



Registration of a Charge

Company name: **ASHLEY HOUSE (CAPITAL PROJECTS) LTD**

Company number: **07230400**



X85LY2FV

Received for Electronic Filing: **16/05/2019**

Details of Charge

Date of creation: **30/04/2019**

Charge code: **0723 0400 0005**

Persons entitled: **UNIVERSITIES SUPERANNUATION SCHEME LIMITED**

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: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7230400

Charge code: 0723 0400 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th April 2019 and created by ASHLEY HOUSE (CAPITAL PROJECTS) LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th May 2019 .

Given at Companies House, Cardiff on 17th May 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**

Private & Confidential

Dated 30th April 2019

ASHLEY HOUSE (CAPITAL PROJECTS) LTD (1)

AND

UNIVERSITIES SUPERANNUATION SCHEME LIMITED (2)

Charge over shares

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THIS DEED is made on

30th April 2019 by

- (1) **ASHLEY HOUSE (CAPITAL PROJECTS) LTD**, incorporated and registered in England and Wales with company number 07230400 whose registered office is at Unit 1 Barnes Wallis Court, Cressex Business Park, United Kingdom, HP12 3PS (the "**Chargor**")

in favour of

- (2) **UNIVERSITIES SUPERANNUATION SCHEME LIMITED** incorporated and registered in England and Wales whose registered office is at Royal Liver Building, Liverpool, L3 1PY (the "**Fund**").

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, terms defined in the Development Management and Funding Agreement shall have the same meaning when used in this Deed and in addition:

Act the Law of Property Act 1925;

Charged Property all the Shares and Related Rights and, in each case, shall extend to all beneficial interests of the Chargor in the Shares and the Related Rights and to any proceeds of sale or other realization of all or any part of such Shares or Related Rights;

Company AH Burnholme Limited, a company incorporated in England and Wales with company registration number 10788637;

CREST a system developed and operated by Euroclear UK & Ireland Limited (or any similar system whether or not it replaces it) for the purpose of enabling companies and other persons to permit the holding of units of securities issued by them in uncertificated form, to transfer title to such units of securities as are held in uncertificated form, to

pay dividends in respect of such securities and to make rights issues and take other corporate actions by participating issuers;

Development Management and Funding Agreement the development management and funding agreement dated on or around the date of this Deed between the Company as tenant, the Fund as fund and Morgan Ashley Care Developments LLP as development manager;

EU Regulation Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast);

Financial Collateral shall have the same meaning as in the Financial Collateral Regulations;

Financial Collateral Regulations the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226);

Original Shares all the shares in the issued share capital of the Company owned by the Chargor at the date of this Deed;

Receiver a receiver or receiver and manager or administrative receiver appointed pursuant to the provisions of this Deed or any applicable law;

Related Rights all the rights and interests of the Chargor in the Shares and all allotments, offers, dividends and other distributions, interest, rights, benefits and advantages arising at any time in relation to the Shares (including all shares (and the dividends and other distributions or interest thereon), rights, moneys or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, consolidation, sub-division or otherwise in respect of such shares);

Secured Obligations all present and future obligations and liabilities, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, owed by the Company to the Fund under or in

connection with the Development Management and Funding Agreement together with all costs, charges and expenses incurred by the Fund in connection with the protection, preservation or enforcement of its respective rights under the Development Management and Funding Agreement or any other document evidencing or securing any such liabilities and shall include interest on the above from the date of demand until the date of payment in full (as well after as before any judgment) calculated on a daily basis at the rate determined in accordance with clause 11.13 (*Default interest on arrears*) of the Development Management and Funding Agreement;

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

Security Financial Collateral Arrangement shall have the same meaning as in the Financial Collateral Regulations;

Shares the Original Shares and all other shares in the Company owned by the Chargor while any of the Secured Obligations is outstanding.

1.2 Interpretation

In this Deed:

- (a) clause and schedule headings are for convenience of reference only and shall not affect the construction of this Deed;
- (b) references to Clauses and Schedules are references to the Clauses of and Schedules to this Deed;
- (c) references to this Deed or any other agreement or instrument shall be construed as references to that agreement or instrument as amended, novated, supplemented, extended or restated;

- (d) references to a person shall be construed to include that person's assigns, transferees or successors in title and shall be construed as including any individual, firm, trust, partnership, joint venture, company, corporation, unincorporated body of persons or any state or agency thereof, whether or not having separate legal personality;
- (e) references to a provision of law are references to that provision as amended or re-enacted;
- (f) words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (g) the words "**including**" shall not be construed as limiting the generality of the words preceding it.

