apply to the disposition ".

- 4.2.2 The Chargee will at the Chargor's cost within 10 Working Days of written request together with evidence of a Permitted Disposal send the Chargor a properly executed form DS3 and RX4 in respect of any part of the Mortgaged Property that is subject to a Permitted Disposal.
- 4.2.3 On receipt of the whole of the Deferred Payment the Chargee will immediately apply to the Land Registry to remove the restriction.

4.3 Necessary action

The Chargor shall at its own expense take all such action as is available to it (including making all filings and registrations) as the Chargee, any Receiver or administrator may properly consider expedient for the purpose of the creation, perfection, protection, confirmation or maintenance of any security created or intended to be created in favour of the Chargee or any Receiver appointed by or pursuant to this Deed.

4.4 Consent of third parties

The Chargor shall use all reasonable endeavours to obtain (in form and content reasonably satisfactory to the Chargee) as soon as possible any consents necessary to enable the Mortgaged Property to be the subject of an effective fixed charge and,

immediately upon obtaining any such consent, the Mortgaged Property shall become subject to such security and the Chargor shall promptly deliver a copy of each consent to the Chargee.

4.5 Implied covenants for title

The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

4.6 Value of security

The Chargor shall not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value of the security created or intended to be created by this Deed.

5. NEGATIVE PLEDGE AND DISPOSALS

5.1 Security

The Chargor shall not (and shall not agree to) at any time during the subsistence of this Deed, create or permit to subsist any security over all or any part of the Mortgaged Property.

5.2 No disposal of interests

The Chargor shall not (and shall not agree to) at any time during the subsistence of this Deed, except as permitted pursuant to the Sale Agreement and except by way of a Permitted Disposal:

- 5.2.1** execute any conveyance, transfer, lease or assignment of, or other right to use or occupy, all or any part of the Mortgaged Property; or
- 5.2.2** create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Mortgaged Property; or
- 5.2.3** grant or vary, or accept any surrender, or cancellation or disposal of, any lease, tenancy, licence, consent or other right to occupy in relation to any of the Mortgaged Property, or allow or grant any person any licence or right to use or occupy or to become entitled to assert any proprietary interest in, or right over, the Mortgaged Property, which may, in each case, adversely affect the validity, enforceability or value of any of the Mortgaged Property or the ability of the Chargee to exercise any of the Collateral Rights; or
- 5.2.4** lend or otherwise dispose of, or grant any rights (whether of pre-emption or otherwise) over, all or any part of any Related Rights.

6. MORTGAGED PROPERTY

6.1 General property undertakings

The Chargor shall:

- 6.1.1 comply with and observe and perform all applicable requirements of all planning and environmental legislation, regulations and bye-laws relating to the Mortgaged Property, any conditions attaching to any planning permissions relating to or affecting the Mortgaged Property, and any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Mortgaged Property; and
- 6.1.2 not do anything nor permit anything to be done that reduces the value of the Mortgaged Property.

6.2 Insurance: undertakings

The Chargor shall at all times during the subsistence of this Deed:

- 6.2.1 keep the Mortgaged Property insured with a reputable independent insurance company or underwriters against those risks and to the extent as is usual for such Mortgaged Property;
- 6.2.2 not do any act nor commit any default by which any relevant insurance policy may become void or voidable; and
- 6.2.3 supply on request copies of each relevant insurance policy required to be maintained in accordance with this clause 6.2 together with the current premium receipts relating to each such policy.

6.3 Insurance: default

If the Chargor defaults in complying with clause 6.2 (*Insurance: undertakings*), the Chargee may effect or renew any such insurance on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies reasonably expended by the Chargee in doing so shall be reimbursed by the Chargor to the Chargee on demand and shall carry interest from the date of payment by the Chargee until reimbursed at the rate specified in clause 2.2 (*Default Interest*).

6.4 Application of insurance proceeds

All monies received under any relevant insurance policy relating to the Mortgaged Property shall (subject to the rights and claims of any person having prior rights to such monies):

- 6.4.1 prior to the security constituted by this Deed becoming enforceable, be applied in reinstatement of the relevant asset; and
- 6.4.2 after the security constituted by this Deed becoming enforceable, be held by the Chargor on trust for the Chargee pending payment to the Chargee for application in discharge of the Secured Obligations and the Chargor waives

any right it may have to require that any such monies are applied in reinstatement of any part of the Mortgaged Property.

