



Registration of a Charge

Company Name: **ILKE HOMES LIMITED**

Company Number: **10909968**



XAWYOKYB

Received for filing in Electronic Format on the: **02/02/2022**

Details of Charge

Date of creation: **02/02/2022**

Charge code: **1090 9968 0005**

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

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: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10909968

Charge code: 1090 9968 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd February 2022 and created by ILKE HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd February 2022 .

Given at Companies House, Cardiff on 3rd February 2022

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 2 FEBRUARY 2022

(1) ILKE HOMES LIMITED
(AS MORTGAGOR)

(2) HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND)
(AS MORTGAGEE)

CHattel MORTGAGE

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THIS DEED is made on 2 February 2022

BETWEEN:-

- (1) **ILKE HOMES LIMITED** a company incorporated in England and Wales with registered number: 10909968 and whose registered office is at Flaxby Industrial Estate, Knaresborough, Harrogate, HG5 0XJ (the "**Mortgagor**"); and
- (2) **HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND)** (the "**Mortgagee**").

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

In this Deed:-

" Authorised Supplier "	in relation to any Chattel means the person (or one of a number of persons) authorised by the manufacturer to supply similar items or to maintain or supply parts for such items supplied in the past
" Charged Property "	means all the property, assets and undertaking of the Mortgagor which from time to time are, or are expressed to be, the subject of the Security created in favour of the Mortgagee by or pursuant to this Deed
" Chattels "	means the items described in Schedule 1 and all related Contracts
" Contracts "	means all present and future contracts and agreements relating to the Chattels of any nature to which the Mortgagor is a party including, without limitation, all Licences, technical manuals, log books, warranties, maintenance agreements and any agreements for the purchase, hire or leasing of the Chattels
" Default Rate "	means the rate of interest specified in, and calculated in accordance with, clause 10.3 of the Facilities Agreement
" Event of Default "	has the meaning given to that term in the Facilities Agreement
" Facilities Agreement "	means the facilities agreement originally dated 1 November 2019, as amended from time to time and made between the Mortgagor and others as borrowers and the Mortgagee
" Insurance Policies "	means all policies and contracts of insurance effected by the Mortgagor or the Mortgagee pursuant to Clause 7.3
" Licences "	means all licences, permits and authorisations relating to the Chattels or the user of them to which the Chattels are now or may become subjected
" LPA "	means the Law of Property Act 1925
" Notice of Assignment "	means a notice of assignment in substantially the form set out in Schedule 2 (<i>Form of Notice of Assignment of Insurance</i>) in relation to the Insurance Policies or in such form as may be specified by the Mortgagee in relation to any Contracts ¹

"Party"	means a party to this Deed
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property
"Secured Liabilities"	means all present and future liabilities and obligations of the Mortgagor and each other Obligor to the Mortgagee (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the Mortgagee was the original creditor in respect thereof) including, without limitation, all sums due, owing or payable under or in connection with any of the Secured Finance Documents and all interest, commission, costs, charges and expenses incurred by the Mortgagee in connection with the protection, preservation and/or enforcement of its rights under the any document evidencing or securing any such liabilities and obligations, whatever their nature or basis, in any currency or currencies, and however they are described (each a "Secured Liability")
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period beginning on the date of this Deed and ending on the date on which the Mortgagee is satisfied that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities which might give rise to Secured Liabilities have terminated
"Suitable Replacement Part"	means a part which is:- <ul style="list-style-type: none"> (a) owned by the Mortgagor free and clear of Security; (b) approved by the manufacturer of the Chattel or an Authorised Supplier for use in or with that Chattel in the circumstances in which it is to be used; and (c) new (in the case of consumable items and parts regularly required to be renewed) or (in other cases) new or fully and properly refurbished by a person approved by the manufacturer of the Chattel or an Authorised Supplier
"Total Loss"	means, in relation to any of the Chattels:- <ul style="list-style-type: none"> (a) the loss or loss of use of that Chattel due to destruction or damage which is beyond economic repair; (b) that Chattel being rendered permanently unfit for normal commercial use; (c) any damage to that Chattel which results in an insurance settlement on the basis of an actual, arranged or constructive total loss; (d) any compulsory acquisition of that Chattel; or (e) the theft, disappearance or seizure of that Chattel if it results in the loss of the possession of it by the Mortgagor, for ninety consecutive days

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facilities Agreement have the same meanings in this Deed.

1.3 Interpretation

The principles of interpretation set out in clauses 1.2 and 1.3 of the Facilities Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument.

1.4 Effect as a deed

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

1.5 Third party rights

A person who is not a Party 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.

1.5.1 Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.5.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2. COVENANT TO PAY

2.1 Secured liabilities

The Mortgagor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due in accordance with the Facilities Agreement.

2.2 Interest

The Mortgagor covenants to pay interest on any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after judgment) at the Default Rate.

3. CHARGES

3.1 Mortgage

As a continuing security for the payment and discharge of the Secured Liabilities, the Mortgagor with full title guarantee charges to the Mortgagee by way of first legal mortgage all its right, title and interest from time to time in and to the Chattels.

3.2 Assignments

As continuing security for payment and discharge of the Secured Liabilities, the Mortgagor assigns absolutely in favour of the Mortgagee all its right, title and interest from time to time in and to:-

3.2.1 the proceeds of, and the benefit of all options and rights under, the Insurance Policies; and

3.2.2 the Contracts (but provided always that the Mortgagee shall not be obliged to perform any obligations of the Mortgagor under the Contracts).

3.3 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Mortgagor shall hold it on trust for the Mortgagee.

4. PERFECTION OF SECURITY

4.1 Notices of Assignment

The Mortgagor shall deliver duly executed Notices of Assignment to the Mortgagee:-

4.1.1 in respect of the Insurances assigned pursuant to Clause 3.2.1, on the date of this Deed and promptly upon purchasing any further Insurance after the date of this Deed,

4.1.2 in respect of the Contracts assigned pursuant to Clause 3.2.1, promptly following a request to do so by Homes England,

and shall use all reasonable endeavours to procure that each notice is acknowledged by the party to whom such Notice of Assignment is addressed.

4.2 Marking of Chattels

The Mortgagor shall fix to any item or part comprised in the Chattels a durable, prominent and reasonably-sized sign stating:-

This asset and all additions to it are subject to a fixed legal mortgage dated • 2022 in favour of Homes England (registered office: One, Friargate, Coventry, CV1 2GN)

and not remove or obscure that sign or allow it to be removed, obscured or defaced.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties

The Mortgagor hereby represents and warrants to the Mortgagee that:-

5.1.1 the Chattels are situated in England and Wales and the Contracts are governed by English law;

5.1.2 the Mortgagor is the sole legal and beneficial owner of the Charged Property and the Charged Property is free from all Security;

5.1.3 it has examined the Chattels and they are in good and substantial repair (fair wear and tear excepted) and serviceable operating condition; and

5.1.4 it is not deemed to be unable to pay its debts for the purpose of section 123 of the Insolvency Act 1986 (but ignoring any requirement that any matter referred to in that section be proved to the satisfaction of the court), nor will it become so in consequence of entering into the Finance Documents.

5.2 Repetition

The representations set out in Clause 5.1 shall survive the execution of this Deed and are deemed to be repeated by reference to the facts and circumstances then existing on the date on which the Repeating Representations are deemed to be repeated.

6. DEALING WITH THE CHATTELS

6.1 Possession

Until the Security created by this Deed becomes enforceable, and subject always to the provisions of this Deed, the Mortgagor shall be entitled to retain possession of the Chattels as bailee only and to use the Chattels in the ordinary course of its business.

6.2 Parts

6.2.1 The Mortgagor shall not remove, substitute, replace or renew any part from any of the Chattels or add to any of the Chattels except:-

- (a) in the ordinary course of maintenance, service, repair, overhaul or testing provided that the new part is a Suitable Replacement Part; or
- (b) with the prior written consent of the Mortgagee and provided that the new part is a Suitable Replacement Part.

