



Registration of a Charge

Company name: **SWAN HOUSING FINANCE LIMITED**

Company number: **11284173**

Received for Electronic Filing: **29/03/2019**



X82AOK9F

Details of Charge

Date of creation: **26/03/2019**

Charge code: **1128 4173 0001**

Persons entitled: **HOMES AND COMMUNITIES AGENCY**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

BRYAN CAVE LEIGHTON PAISNER LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11284173

Charge code: 1128 4173 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th March 2019 and created by SWAN HOUSING FINANCE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th March 2019 .

Given at Companies House, Cardiff on 1st April 2019

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 26 March 2019

SWAN HOUSING FINANCE LIMITED

and

HOMES AND COMMUNITIES AGENCY
(trading as Homes England)

DEBENTURE

in respect of a Loan Facility Agreement relating to Beechwood Village and Laindon Shopping Centre

We certify that save for material redacted pursuant to section 859G
Companies House Act

This copy instrument is a correct copy of the original instrument

Bryan Cave Leighton Paisner LLP
Bryan Cave Leighton Paisner LLP
Adelaide House
London Bridge
London EC4R 9HA

28-03-2019

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DATED 26 March 2019

PARTIES

- (1) **SWAN HOUSING FINANCE LIMITED** (company number 11284173) whose registered office is at Pilgrim House, High Street, Billericay, Essex, CM12 9XY (the "Chargor"); and
- (2) **HOMES AND COMMUNITIES AGENCY** (trading as Homes England) of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington, England, WA3 7QH ("Homes England").

BACKGROUND

- (A) Homes England have agreed to make loan facilities available to the Chargor in accordance with the terms of the Facility Agreement (as defined below).
- (B) It is a condition precedent to the granting of the loan facilities under the Facility Agreement that the Chargor enters into this Deed to provide security to Homes England for the purposes and on the terms described below.
- (C) It is intended by the parties to this document that it will take effect as a deed.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"**Accounts**" means the accounts details of which are set out in Schedule 1, Part 2 (*The Accounts*) and includes any replacement of those Accounts.

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

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

"**Business Day**" means any day other than a Saturday, Sunday or statutory bank holiday in England.

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

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

"**Deposit Account**" means the Account designated as such in Schedule 1, Part 2 (*The Accounts*) and includes any replacement of the Account.

"**Development Documents**" means any document designated as such by the Chargor and Homes England.

"Disposal Proceeds" shall have the meaning ascribed to it by the Facility Agreement.

"Event of Default" shall have the meaning ascribed to it in the Facility Agreement.

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

"Finance Document" shall have the meaning ascribed to it by the Facility Agreement.

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

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

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

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

"Lease Document" means:

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

and which relates to the Charged Property.

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

"Occupational Lease" shall have the meaning ascribed to it by the Facility Agreement.

"Operating Account" means the Account designated as such in Schedule 1, Part 2 (*The Accounts*) and includes any replacement of that Account.

"Party" means a party to this Deed.

"Permitted Security" shall have the meaning ascribed to it by the Facility Agreement.

"Property" means each property details of which are set out in Schedule 1, Part 1 (*The Properties*) including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future;

- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (c) easements, access rights, rights of way, wayleaves and rights attaching to it.

"Receiver" means a receiver or receiver and manager or administrative receiver appointed by Homes England under this Deed (whether sole, joint and/or several and including any substitute).

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

"Related Rights" means, in relation to any asset:

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

both present and future (including all rights against any trustee, nominee, fiduciary or clearing system).

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

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

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

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

- (a) rent, licence fees and equivalent amounts paid or payable;
- (b) any sum received or receivable from any deposit held as security for performance of a tenant's obligations;

- (c) a sum equal to any apportionment of rent allowed in favour of the Chargor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the whole or any part of the Property and any fixture and fitting on the Property including any fixture or fitting on such Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement, waiver, extension or release of any Occupational Lease;
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Occupational Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Occupational Lease; and
- (i) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by any another person) by the Chargor,

but excluding any Tenant Contributions.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to Homes England under each Finance Document.