6.5 Entitlement to remedy

If the Chargor fails to comply with any of the undertakings contained in this clause 6, the Chargee shall be entitled (with such agents, contractors and others as it sees fit) to do such things as may, in the reasonable opinion of the Chargee, be required to remedy such failure and all monies spent by the Chargee in doing so shall be reimbursed by the Chargor to the Chargee on demand with interest from the date of payment by the Chargee until reimbursed in accordance with clause 2.2 (*Default Interest*).

7. ENFORCEMENT OF SECURITY

7.1 Enforcement

If:

- (a) the Deferred Consideration is not paid on its due date in accordance with the terms of the Sale Agreement;
- (b) the Chargor fails to comply with any material provision of this Deed;
- (c) the Chargor requests the Chargee to exercise any of its powers under this Deed; or
- (d) an administration order is made in relation to the Chargor, or an order is made for the appointment of an administrator of the Chargor,

the security created by or pursuant to this Deed is immediately enforceable and the Chargee may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

7.1.1 enforce all or any part of that security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Mortgaged Property and the Chargee or its nominees shall have an immediate and absolute power of sale or other disposition over the Mortgaged Property (including, without limitation, the power to execute, seal, deliver or otherwise complete any transfers or other documents required to vest any of the Related Rights in the Chargee, any of its nominees or in any purchaser of the Related Rights); and

7.1.2 whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Act (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

7.2 No liability as mortgagee in possession

Neither the Chargee nor any of its nominees nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Mortgaged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Mortgaged Property to which a mortgagee or mortgagee in possession might otherwise be liable.

8. EXTENSION AND VARIATION OF THE ACT

8.1 Extension of powers

The power of sale or other disposal conferred on the Chargee, its nominee(s) and any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under Section 101 of the Act and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Deed.

8.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Act shall not apply to this Deed or to the exercise by the Chargee of its right to consolidate all or any of the security created by or pursuant to this Deed with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Chargee without notice to the Chargor on or at any time after the security constituted by this Deed becomes enforceable.

8.3 Transfer of Security

8.3.1 At any time after the security constituted by this Deed becomes enforceable, the Chargee may:

- (a) redeem any prior security against any Mortgaged Property; and/or
- (b) procure the transfer of any such security to itself; and/or
- (c) settle and pass the accounts of the prior mortgagee or chargee; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.

8.3.2 The Chargor shall pay to the Chargee immediately on demand the costs and expenses incurred by the Chargee in taking any action contemplated by clause 8.3.1, including the payment of any principal or interest.

8.4 Suspense account

If the security created by this Deed is enforced at a time when no amount is due under the Sale Agreement but at a time when amounts may or will become due, the Chargee (or any Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR

9.1 Appointment and removal

At any time after the security constituted by this Deed becomes enforceable, the Chargee may by deed or otherwise (acting through an authorised officer of the Chargee), without prior notice to the Chargor:

- 9.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Mortgaged Property;
- 9.1.2 appoint two or more Receivers of separate parts of the Mortgaged Property;
- 9.1.3 remove (so far as it is lawfully able) any Receiver so appointed; and
- 9.1.4 appoint another person(s) as an additional or replacement Receiver(s).

9.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to clause 9.1 (*Appointment and removal*) shall be:

- 9.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 9.2.2 for all purposes shall be deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Chargee; and
- 9.2.3 entitled to remuneration for his services at a rate to be fixed by the Chargee from time to time (without being limited to the maximum rate specified by the Act).

9.3 Statutory powers of appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Chargee under the Act (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Chargee in respect of any part of the Mortgaged Property. Any restriction imposed by law on the right of a mortgagee to appoint a receiver (including under section 109(1) of the Act) does not apply to this Deed.

10. POWERS OF RECEIVER

Every Receiver shall (subject to any restrictions in the instrument appointing the Receiver but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Mortgaged Property (and any assets of the Chargor which, when got in, would be Mortgaged Property) in respect of which the Receiver was appointed, and as varied and extended by the provisions of this Deed (in the name of or

on behalf of the Chargor or in the Receiver's own name and, in each case, at the cost of the Chargor);

- 10.1.1 all the powers conferred by the Act on mortgagors and on mortgagees in possession and on receivers appointed under the Act;
- 10.1.2 all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 10.1.3 all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 10.1.4 the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to (a) any of the functions, powers, authorities or discretions conferred on or vested in the Receiver or (b) the exercise of the Collateral Rights (including realisation of all or any part of the Mortgaged Property) or (c) bringing to the Receiver any assets of the Chargor forming part of, or which when got in would be, Mortgaged Property.