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 or otherwise to enforce or enjoy the benefit of any term of this Deed.

1.4 Effect as a deed

This Deed is intended to take effect as a deed, notwithstanding that the Fund may have executed it under hand only.

2 PURPOSE

The Chargor has agreed to provide the Fund with security for the Secured Obligations.

3 GRANT OF SECURITY

- 3.1 The Chargor with full title guarantee and as a continuing security for the payment and discharge of the Secured Obligations charges the Charged Property by way of first fixed charge in favour of the Fund.
- 3.2 To the extent that the Charged Property constitutes Financial Collateral, the Chargor agrees that such Charged Property shall be held or designated so as to be under the control of the Fund (or by a person acting on its behalf) for the purposes of the Financial Collateral

Regulations. To the extent that the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Deed, the Fund shall have the right at any time after this Deed becomes enforceable, to appropriate all or any part of that Charged Property in or towards the payment or discharge of the Secured Obligations. The value of any Charged Property appropriated in accordance with this Clause shall be the market price of that Charged Property at the time the right of appropriation is exercised, as listed on any recognised market index, or as determined by such other method as the Fund may select (acting reasonably). The Chargor agrees that the methods of valuation provided for in this Clause are commercially reasonable for the purposes of Regulation 18 of the Financial Collateral Regulations.

4 NEGATIVE PLEDGE

4.1 The Chargor shall not:

- (a) permit any person other than the Fund or its nominee or any transferee from the Fund to be registered as holder of all or any part of the Charged Property;
- (b) create or permit to subsist any Security over any of the Charged Property;
- (c) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, discount, factor, transfer, assign or otherwise dispose of any of the Charged Property or agree or attempt to do so, other than as permitted pursuant to the Development Management and Funding Agreement; or
- (d) do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Property.

5 PERFECTION OF SECURITY

5.1 Deposit of Title Documents

Immediately following the execution of this Deed (or, if later, the date of acquisition of any additional Shares), the Chargor shall deposit with the Fund:

- (a) all stock and share certificates and documents of or evidencing title or the right to title relating to the Shares;

- (b) duly executed stock transfer forms or other instruments of transfer in respect of the Mortgaged Property with the name of the transferee, date and consideration left blank; and
- (c) such other documents as the Fund or its nominee may from time to time reasonably require for perfecting its title to the Charged Property (duly executed by or signed on behalf of the registered holder) or for vesting or enabling it to vest the same in itself or its nominees or in any purchaser, to the intent that the Fund or its nominee may at any time without notice to the Chargor present them for registration.

6 FURTHER ASSURANCE

6.1 The Chargor shall, at its own expense, promptly take whatever action the Fund may require for:

- (a) creating, perfecting or protecting the Security intended to be created by this Deed; and
- (b) facilitating the realisation of any of the Charged Property or the exercise of any right, power or discretion exercisable by the Fund or any Receiver in respect of any of the Charged Property,

including the execution of any security or other document (in such form as the Fund may reasonably require), the giving of any notice and the making of any registration which the Fund may think expedient.

7 REPRESENTATIONS

The Chargor represents and warrants to the Fund that:

- 7.1 the Original Shares and any shares deposited or substituted after the date of this Deed are fully paid;
- 7.2 the Original Shares are legally and beneficially owned by the Chargor and any shares deposited or substituted after the date of this Deed will be beneficially owned by the Chargor upon deposit or substitution, in each case free of any Security other than Security created by this Deed;

- 7.3 this Deed creates the Security which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise;
- 7.4 no litigation, arbitration or administrative proceedings are currently taking place or are threatened in relation to any of the Charged Property;
- 7.5 the Chargor has complied with all notices relating to all or any of the Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006;
- 7.6 no warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Shares;
- 7.7 for the purposes of the EU Regulation, the Chargor's centre of main interests (as that expression is used in Article 3(1) of the EU Regulation, is situated in England and Wales and the Chargor has no other "establishment" (as that term is used in Article 2(10) of the EU Regulation) in any other jurisdiction.

