



Registration of a Charge

Company Name: **YORKARE HOMES (II) LTD**

Company Number: **12432817**



XB6NGQB4

Received for filing in Electronic Format on the: **21/06/2022**

Details of Charge

Date of creation: **16/06/2022**

Charge code: **1243 2817 0004**

Persons entitled: **EHCP TRUSTEE 3 LIMITED AND EHCP TRUSTEE 4 LIMITED AS TRUSTEES OF THE EHCP (BOROUGH CARE) UNIT TRUST**

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: 12432817

Charge code: 1243 2817 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th June 2022 and created by YORKARE HOMES (II) LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st June 2022 .

Given at Companies House, Cardiff on 23rd June 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 16 June **2022**

**((1) YORKARE HOMES (II) LTD
(as Chargor)**

**(2) EHCP TRUSTEE 3 LIMITED and EHCP TRUSTEE 4 LIMITED
(as Secured Party)**

SHARE CHARGE

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THIS DEED is made on **16 June**

2022

BETWEEN:-

- (1) **YORKARE HOMES (II) LTD** (No 12432817) whose registered office is at Brantingham Thorpe Hall, Brantingham, Nr Brough, North Humberside, HU15 1QG ("**Chargor**"); and
- (2) **EHCP TRUSTEE 3 LIMITED** (Incorporated in Jersey with registration number 133284) and **EHCP TRUSTEE 4 LIMITED** (Incorporated in Jersey with registration number 133285) both of 22 Grenville Street, St. Helier, Jersey JE4 8PX, Channel Islands (as Trustees of the EHCP (Borough Care) Unit Trust, being a Jersey property unit trust established by a trust instrument dated 8 January 2021 under the laws of Jersey) (the "**Secured Party**").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:-

"Business Day"	means any day on which the clearing banks are open for usual business in the City of London and Jersey excluding Saturdays, Sundays and public holidays
"Charged Property"	means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Secured Party by or pursuant to this Deed
"Company"	means Yorkare Homes (Cottingham) Ltd (No 13032220)
"Default Rate"	means the rate specified in Clause 2.2
"Event of Default"	means any of the following:- <ol style="list-style-type: none"> (a) non-payment of rent due under the Lease or any Related Lease entitling the landlord to re-enter pursuant to the terms of such Lease or Related Lease; or (b) the occurrence of a Fundamental Breach; or (c) any other default under a Lease or Related Lease in respect of which:- <ol style="list-style-type: none"> i) a s146 Notice has been served on the Tenant; ii) (where capable of remedy) the Tenant has failed to remedy such default within a reasonable period of time after the date of service of the s146 Notice; iii) following the service of a s146 Notice and in respect of such default, the Landlord has

made an lawful application to the Court for an order for possession of the Property; and

iv) either (I) the Tenant has not, within 10 Business Days of service of the proceedings for possession referred to in (c)(iii) above, applied to the Court for relief from forfeiture or (II) the Tenant has within 10 Business Days of service of the proceedings for possession referred to in (c)(iii) above, applied to the Court for relief from forfeiture but such order is not granted:

- (d) a breach by the Chargor of clauses 5.1 or 5.2 of this Deed

"Fundamental Breach"

means the breach of any of the following provisions of any Lease or Related Lease:-

- (a) Clause 3.4 (Repair and Decoration);
- (b) Clause 3.10 (Alienation);
- (c) Clause 3.13 (User);
- (d) Clause 10 (Preservation of Home Value); and
- (e) Schedule 6 (Financial Covenants and Restrictions);

"Lease"

means a lease dated the date of this Deed and entered into between the Secured Party and Yorkare Homes (Cottingham) Limited relating to the Property

"Lease Documents"

means:-

- (a) the Lease;
- (b) any Related Lease;
- (c) any document expressly stated to be supplemental and ancillary to the Lease or any Related Lease;
- (d) any security given to secure the obligations of a tenant pursuant to the Lease or a Related Lease; and
- (e) any document designated as a Lease Document by the Secured Party and the Chargor,

but excluding any document declassified as a Lease Document by the Secured Party as specified in a written notice given by the Secured Party to the Chargor