6.2.2 Any part removed from any of the Chattels shall remain subject to this Deed until it has been replaced in accordance with this Deed and on replacement:-

- (a) the replacement part shall become subject to this Deed for all purposes as though it had originally formed part of the Chattel; and
- (b) the replaced part shall cease to be subject to this Deed.

6.3 Any part installed in or attached to any of the Chattels shall upon installation or attachment become subject to this Deed.

7. UNDERTAKINGS

7.1 Duration

The covenants contained in this Clause 7 remain in force from the date of this Deed until the end of the Security Period.

7.2 Compliance with Obligations

7.2.1 The Mortgagor shall obtain and maintain in force and comply with the terms and conditions of all Licences.

7.2.2 The Mortgagor shall maintain and use each Chattel only in accordance with applicable legislation and recommendations from time to time made by the manufacturers and Authorised Suppliers of any Chattels.

7.2.3 The Mortgagor shall observe and perform its obligations under all Contracts and notify the Mortgagee of any breach by any person of any term of any Contract or any right of it or any other person to rescind, cancel or terminate any Contract promptly upon becoming aware of it.

7.3 Insurance

7.3.1 The Mortgagor shall effect and maintain insurances at its own expense on and in relation to the Chattels against such risks and in such amounts and otherwise upon such terms as the Mortgagee requires and in any event to the extent usual for companies owning or possessing similar assets or carrying on the same or substantially similar business, which shall include insurance written by responsible underwriters and/or companies against:-

- (a) loss or damage to the Chattels from any insurable cause in a sum equal to the full replacement value of the Chattels; and

- (b) any liability for injury, damage or claims caused by or arising out of or in connection with the operation, storage, maintenance or use of the Chattels including injuries to or deaths of people and damage to or destruction of property.

7.3.2 The Mortgagor shall procure that:-

- (a) the Mortgagee is named as composite insured in respect of its own separate insurable interest and sole loss payee upon all Insurance Policies in accordance with the Mortgagee requirements from time to time; and
- (b) all Insurance Policies contain a non-vitiating endorsement.

7.3.3 The Mortgagor shall:-

- (a) duly and punctually pay all premiums and other moneys due and payable in respect of those insurances and promptly at the request of the Mortgagee produce receipts for the payment of the premiums;
- (b) at the request of the Mortgagee, deposit with or produce for inspection to the Mortgagee all policies and other contracts of insurance to be maintained by it in accordance with this Clause;
- (c) use all reasonable endeavours to prevent any acts, omissions, breaches or events of default occurring which would be reasonably likely to render any policies of insurance taken out by it void or voidable;
- (d) not use or allow the Chattels to be used otherwise than in accordance with the Insurance Policies without giving prior written notice to the Lender, obtaining the consent of the relevant insurer and complying with all requirements as to payment of extra premiums or otherwise as the insurer may impose;
- (e) not terminate or cancel any insurance without the prior written consent of the Mortgagee;
- (f) not effect any insurance other than the Insurance Policies in respect of the Chattels without the prior written consent of the Mortgagee;
- (g) promptly notify the Mortgagee of any event which gives rise (or may give rise) to a claim under Insurance Policy and shall not agree to the settlement of any claim without the prior written consent of the Mortgagee.

7.3.4 If the Mortgagor fails to comply with its obligations under this Clause 7.3 the Mortgagee may (but shall not be obliged to) insure the Chattels.

7.3.5 Subject to Clauses 7.3.7 and 7.3.8, the Mortgagee shall release the insurance proceeds to the Mortgagor so that the Mortgagor may purchase replacement Chattels, provided that the Mortgagor is not in breach of this Deed at the relevant time.

7.3.6 Following receipt of the insurance proceeds pursuant to Clause 7.3.5, the Mortgagor shall replace the relevant Chattel with another item or items acceptable to the Mortgagee. The replacement must be worth at least as much as the Chattel which it replaces.

7.3.7 If the Mortgagee reasonably considers that there has been a Total Loss of all or part of the Chattels, all claims and moneys received under any insurances shall be applied by it in or towards the discharge of the Secured Liabilities.

7.3.8 The Mortgagor shall hold all insurance proceeds upon trust for the Mortgagee pending payment to the Mortgagee for application in accordance with the Facilities Agreement and the Mortgagor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Chattels.

7.4 Location of Chattels

- 7.4.1 The Mortgagor shall keep the Chattels at its premises known as Maximus, Flaxby Moor Industrial Estate, Knaresborough or at any other premises in England and Wales owned or occupied by the Mortgagor which are approved in writing by the Mortgagee from time to time.
- 7.4.2 Where there is an Event of Default which is continuing, the Mortgagor shall promptly upon written notice from the Mortgagee relocate the Chattels to such premises as the Mortgagee may require and all costs associated with the relocation of the Chattels shall be payable by the Mortgagor.
- 7.4.3 The Mortgagor shall not allow the Chattels to be moved or taken out of England and Wales except with the Mortgagee's written consent and on any further terms that the Mortgagee requires.

7.5 Condition and Modification

- 7.5.1 The Mortgagor shall not allow the Chattels to be damaged or destroyed and shall at its own cost maintain, overhaul and repair the Chattels and make good all damage or deterioration to them; and
- 7.5.2 The Mortgagor shall promptly replace any damaged, worn or defective part with a Suitable Replacement Part which is:-
- (a) owned by the Mortgagor free and clear of Security;
 - (b) approved by the manufacturer of the Chattel or an Authorised Supplier for use in or with that Chattel in the circumstances in which it is to be used; and
 - (c) new (in the case of consumable items and parts regularly required to be renewed) or (in other cases) new or fully and properly refurbished by a person approved by the manufacturer of the Chattel or an Authorised Supplier.
- 7.5.3 The Mortgagor shall not make or permit any modification to the Chattels which might reduce its value.

7.6 Information and Inspection

- 7.6.1 The Mortgagor shall from time to time at the written request of the Mortgagee (but at the Mortgagor's expense) produce to the Mortgagee such evidence as the Mortgagee may reasonably require to demonstrate the Mortgagor's compliance with its obligations under this Deed.
- 7.6.2 The Mortgagor shall allow the Mortgagee (and its officers and agents) accompanied access by prior agreement following written notice from the Mortgagee and only during the Mortgagor's normal business hours to view the state and condition of the Chattels, to procure the repair or replacement of the Chattels in accordance with Clause 7.5 and for any other purpose contemplated in this Deed.

7.7 Notification to the Mortgagee

- 7.7.1 The Mortgagor shall promptly inform the Mortgagee of any material loss or damage to, or confiscation, seizure or requisitioning of, the Chattels and anything else of which the Mortgagor is or becomes aware which might:-
- (a) affect the Mortgagee's rights and interest in the Chattels;
 - (b) involve the Mortgagee in any proceedings, loss or liability; or
 - (c) result in any claim under any Insurance Policy.

7.8 Use

7.8.1 The Mortgagor shall:-

- (a) ensure that the Chattels are operated skilfully and properly, by properly qualified and trained persons and in accordance with any relevant manufacturer's approved operating manuals;
- (b) ensure that the premises where the Chattels are kept are suitable for the use or storage of the Chattels;
- (c) not (except for the purpose of necessary repair or maintenance) permit the Chattels to leave its possession or be used by any person other than the Mortgagor or its officers, employees or delegates or for any purpose other than in connection with its business.

7.9 Transfer of title and title documents

7.9.1 The Mortgagor shall following a written request from the Mortgagee:-

- (a) execute all documents and do everything that is necessary to transfer legal title to the Chattels to the Mortgagee;
- (b) deliver to the Mortgagee all documents of title, log books and registration and other documents evidencing possession or control of the Chattels or the Mortgagor's ability to transfer the Chattels; and
- (c) deliver to the Mortgagee copies of all Contracts.