8 UNDERTAKINGS

The Chargor covenants and agrees with the Fund that it will, during the continuance of the security constituted by this Deed:

8.1 Calls

duly and promptly pay all calls, instalments or other payments which from time to time become due in respect of any of the Charged Property;

8.2 Amendment of articles of association

procure that the Company's articles of association are amended to the satisfaction of the Fund so as to dis-apply any pre-emption rights and any right of the Company's directors to refuse to register any transfer of the Company's shares, together with such other changes to its articles of association as the Fund may require to protect its interest in the Charged Property and/or to facilitate transfers of shares. The Chargor shall also procure that all necessary resolutions are passed and other actions are taken (including all filings) to give effect to such amendments;

8.3 Registration of transfers

procure that the Company will (forthwith on presentation by the Fund or its nominee or any transferee of the Shares of the share certificates and executed stock transfer forms) duly register any transfer of the Shares;

8.4 Uncertificated securities

- (a) if any of the Shares are in uncertificated or dematerialised form, forthwith upon being requested to do so by the Fund give or procure the giving of all necessary instructions, in accordance with and subject to the facilities and requirements of the relevant system, to effect a transfer of title of such Shares into the name of the Fund or its nominee, and to cause the Operator to issue an Operator-instruction requiring the participating issuer in respect of such Shares to register the transfer of title;
- (b) following the giving of such instruction, to procure the registrar of such issuer to amend the issuer's shareholders' register by entering the Fund or its nominee as shareholder in place of the Chargor;
- (c) in this sub-clause, "instruction", "Operator", "Operator-instruction", "relevant system" and "participating issuer" shall have the meaning given to those terms in the Uncertificated Securities Regulations 2001;
- (d) (if the Chargor is a CREST member or CREST sponsored member) observe and comply with any agreements or regulations relating to CREST from time to time;
- (e) without prejudice to the above, permit the Fund, at the expense of the Chargor, to take whatever action it deems necessary for the de-materialisation or re-materialisation of any Share;

8.5 Information

- (a) promptly copy to the Fund and comply with all requests for information which are made under the Companies Act 2006 (including, without limitation, under sections 790D and 790E of the Companies Act 2006) relating to all or any part of the Charged Property. If it fails to do so, the Fund may elect to provide such information as it may have on behalf of the Borrower;

- (b) deliver to the Fund or its nominee copies of all other information, communications, circulars, reports, accounts and other documents it or its nominee receives in connection with the Charged Property and all information which the Fund may reasonably request in relation to the Charged Property;

8.6 Undertakings relating to the Company

procure that the Company will not, without the prior written consent of the Fund:

- (a) cancel, increase, create or issue or agree to issue or put under option any of its share or loan capital or obligation now or in the future convertible into or exchangeable for share or loan capital of any class of the Company, or call any uncalled capital of the Company;
- (b) make any alteration to grant any rights in relation to its share capital or reserves, or otherwise reorganise, redeem, purchase or reduce them or enter into any composition or arrangement with its creditors or any class of them;

8.7 Centre of Main Interests

not, without the prior written consent of the Fund, move its centre of main interest (as that expression is used in Article 3(1) of the EU Regulation) outside England and Wales, nor have any establishment (as that term is used in Article 2(10) of the EU Regulation) in any other jurisdiction;

8.8 Nominees:

not appoint any nominee in respect of the Mortgaged Property;

9 DIVIDENDS AND VOTING RIGHTS

9.1 Until the security constituted by this Deed becomes enforceable, the Chargor shall be entitled to:

- (a) receive and retain all dividends, distributions and other moneys paid on or derived from the Charged Property; and
- (b) exercise all voting and other rights and powers attaching to the Charged Property

provided that such rights and powers are not exercised in a manner which is prejudicial to the interests of the Fund under this Deed or the Development Management and Funding Agreement.

9.2 After the security constituted by this Deed becomes enforceable:

- (a) the Chargor shall procure that all dividends, distributions and other moneys paid on or derived from the Charged Property are paid to (or to the order of) the Fund (and pending such payment shall hold such amounts on trust for the Fund); and
- (b) the Fund and its nominees shall be entitled, in the name of the Chargor and without any further consent or authority from the Chargor, to exercise all voting and other rights and powers attaching to the Charged Property.