"LPA"

means the Law of Property Act 1925

"Party"

means a party to this Deed

"Property"	means Care Home at Harland Way, Cottingham HU16 5TA
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property
"Regulations"	means the Financial Collateral Arrangements (No2) 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 Leases"	has the meaning given to it in the Lease
"Related Rights"	means in relation to any Charged Property:- <ul style="list-style-type: none"> (a) the proceeds of sale of any part of that Charged Property; (b) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property; and (c) any moneys and proceeds paid or payable in respect of that Charged Property
"S146 Notice"	means a notice pursuant to section 146 of the Law of Property Act 1925 or such other equivalent statutory provision as may from time to time exist;
"Secured Liability"	means all present and future liabilities and obligations of the Chargor to the Secured Party (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the Secured Party was the original creditor in respect thereof) under the Lease Documents including (without limitation) interest, commission, costs, charges and expenses charged by the Secured Party at rates agreed between it and the Chargor from time to time (together the "Secured Liabilities")
"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 Secured Liabilities have been irrevocably and unconditionally satisfied in full
"Shares"	means all of the shares in the capital of the Company specified in Schedule 1 (<i>Details of Shares</i>) and any other shares in the capital of the Company owned by the Chargor at any time

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 Lease Documents shall have the same meanings in this Deed.

1.3 **Interpretation**

In this Deed, unless the context otherwise requires:-

- 1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;
- 1.3.2 the term "**assets**" includes all property, rights and revenues whatsoever, and wheresoever, present and future;
- 1.3.3 a reference to "**continuing**" in relation to an Event of Default means an Event of Default which has not been waived.
- 1.3.4 references to a "**guarantee**" include an indemnity or any other form of surety;
- 1.3.5 all references to documents include all variations and replacements of such documents and supplements to such documents;
- 1.3.6 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;
- 1.3.7 references to persons include bodies corporate, unincorporated associations and partnerships; and
- 1.3.8 words and phrases defined in the Companies Act 2006 have the same meanings in this Deed but the word "**company**" includes any body corporate.

1.4 **Statutes and headings**

In this Deed:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Deed.

1.5 **Clauses and Schedules**

In this Deed references to "**Clauses**" are to the clauses or sub-clauses of this Deed and references to the "**Schedule**" are to the schedule to this Deed. The Schedule shall be treated as an integral part of this Deed and references to this Deed shall include the Schedule.

1.6 **Effect as a deed**

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

1.7 **Third party rights**

1.7.1 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.

1.7.2 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.

1.8 **Nominees**

If the Secured Party causes or requires Shares to be registered in the name of its nominee in accordance with the terms of this Deed, any reference in this Deed to the Secured Party shall, if the context permits or requires, be construed as a reference to the Secured Party and its nominee.

2. **COVENANT TO PAY**

2.1 **Secured Liabilities**

The Chargor covenants that it will on demand of the Secured Party pay and discharge any or all of the Secured Liabilities when due.

2.2 **Interest**

Save where interest has already accrued pursuant to the Lease Documents, the Chargor covenants to pay interest to the Secured Party upon any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after any judgment) at three (3) per cent. above the base rate of the Bank of England.

2.3 **Limited Recourse**

2.3.1 Notwithstanding any of the other terms of this Deed:

- (a) the recourse of the Secured Party against the Chargor in respect of the Secured Liabilities is limited to the rights of enforcement and recovery against the Charged Property only;
- (b) liabilities and obligations of the Chargor to the Secured Party under this Deed are limited to, and shall only be discharged and satisfied from, the proceeds of the sale or other disposal or realisation of the Charged Property as a result of enforcement of this Deed (the "**Third Party Security Recovery Proceeds**") (and the liabilities and obligations of the Chargor under this Deed shall be fully discharged and extinguished upon such realisation of the Charged Property by the Secured Party); and
- (c) the Secured Party:
 - (i) shall not have any recourse to any asset of the Chargor other than the Charged Property;
 - (ii) may not seek to recover from the Chargor any shortfall between the amount of the Third Party Security Recovery Proceeds and the Secured Liabilities; and
 - (iii) may not sue or commence, join or bring any action or proceeding against the Chargor or take enforcement action against the Chargor in relation to any shortfall referred to in sub paragraph (ii) above.

3. **CHARGES**

3.1 **Charges**

As a continuing security for payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Secured Party all its right, title and interest from time to time in each of the following assets:-

3.1.1 by way of equitable mortgage or (if or to the extent that this Deed does not take effect as a mortgage) by way of first fixed charge the Shares; and

3.1.2 by way of first fixed charge the Related Rights under or in connection with the Shares.