7.9.2 The Mortgagor shall obtain from any person with a proprietary or security interest (including any owner, leaseholder or chargee) in any real or personal property to which the Chattels become affixed, or with which title to the Chattels might merge, an acknowledgement before the fixing or merger that that person will only exercise their rights and remedies subject to the Mortgagee's rights in the Chattels and, in particular, the right of the Mortgagee and its officers or agents to enter on any such property and remove the Chattels, even if it has been fixed to, or merged with, that property.

7.10 Taxes, fees etc

7.10.1 The Mortgagor shall promptly pay all Taxes, fees, licence fees, registration charges, insurance premiums and other outgoings relating to the Chattels and the premises where they are located and shall produce evidence of those payments to the Mortgagee on demand.

7.10.2 If the Mortgagor fails to pay any amount under Clause 7.10.1 when due the Mortgagee may (but shall not be obliged to) pay it.

8. RESTRICTIONS AND FURTHER ASSURANCE

8.1 Security

The Mortgagor shall not create or permit to subsist any Security over any Charged Property, nor do anything else prohibited by clause 21.13 (*Negative pledge*) of the Facilities Agreement.

8.2 Disposal

The Mortgagor shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Charged Property.

8.3 Preservation of the Security Assets

The Mortgagor shall not:-

- 8.3.1 take any Security in connection with its liabilities under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities; or
- 8.3.2 enter into any onerous obligation or restriction affecting any of the Charged Property.

8.4 Further assurance

The Mortgagor shall promptly do whatever the Mortgagee requires:-

- 8.4.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or
- 8.4.2 to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Mortgagee or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Mortgagee or its nominees or otherwise), making any registration and giving any notice, order or direction.

9. DEMAND AND ENFORCEMENT

9.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 9.1.1 the occurrence of an Event of Default which is continuing; or
- 9.1.2 any request being made by the Mortgagor to the Mortgagee for the appointment of a Receiver or an administrator, or for the Mortgagee to exercise any other power or right available to it.

9.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Mortgagee may (without prejudice to any other rights and remedies and without notice to the Mortgagor) do all or any of the following:-

- 9.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on Mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 9.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property without the restrictions imposed by sections 99 and 100 of the LPA; and
- 9.2.3 subject to Clause 10.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property;
- 9.2.4 take possession of all or any of the Chattels and enter any premises where the Chattels or any of them are, in order to locate and take possession of them.

9.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 9.2 (*Powers on enforcement*), the Mortgagee or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

9.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Mortgagee or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Mortgagee shall have taken possession or appointed a Receiver of the Charged Property.

9.5 Delegation

The Mortgagee may delegate in any manner to any person any rights exercisable by the Mortgagee under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Mortgagee thinks fit.

10. RECEIVERS

10.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Mortgagee under this Deed shall be in writing under the hand of any officer or manager of the Mortgagee (subject to any requirement for a court order in the case of the removal of an administrative receiver).

10.2 Removal

The Mortgagee may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

10.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- 10.3.1 of the Mortgagee under this Deed;
- 10.3.2 conferred by the LPA on Mortgagees in possession and on receivers appointed under the LPA;
- 10.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 10.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and
- 10.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

10.4 Receiver as agent

The Receiver shall be the agent of the Mortgagor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Mortgagor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Mortgagee.

10.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

10.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Mortgagee and the maximum rate specified in section 109(6) of the Act shall not apply.

11. APPLICATION OF MONEYS

11.1 Application of moneys

All sums received by virtue of this Deed by the Mortgagee or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

11.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Mortgagee, or by any Receiver (including legal expenses), together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;

11.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of any Receiver;

11.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facilities Agreement;

11.1.4 **fourthly**, in the payment of the surplus (if any), to the Mortgagor or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

12. POWER OF ATTORNEY

12.1 Appointment

The Mortgagor irrevocably and by way of security appoints:-

12.1.1 the Mortgagee (whether or not a Receiver has been appointed);

12.1.2 any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Mortgagee; and

12.1.3 (as a separate appointment) each Receiver,

severally as the Mortgagor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Mortgagor, which the Mortgagor could be required to do or execute under any provision of this Deed, or which the Mortgagee in its sole opinion may consider necessary or desirable for perfecting its title to any of the Charged Property or enabling the Mortgagee or the Receiver to exercise any of its rights or powers under this Deed.

12.2 Ratification

The Mortgagor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 12.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 12.1 (*Appointment*).

13. CONSOLIDATION

13.1 Combination of accounts

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Mortgagee may at any time after this Deed has become enforceable, without notice to the Mortgagor, combine or consolidate all or any accounts which it then has in relation to the Mortgagor (in whatever name) and any Secured Liabilities owed by the Mortgagor to it, and/or set-off or transfer any amounts standing to the credit of one or more accounts of the Mortgagor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

13.2 Application

The Mortgagee's rights under Clause 13.1 (*Combination of accounts*) apply:-

- 13.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 13.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 13.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Mortgagee may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00 am on the date of conversion; and
- 13.2.4 in respect of any Secured Liabilities owed by the Mortgagor, however arising.

14. PROTECTION OF THIRD PARTIES

14.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Mortgagee, as varied and extended by this Deed, and all other powers of the Mortgagee, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

14.2 Purchasers

No purchaser from or other person dealing with the Mortgagee, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

- 14.2.1 to enquire whether any of the powers which the Mortgagee or a Receiver have exercised has arisen or become exercisable;
- 14.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or
- 14.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

14.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Mortgagee, any Receiver or any person to whom any of them have delegated any of their powers.

15. PROTECTION OF THE MORTGAGEE AND ANY RECEIVER

15.1 No liability

None of the Mortgagee, any Receiver, or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

15.2 Not Mortgagee in possession

Without prejudice to any other provision of this Deed, entry into possession of any Charged Property shall not render the Mortgagee, any Receiver or any of their respective officers or employees liable:-

15.2.1 to account as Mortgagee in possession;

15.2.2 for any loss on realisation; or

15.2.3 for any default or omission for which a Mortgagee in possession might be liable,

and if and whenever the Mortgagee or any Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to relinquish possession.

15.3 Indemnity

To the extent such indemnity is not already in place pursuant to a Finance Document, the Mortgagor shall indemnify and keep indemnified the Mortgagee, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

15.3.1 any act or omission by any of them in relation to all or any of the Charged Property;

15.3.2 any payment relating to or in respect of all or any of the Charged Property which is made at any time by any of them;

15.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

15.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed;

15.3.5 any breach by the Mortgagor of any of its covenants or other obligations to the Mortgagee;

15.3.6 the management, control, use, possession, performance, maintenance, repair, storage or operation of the Chattels;

15.3.7 any defect, failure or faulty design of the Chattels; or

15.3.8 any claim that any design, article or material in the Chattels, or the operation or use of them, infringes a patent or other right,

except in the case of gross negligence or wilful misconduct on the part of that person.

15.4 Interest

The Mortgagor shall pay interest at the Default Rate on the sums payable under this Clause 15 (*Protection of the Mortgagee and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

15.5 Indemnity out of the Charged Property

The Mortgagee, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Charged Property in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 15.3 (*Indemnity*).

15.6 Continuing protection

The provisions of this Clause 15 (*Protection of the Mortgagee and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

16. PROVISIONS RELATING TO THE MORTGAGEE

16.1 Powers and discretions

The rights, powers and discretions given to the Mortgagee in this Deed:-

- 16.1.1 may be exercised as often as, and in such manner as, the Mortgagee thinks fit;
- 16.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 16.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

16.2 Trusts

The perpetuity period for any trusts constituted by this Deed shall be 125 years.