10 ENFORCEMENT OF SECURITY

10.1 Enforcement

The security constituted by this Deed shall become immediately enforceable at any time:

- (a) after the occurrence of an Event of Default which has not been waived; and/or
- (b) any step is taken (including the making of an application or the giving of any notice) by the Chargor or any other person to appoint an administrator in respect of the Chargor.

10.2 Powers on enforcement

At any time after the security created under this Deed becomes enforceable, the Fund may, without notice to the Chargor and whether or not it has appointed a Receiver exercise all or any of the powers or rights which may be exercisable by the registered holder of the Charged Property, all or any of the powers, authorities and discretions conferred on mortgagees by the Act (as varied or extended by this Deed) and all or any of the powers conferred by this Deed.

10.3 No Liability as Mortgagee in Possession

Neither the Fund nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or

for any neglect, default or omission for which a mortgagee in possession might otherwise be liable.

11 POWERS OF THE FUND

11.1 Extension of Powers

The power of sale conferred on the Fund and on 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. Sections 93 and 103 of Act shall not apply to this Deed.

11.2 Discretion

Any liberty or power which may be exercised or any determination which may be made hereunder by the Fund or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

11.3 Delegation

Each of the Fund 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 of such power, authority or discretion by the Fund or the Receiver itself or any subsequent delegation or revocation thereof.

11.4 Investigations

The Fund may initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of the Chargor which it considers necessary to ascertain the financial position of the Chargor. If such investigation and or report arises following an Event of Default, all fees and expenses incurred by the Fund in connection with such investigations shall be payable by the Chargor and the Chargor consents to the provision by the Fund of all information in relation to the Chargor which the Fund provides to any person in relation to the preparation of any such report.

11.5 Power to Remedy

If at any time the Chargor does not comply with any of its obligations under this Deed, the Fund may (but shall not be obliged to) rectify such default and the Chargor irrevocably authorises the Fund, its employees and agents, at the Chargor's expense, to do all such things as are necessary or desirable to rectify such default.

12 APPOINTMENT OF RECEIVER

Appointment and Removal

At any time after the security created under this Deed becomes enforceable, or if requested to do so by the Chargor, the Fund may (by deed or otherwise and acting through its authorised officer):

- (a) appoint one or more persons jointly or severally to be a Receiver of the whole or any part of the Charged Property;
- (b) remove (so far as it is lawfully able) any Receiver(s) so appointed; and
- (c) appoint another person(s) as an additional or replacement Receiver(s).

12.2 Capacity of Receivers

Each Receiver shall be:

- (a) an agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration; and
- (b) entitled to remuneration for his services at a rate to be fixed by the Fund from time to time (without being limited to the maximum rate specified in Section 109(6) of the Act).

13 POWERS OF RECEIVER

13.1 General Powers

Every Receiver shall have all the powers:

- (a) conferred by the Act on mortgagees in possession and receivers appointed under that

Act;

- (b) set out in Schedule 1 to the Insolvency Act 1986; and
- (c) conferred from time to time on receivers by statute.

13.2 Additional Powers

In addition to the powers referred to in Clause 13.1 (*General Powers*) a Receiver shall have the power, at the cost of the Chargor and either in his own name or in the name of the Chargor or (with the written approval of the Fund) in the name of the Fund:

- (a) to take possession of, collect and get in all or any part of the Charged Property;
- (b) (in the case of Shares hold in uncertificated or dematerialised form) to transfer the Charged Property into an escrow account;
- (c) to sell, concur in selling all or any part of the Charged Property in any manner and on such terms as he thinks fit. The consideration for any such transaction may consist of cash or of shares or securities of another company (and the amount of such consideration may be dependent on profit or turnover or be determined by a third party) and may be payable in a lump sum or in instalments. Any consideration received shall immediately become subject to a first fixed charge in favour of the Fund;
- (d) to take such proceedings and to make any arrangement or compromise which the Fund or the Receiver may think fit;
- (e) to appoint managers, officers and agents at such salaries and for such periods as the Receiver may determine;
- (f) to exercise in relation to all or any part of the Charged Property all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Charged Property; and/or
- (g) to do all other acts and things as may be considered by the Receiver to be incidental or conducive to the above or otherwise expedient for or incidental or conducive to the preservation, improvement or realisation of the Charged Property.