3.2 **Trust**

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

4. **PERFECTION OF SECURITY**

The Chargor shall:-

4.1 upon the execution of this Deed, deposit with the Secured Party (or procure the deposit of) all certificates or other documents of title to the Shares, and stock transfer forms relating to the Shares (stamped and executed in blank by or on behalf of the Chargor); and

4.2 promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Shares, deliver to the Secured Party (a) all certificates or other documents of title representing such items and (b) such stock transfer forms or other instruments of transfer (stamped and executed in blank on behalf of the Chargor) in respect of such stocks, shares, warrants or other securities as the Secured Party may request.

5. **RESTRICTIONS AND FURTHER ASSURANCE**

5.1 **Security**

The Chargor undertakes that it shall not create or permit to subsist any Security over any Charged Property.

5.2 **Disposal**

The Chargor undertakes that it 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.

5.3 **Further assurance**

The Chargor shall promptly do whatever the Secured Party requires to:-

5.3.1 perfect or protect the Security created or expressed to be created by this Deed, or its priority; or

5.3.2 after the Security created by this Deed has become enforceable, facilitate the realisation of the Charged Property or the exercise of any rights vested in the Secured Party or any Receiver,

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

5.4 **Shares**

After the Security constituted by this Deed has become enforceable, the Secured Party may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):-

- 5.4.1 exercise (or refrain from exercising) any voting rights in respect of the Shares;
- 5.4.2 apply all dividends, interest and other monies arising from the Shares in accordance with Clause 8 (*Application of Moneys*);
- 5.4.3 transfer the Shares into the name of such nominee(s) of the Secured Party as it shall require; and
- 5.4.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Shares, including the right, in relation to any company whose shares or other securities are included in the Charged Property, to concur or participate in:-
 - (a) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence of such reconstruction, amalgamation, sale or other disposal);
 - (b) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
 - (c) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in such manner and on such terms as the Secured Party may think fit, and the proceeds of any such action shall form part of the Charged Property.

5.5 **Payment of Calls**

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Shares which are not fully paid (unless reasonably contested), and in any case of default by the Chargor in such payment, the Secured Party may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Secured Party shall be reimbursed by the Chargor to the Secured Party on demand and shall carry interest from the date of payment by the Secured Party until reimbursed at the rate notified to the Chargor by the Secured Party.

6. **DEMAND AND ENFORCEMENT**

6.1 **Enforcement**

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

- 6.1.1 the occurrence of an Event of Default and which (in respect of paragraphs (a) and (b) only of the definition of Event of Default):
 - (a) has been notified to the Chargor in writing (in accordance with clause 16); and

- (b) following notification pursuant to clause 6.1.1(a) the Tenant fails to remedy within 10 Business Days of such notification; or

6.1.2 any written request being made by the Chargor (signed by a Director of the Chargor) to the Secured Party for the appointment of a Receiver or an administrator, or for the Secured Party to exercise any other power or right available to it.

6.2 Powers on enforcement

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

- 6.2.1 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;
- 6.2.2 to the extent that any Charged Property constitutes Financial Collateral, as defined in the Regulations, appropriate it and transfer the title in and to it to the Secured Party insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18; and
- 6.2.3 subject to Clause 7.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property.

6.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 6.2 (*Powers on enforcement*), the Secured Party 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.

7. RECEIVERS

7.1 Method of appointment or removal

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

7.2 Removal

The Secured Party 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.

7.3 Powers

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

- 7.3.1 of the Secured Party under this Deed;

- 7.3.2 conferred by the LPA on mortgagees and on receivers appointed under the LPA;
- 7.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 7.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and
- 7.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

7.4 **Receiver as agent**

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

7.5 **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.