17. PRESERVATION OF SECURITY

17.1 Continuing Security

This Deed shall be a continuing security to the Mortgagee and shall remain in force until expressly discharged in writing by the Mortgagee notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

17.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Mortgagee may have now or at any time in the future for or in respect of any of the Secured Liabilities.

17.3 Waiver of Defences

Neither the Security created by this Deed nor the obligations of the Mortgagor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Mortgagee) including:-

- 17.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 17.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 17.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

- 17.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 17.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 17.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 17.3.7 an insolvency, liquidation, administration or similar procedure.

17.4 **Immediate recourse**

The Mortgagor waives any right it may have of first requiring the Mortgagee (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Mortgagor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.5 **Appropriations**

During the Security Period the Mortgagee may:-

- 17.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 11.1 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Mortgagor shall not be entitled to the same; and
- 17.5.2 hold in an interest-bearing suspense account any moneys received from the Mortgagor on or account of the Secured Liabilities.

17.6 **Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Mortgagee confirms that it shall make further advances to the Mortgagor on the terms and subject to the conditions of the Finance Documents.

17.7 **Deferral of Mortgagor's rights**

During the Security Period and unless the Mortgagee otherwise directs, the Mortgagor shall not exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 17.7.1 to receive or claim payment from, or be indemnified by an Obligor;
- 17.7.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;
- 17.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Mortgagee under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Mortgagee;
- 17.7.4 to exercise any right of set-off against any Obligor; and/or
- 17.7.5 to claim or prove as a creditor of any Obligor in competition with the Mortgagee.

18. RELEASE

18.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Mortgagee shall, or shall procure that its appointees will, at the request and cost of the Mortgagor:-

18.1.1 release the Charged Property from this Deed; and

18.1.2 re-assign the Charged Property that has been assigned to the Mortgagee under this Deed.

18.2 Reinstatement

If the Mortgagee considers that any amount paid or credited to the Mortgagee under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

18.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

18.2.2 the liability of the Mortgagor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

18.3 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

19. MISCELLANEOUS PROVISIONS

19.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

19.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

19.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

19.2 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

19.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Mortgagee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provide by law.

19.4 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.

20. **GOVERNING LAW**

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

21. **ENFORCEMENT**

21.1 **Jurisdiction of English Courts**

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

21.1.2 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.

21.1.3 This Clause 21.1 (*Jurisdiction of English Courts*) is for the benefit of the Mortgagee only. As a result, the Mortgagee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Mortgagee may take concurrent proceedings in any number of jurisdictions.

21.2 The Mortgagor expressly agrees and consents to the provisions of this Clause 21 (*Enforcement*) and Clause 20 (*Governing Law*).

Executed as a deed and delivered by the parties on the date appearing at the beginning of this Deed

SCHEDULE 1

PARTICULARS OF THE CHATTELS CHARGED

The Chattels owned by the Mortgagor known as the Dodd Engineering Finishing Track comprising and as more particularly described below:

HIGH SPEED PANEL LINE COMPRISING:

1 Abus Single Girder Overhead Electric Travelling Crane, c15m Span on 8 RS Supporting Steelwork Columns, 8 Tonne SWL

2 Dodd Engineering Floor Mounted Power Roller Conveyor
Serial No. J10410-08-00-RC1A (2020)

6 Tonne SWL, External and Internal Sections for Transferring Prefabricated Steel Wall Frames to Line

1 Steel Lifting frame for Unloading Prefabricated Steel Frames
No. 241120

1 Dodd Engineering overhead Panel Transfer Gantry System
Throughout Line
Ref No. J10417-04-00

1 Dodd Engineering OSB Gantry Mounted Transfer Frame
Ref. No. J10417-06-02, 2 Tonnes SWL

1 Turbo Vacuumation Vacuum Lifting Frame for OSB Sheets

1 Fabricated Sectional Steel Table for OSB Sheets

OSB SAWMILL

1 Handsaeme BOS FRAM Bridge Type CNC Machining Centre
Project No. 1903-00006, Machine No. M12858, Used for Cutting Window and Door Apertures etc. with Dodd Engineering
Conveyorised Throughfeed Panel Transfer System (RC1A&B) with Controls and Associated Equipment

CP1

1 Dodd Engineering / Siemens Simatic HM1 Touch Panel Controls

2 Sections of Roller Conveyor

8 Totalkare Adjustable Support Stands, 7.5 Tonne SWL, Used to Support Prefabricated Steel Wall Frame Sections

1 Dodd Engineering Power Roller Conveyor System
Serial No. J10412-03—00-RC2A (9/2020)
700KG SWL, Feeding Handsaeme Plasterboard Screw Bridge

1 Dodd Engineering Lifting Frame
Ref. No. J10417-02-10, 670KG Capacity

1 Dodd Engineering Overhead Gantry Mounted Transfer Frame
Serial No. J10417-02-00, 2 Tonne SWL

PLASTERBOARD SAW MILL

1 Handsaeme BOS-FRAM Bridge Type CNC Machining Centre

Project No. 1904-00006, Machine No. M12858 (2019) with Controls and Associated Equipment

1 Dodd Engineering Throughfeed Conveyorized Panel Transfer System for Last
Ref. No. J10411-07-00;BC1 (2020) 700KG Capacity

1 Fabricated Sectional Steel Table for Plasterboard Sheets

1 Dodd Engineering Overhead Gantry Mounted Transfer Frame
Ref. No. J10417-06-00-01, 2 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame for Plasterboard Sheets
Serial No. D3646 (2020) 670KG SWL
Dodd Ref. No. J10417-OG-01

4 Abus Overhead Electric Travelling Cranes on Supporting Steelwork, Circa 16m Span;
2 x 4 Tonne Capacity, 1 x 2+2 Tonne Capacity and 1 x 1+1 Tonne Capacity

CP4

1 Dodd Engineering / Siemens Simatic HMI Touch Panel Controls

1 Dodd Engineering Lifting Frame
1.8 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame for Plasterboard Sheets, 650KG SWL

PLASTERBOARD SCREW BRIDGE

1 Handsaeme BOS-FRAM CNC Bridge Type Machining Centre
Project No. 1904-00006, Machine No. M12858 (2019)
With Controls and Associated Equipment

1 Dodd Engineering Power Roller Conveyor Table for Last
Ref. No. J1402-06-00-RC2B (2020) with Automated Clamping

CP3

1 Dodd Engineering / Siemens Simatic HM1 Touch Screen Control Panel

1 Dodd Engineering Lifting Beam
3.3 Tonne SWL

20 Sections of Gravity Roller Conveyor

1 Dodd Engineering Lifting Frame
2.5 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame

1 Ardesa Dryback Extraction Booth with Lighting

1 Dodd Engineering Lifting Beam
4 Tonne SWL

OSB SCREW BRIDGE

1 Handsaeme BOS FRAM Bridge CNC Machining Centre
Project No. 1904-00006, Machine No. M12858 (2019)
with Table, Controls and Associated Equipment

CP2

1 Dodd Engineering / Siemens Simatic HMI Touch Screen Controls
Circa 200m Perimeter Safety Fencing with Light Guards

FINISHING TRACK

6 x 60m Dodd Engineering Mobile Vertical Roller Finishing Track
3 x 12m of Dodd Engineering Mobile Vertical Roller Finishing Track
Dodd Engineering Rail Mounted Transfer Trolley

Location of the Chattels:-

The premises known as Maximus, Flaxby Moor Industrial Estate, Knaresborough

SCHEDULE 2 - FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

To: [INSURER]

Date:

Dear Sirs,

We give you notice that we have assigned and charged to Homes and Communities Agency (trading as Homes England) (the "**Mortgagee**") pursuant to a deed entered into by us in favour of the Mortgagee dated [DATE] all our right, title and interest in and to the proceeds of [INSERT DETAILS OF RELEVANT INSURANCE POLICY] (the "**Policy of Insurance**").