14 APPLICATION OF MONEYS

14.1 All moneys received or recovered by the Fund or any Receiver pursuant to this Deed shall (subject to the rights and claims of any person having security ranking in priority to the security constituted by this Deed) be applied in the following order:

- (a) first, in satisfaction of, or provision for, all costs, charges and expenses incurred by the Fund or any Receiver and the payment of the remuneration of any Receiver;
- (b) second, in or towards payment of any debts or claims which are required by law to be paid in preference to the Secured Obligations, but only to the extent to which such debts or claims have such preference;
- (c) third, (if the Fund or Receiver thinks fit but not otherwise) in or towards payment of all matters referred to in the first three paragraphs of Section 109(8) of Act (other than the remuneration of the Receiver);
- (d) fourth, in or towards satisfaction of the Secured Obligations; and
- (e) fifth, any surplus shall be paid to the Chargor or any other person entitled thereto.

14.2 Only money actually paid by the Receiver to the Fund, or received or recovered by the Fund under this Deed, shall be capable of being applied in or towards the satisfaction of the Secured Obligations and the Chargor shall have no rights in respect of the application by the Fund of any sums received, recovered or realised by the Fund under this Deed.

14.3 Suspense Account

Until all Secured Obligations have been irrevocably and unconditionally paid and discharged in full, the Fund and any Receiver may place and keep for such time as it thinks prudent any moneys received, recovered or realised under or by virtue of this Deed in a separate or suspense account to the credit of either the Chargor or of the Fund without any obligation to apply all or any part of such moneys in or towards the discharge of the Secured Obligations. Amounts standing to the credit of such suspense account shall bear interest at a fair market rate.

14.4 Avoidance of Payments

If the Fund reasonably 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 this Deed and the security constituted hereby shall continue and such amount shall not be considered to have been irrevocably paid.

15 PROTECTION OF PURCHASERS

15.1 Receipts

The receipt of the Fund or its delegate or any Receiver shall be conclusive discharge to a purchaser in any sale or disposal of any of the Charged Property.

15.2 Protection of Purchasers

No purchaser or other person dealing with the Fund or its delegate or any Receiver shall be bound to inquire whether the right of the Fund or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any notice to the contrary, or be concerned to see whether any such delegation by the Fund shall have lapsed for any reason or have been revoked.

16 POWER OF ATTORNEY

16.1 Appointment

The Chargor, by way of security and to more fully secure the performance of its obligations under this Deed, irrevocably appoints the Fund, each person to whom the Fund shall from time to time have delegated the exercise of the power of attorney conferred by this Clause and any Receiver jointly and severally to be its attorney and in its name and on its behalf to execute, deliver and perfect all documents and to do all things which the attorney may consider to be necessary for:

- (a) carrying out any obligation imposed on the Chargor by this Deed that the Chargor has failed to perform (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Property); and
- (b) enabling the Fund and any Receiver to exercise any of the powers conferred on them by or pursuant to this Deed or by law.

16.2 Ratification

The Chargor ratifies and confirms and agrees to 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.

17 CONTINUING SECURITY

17.1 The security created by or pursuant to this Deed will be a continuing security for the Secured Obligations notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or other matter or thing whatsoever and will be without prejudice and in addition to and shall not merge with any other right, remedy or security which the Fund may hold at any time for the Secured Obligations and will not be affected by any release, reassignment or discharge of such other right, remedy or security.

17.2 Settlements Conditional

Any release, discharge or settlement between the Chargor and the Fund shall be conditional upon no security, disposition or payment to the Fund by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy or insolvency or for any other reason whatsoever, and if such condition shall not be fulfilled the Fund shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

18 SET-OFF AND CURRENCY

18.1 Consolidation of accounts and set off

In addition to any general lien or similar rights to which it may be entitled by operation of law, the Fund may at any time and without notice to the Chargor combine or consolidate all or any of the Chargor's then existing accounts with and liabilities to the Fund and set off or transfer any sum or sums standing to the credit of any one of more of such accounts in or towards satisfaction of the Secured Obligations.

18.2 Currency

For the purpose of or pending the discharge of the Secured Obligations, the Fund may, in its sole discretion, convert any moneys received, recovered or realised in any currency under

this Deed (including the proceeds of any previous conversion under this Clause) from their existing currency into any other currency at such rate or rates of exchange and at such time as the Fund thinks fit.