7.6 **Receiver's remuneration**

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

8. **APPLICATION OF MONEYS**

8.1 **Application of moneys**

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

- 8.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Secured Party, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;
- 8.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Secured Party may at its discretion require; and
- 8.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,

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

9. **POWER OF ATTORNEY**

9.1 **Appointment**

The Chargor irrevocably and by way of security appoints:-

- 9.1.1 the Secured Party (whether or not a Receiver has been appointed);

9.1.2 any delegate or sub delegate of, or other person nominated in writing by, an officer of the Secured Party; and

9.1.3 (as a separate appointment) each Receiver,

severally as its 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 Chargor, which the Chargor could be required to do or execute under any provision of this Deed, or which the Secured Party in its sole opinion may consider necessary for perfecting its title to any of the Charged Property or enabling the Secured Party or the Receiver to exercise any of its rights or powers under this Deed but in each case the Chargor has failed to do.

9.2 **Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 9.1 (*Appointment*) lawfully 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 9.1 (*Appointment*).

10. **PROTECTION OF THIRD PARTIES**

10.1 **Statutory powers**

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Secured Party, as varied and extended by this Deed, and all other powers of the Secured Party, 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.

10.2 **Purchasers**

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

10.2.1 to enquire whether any of the powers which the Secured Party or a Receiver have exercised has arisen or become exercisable;

10.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or

10.2.3 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.

10.3 **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 Secured Party, any Receiver or any person to whom any of them have delegated any of their powers.

11. **PROTECTION OF THE SECURED PARTY AND ANY RECEIVER**

11.1 **No liability**

None of the Secured Party, 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.

11.2 **Not mortgagee in possession**

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

11.2.1 to account as mortgagee in possession;

11.2.2 for any loss on realisation; or

11.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Secured Party 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.

11.3 **Indemnity**

The Chargor shall indemnify and keep indemnified the Secured Party, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities reasonably and properly incurred by them in respect of all or any of the following:-

11.3.1 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;

11.3.2 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;

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

11.3.4 any breach by the Chargor of any of its covenants or other obligations to the Secured Party contained in this Deed,

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

11.4 **Interest**

The Chargor shall pay interest at the Default Rate on the sums payable under this Clause 11 (*Protection of the Secured Party and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

11.5 **Indemnity out of the Charged Property**

The Secured Party, 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 11.3 (*Indemnity*).

11.6 **Continuing protection**

The provisions of this Clause 11 (*Protection of the Secured Party 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.

12. **PROVISIONS RELATING TO THE SECURED PARTY**

12.1 **Powers and discretions**

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

- 12.1.1 may be exercised as often as, and in such manner as, the Secured Party thinks fit;
- 12.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 12.1.3 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.

12.2 **Certificates**

A certificate by an officer of the Secured Party:-

- 12.2.1 as to any amount for the time being due to the Secured Party; or
- 12.2.2 as to any sums payable to the Secured Party under this Deed,

shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

12.3 **Assignment**

The Secured Party may assign this Deed to any successor in title to any of the Secured Liabilities and the Secured Party may disclose any information in its possession relating to the Chargor, its affairs or the Secured Liabilities to any actual or prospective assignee provided such prospective assignee has agreed to keep such information confidential.

12.4 **Trusts**

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

13. **PRESERVATION OF SECURITY**

13.1 **Continuing Security**

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

13.2 **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 Secured Party may have now or at any time in the future for or in respect of any of the Secured Liabilities.

13.3 **Waiver of Defences**

Neither the Security created by this Deed nor the obligations of the Chargor 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, the Secured Party) including:-

- 13.3.1 any time, waiver or consent granted to, or composition with any other person;

- 13.3.2 the release of any person under the terms of any composition or arrangement with any person;
- 13.3.3 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 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;
- 13.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- 13.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Lease Document or any other document or Security;
- 13.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Lease Document or any other document; or
- 13.3.7 an insolvency, liquidation, administration or similar procedure.

13.4 **Immediate recourse**

The Chargor waives any right it may have of first requiring the Secured Party (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 Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Lease Document to the contrary.

13.5 **Appropriations**

During the Security Period the Secured Party may:-

- 13.5.1 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 8.1 (*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 Chargor shall not be entitled to the same; and
- 13.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor on or account of the Secured Liabilities.

13.6 **New Accounts**

If the Secured Party receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Charged Property or if a petition is presented or a resolution passed in relation to the winding up of the Chargor, the Secured Party may close the current account or accounts and/or open a new account or accounts for the Chargor. If the Secured Party does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by the Chargor to the Secured Party shall be credited or be treated as having been credited the new account or accounts and shall not operate to reduce the Secured Liabilities.