"Security" means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignation in security, bond and floating charge or other security interest of any kind, and any right of set-off, assignment, trust, flawed asset or other agreement or arrangement whatsoever for the purpose of providing security or having a similar effect to the provision of security.

"Tenant Contributions" means any amount paid or payable to the Chargor by any tenant under an Occupational Lease or any other occupier of the whole or any part of the Charged Property by way of:

- (a) contribution to:
 - (i) ground rent;
 - (ii) insurance premia;
 - (iii) the cost of an insurance valuation;
 - (iv) a service or other charge in respect of the Chargor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the whole or any part of the Property; or
 - (v) a reserve or sinking fund; or

(b) VAT.

"VAT" means Value Added Tax as presently charged under the Value Added Tax Act 1994 or any tax of similar nature.

1.2 Construction

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

1.2.2 The construction provisions set out at clause 1.2 (Interpretation) of the Facility Agreement shall apply equally to this Deed.

1.2.3 If any provision of this Deed shall conflict with any term of the Facility Agreement then the relevant term of the Facility Agreement shall prevail.

1.2.4 The Chargor gives the same representations and undertakings to Homes England as given by the Chargor on behalf of each Obligor in clause 3 (Representations, Warranties and Covenants) of the Facility Agreement in each case as if set out in full and as if each reference to an Obligor in those clauses was a reference to the Chargor.

1.2.5 Clause 8 (The Accounts) of the Facility Agreement is incorporated in this Deed as if set out in full and with necessary changes.

1.3 Disposition of Property

The terms of any other Finance Document and of any side letters between the Parties are incorporated into each Finance Document to the extent required for the purported disposition of any Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 COVENANT FOR PAYMENT

2.1 Covenant to pay

The Chargor covenants with Homes England that it will:

(a) on demand, pay and discharge each and all of the Secured Liabilities when due; and

(b) indemnify and keep Homes England indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenant or other obligation of the Chargor to Homes England.

2.2 Survival of obligations

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

3 SECURITY

3.1 General

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

3.2 Fixed charge

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

- (a) its interest in any freehold or leasehold property acquired after the date of this Deed;
- (b) its interest in the Relevant Contracts;
- (c) all fixtures, fittings, plant, machinery, manuals and other chattels, present and future, in respect of any Charged Property and all guarantees and warranties in respect of any of them;
- (d) all easements, licences and other rights, present and future, relating to any Charged Property in which it has an interest;
- (e) the Investments; and
- (f) all Related Rights in respect of the above.

3.2.2 The Chargor charges by way of fixed charge the Operating Account and the Deposit Account and the debt represented by it.

3.3 Assignment

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

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

- (h) its interest from time to time in any VAT recoveries relating to any Charged Property; and
- (i) all Related Rights in respect of the above.

3.4 Floating charge

The Chargor charges by way of floating charge all its assets, property and undertaking both present and future.

3.5 Application of charges

The charges created under this Deed expressed to be:

- (a) fixed charges, shall only apply to the extent that they create fixed security; and
- (b) floating charges, shall not apply to any Charged Asset which is the subject of any fixed security under this Deed.

4 CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation by notice

Homes England may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.4 (*Floating charge*) with immediate effect into a fixed charge as regards any Charged Assets specified in the notice if:

- (a) An Event of Default is continuing; or
- (b) Homes England considers (acting reasonably) that any of the Charged Assets may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal process.

4.2 Automatic crystallisation

Notwithstanding Clause 4.1 (*Crystallisation by notice*) and without prejudice to any law which may have a similar effect, the floating charge created by Clause 3.4 (*Floating charge*) will convert automatically with immediate effect into fixed charges as regards all the assets subject to the floating charge if:

- (a) the Chargor creates or attempts to create any Security over any Charged Assets, other than any Permitted Security, or otherwise in accordance with the terms of the Facility Agreement;
- (b) any steps are taken (including the giving of notice, the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or receiver in respect of the Chargor or over all or any part of its assets, or if such person is appointed;
- (c) any other floating charge over any of the Charged Assets crystallises; or
- (d) in any other circumstances prescribed by law.