With effect from your receipt of this notice we instruct you to:

- (1) following the Mortgagee's notification to you that an Event of Default has occurred make all payments and claims under or arising from the Policy of Insurance to the Mortgagee to such bank account as may be notified to you by the Mortgagee for such purpose or to its order as it may specify in writing from time to time;
- (2) note the interest of the Mortgagee on the Policy of Insurance; and
- (3) disclose to the Mortgagee, without further approval from us, such information regarding the Policy of Insurance as the Mortgagee may from time to time request and to send it copies of all notices issued by you under the Policy of Insurance.

With effect from your receipt of this notice all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Policy of Insurance (including all rights to compel performance) belong to and are exercisable by the Mortgagee.

Please acknowledge receipt of this notice (substantially in the form of the attached) by signing the acknowledgement on the enclosed copy letter and returning it to the Mortgagee at Homes and Communities Agency, One Friargate, Coventry CV1 2GN marked for the attention of Homes England Legal Services.

Yours faithfully,

for and on behalf of
ILKE HOMES LIMITED

On copy only:

To: Homes and Communities Agency
One Friargate
Coventry
CV1 2GN

For the attention of Homes England Legal Services

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Policy of Insurance shall be effective unless we have given the Mortgagee thirty days written notice of it or, if it is not possible to comply with such notification to the Mortgagee in accordance with the provisions of the relevant Policy of Insurance, the notice will be provided to the Mortgagee in relation to such termination as soon as possible.

For and on behalf of

[INSURER]

By:

Dated:

EXECUTION PAGE

The Mortgagor

EXECUTED as a Deed
by ILKE HOMES LIMITED acting by
a director, in the presence of:-

)
)
)
)

Signature of witness:

Director

Name of witness: CHRISTOPHER BALDERSTONE

Address: FLAXBY INDUSTRIAL ESTATE, KNARESBOROUGH

Occupation: SOLICITOR

HG5 0XJ

The Mortgagee

HOMES ENGLAND

The common seal of
HOMES AND COMMUNITIES AGENCY
is hereunto affixed in the presence of:

)
)
)

Authorised Signatory:

Print Name:

DATED 2 FEBRUARY 2022

**(1) ILKE HOMES LIMITED
(AS MORTGAGOR)**

**(2) HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND)
(AS MORTGAGEE)**

CHATTEL MORTGAGE



Pinsent Masons

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THIS DEED is made on 2 February 2022

BETWEEN:-

- (1) **ILKE HOMES LIMITED** a company incorporated in England and Wales with registered number: 10909968 and whose registered office is at Flaxby Industrial Estate, Knaresborough, Harrogate, HG5 0XJ (the "**Mortgagor**"); and
- (2) **HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND)** (the "**Mortgagee**").

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

In this Deed:-

"Authorised Supplier"	in relation to any Chattel means the person (or one of a number of persons) authorised by the manufacturer to supply similar items or to maintain or supply parts for such items supplied in the past
"Charged Property"	means all the property, assets and undertaking of the Mortgagor which from time to time are, or are expressed to be, the subject of the Security created in favour of the Mortgagee by or pursuant to this Deed
"Chattels"	means the items described in Schedule 1 and all related Contracts
"Contracts"	means all present and future contracts and agreements relating to the Chattels of any nature to which the Mortgagor is a party including, without limitation, all Licences, technical manuals, log books, warranties, maintenance agreements and any agreements for the purchase, hire or leasing of the Chattels
"Default Rate"	means the rate of interest specified in, and calculated in accordance with, clause 10.3 of the Facilities Agreement
"Event of Default"	has the meaning given to that term in the Facilities Agreement
"Facilities Agreement"	means the facilities agreement originally dated 1 November 2019, as amended from time to time and made between the Mortgagor and others as borrowers and the Mortgagee
"Insurance Policies"	means all policies and contracts of insurance effected by the Mortgagor or the Mortgagee pursuant to Clause 7.3
"Licences"	means all licences, permits and authorisations relating to the Chattels or the user of them to which the Chattels are now or may become subjected
"LPA"	means the Law of Property Act 1925
"Notice of Assignment"	means a notice of assignment in substantially the form set out in Schedule 2 (<i>Form of Notice of Assignment of Insurance</i>) in relation to the Insurance Policies or in such form as may be specified by the Mortgagee in relation to any Contracts ¹

"Party"	means a party to this Deed
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property
"Secured Liabilities"	means all present and future liabilities and obligations of the Mortgagor and each other Obligor to the Mortgagee (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the Mortgagee was the original creditor in respect thereof) including, without limitation, all sums due, owing or payable under or in connection with any of the Secured Finance Documents and all interest, commission, costs, charges and expenses incurred by the Mortgagee in connection with the protection, preservation and/or enforcement of its rights under the any document evidencing or securing any such liabilities and obligations, whatever their nature or basis, in any currency or currencies, and however they are described (each a "Secured Liability")
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period beginning on the date of this Deed and ending on the date on which the Mortgagee is satisfied that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities which might give rise to Secured Liabilities have terminated
"Suitable Replacement Part"	means a part which is:- <ul style="list-style-type: none"> (a) owned by the Mortgagor free and clear of Security; (b) approved by the manufacturer of the Chattel or an Authorised Supplier for use in or with that Chattel in the circumstances in which it is to be used; and (c) new (in the case of consumable items and parts regularly required to be renewed) or (in other cases) new or fully and properly refurbished by a person approved by the manufacturer of the Chattel or an Authorised Supplier
"Total Loss"	means, in relation to any of the Chattels:- <ul style="list-style-type: none"> (a) the loss or loss of use of that Chattel due to destruction or damage which is beyond economic repair; (b) that Chattel being rendered permanently unfit for normal commercial use; (c) any damage to that Chattel which results in an insurance settlement on the basis of an actual, arranged or constructive total loss; (d) any compulsory acquisition of that Chattel; or (e) the theft, disappearance or seizure of that Chattel if it results in the loss of the possession of it by the Mortgagor, for ninety consecutive days

1.2 **Incorporation of terms**

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facilities Agreement have the same meanings in this Deed.

1.3 **Interpretation**

The principles of interpretation set out in clauses 1.2 and 1.3 of the Facilities Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument.

1.4 **Effect as a deed**

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

1.5 **Third party rights**

A person who is not a Party 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.

1.5.1 Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.5.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2. **COVENANT TO PAY**

2.1 **Secured liabilities**

The Mortgagor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due in accordance with the Facilities Agreement.

2.2 **Interest**

The Mortgagor covenants to pay interest on any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after judgment) at the Default Rate.

3. **CHARGES**

3.1 **Mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Mortgagor with full title guarantee charges to the Mortgagee by way of first legal mortgage all its right, title and interest from time to time in and to the Chattels.

3.2 **Assignments**

As continuing security for payment and discharge of the Secured Liabilities, the Mortgagor assigns absolutely in favour of the Mortgagee all its right, title and interest from time to time in and to:-

3.2.1 the proceeds of, and the benefit of all options and rights under, the Insurance Policies; and

3.2.2 the Contracts (but provided always that the Mortgagee shall not be obliged to perform any obligations of the Mortgagor under the Contracts).

3.3 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Mortgagor shall hold it on trust for the Mortgagee.

4. PERFECTION OF SECURITY

4.1 Notices of Assignment

The Mortgagor shall deliver duly executed Notices of Assignment to the Mortgagee:-

4.1.1 in respect of the Insurances assigned pursuant to Clause 3.2.1, on the date of this Deed and promptly upon purchasing any further Insurance after the date of this Deed,

4.1.2 in respect of the Contracts assigned pursuant to Clause 3.2.1, promptly following a request to do so by Homes England,

and shall use all reasonable endeavours to procure that each notice is acknowledged by the party to whom such Notice of Assignment is addressed.

4.2 Marking of Chattels

The Mortgagor shall fix to any item or part comprised in the Chattels a durable, prominent and reasonably-sized sign stating:-

This asset and all additions to it are subject to a fixed legal mortgage dated • 2022 in favour of Homes England (registered office: One, Friargate, Coventry, CV1 2GN)

and not remove or obscure that sign or allow it to be removed, obscured or defaced.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties

The Mortgagor hereby represents and warrants to the Mortgagee that:-

5.1.1 the Chattels are situated in England and Wales and the Contracts are governed by English law;

5.1.2 the Mortgagor is the sole legal and beneficial owner of the Charged Property and the Charged Property is free from all Security;

5.1.3 it has examined the Chattels and they are in good and substantial repair (fair wear and tear excepted) and serviceable operating condition; and

5.1.4 it is not deemed to be unable to pay its debts for the purpose of section 123 of the Insolvency Act 1986 (but ignoring any requirement that any matter referred to in that section be proved to the satisfaction of the court), nor will it become so in consequence of entering into the Finance Documents.

5.2 Repetition

The representations set out in Clause 5.1 shall survive the execution of this Deed and are deemed to be repeated by reference to the facts and circumstances then existing on the date on which the Repeating Representations are deemed to be repeated.

6. DEALING WITH THE CHATTELS

6.1 Possession

Until the Security created by this Deed becomes enforceable, and subject always to the provisions of this Deed, the Mortgagor shall be entitled to retain possession of the Chattels as bailee only and to use the Chattels in the ordinary course of its business.

6.2 Parts

6.2.1 The Mortgagor shall not remove, substitute, replace or renew any part from any of the Chattels or add to any of the Chattels except:-

- (a) in the ordinary course of maintenance, service, repair, overhaul or testing provided that the new part is a Suitable Replacement Part; or
- (b) with the prior written consent of the Mortgagee and provided that the new part is a Suitable Replacement Part.

6.2.2 Any part removed from any of the Chattels shall remain subject to this Deed until it has been replaced in accordance with this Deed and on replacement:-

- (a) the replacement part shall become subject to this Deed for all purposes as though it had originally formed part of the Chattel; and
- (b) the replaced part shall cease to be subject to this Deed.

6.3 Any part installed in or attached to any of the Chattels shall upon installation or attachment become subject to this Deed.

7. UNDERTAKINGS

7.1 Duration

The covenants contained in this Clause 7 remain in force from the date of this Deed until the end of the Security Period.

7.2 Compliance with Obligations

7.2.1 The Mortgagor shall obtain and maintain in force and comply with the terms and conditions of all Licences.

7.2.2 The Mortgagor shall maintain and use each Chattel only in accordance with applicable legislation and recommendations from time to time made by the manufacturers and Authorised Suppliers of any Chattels.

7.2.3 The Mortgagor shall observe and perform its obligations under all Contracts and notify the Mortgagee of any breach by any person of any term of any Contract or any right of it or any other person to rescind, cancel or terminate any Contract promptly upon becoming aware of it.

7.3 Insurance

7.3.1 The Mortgagor shall effect and maintain insurances at its own expense on and in relation to the Chattels against such risks and in such amounts and otherwise upon such terms as the Mortgagee requires and in any event to the extent usual for companies owning or possessing similar assets or carrying on the same or substantially similar business, which shall include insurance written by responsible underwriters and/or companies against:-

- (a) loss or damage to the Chattels from any insurable cause in a sum equal to the full replacement value of the Chattels; and

7.4 Location of Chattels

- 7.4.1 The Mortgagor shall keep the Chattels at its premises known as Maximus, Flaxby Moor Industrial Estate, Knaresborough or at any other premises in England and Wales owned or occupied by the Mortgagor which are approved in writing by the Mortgagee from time to time.
- 7.4.2 Where there is an Event of Default which is continuing, the Mortgagor shall promptly upon written notice from the Mortgagee relocate the Chattels to such premises as the Mortgagee may require and all costs associated with the relocation of the Chattels shall be payable by the Mortgagor.
- 7.4.3 The Mortgagor shall not allow the Chattels to be moved or taken out of England and Wales except with the Mortgagee's written consent and on any further terms that the Mortgagee requires.

7.5 Condition and Modification

- 7.5.1 The Mortgagor shall not allow the Chattels to be damaged or destroyed and shall at its own cost maintain, overhaul and repair the Chattels and make good all damage or deterioration to them; and
- 7.5.2 The Mortgagor shall promptly replace any damaged, worn or defective part with a Suitable Replacement Part which is:-
- (a) owned by the Mortgagor free and clear of Security;
 - (b) approved by the manufacturer of the Chattel or an Authorised Supplier for use in or with that Chattel in the circumstances in which it is to be used; and
 - (c) new (in the case of consumable items and parts regularly required to be renewed) or (in other cases) new or fully and properly refurbished by a person approved by the manufacturer of the Chattel or an Authorised Supplier.
- 7.5.3 The Mortgagor shall not make or permit any modification to the Chattels which might reduce its value.

7.6 Information and Inspection

- 7.6.1 The Mortgagor shall from time to time at the written request of the Mortgagee (but at the Mortgagor's expense) produce to the Mortgagee such evidence as the Mortgagee may reasonably require to demonstrate the Mortgagor's compliance with its obligations under this Deed.
- 7.6.2 The Mortgagor shall allow the Mortgagee (and its officers and agents) accompanied access by prior agreement following written notice from the Mortgagee and only during the Mortgagor's normal business hours to view the state and condition of the Chattels, to procure the repair or replacement of the Chattels in accordance with Clause 7.5 and for any other purpose contemplated in this Deed.

7.7 Notification to the Mortgagee

- 7.7.1 The Mortgagor shall promptly inform the Mortgagee of any material loss or damage to, or confiscation, seizure or requisitioning of, the Chattels and anything else of which the Mortgagor is or becomes aware which might:-
- (a) affect the Mortgagee's rights and interest in the Chattels;
 - (b) involve the Mortgagee in any proceedings, loss or liability; or
 - (c) result in any claim under any Insurance Policy.

7.8 Use

7.8.1 The Mortgagor shall:-

- (a) ensure that the Chattels are operated skilfully and properly, by properly qualified and trained persons and in accordance with any relevant manufacturer's approved operating manuals;
- (b) ensure that the premises where the Chattels are kept are suitable for the use or storage of the Chattels;
- (c) not (except for the purpose of necessary repair or maintenance) permit the Chattels to leave its possession or be used by any person other than the Mortgagor or its officers, employees or delegates or for any purpose other than in connection with its business.

7.9 Transfer of title and title documents

7.9.1 The Mortgagor shall following a written request from the Mortgagee:-

- (a) execute all documents and do everything that is necessary to transfer legal title to the Chattels to the Mortgagee;
- (b) deliver to the Mortgagee all documents of title, log books and registration and other documents evidencing possession or control of the Chattels or the Mortgagor's ability to transfer the Chattels; and
- (c) deliver to the Mortgagee copies of all Contracts.

7.9.2 The Mortgagor shall obtain from any person with a proprietary or security interest (including any owner, leaseholder or chargee) in any real or personal property to which the Chattels become affixed, or with which title to the Chattels might merge, an acknowledgement before the fixing or merger that that person will only exercise their rights and remedies subject to the Mortgagee's rights in the Chattels and, in particular, the right of the Mortgagee and its officers or agents to enter on any such property and remove the Chattels, even if it has been fixed to, or merged with, that property.

7.10 Taxes, fees etc

7.10.1 The Mortgagor shall promptly pay all Taxes, fees, licence fees, registration charges, insurance premiums and other outgoings relating to the Chattels and the premises where they are located and shall produce evidence of those payments to the Mortgagee on demand.

7.10.2 If the Mortgagor fails to pay any amount under Clause 7.10.1 when due the Mortgagee may (but shall not be obliged to) pay it.

8. RESTRICTIONS AND FURTHER ASSURANCE

8.1 Security

The Mortgagor shall not create or permit to subsist any Security over any Charged Property, nor do anything else prohibited by clause 21.13 (*Negative pledge*) of the Facilities Agreement.

8.2 Disposal

The Mortgagor shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Charged Property.

8.3 Preservation of the Security Assets

The Mortgagor shall not:-

- 8.3.1 take any Security in connection with its liabilities under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities; or
- 8.3.2 enter into any onerous obligation or restriction affecting any of the Charged Property.

8.4 Further assurance

The Mortgagor shall promptly do whatever the Mortgagee requires:-

- 8.4.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or
- 8.4.2 to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Mortgagee or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Mortgagee or its nominees or otherwise), making any registration and giving any notice, order or direction.

9. DEMAND AND ENFORCEMENT

9.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 9.1.1 the occurrence of an Event of Default which is continuing; or
- 9.1.2 any request being made by the Mortgagor to the Mortgagee for the appointment of a Receiver or an administrator, or for the Mortgagee to exercise any other power or right available to it.

9.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Mortgagee may (without prejudice to any other rights and remedies and without notice to the Mortgagor) do all or any of the following:-

- 9.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on Mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 9.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property without the restrictions imposed by sections 99 and 100 of the LPA; and
- 9.2.3 subject to Clause 10.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property;
- 9.2.4 take possession of all or any of the Chattels and enter any premises where the Chattels or any of them are, in order to locate and take possession of them.

9.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 9.2 (*Powers on enforcement*), the Mortgagee or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

9.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Mortgagee or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Mortgagee shall have taken possession or appointed a Receiver of the Charged Property.

9.5 Delegation

The Mortgagee may delegate in any manner to any person any rights exercisable by the Mortgagee under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Mortgagee thinks fit.

10. RECEIVERS

10.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Mortgagee under this Deed shall be in writing under the hand of any officer or manager of the Mortgagee (subject to any requirement for a court order in the case of the removal of an administrative receiver).

10.2 Removal

The Mortgagee may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

10.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

10.3.1 of the Mortgagee under this Deed;

10.3.2 conferred by the LPA on Mortgagees in possession and on receivers appointed under the LPA;

10.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;

10.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and

10.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

10.4 Receiver as agent

The Receiver shall be the agent of the Mortgagor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Mortgagor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Mortgagee.

10.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

10.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Mortgagee and the maximum rate specified in section 109(6) of the Act shall not apply.

11. APPLICATION OF MONEYS

11.1 Application of moneys

All sums received by virtue of this Deed by the Mortgagee or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 11.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Mortgagee, or by any Receiver (including legal expenses), together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
- 11.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of any Receiver;
- 11.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facilities Agreement;
- 11.1.4 **fourthly**, in the payment of the surplus (if any), to the Mortgagor or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

12. POWER OF ATTORNEY

12.1 Appointment

The Mortgagor irrevocably and by way of security appoints:-

- 12.1.1 the Mortgagee (whether or not a Receiver has been appointed);
- 12.1.2 any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Mortgagee; and
- 12.1.3 (as a separate appointment) each Receiver,

severally as the Mortgagor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Mortgagor, which the Mortgagor could be required to do or execute under any provision of this Deed, or which the Mortgagee in its sole opinion may consider necessary or desirable for perfecting its title to any of the Charged Property or enabling the Mortgagee or the Receiver to exercise any of its rights or powers under this Deed.

12.2 Ratification

The Mortgagor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 12.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 12.1 (*Appointment*).

13. **CONSOLIDATION**

13.1 **Combination of accounts**

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Mortgagee may at any time after this Deed has become enforceable, without notice to the Mortgagor, combine or consolidate all or any accounts which it then has in relation to the Mortgagor (in whatever name) and any Secured Liabilities owed by the Mortgagor to it, and/or set-off or transfer any amounts standing to the credit of one or more accounts of the Mortgagor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

13.2 **Application**

The Mortgagee's rights under Clause 13.1 (*Combination of accounts*) apply:-

- 13.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 13.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 13.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Mortgagee may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00 am on the date of conversion; and
- 13.2.4 in respect of any Secured Liabilities owed by the Mortgagor, however arising.

14. **PROTECTION OF THIRD PARTIES**

14.1 **Statutory powers**

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Mortgagee, as varied and extended by this Deed, and all other powers of the Mortgagee, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

14.2 **Purchasers**

No purchaser from or other person dealing with the Mortgagee, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

- 14.2.1 to enquire whether any of the powers which the Mortgagee or a Receiver have exercised has arisen or become exercisable;
- 14.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or
- 14.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

14.3 **Receipts**

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Mortgagee, any Receiver or any person to whom any of them have delegated any of their powers.

15. PROTECTION OF THE MORTGAGEE AND ANY RECEIVER

15.1 No liability

None of the Mortgagee, any Receiver, or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

15.2 Not Mortgagee in possession

Without prejudice to any other provision of this Deed, entry into possession of any Charged Property shall not render the Mortgagee, any Receiver or any of their respective officers or employees liable:-

15.2.1 to account as Mortgagee in possession;

15.2.2 for any loss on realisation; or

15.2.3 for any default or omission for which a Mortgagee in possession might be liable,

and if and whenever the Mortgagee or any Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to relinquish possession.

15.3 Indemnity

To the extent such indemnity is not already in place pursuant to a Finance Document, the Mortgagor shall indemnify and keep indemnified the Mortgagee, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

15.3.1 any act or omission by any of them in relation to all or any of the Charged Property;

15.3.2 any payment relating to or in respect of all or any of the Charged Property which is made at any time by any of them;

15.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

15.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed;

15.3.5 any breach by the Mortgagor of any of its covenants or other obligations to the Mortgagee;

15.3.6 the management, control, use, possession, performance, maintenance, repair, storage or operation of the Chattels;

15.3.7 any defect, failure or faulty design of the Chattels; or

15.3.8 any claim that any design, article or material in the Chattels, or the operation or use of them, infringes a patent or other right,

except in the case of gross negligence or wilful misconduct on the part of that person.

15.4 Interest

The Mortgagor shall pay interest at the Default Rate on the sums payable under this Clause 15 (*Protection of the Mortgagee and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

- 17.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 17.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 17.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 17.3.7 an insolvency, liquidation, administration or similar procedure.

17.4 Immediate recourse

The Mortgagor waives any right it may have of first requiring the Mortgagee (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Mortgagor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.5 Appropriations

During the Security Period the Mortgagee may:-

- 17.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 11.1 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Mortgagor shall not be entitled to the same; and
- 17.5.2 hold in an interest-bearing suspense account any moneys received from the Mortgagor on or account of the Secured Liabilities.

17.6 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Mortgagee confirms that it shall make further advances to the Mortgagor on the terms and subject to the conditions of the Finance Documents.

17.7 Deferral of Mortgagor's rights

During the Security Period and unless the Mortgagee otherwise directs, the Mortgagor shall not exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 17.7.1 to receive or claim payment from, or be indemnified by an Obligor;
- 17.7.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;
- 17.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Mortgagee under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Mortgagee;
- 17.7.4 to exercise any right of set-off against any Obligor; and/or
- 17.7.5 to claim or prove as a creditor of any Obligor in competition with the Mortgagee.

18. RELEASE

18.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Mortgagee shall, or shall procure that its appointees will, at the request and cost of the Mortgagor:-

18.1.1 release the Charged Property from this Deed; and

18.1.2 re-assign the Charged Property that has been assigned to the Mortgagee under this Deed.

18.2 Reinstatement

If the Mortgagee considers that any amount paid or credited to the Mortgagee under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

18.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

18.2.2 the liability of the Mortgagor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

18.3 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

19. MISCELLANEOUS PROVISIONS

19.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

19.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

19.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

19.2 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

19.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Mortgagee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provide by law.

19.4 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.