19 EXPENSES AND INDEMNITY

19.1 Expenses

The Chargor shall, from time to time on demand of the Fund, pay or reimburse the Fund on a full indemnity basis for all costs and expenses (including legal fees) together with any VAT or similar taxes thereon incurred by it in connection with the enforcement, discharge and/or assignment of this Deed. Such costs and expenses shall form part of the Secured Obligations and shall carry interest from the date of such demand until so paid or reimbursed at the rate determined in accordance with clause 11.13 (*Default Interest on arrears*) of the Development Management and Funding Agreement.

19.2 Indemnity

The Chargor shall, notwithstanding any release or discharge of all or any part of the security constituted by this Deed, indemnify the Fund, its agents, attorneys and any Receiver against any action, proceeding, claim, loss, liability and cost which it may sustain:

- (a) in the exercise (or purported exercise) of any of the rights, powers or discretions vested in them by this Deed (or by law); and/or
- (b) in connection with or otherwise relating to this Deed or the Charged Property.

20 MISCELLANEOUS

20.1 No Deduction

All payments to be made to the Fund under this Deed shall be made in freely available funds and shall be made clear of and without deduction for or on account of tax. If the Chargor is required by law to make a tax deduction, the sum payable by the Chargor shall be increased to the extent necessary to ensure that, after the making of such deduction, the recipient of such sum receives and retains a net sum equal to the sum which it would have received and retained had no such deduction been made or required to be made.

20.2 Assignment and disclosure of information

The Fund may assign and transfer all or any of its rights and obligations under this Deed. The Fund shall be entitled to disclose such information concerning the Chargor and this Deed as the Fund 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.

20.3 Perpetuity Period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

20.4 Remedies and Waivers

No failure on the part of the Fund to exercise, or any delay on its part in exercising, any of the rights, powers and remedies provided by or pursuant to this Deed or by law shall operate as a waiver of such rights, powers and remedies, nor shall any single or partial exercise of any such rights, powers and remedies preclude any further or other exercise of that or any other such rights, powers and remedies.

20.5 No Liability

None of the Fund, its delegate(s) nominee(s) or any Receiver shall be liable for any loss by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part. The Fund, its delegate(s) nominee(s) or any Receiver shall not in any circumstances incur any liability whatsoever in respect of any calls, instalments or otherwise in connection with the Charged Property.

20.6 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.

20.7 Reorganisation

This Deed shall remain binding on the Chargor despite any change in the constitution of the Fund, its absorption or amalgamation with or acquisition by any person, or any reconstruction of any kind. The security granted by this Deed shall remain valid and effective in all respects in favour of any assignee, transferee or successor in title of the Fund.

21 NOTICES

21.1 Any notice under this Agreement shall be:

- (a) in writing;
- (b) sufficiently served if it is delivered by hand or sent by recorded delivery mail to the registered office or last known address of the recipient or by facsimile communication to the facsimile number as last published by the recipient;
- (c) not be served by email.

21.2 Any notice served by hand shall be treated as having been served on delivery and any notice served by facsimile shall be treated as having been served simultaneously with the date and time of despatch.

22 COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which is an original and all of which together evidence the same agreement.

23 GOVERNING LAW

This Deed is governed by and shall be construed in accordance with English law.

24 JURISDICTION

24.1 English Courts

The courts of England have exclusive jurisdiction to settle any disputes (a "**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).

24.2 Convenient Forum

The parties 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.

24.3 Exclusive Jurisdiction

This Clause 24 is for the benefit of the Fund only. As a result and notwithstanding Clause 24.1 (*English Courts*), it does not prevent the Fund from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Fund may take concurrent proceedings in any number of jurisdictions.]

THIS DEED has been signed on behalf of the Fund and **EXECUTED AS A DEED** by the Chargor and is delivered by them on the date first specified above.

EXECUTION PAGES

TENANT

Executed as a deed by
AH BURNHOLME LIMITED
acting by a director
in the presence of:

Signature

Director

Signature of witness


Name (in BLOCK CAPITALS)

Address

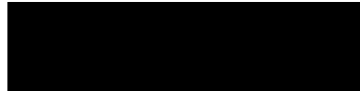
BARRY G. M'LOUGHLIN

FUND

Executed as a deed by
**UNIVERSITIES
SUPERANNUATION SCHEME
LIMITED**
acting by a director
in the presence of:

Signature

Director

Signature of witness



Name (in BLOCK CAPITALS)

C. Mooran

Address