5 PERFECTION OF SECURITY

5.1 Insolvency Act

For the purposes of paragraph 43 of schedule A1 to the Insolvency Act 1986 nothing in this Deed shall provide for:

- (a) the obtaining of a moratorium in respect of the Chargor pursuant to section 1A of the Insolvency Act 1986; or
- (b) anything done with a view to obtaining such a moratorium,

to be an event causing the floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to being imposed on the disposal of property by the Chargor or a ground for the appointment of a Receiver.

5.2 Further assurance

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

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

as Homes England may reasonably require to perfect or protect the security created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

5.3 Notices

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

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

5.3.2 The Chargor shall use all reasonable endeavours to ensure that the party to whom a notice served pursuant to Clause 5.3.1 is addressed completes and returns to Homes England an acknowledgement in the form of Part B of the relevant notice.

5.4 Restriction

5.4.1 The Chargor authorises Homes England to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered titles of the Charged Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction, is to be registered without a written consent signed by

the proprietor for the time being of the charge dated [●] in favour of Homes and Communities Agency referred to in the Charges Register (or its conveyancer)."

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

6 RESTRICTIONS ON DEALINGS

6.1 Security

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

6.2 Disposals

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

7 RIGHTS OF ENFORCEMENT

7.1 Enforcement

- 7.1.1 The Secured Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.

- 7.1.2 The enforcement powers of Homes England in connection with this Deed shall be immediately exercisable:

- (a) upon an Event of Default (which is continuing); or
- (b) at Home England's discretion, at the request of the Chargor.

- 7.1.3 The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.

- 7.1.4 In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with Homes England or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Secured Liabilities are outstanding and have become due.

7.2 Homes England's and Receiver's powers and rights

- 7.2.1 Homes England shall have the power:

- (a) to appoint a Receiver or Receivers of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee;
- (b) to appropriate any Charged Assets in accordance with Clause 7.3 (*Right of appropriation*); and
- (c) to appoint an administrator of the Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.

7.2.2 Homes England (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:

- (a) all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not Homes England and/or any Receiver is an administrative receiver); and
- (b) the powers and rights specified in Schedule 2 (*Homes England's and Receiver's powers*),

and may exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

7.3 **Right of appropriation**

To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of the Chargor under it constitute a "financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), Homes England shall have the right to appropriate all or any part of it in or towards discharge of the Secured Liabilities and transfer title in and to it to Homes England. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be:

- (a) in the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
- (b) in the case of Investments, the market price determined by Homes England by reference to a public index or by such other process as Homes England may select, including independent valuation.

In each case, the Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

7.4 **Receiver as agent**

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but Homes England shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

7.5 **Receivers' joint and several powers**

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

7.6 **Further powers**

If the Chargor defaults in the observance and performance of any obligation to Homes England, Homes England or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

7.7 Power of attorney

7.7.1 The Chargor by way of security irrevocably appoints Homes England and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which Homes England and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

7.7.2 The Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its powers.

8 DISCHARGE

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

8.2 No discharge will be of any effect if any security or payment given or made in respect of the Secured Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

9 GENERAL PROVISIONS

9.1 Trust provisions

The covenants, undertakings and representations made by the Chargor under this Deed are made in favour of Homes England as security trustee for the Secured Parties.

9.2 Immediate recourse

It shall not be necessary for Homes England before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person.

9.3 Merger

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

9.4 Prior security

Homes England may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security against the Charged Assets and may settle and pass the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to Homes England on demand.

9.5 No liability in relation to Charged Assets

None of the provisions of this Deed shall be deemed to impose on the Secured Parties or imply on their part any obligation or other liability in relation to the Charged Assets.

9.6 Tacking

Homes England must perform its obligations under the Facility Agreement (including any obligation to make further advances).

9.7 New accounts

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security or disposed of:

- (a) Homes England may close the Chargor's then subsisting account and open a new account with the Chargor, and (unless Homes England gives the Chargor written notice otherwise) shall be deemed to have done so;
- (b) all payments made to Homes England after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Secured Liabilities.

9.8 Consolidation

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the security created by this Deed.

9.9 Expenses

The Chargor must pay Homes England within three Business Days of demand the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights against it under this Deed.