20. **GOVERNING LAW**

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

21. **ENFORCEMENT**

21.1 **Jurisdiction of English Courts**

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

21.1.2 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.

21.1.3 This Clause 21.1 (*Jurisdiction of English Courts*) is for the benefit of the Mortgagee only. As a result, the Mortgagee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Mortgagee may take concurrent proceedings in any number of jurisdictions.

21.2 The Mortgagor expressly agrees and consents to the provisions of this Clause 21 (*Enforcement*) and Clause 20 (*Governing Law*).

Executed as a deed and delivered by the parties on the date appearing at the beginning of this Deed

SCHEDULE 1

PARTICULARS OF THE CHATTELS CHARGED

The Chattels owned by the Mortgagor known as the Dodd Engineering Finishing Track comprising and as more particularly described below:

HIGH SPEED PANEL LINE COMPRISING:

1 Abus Single Girder Overhead Electric Travelling Crane, c15m Span on 8 RS Supporting Steelwork Columns, 8 Tonne SWL

2 Dodd Engineering Floor Mounted Power Roller Conveyor
Serial No. J10410-08-00-RC1A (2020)

6 Tonne SWL, External and Internal Sections for Transferring Prefabricated Steel Wall Frames to Line

1 Steel Lifting frame for Unloading Prefabricated Steel Frames
No. 241120

1 Dodd Engineering overhead Panel Transfer Gantry System
Throughout Line
Ref No. J10417-04-00

1 Dodd Engineering OSB Gantry Mounted Transfer Frame
Ref. No. J10417-06-02, 2 Tonnes SWL

1 Turbo Vacuumtation Vacuum Lifting Frame for OSB Sheets

1 Fabricated Sectional Steel Table for OSB Sheets

OSB SAWMILL

1 Handsaeme BOS FRAM Bridge Type CNC Machining Centre
Project No. 1903-00006, Machine No. M12858, Used for Cutting Window and Door Apertures etc. with Dodd Engineering
Conveyorised Throughfeed Panel Transfer System (RC1A&B) with Controls and Associated Equipment

CP1

1 Dodd Engineering / Siemens Simatic HM1 Touch Panel Controls

2 Sections of Roller Conveyor

8 Totalkare Adjustable Support Stands, 7.5 Tonne SWL, Used to Support Prefabricated Steel Wall Frame Sections

1 Dodd Engineering Power Roller Conveyor System
Serial No. J10412-03—00-RC2A (9/2020)
700KG SWL, Feeding Handsaeme Plasterboard Screw Bridge

1 Dodd Engineering Lifting Frame
Ref. No. J10417-02-10, 670KG Capacity

1 Dodd Engineering Overhead Gantry Mounted Transfer Frame
Serial No. J10417-02-00, 2 Tonne SWL

PLASTERBOARD SAW MILL

1 Handsaeme BOS-FRAM Bridge Type CNC Machining Centre
127185662v2

Project No. 1904-00006, Machine No. M12858 (2019) with Controls and Associated Equipment

1 Dodd Engineering Throughfeed Conveyorized Panel Transfer System for Last
Ref. No. J10411-07-00;BC1 (2020) 700KG Capacity

1 Fabricated Sectional Steel Table for Plasterboard Sheets

1 Dodd Engineering Overhead Gantry Mounted Transfer Frame
Ref. No. J10417-06-00-01, 2 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame for Plasterboard Sheets
Serial No. D3646 (2020) 670KG SWL
Dodd Ref. No. J10417-OG-01

4 Abus Overhead Electric Travelling Cranes on Supporting Steelwork, Circa 16m Span;
2 x 4 Tonne Capacity, 1 x 2+2 Tonne Capacity and 1 x 1+1 Tonne Capacity

CP4

1 Dodd Engineering / Siemens Simatic HMI Touch Panel Controls

1 Dodd Engineering Lifting Frame
1.8 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame for Plasterboard Sheets, 650KG SWL

PLASTERBOARD SCREW BRIDGE

1 Handsaeme BOS-FRAM CNC Bridge Type Machining Centre
Project No. 1904-00006, Machine No. M12858 (2019)
With Controls and Associated Equipment

1 Dodd Engineering Power Roller Conveyor Table for Last
Ref. No. J1402-06-00-RC2B (2020) with Automated Clamping

CP3

1 Dodd Engineering / Siemens Simatic HM1 Touch Screen Control Panel

1 Dodd Engineering Lifting Beam
3.3 Tonne SWL

20 Sections of Gravity Roller Conveyor

1 Dodd Engineering Lifting Frame
2.5 Tonne SWL

1 Turbo Vacuumation Vacuum Suction Lifting Frame

1 Ardesa Dryback Extraction Booth with Lighting

1 Dodd Engineering Lifting Beam
4 Tonne SWL

OSB SCREW BRIDGE

1 Handsaeme BOS FRAM Bridge CNC Machining Centre
Project No. 1904-00006, Machine No. M12858 (2019)
with Table, Controls and Associated Equipment

CP2

1 Dodd Engineering / Siemens Simatic HMI Touch Screen Controls

Circa 200m Perimeter Safety Fencing with Light Guards

FINISHING TRACK

6 x 60m Dodd Engineering Mobile Vertical Roller Finishing Track

3 x 12m of Dodd Engineering Mobile Vertical Roller Finishing Track

Dodd Engineering Rail Mounted Transfer Trolley

Location of the Chattels:-

The premises known as Maximus, Flaxby Moor Industrial Estate, Knaresborough

SCHEDULE 2 - FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

To: [INSURER]

Date:

Dear Sirs,

We give you notice that we have assigned and charged to Homes and Communities Agency (trading as Homes England) (the "**Mortgagee**") pursuant to a deed entered into by us in favour of the Mortgagee dated [DATE] all our right, title and interest in and to the proceeds of [INSERT DETAILS OF RELEVANT INSURANCE POLICY] (the "**Policy of Insurance**").

With effect from your receipt of this notice we instruct you to:

- (1) following the Mortgagee's notification to you that an Event of Default has occurred make all payments and claims under or arising from the Policy of Insurance to the Mortgagee to such bank account as may be notified to you by the Mortgagee for such purpose or to its order as it may specify in writing from time to time;
- (2) note the interest of the Mortgagee on the Policy of Insurance; and
- (3) disclose to the Mortgagee, without further approval from us, such information regarding the Policy of Insurance as the Mortgagee may from time to time request and to send it copies of all notices issued by you under the Policy of Insurance.

With effect from your receipt of this notice all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Policy of Insurance (including all rights to compel performance) belong to and are exercisable by the Mortgagee.

Please acknowledge receipt of this notice (substantially in the form of the attached) by signing the acknowledgement on the enclosed copy letter and returning it to the Mortgagee at Homes and Communities Agency, One Friargate, Coventry CV1 2GN marked for the attention of Homes England Legal Services.

Yours faithfully,

for and on behalf of
ILKE HOMES LIMITED

On copy only:

To: Homes and Communities Agency
One Friargate
Coventry
CV1 2GN

For the attention of Homes England Legal Services

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Policy of Insurance shall be effective unless we have given the Mortgagee thirty days written notice of it or, if it is not possible to comply with such notification to the Mortgagee in accordance with the provisions of the relevant Policy of Insurance, the notice will be provided to the Mortgagee in relation to such termination as soon as possible.

For and on behalf of

[INSURER]

By:

Dated:

EXECUTION PAGE

The Mortgagor

EXECUTED as a Deed
by ILKE HOMES LIMITED acting by

a director, in the presence of:-

Signature of witness:

)
)
)
)

Director

Name of witness:

Address:

Occupation:

The Mortgagee

HOMES ENGLAND

The common seal of
HOMES AND COMMUNITIES AGENCY
is hereunto affixed in the presence of:

) D 52882
)
)



Authorised Signatory:

Print Name: M HARRIS