11. APPLICATION OF MONIES

All monies received or recovered by the Chargee, its nominee(s) or any Receiver pursuant to this Deed or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Act) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of the Receiver's remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of the Receiver's powers, and thereafter shall be applied by the Chargee (notwithstanding any purported appropriation by the Chargor) in payment of the Secured Obligations in any manner which it, in its sole discretion, elects.

12. PROTECTION OF PURCHASERS

12.1 Consideration

The receipt of the Chargee, its nominee(s) or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Mortgaged Property or making any acquisition, the Chargee, its nominee(s) or any Receiver may do so for such consideration, in such manner and on such terms as the Chargee, its nominee(s) or any Receiver thinks fit.

12.2 Protection of purchasers

No purchaser or other person dealing with the Chargee, its nominee(s) or any Receiver shall be bound to inquire whether the right of the Chargee, such nominee(s) or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned

with any propriety or regularity on the part of the Chargee, such nominee(s) or such Receiver in such dealings.

13. POWER OF ATTORNEY

13.1 Appointment and powers

The Chargor by way of security irrevocably appoints the Chargee and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

13.1.1 carrying out any obligation imposed on the Chargor by this Deed (including the completion, execution and delivery of any mortgages, deeds, charges, assignments or other security and any transfers of the Mortgaged Property); and

13.1.2 enabling the Chargee and any Receiver to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Deed or by law (including, the exercise of any right of a legal or beneficial owner of the Mortgaged Property) and (without prejudice to the generality of the foregoing) to execute as a deed or under hand and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may reasonably deem proper in or for the purpose of exercising any of such rights, powers, authorities and discretions.

13.2 Exercise of power of attorney

The Chargee may only exercise the power of attorney granted pursuant to clause 13.1 (*Appointment and powers*) following:

13.2.1 the security constituted by this Deed becoming enforceable; or

13.2.2 the failure by the Chargor to comply with any further assurance or perfection of security obligations required by the terms of this Deed within ten Working Days of such further assurance or perfection of security obligation arising.

13.3 Ratification

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

13.4 Chargee's power to remedy breaches

If at any time the Chargor fails to perform any of the covenants contained in this Deed it shall be lawful for the Chargee, but the Chargee shall have no obligation, to take such action on behalf of the Chargor (including, without limitation, the payment of money) as may in the Chargee's reasonable opinion be required to ensure that such covenants are

performed. Any losses, costs, charges and expenses incurred by the Chargee in taking such action shall be reimbursed by the Chargor on demand.

14. EFFECTIVENESS OF SECURITY

14.1 Continuing security

14.1.1 The security created by or pursuant to this Deed shall remain in full force and effect as a continuing security for the Secured Obligations unless and until the Secured Obligations have been irrevocably and unconditionally discharged in full.

14.1.2 No part of the security from time to time intended to be constituted by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

14.2 Cumulative rights

The security created by or pursuant to this Deed and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Chargee may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Chargee over the whole or any part of the Mortgaged Property shall merge into the security constituted by this Deed.

14.3 No prejudice

The security created by or pursuant to this Deed and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person, or the Chargee or by any other thing which might otherwise prejudice that security or any Collateral Right.

14.4 Remedies and waivers

No failure on the part of the Chargee to exercise, or any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right, nor shall any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

14.5 No liability

None of the Chargee, its nominee(s) or any Receiver shall be liable by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Mortgaged Property or (c) taking possession of or realising all or any part of the Mortgaged Property.

14.6 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

14.7 Waiver of defences

The obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it) including:

- 14.7.1** any time, indulgence, waiver or consent granted to, or composition with, any person; or
- 14.7.2** the release of any person under the terms of any composition or arrangement with any creditor of the Chargor; or
- 14.7.3** 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 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; or
- 14.7.4** any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person; or
- 14.7.5** any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature) or replacement of the Sale Agreement or any other document or security or of the Secured Obligations (including, without limitation, any increase to the Secured Obligations as may be agreed by the Chargor from time to time); or
- 14.7.6** any unenforceability, illegality, invalidity, voidability or non-provability of any obligation of any person under the Sale Agreement or any other document or security or of the Secured Obligations; or
- 14.7.7** any insolvency or similar proceedings.