9.10 Rights of third parties

9.10.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

9.10.2 The Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

9.11 Effect as a deed

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

9.12 Counterparts

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

10 LAW AND JURISDICTION

10.1 Governing law

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

10.2 Jurisdiction of English courts

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

10.2.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

10.2.3 Notwithstanding Clause 10.2.1, Homes England shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

10.3 Benefit of Homes England

This Clause 10 (*Law and jurisdiction*) is for the benefit of Homes England only. As a result Homes England will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Homes England may take concurrent proceedings in any number of jurisdictions.

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

Schedule 1
The Properties and the Accounts

Part 1
The Properties

| Property description | Title number |
|----------------------|--------------|
| None at present | |

Part 2
The Accounts

| Company | Account name (on Bankline) | Sort code | Account number | Type of Account |
|---------------------------------|---|-----------|-------------------|-----------------------|
| Swan Housing Finance Limited | Operating Account – Business Current Account | ██████ | ██████ | Operating Account |
| Swan Housing Finance Limited | Operating Account – Craylands & Laindon | ██████ | ██████ | Deposit Account |

Schedule 2
Homes England's and Receiver's powers

1 Conduct of business

(a) Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of the Chargor in all respects and for such purpose to:

(i) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or

(ii) acquire any property, chattels, plant, machinery and materials.

(b) Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases.

(c) Compromise claims

To compromise any claim relating to the Charged Assets.

(d) Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Secured Liabilities and with or without security.

(e) VAT

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

(f) Employees

To:

(i) enter into, adopt and/or terminate any contract of employment; and

(ii) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others.

2 Dealing with the Chargor's assets

(a) Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

(b) Payments

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use.

(c) Receipts

To give receipts and releases for any sums received.

(d) Carry on works

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.

(e) Assumption of rights

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

(f) Insurance

To effect insurances on such terms as it thinks fit.

(g) Planning permissions and consents

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.

(h) Acquisition of property

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

(i) Negotiation

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

3 Disposals

(a) Selling

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (i) for immediate or deferred consideration;
- (ii) in return for a single payment or instalments; and
- (iii) for consideration wholly or partly in cash, property or securities in whatever form,

and in all cases the terms of which shall bind any subsequent mortgagee.

(b) Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms

as it thinks fit and:

- (i) with or without any rent, review of rent, fine or premium; and
- (ii) whether absolutely or for a term,

and in all cases the terms of which shall bind any subsequent mortgagee.

4 General

To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining, preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the Security created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (i) executing, delivering and completing all or any deeds or other documents;
- (ii) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Homes England's and Receiver's powers*);
- (iii) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (iv) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

5 Powers and discretions

All its powers and discretions under this Deed shall be:

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

**Schedule 3
Notices**

Part 1

Notice of assignment or charge of Contract

Part A

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

To: [Details of party to Contract]

Date: [●]

Dear Sirs

[Description of Relevant Document] (the "Contract")

We refer to:

- (a) the Contract; and
- (b) a [debenture] (the "**Security Deed**") dated [●] made between the Chargor (1) and [●] ("**Homes England**") (2).

We give you notice that pursuant to the Security Deed, we have [charged/assigned] all of our present and future right, title, interest and benefit in, under and to the Contract (including all [monies] [rent] payable to us under the Contract) to Homes England.

We irrevocably and unconditionally instruct and authorise you:

- (a) to make all payments in connection with the Contract as Homes England may direct. [Until you are notified otherwise by Homes England, Homes England directs such sums to be paid to [insert Chargor bank details]];
- (b) that all our rights in connection with the Contract are exercisable by (or with the consent of) Homes England. [Until you are notified otherwise by Homes England, Homes England directs that all such rights powers, discretions and remedies shall continue to be exercisable by us]; and
- (c) to disclose any information relating to the Contract which Homes England may from time to time request.

No amendment, waiver or release of any right or obligation in connection with the Contract and no termination or rescission of the Contract by us shall be effective without the prior written consent of Homes England and in any event no such termination or rescission shall be effective unless you have given notice to Homes England.

Notwithstanding anything in this notice or otherwise we (and not Homes England nor its appointees) shall be liable under the Contract to perform all the obligations assumed by us under it.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and Homes England together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to Homes England.

Signed
For and on behalf of the Chargor

Part B - Receipt of notice of assignment or charge of Contract

From: [Details of party to Contract]

To: [Homes England]
[Address]

For the attention of [•]

Date: [•]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and further confirm that:

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

Signed

For and on behalf of [•]

Part 2
Notice of charge of account

To: []

Date: []

Notice of charge

We hereby give notice that by a debenture dated [] made between Swan Housing Finance Limited (the **Chargor**) (1) and the Homes and Communities Agency (**Homes England**) (2) (the **Debenture**), the Chargor charged to Homes England all its rights, title and interest present and future over the following account[s] opened by it with you:

| Account | Account number | Sort code |
|---------|----------------|-----------|
|---------|----------------|-----------|

(the **Account[s]**) as security for the obligations more particularly referred to in the Debenture.

The Chargor hereby gives you notice that pursuant to the Debenture, it has, with full title guarantee, charged to Homes England all its rights, title and interest in and to all amounts standing to the credit of the Account[s] including from time to time together with all entitlements to any interest and other rights and benefits accruing to or arising in connection therewith (the **Account Funds**).

In connection therewith and by way of security for its obligations to Homes England the Chargor hereby irrevocably and unconditionally instructs and authorises you (notwithstanding any previous instructions whatsoever which it may have given you to the contrary):

1. to disclose to Homes England without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure, such information relating to the Account Funds and the debt represented thereby as Homes England may, at any time and from time to time, request you to disclose to it;
2. to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account Funds or the debt represented thereby which you receive at any time and from time to time from Homes England or without any reference to or further authority from the Chargor and without any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof;
3. subject to paragraph 2 above, to operate the Account[s] and make any payments from or withdrawals from the Account[s] only in accordance with all proper instructions authorised jointly by one authorised signatory of the Chargor (a **Category A Signatory**) and two authorised signatories of Homes England (the

Homes England signatories, together, a **Category B Signatory**) pursuant to the mandates held by you; and

4. subject to the terms of the bank mandate pertaining to the Account and paragraph 2 above, to accept all instructions jointly given by one Category A Signatory and the Category B Signatory in connection with any payments from or withdrawals from the Account[s], at any time and from time to time, and to comply with all such instructions without any reference to or further authority from the Chargor or Homes England and without any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof, provided that the instructions received are signed in accordance with the bank mandates and subject to the call-back confirmations (as agreed between you, the Chargor and Homes England) that you might seek prior to processing the payment.

At any time following Homes England exercising its rights in relation to the Chargor pursuant to Clause 15.3 (Acceleration) of the Facility Agreement, Homes England may give notice to you pursuant to paragraph 2 above, that the instructions in paragraphs 3 and 4 above shall be solely exercisable by the Category B Signatory.

In respect of any notice or instructions received from Homes England pursuant to paragraph 2 above, we agree that you are not bound to enquire whether such rights of Homes England have arisen.

The instructions and authorisations which are contained in this letter will remain in full force and effect until Homes England gives you notice in writing revoking them. The instructions and authorisations given by the Chargor are irrevocable.

In consideration of your accepting the instructions and authorisations which are contained in this letter the Chargor will at all times indemnify you and keep you indemnified from and against all actions, suits, proceedings, claims, demands, liabilities, damages, costs, expenses, losses and charges whatsoever in relation to or arising out of your acting on or complying with such instructions and authorisations and the Chargor will pay or reimburse to you on demand the amount of all losses, costs and expenses whatsoever suffered or incurred from time to time by you under or by reason or in consequence of you acting or complying with such instructions and authorisations.

This letter will be governed by, and construed in accordance with, English law.

Would you please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by sending a letter addressed to us and to Homes England in the form attached hereto.

Yours faithfully

Authorised Signatory

for and on behalf of

Swan Housing Finance Limited

Annexure - Notice of Account Bank

To: []

[]

Date:

Notice of authority to release funds

We hereby confirm that in accordance with clause 5.2 of debenture dated [INSERT] made between Swan Housing Finance Limited (the **Chargor**) (1) and the Homes and Communities Agency (**Homes England**) (2) (the **Debenture**) the Chargor and Homes England authorise the release of [£INSERT SUM] from the Account Funds on or within 10 working days of [INSERT DATE] to be made to [INSERT DETAILS OF PAYEE] in the following manner [by direct credit to the following account INSERT ACCOUNT DETAILS / by cheque made payable to [INSERT PAYEE].

Yours faithfully

Category A Signatory:

.....

Authorised Signatory

for and on behalf of Housing Finance Limited

Category B Signatory:

.....

Authorised Signatory

for and on behalf of Homes and Communities Agency

.....

Authorised Signatory

for and on behalf of Homes and Communities Agency

Form of Acknowledgement of the Account Bank to Homes England

To: The Homes and Communities Agency

Dated:

Dear Sirs

Acknowledgement of notice

Account number[s] [] (the **Account[s]**)

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [] and addressed to us by [] ("the Letter") and hereby accept the instructions and authorisations contained therein and undertake to act in accordance and comply with the terms thereof.

We hereby acknowledge and confirm to each of the Chargor and Homes England that we will not, until such time we receive contrary notice from Homes England, accept any instructions in connection with any payments from or withdrawals from the Account[s] unless given jointly by a Category A Signatory and the Category B Signatory substantially in the form set out in the Annexure to this Letter.

We will be entitled to rely upon any instruction purporting to be from Homes England in relation to the Account without further enquiry or investigation into the identity of individuals providing such instruction.

We hereby acknowledge and confirm to each of the Chargor and Homes England that we have not, as at the date hereof, received any notice that any third party has or will have any right or interest in or has made or will be making any claim or demand or taking any action against the Account Funds or the debt represented thereby or any part thereof provided that we shall be under no obligation to update the Chargor or Homes England in this respect.

We hereby acknowledge and confirm to each of the Chargor and Homes England that we will not make any claim or demand or exercise any rights of counterclaim, rights of set-off or any other equities whatsoever against the Chargor in respect of the Account Funds or the debt represented thereby or any part thereof.

We hereby acknowledge and confirm to each of the Chargor and Homes England that any personal details provided to us by Homes England will be used only for the purpose of completing our internal 'know your customer' process and such details will not be released externally to the Chargor or to any third party save for when we are required to do so by law.

We have made the acknowledgements and confirmations and have given the undertakings set out in this letter only on the basis that they are required by Homes England in connection with the security which has been constituted by the Chargor in favour of Homes England under the Debenture.

The expressions defined or used in your letter mentioned in the opening paragraph hereof will, unless the context otherwise requires, have the same meanings in this letter.

This letter will be governed by, and construed in accordance, with English law.

Yours faithfully

Duly authorised signatory

for and on behalf of

[name of Account Bank]

Part 3
Notice of assignment of Rent

Part A

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

To: [Details of tenant]

Date: [•]

Dear Sirs

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

We refer to:

the Occupational Lease; and

[debenture] (the "**Security Deed**") dated [•] made between the Chargor (1) and [•] ("**Homes England**") (2).

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

In this notice:

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

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

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

The instructions and authorisations contained in this letter shall remain in full force and effect until we and Homes England together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to Homes England.

Signed

For and on behalf of the Chargor

Part B – Receipt of notice of assignment of Rent

From: [Details of party to Occupational Lease]

To: Homes England
[Address]

For the attention of [•]

Date: [•]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and confirm that:

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

Signed

For and on behalf of [•]

EXECUTION PAGE

Chargor

Executed as a deed by **SWAN HOUSING
FINANCE LIMITED** acting by
in the presence of
:

)
)
)

Authorised Signatory

)
)

Authorised Signatory

Signature of witness:

)
)

Name: LINDA KIRBY

Address: Pilgrim House
High Street
Billencay
Cambridge

Occupation:

Assistant Company Secretary

Homes England

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

)
)
)
)
)

Authorised Signatory

Print name:

EXECUTION PAGE

Chargor

Executed as a deed by **SWAN HOUSING**)
FINANCE LIMITED acting by)
in the presence of)
:

Signature of witness:

Name:

Address:

Occupation:

Homes England

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

Authorised Signator

Print name:

Andy Nelson
Head of Housing Programmes