14. **RELEASE**

14.1 **Release on discharge**

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities the Secured Party shall, or shall procure that its appointees will, at the request and reasonable and proper cost of the Chargor:-

14.1.1 release the Charged Property from this Deed; and

14.1.2 re-assign the Charged Property that has been assigned to the Secured Party under this Deed.

14.2 **Release on assignment**

Upon the lawful assignment of the Lease the Secured Party shall, or shall procure that its appointees will, at the request and proper cost of the Chargor:-

14.2.1 release the Charged Property from this Deed; and

14.2.2 re-assign the Charged Property that has been assigned to the Secured Party under this Deed.

14.3 **Consolidation**

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

15. **MISCELLANEOUS PROVISIONS**

15.1 **Severability**

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

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

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

15.2 **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.

16. **NOTICES**

16.1 **Communications in Writing**

Each communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

16.2 **Addresses**

The address for service of each party shall be the address set out in the parties clause, its registered office, or any other address for service as the addressee may from time to time notify to the other party in writing.

16.3 **Delivery**

16.3.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:-

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, (i) when it has been left at the relevant address or (ii) two Business Days (or, in the case of airmail, five Business Days) after being deposited in the post postage prepaid (or, as the case may be, airmail postage prepaid), in an envelope addressed to it at that address.

16.3.2 Any communication or document to be made or delivered to the Secured Party will be effective only when actually received by the Secured Party.

16.4 **English language**

16.4.1 Any notice given under or in connection with this Deed must be in English.

16.4.2 All other documents provided under or in connection with this Deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Secured Party or Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

17. **GOVERNING LAW**

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

18. **ENFORCEMENT**

18.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (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").

18.2 The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle disputes and accordingly no such party will argue to the contrary.

18.3 This Clause 18 (*Jurisdiction of English Courts*) is for the benefit of the Secured Party only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Party may take concurrent proceedings in any number of jurisdictions.

19. **TRUSTEE LIABILITY**

EHCP Trustee 3 Limited and EHCP Trustee 4 Limited (the "Trustees") are entering into this Deed as trustees of the EHCP (Borough Care) Unit Trust (the "**Unit Trust**") and, as such, despite any other provision of this Deed, the parties to this Deed acknowledge and agree that:

19.1 references in this Deed to the Trustees are references to EHCP Trustee 3 Limited and EHCP Trustee 4 Limited in their capacity as trustees of the Unit Trust only and not to their corporate, or any other, capacity;

- 19.2 to the fullest extent permitted by law, any claim against, or liability of, the Trustees pursuant to this Deed whether in contract, negligence or other tort, under statute or otherwise is limited to the assets from time to time of the Unit Trust; and
- 19.3 the Trustees has no obligation to meet any claim or liability under this Deed except out of the assets from time to time of the Unit Trust.

EXECUTED AND DELIVERED AS A DEED on the date set out at the beginning of this Deed.

Schedule 1

DETAILS OF SHARES

Description and number of shares
1 ordinary share of £1.00

SIGNATURE PAGE

EXECUTED as a deed
(but not delivered until dated) by
YORKARE HOMES (II) LIMITED acting by a
director in the presence of:
Signature of Witness:
.....

)
)
)
)
)
)
DocuSigned by:
[Redacted]
2C6A54B6CBF64C0...

DocuSigned by:
[Redacted]
9AB2EA04B7534FC...

Director

D Charlesworth
Name:.....

Address: [Redacted].....

X I confirm I was physically present with
the signatory when they signed this document

Executed as a deed by **EHCP TRUSTEE 3 LIMITED (in its capacity as a trustee of EHCP (Borough Care) Unit Trust)**, a company incorporated in Jersey, acting by Alex King who, in accordance with the laws of that territory, are acting under the authority of the company.

Signature in the name of the company
EHCP Trustee 3 Limited
DocuSigned by:
[Redacted]
.....
E513A10B690A4B2...
Authorised Signatory

Executed as a deed by **EHCP TRUSTEE 4 LIMITED (in its capacity as a trustee of EHCP (Borough Care) Unit Trust)**, a company incorporated in Jersey, acting by Alex King who, in accordance with the laws of that territory, are acting under the authority of the company.

Signature in the name of the company
EHCP Trustee 4 Limited
DocuSigned by:
[Redacted]
.....
E513A10B690A4B2...
Authorised Signatory