14.8 Immediate recourse

The Chargor waives any right it may have of first requiring the Chargee or any agent on its behalf to proceed against the Chargor or any other person or enforce any other rights or security or claim payment from any person before claiming from the Chargor under

this Deed. This waiver applies irrespective of any law or any provision of this Deed the contrary.

14.9 Deferral of rights

Until such time as the Secured Obligations have been discharged in full, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

14.9.1 to be indemnified by the Chargee;

14.9.2 to claim any contribution from any guarantor of the Chargee's obligations under this Deed; and/or

14.9.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Chargee under any guarantee or security taken pursuant to, or in connection with, this Deed by the Chargee.

15. RELEASE OF SECURITY

15.1 Redemption of security

Upon the Secured Obligations being discharged in full, the Chargee shall, at the request of the Chargor, provide the Chargor with such form of release as shall be appropriate to release and cancel the security constituted by this Deed subject to clause 15.2 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Chargee or any of its nominees.

15.2 Avoidance of payments

If the Chargee considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under, and the security created by, this Deed shall continue and such amount shall not be considered to have been irrevocably paid.

16. SET-OFF

16.1 The Chargor authorises the Chargee (but the Chargee shall not be obliged to exercise such right) to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Chargee to the Chargor and apply any credit balance to which the Chargee is entitled on any account with the Chargee in accordance with clause 11 (*Application of Monies*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

17. SUBSEQUENT SECURITY INTERESTS

If the Chargee at any time receives or is deemed to have received notice of any subsequent security affecting all or any part of the Mortgaged Property or any assignment or transfer of the Mortgaged Property which is prohibited by the terms of

this Deed or the Sale Agreement, all payments made thereafter by or on behalf of the Chargor to the Chargee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Chargee received such notice.

18. ASSIGNMENT

The Chargee may assign and transfer all or any of its rights and obligations under this Deed. The Chargee shall be entitled to disclose such information concerning the Chargor and this Deed as the Chargee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

19. NOTICES

The provisions of clause 22 (*Notices and Notification*) of the Sale Agreement shall apply to this Deed.

20. DISCRETION AND DELEGATION

20.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Chargee or any Receiver may, subject to the terms and conditions of the Sale Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

20.2 Delegation

Each of the Chargee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Chargee or the Receiver itself. Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

21. COUNTERPARTS

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

22. GOVERNING LAW

This Deed and all matters including non-contractual obligations arising out of or in connection with it are governed by English law.

23. JURISDICTION

23.1 English courts

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

23.2 Convenient forum

The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

23.3 Exclusive jurisdiction

This clause 23 is for the benefit of the Chargee only. As a result and notwithstanding clause 23.1 (*English courts*), it does not prevent the Chargee from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Chargee may take concurrent proceedings in any number of jurisdictions.

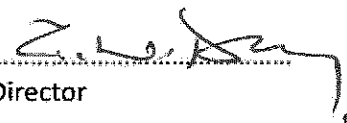
THIS DEED has been signed on behalf of the Chargee and executed as a deed by the Chargor and is delivered by it on the date specified above.

SCHEDULE 1
DETAILS OF MORTGAGED PROPERTY

The land at Kempshott Hill, Basingstoke comprising part of the land registered with Title Numbers HP316366 (freehold) and HP454347 (leasehold) shown edged and hatched pink on the plan attached to Appendix 1 to the Sale Agreement.

SIGNATURES

EXECUTED as a Deed)
By MCCARTHY & STONE)
RETIREMENT LIFESTYLES)
LIMITED)
acting by


Director

in the presence of:

Witness signature: 

Witness name: HARRY JEFFRIES

Witness address: 4th Floor 100 HOLLOWAY STREET RD
BOURNEMOUTH BH8 8AQ

Witness occupation: SOLICITOR

EXECUTED as a Deed)
By HAMBERLEY)
PROPERTIES)
(BASINGSTOKE) S.A.R.L.)
acting in accordance with the
laws of its jurisdiction of incorporation
acting by

.....
Manager

in the presence of:

Witness signature:

Witness name:

Witness address:

Witness occupation: