



Registration of a Charge

Company Name: **HAMPSTEAD REGENERATION LIMITED**

Company Number: **12611735**



Received for filing in Electronic Format on the: **09/05/2023**

XC35K649

Details of Charge

Date of creation: **26/04/2023**

Charge code: **1261 1735 0002**

Persons entitled: **THE SECRETARY OF STATE FOR DEFENCE**

Brief description: **LEGAL MORTGAGE OVER THE FREEHOLD PROPERTY KNOWN AS OR BEING CARLETT PARK FUEL DEPOT, FERRY ROAD, EASTHAM, WIRRAL WITH REGISTERED TITLE NUMBER MS566148. FOR FURTHER DETAILS PLEASE REFER TO THE INSTRUMENT.**

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT 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: **WOMBLE BOND DICKINSON (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 12611735

Charge code: 1261 1735 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th April 2023 and created by HAMPSTEAD REGENERATION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th May 2023 .

Given at Companies House, Cardiff on 10th May 2023

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**

HM Land Registry

Transfer of whole of registered title(s)

TR1

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

For information on how HM Land Registry processes your personal information, see our [Personal Information Charter](#).

Leave blank if not yet registered.

1 Title number(s) of the property:
MS566148

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

2 Property:
Carlett Park Fuel Depot, Ferry Road, Eastham, Wirral

Remember to date this deed with the day of completion, but not before it has been signed and witnessed.

3 Date: 26 April 2023

Give full name(s) of **all** the persons transferring the property.

4 Transferor:
The Secretary of State for Defence

For UK incorporated companies/LLPs
Registered number of company or limited liability partnership including any prefix:

For overseas companies

Complete as appropriate where the transferor is a company.

(a) Territory of incorporation:

(b) Registered number in the United Kingdom including any prefix:

Give full name(s) of **all** the persons to be shown as registered proprietors.

5 Transferee for entry in the register:
Hampstead Regeneration Limited

For UK incorporated companies/LLPs
Registered number of company or limited liability partnership including any prefix:
12611735

For overseas companies

(a) Territory of incorporation:

(b) Registered number in the United Kingdom including any prefix:

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 11.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

6	Transferee's intended address(es) for service for entry in the register: Bluebells, Calf Hey Road, Haslingden, Rossendale, BB4 4AT
7	The transferor transfers the property to the transferee
8	<p>Consideration</p> <p><input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): £150,000 (one hundred and fifty thousand pounds) exclusive of VAT</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input type="checkbox"/> Insert other receipt as appropriate:</p>
9	<p>The transferor transfers with</p> <p><input type="checkbox"/> full title guarantee</p> <p><input checked="" type="checkbox"/> limited title guarantee</p> <p>modified as follows:</p> <p>(a) the covenant set out in section 2(1)(b) 1994 Act will not extend to costs arising from the Transferee's failure to make all proper searches or raise requisitions on title or on the results of the Transferee's searches before the date of the Agreement;</p> <p>(b) the covenant set out in section 3 1994 Act will extend only to charges or encumbrances created by the Transferor.</p>
10	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p>

- an 'X' is placed:
- in the first box, or
- in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, *or*
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance. These are both available on the GOV.UK website.

Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations and so on.

☐ they are to hold the property on trust:

11 Additional provisions

1. DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in this Paragraph 1 apply to this transfer:

1925 Act	Law of Property Act 1925.
1994 Act	Law of Property (Miscellaneous Provisions) Act 1994.
1995 Act	Landlord and Tenant (Covenants) Act 1995.
1999 Act	Contracts (Rights of Third Parties) Act 1999.
TCPA 1990	Town and Country Planning Act 1990
Purchase Price	£150,000 (One hundred and fifty thousand pounds).
Title Matters	agreements, covenants, restrictions, stipulations and other matters contained or referred to in the register of the title number referred to in Panel 1 as at 13:59:08 on 23 November 2021.

1.2 In this transfer:

- 1.2.1 references to a Clause or Schedule are to a clause or schedule set out in this Panel 11;
- 1.2.2 the expression "landlord covenant" has the meaning given to it in the 1995 Act.

2. AGREEMENTS AND DECLARATIONS

- 2.1 For the purposes of section 6(2)(a) 1994 Act, all matters recorded at the date of this transfer in registers open to public inspection are deemed to be within the actual knowledge of the Transferee, notwithstanding section 6(3) 1994 Act.
- 2.2 The Property will not, by virtue of this transfer, have any rights or easements or the benefit of any other matters over land retained by the Transferor other than those (if any) which are expressly mentioned in or granted by this transfer, and section 62 1925 Act is qualified so as not to include any liberties, privileges, easements, rights or advantages over land retained by the Transferor except as expressly mentioned in or created by this transfer.
- 2.3 The disposition effected by this transfer is made subject to and where appropriate with the benefit of the following:
- 2.3.1 the Title Matters;
 - 2.3.2 any matters discoverable by inspection of the Property before the date of 2023;
 - 2.3.3 any matters which the Transferor does not and could not reasonably know about;
 - 2.3.4 any matters disclosed or which would have been disclosed by the searches and enquiries that a prudent buyer would have made before entering into an agreement to buy the Property;
 - 2.3.5 any notice, order or proposal given or made by a body acting on statutory authority;
 - 2.3.6 any matters which are, or (where the Property is not registered) would be, unregistered interests which override under either Schedule 1 or Schedule 3 Land Registration Act 2002;
 - 2.3.7 all public or private rights of way and other rights, easements or quasi-easements and wayleaves affecting the Property, but without any liability on the Transferor to define them.
- 2.4 The Property is sold subject to the turn clawback specified in Schedule 1 and the planning clawback specified in Schedule 2 of this transfer.

3. INDEMNITY COVENANT

- 3.1 The Transferee covenants with the Transferor by way of indemnity only, on behalf of the Transferee and the Transferee's successors in title, that it will at all times observe and perform the obligations of the Transferor in the Title

Matters insofar as they are subsisting and capable of taking effect and will indemnify the Transferor and keep the Transferor fully indemnified against all losses, costs, claims, expenses, liabilities, proceedings and demands arising from any failure to do so.

4. THIRD PARTY RIGHTS

No third party (as defined in the 1999 Act) has any rights under the 1999 Act to enforce any term of this transfer.

5. COVENANTS

The Transferor and the Transferee shall observe and perform their respective covenants and obligations contained in Schedules 1, 2 and 3 of this transfer.

6. CLAWBACK RESTRICTION

The Transferee applies to enter the following standard form of restriction against the title to protect the Turn Clawback described in Paragraph 1.2 of Schedule 1 below:

"No disposition of the registered estate (other than a charge) 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 certificate signed by or on behalf of the Secretary of State for Defence or its conveyancer that the provisions of Schedule 1 to the Transfer dated 26 April 2023 and made between (1) the Secretary of State for Defence and (2) Hampstead Regeneration Limited have been complied with or that they do not apply to the disposition"

7. EXECUTION

This transfer has been executed as a deed and is delivered and takes effect on the date stated in Panel 3.

SCHEDULE 1

Turn Clawback

- 1.1 In this Schedule 1 and in Schedule 3 only of this transfer unless the context otherwise requires:

"**Control**" has the meaning given in section 450 of the Corporation Tax Act 2010 and the expression change of Control should be constructed accordingly.

"**Development**" has the meaning given in TCPA 1990.

"**Disposition**" shall have the same meaning as defined in Schedule 2 and "Dispose of" or "Disposal of" has a corresponding meaning.

"Turn Period" means the period commencing on the date of this transfer and ending on the date being (2) two years from and including the date of this transfer.

- 1.2 If within the Turn Period the whole or any part or parts of the Property is or are Disposed of or agreed to be Disposed of whether by the Transferee or any successor and whether by one or more transactions at a price or prices in the aggregate ("the Re-Sale Price") exceeding the Purchase Price (or the appropriate proportion of the Purchase Price being the same proportion as the area of the part of the Property Disposed bears to the whole of the Property) without having obtained planning consent for Development of the whole of the Property (or the part the subject of the Disposal as the case may be) or without having undertaken any Development of the whole of the Property (or the part the subject of the Disposal as the case may be) the Transferee shall pay to the Transferor a sum equal to 50% of the difference between the Purchase Price and the Re-Sale Price (less any sum of overage previously paid to the Transferor during the Turn Period in accordance with the provisions of this Paragraph 1.2) such sum to be paid within fourteen (14) days of the date of the Disposition.

WORKED EXAMPLE

(Re-Sale Price £600,000.00 minus Purchase Price)
x50%=£225,000.00

Previous re-sale at £500,000 and overage then paid =
£175,000.

Overage now to be paid is £225,000 - £175,000 = £50,000.

- 1.3 The Transferee shall forthwith on the occurrence of a Disposition provide the Transferor with a copy of the instrument effecting the Disposition and all instruments ancillary or collateral to such Disposition and copies of such other documents or information as the Transferor may reasonably require in order to verify the Transferee's calculation of the sum due.
- 1.4 Following expiry of the Turn Period and the payment of all sums due under paragraph 1.2 of this Schedule 1 the Transferor agrees that following a request by the Transferee and at the Transferee's cost (such costs to be reasonable and proper) to promptly apply to the Land Registry to remove the restriction referred to at Clause 6 of Panel 11 ("Clawback Restriction") from the registered title to the Property and provide written confirmation to the Transferee that paragraph 1.2 is no longer applicable.

SCHEDULE 2

Planning Clawback

Planning Clawback Provisions

1. In this Schedule 2 and in Schedule 3 only unless the context otherwise requires:

- 1.1 "Base Value" shall mean:

for the first year of the Clawback Period, namely from and including the date hereof, the purchase price of the Property amounting to the sum of One Hundred and Fifty Thousand Pounds (£150,000)

and

for the second and subsequent years of the Clawback Period the Base Value shall be increased annually in line with the Annual Change percentage published in the Land Registry House Price Index reports for the month in which the Property was transferred and by reference to the Region in which the Property is situated

Provided That:-

- (a) upon the happening of the first Trigger Event for the Relevant Land the Base Value for that land shall be such sum as is proportionately equivalent by area to the Base Value of the whole of the Property
- (b) where a valuation of the Market Value of the Relevant Land occurs as a result of a Trigger Event then upon the date of such determination of the Market Value of the Relevant Land there shall be substituted for any earlier calculation of the Base Value a new Base Value for the Relevant Land based upon such valuation and which is to be used as the Base Value on the next Trigger Event only provided that all payments arising from the Trigger Event have been made before adjusting the Base Value, and that nothing in this provision shall prevent the Base Value of the Relevant Land in the second and subsequent years of the Clawback Period being increased annually in the manner and by the percentage specified above, and
- (c) where a Trigger Event occurs that relates to Relevant Land comprising (at least in part) part of the Property which has been the subject of a previous Trigger Event, the Base Value of the Relevant Land shall equal the sum of:-

- (i) the pro rata (by area) Base Value applicable to the area(s) of the Relevant Land in respect of which no such previous Trigger Event has occurred; and
- (ii) the pro rata (by area) Base Value applicable to the area(s) of the Relevant Land in respect of which a previous Trigger Event has occurred as referred to in sub-paragraph (b) above.

- 1.2 "Connected" has in relation to a party the meaning given in section 1122 of the Corporation Tax Act 2010 and the expression "Connected Person" shall be construed accordingly
- 1.3 "Control" has the meaning given in section 450 of the Corporation Tax Act 2010 and the expression change of control shall be construed accordingly
- 1.4 "Clawback Legal Charge" means the legal charge by which the Transferee charges the Property in favour of the Transferor with payment of all such sums (with interest) as may become due under this Schedule 2 from time to time and which shall be based on the current form of land registry legal charge of a registered estate (Form CH1) as contained in the Annex hereto with such variations as the Transferor may reasonably require thereto
- 1.5 "Clawback Period" means the period starting on the date of this transfer and ending with the Termination Date
- 1.6 "Development" has the meaning given in TCPA 1990
- 1.7 "Disposition" includes a conveyance, transfer, sale of a legal interest, a change of Control of the Transferee (or a change in the beneficial ownership of the Transferee) lease, tenancy, licence for the exclusive possession of the Property, mortgage and charge and "dispose of" or "disposal of" has a corresponding meaning but the following specifically shall not be treated as a disposition:-
- (a) a mowing or grazing licence
 - (b) a mortgage or a charge if (i) it ranks in priority after the Clawback Legal Charge and (ii) (when applying for registration of that charge) the chargee also applies for a restriction to protect the Planning Clawback described in Paragraph 2 of Schedule 2 ("the Planning Clawback Restriction") and in a form referred to under Rule 91 of the Land Registration Rules 2003 (as set out in Schedule 4 of said Rules) to the effect that no disposition by the proprietor of that charge is to be registered without the consent of the Transferor

- (c) the grant of a licence by the Transferee to Exolum Pipeline Systems Ltd (Co No 09497223) for a period of 12 months for the purposes of carrying out works to the licensees pipeline within the Property

1.8 **"Exempted Disposition"** means a Disposition of the Property:-

- (a) to a local authority or other statutory body pursuant to a planning obligation within the meaning of Section 106 of the TCPA 1990;
- (b) to a buyer or lessee of an individual residential unit its immediate curtilage and garage thereto (such curtilage not to exceed in total 0.1 of a hectare and insofar only as such a Disposition is an arm's length transaction to a bona fide purchaser);
- (c) to a housing association charity registered social landlord relevant local or other statutory authority if for the purpose of constructing housing on the Property and which the local planning authority require or will require (pursuant to a planning obligation) to be used for the provision of low cost or affordable housing;
- (d) to a statutory body or service supply company if for the purpose of an electricity substation gas governor pumping station water pumping station or other statutory services which have been or are to be constructed or installed in or on the Property; and
- (e) to a highway authority if for the purpose of adoption of the roads and footpaths and cycle ways to be constructed on the Property

1.9 **"Implementation"** the implementation of a Planning Permission by the carrying out of a material operation which shall have the same meaning as in section 56 of the TCPA 1990 provided that for the purposes of this transfer implementation of a Planning Permission shall be deemed to have occurred notwithstanding any breach of a condition to that Planning Permission

1.10 **"Market Value"** means the estimated amount for which the Relevant Land should exchange at the date of the Trigger Event with vacant possession between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably prudently and without compulsion and assuming:

- (a) that no previous Trigger Event has occurred that has reduced the market value of the Relevant Land;
- (b) that no act or omission by the Transferee has occurred since the date hereof which has diminished the market value of the Relevant Land;
- (c) the Relevant Land is in the same condition as at the date hereof
- (d) the Relevant Land has the benefit of any easements, wayleaves, sight-line covenants and other agreements necessary to provide access, visibility splays or services to or from the Relevant Land and
- (e) the provisions of Schedules 1, 2 and 3 of this transfer are disregarded

1.11 **"Planning Acts"** has the meaning given in TCPA 1990

1.12 **"Planning Cost Sum"** the aggregate of the reasonable and proper costs (but excluding any internal costs of the Transferee and any person corporate body or party Connected to the Transferee) reasonably and properly incurred in connection with the obtaining of the items listed under the heading of "Necessary" on the attached document prepared by Lambert Smith Hampton and headed "Carlett Park Planning Application Supporting Information" necessary to obtain planning permission provided that such sum shall be capped to a maximum figure of £15,000 which is net of any VAT.

1.13 **"Planning Permission"** has the meaning given in TCPA 1990

1.14 **"Relevant Land"** means the relevant part or parts of the Property affected by a Trigger Event and any reference to Relevant Land includes a reference to any part of it

1.15 **"Relevant Planning Permission"** means a Planning Permission in respect of which a payment has not previously become due under Schedule 2 paragraph 2 of this Transfer

1.16 **"TCPA 1990"** means the Town and Country Planning Act 1990

1.17 **"Transferee"** includes the Transferee's successors in title and in particular (but without limitation) this applies to the references to the Transferee in Paragraph 2 of this Schedule 2

1.18 **"Termination Date"** means the date ten (10) years from and including the date of this transfer

1.19 **"Trigger Event"** means in respect of each Relevant Planning Permission granted during the Clawback Period the earlier of

a Disposition (other than an Exempted Disposition) following the grant of that Relevant Planning Permission or the Implementation of that Relevant Planning Permission in relation to the Relevant Land

- 1.20 Any reference to the Property except where the context otherwise so requires includes a reference to any part of the Property
- 1.21 Any reference to any Act or section of an Act includes a reference to any statutory modification or re-enactment of that Act or section for the time being in force
- 1.22 Headings herein shall be disregarded in construction of this Schedule
- 2. The Transferee covenants with the Transferor that if and so often as any Trigger Event occurs after the date of this transfer but before the expiry of the Clawback Period the Transferee will on each such occasion pay to the Transferor a sum equal to 30% of the difference between the Base Value of the Relevant Land ("B") and the Market Value of the Relevant Land ("A") on the date of the Trigger Event such sum to become due and payable on the first day after the expiry of three (3) months from and including the Trigger Event.
- 3.
- 3.1 On the first Trigger Event to occur (but not for the avoidance of doubt any following Trigger Event) the Planning Cost Sum ("C") shall be deducted from the difference between the Base Value of the Relevant Land ("B") and the Market Value of the Relevant Land ("A") before calculating the sum equal to 30% of the difference between the Base Value of the Relevant Land ("B") and the Market Value of the Relevant Land ("A"). Under no circumstances shall VAT or a sum equal to VAT on the Planning Cost Sum be deducted from the difference between B and A.
- 3.2 The Transferee will as quickly as possible provide copies of all invoices and other supporting financial information on an open book basis as the Transferor shall reasonably require in order to verify the figure for the Planning Cost Sum.

Worked Example : First Trigger Event

$$[(A-B) - C] \times 30\% = £100,500.00$$

Where:-

A=£500,000.00 (Market Value of Relevant Land at date of First Trigger Event)

B=£150,000.00 (Base Value of Relevant Land)

C=£15,000.00 (Planning Cost Sum)

Amount payable would be $[(£500,000.00 - £150,000.00) - £15,000] \times 30\% = £100,500.00$

Worked Example: Subsequent Trigger Event

$[D-E] \times 30\% = £30,000.00$

Where:-

D=£600,000.00 (Market Value of Relevant Land at date of subsequent Trigger Event)

E=£500,000.00 (Base Value of Relevant Land at date of subsequent Trigger Event)

Amount payable would be $[£600,000.00 - £500,000.00] \times 30\% = £30,000.00$

4.

- 4.1 The Transferee covenants with the Transferor to notify him forthwith (and in any event within seven (7) days) upon the happening of any Trigger Event and provide the Transferor with such notification a copy of the Relevant Planning Permission, the instrument effecting the Disposition and all instruments ancillary or collateral to such Disposition and copies of such other documents or information as the Transferor may reasonably require in order to verify the Transferee's calculation of the sum due.
- 4.2 The notification together with the relevant information under this paragraph 4 shall be sent to the Transferor by recorded delivery post to Ministry of Defence Legal Advisors, Poplar 2b, #2216, Abbey Wood, Bristol BS34 8JH or such other address as the Transferor shall from time to time notify to the Transferee in writing.

Schedule 3

General Provisions

(applicable to Schedule 1 and Schedule 2)

1.

- 1.1 If the parties are unable to agree upon the determination of the quantum of (a) any sum or (b) any monetary obligation due from one party to the other under Schedule 1 or Schedule 2 of this transfer the dispute or difference shall be referred to an independent person (the 'Expert') who shall act as an expert and not as an arbitrator and whose decision in relation to the matter in dispute shall be final and binding upon the parties.
- 1.2 The procedure for the appointment of the Expert in accordance with this paragraph shall be as follows:-

- 1.2.1 The party wishing the appointment to be made shall give notice to that effect to the other party and with such notice shall give details of the matters in dispute which it wishes to refer to an Expert
- 1.2.2 If within twenty one (21) days from the service of the notice by the party wishing to refer a matter to an Expert the parties have failed to agree upon the identity of the person to be appointed as the Expert then that party may apply to the President for the time being of the Royal Institution of Chartered Surveyors (the 'Appointing Authority') to appoint a person to act as an Expert to determine the matters in dispute requesting that the appointment be made within twenty one (21) days of receipt of the request by the Appointing Authority
- 1.2.3 The person identified to act as an Expert shall confirm within fourteen (14) days whether or not he is willing and able to accept the appointment
- 1.2.4 In the event that the Expert so appointed does not confirm his availability to act within fourteen (14) days then either party may request the Appointing Authority to suggest an alternative appointment until a person so identified confirms that he is willing and able to accept the appointment
- 1.2.5 No person shall be appointed to act as an Expert under this agreement unless he is a chartered surveyor of more than seven (7) years standing
- 1.2.6 Any person appointed to act as an Expert pursuant to this agreement shall at the time of confirming that he is willing and able to accept such appointment disclose to all parties any contact or relationship with any party to the dispute and otherwise disclose to the parties any duty or interest which does or may create a conflict or otherwise impinge upon the matters in dispute which he is to be appointed to determine
- 1.2.7 If any such disclosure is made any party may object to the appointment within seven (7) days in which case the procedure for appointing an Expert referred to in paragraphs 1.2.1 to 1.2.6 above shall be repeated and for the avoidance of doubt no person shall be appointed an Expert under this agreement who at the time of appointment is a director office holder or employee of or directly or indirectly retained as a consultant or in any other professional capacity by any party to the dispute or any company or other person associated with any party to the dispute
- 1.2.8 Upon the person appointed as Expert confirming his willingness and ability to accept the appointment and upon neither party having raised any objection

to the appointment in the light of any disclosure made by the Expert the parties shall within twenty one (21) days of the Expert confirming his willingness and ability to act jointly send a letter to the Expert containing the terms of his appointment including (inter alia) the following:-

- (a) that the Expert shall not later than fourteen (14) days after the confirmation of his appointment call the parties to a meeting ("the directions meeting") at which he shall give directions as to the future conduct of the matter and shall from time to time give such further directions as he shall see fit;
- (b) that the Expert shall make his determination as soon as reasonably practicable after receipt of all written or oral submissions which the Expert orders should be made and conclusion of such further work as the Expert shall consider necessary and in any event the Expert shall endeavour to issue his decision within three (3) months of the directions meeting referred to above;
- (c) that the Expert shall be entitled to obtain such independent legal or other expert advice as he may reasonably require and may obtain such secretarial assistance as is reasonably necessary;
- (d) that the Expert shall give full written reasons for his determination

- 1.3 For the avoidance of doubt, any person appointed to determine a dispute in accordance with this paragraph shall act as an expert and not as an arbitrator and the provisions of the Arbitration Act 1996 (as amended from time to time) and the law relating to arbitrations shall not apply to such Expert or his determination or the procedure by which he reaches his determination
- 1.4 The determination of the Expert shall be final and binding upon the parties
- 1.5 The Expert shall be entitled to order that the costs of the reference of a dispute to him shall be paid by the parties in whatever proportions he thinks fit
- 1.6 Save for submissions made orally to the Expert at a meeting at which all parties are present any other communications between any party and the Expert shall be made in writing and a copy thereof shall be provided simultaneously to all other parties

- 1.7 No meeting between the Expert and a party shall take place unless all parties have had notice of such meeting and have been offered a reasonable opportunity to attend such meeting
- 1.8 In the event that the appointed Expert shall at any time become incapable of acting upon the determination (through death or other form of incapacity whether physical or otherwise) then the procedure for appointing an Expert referred to in paragraphs 1.2.1 to 1.2.6 above shall be repeated
2.
 - 2.1 If any sum which has become due under Schedules 1, 2 or 3 of this transfer are not paid within two (2) months of the date upon which it became payable then the Transferee will pay interest on that sum at the rate of 4% above the base rate from time to time of Royal Bank of Scotland plc from the date upon which it became due until it is paid
 - 2.2 For the avoidance of doubt if there is a reference to determine a dispute pursuant to Paragraph 1 of Schedule 3 above such sum as shall be fixed as a result of the outcome of the Expert's decision as being the sum due under this Schedule shall nevertheless be payable (or be deemed to have become payable) at the date of the Disposition or Trigger Event (as appropriate) and interest shall be payable under paragraph 2.1 above from that date
3. The Transferee further covenants with the Transferor that:
 - 3.1 on any Disposition of any part of the Property during the Turn Period; and
 - 3.2 on any Disposition other than an Exempted Disposition of any part of the Property prior to the expiry of the Clawback Period

the Transferee will procure that the donee of the same shall enter into a deed of covenant with the Transferor whereby the donee shall covenant with the Transferor to comply with the terms of Schedules 1, 2, and 3 of this transfer which covenant shall be based on the form of deed of covenant contained in ANNEX 2 ("the Deed of Covenant") and a Clawback Legal Charge (as a first legal charge) over the Property or the part Disposed with such variations as the Transferor may reasonably require hereto
4. The Transferee covenants to enter into the Clawback Legal Charge contemporaneously with this transfer as a first legal charge of the Property
5. Subject to the covenants on the part of the Transferor contained in paragraph 6 below whilst the Clawback Legal Charge remains in force the Transferee shall not have any power to dispose of the Property without the consent in writing of the Transferor

6. The Transferee under the provisions of the Land Registration Acts will at his own expense do all things necessary to enable a restriction in the terms set out in the Clawback Legal Charge to be registered against the title of the Property at the Land Registry and (unless otherwise requested by the Transferor) will apply to the Chief Land Registrar to enter in the register of the title to the Property a restriction in the terms set out in the Clawback Legal Charge
7. The Transferor covenants with the Transferee and the other owners and lessees for the time being of the Property (but subject as the case may be to reimbursement of the reasonable legal costs incurred on behalf of the Transferor for the procurement by the Transferee of the appropriate form of release or consent and/or Deed of Covenant) as follows:-
 - (a) to promptly release any part of the Property which is the subject of an Exempted Disposition from the Planning Clawback Restriction and the Clawback Legal Charge including in respect of any obligation to pay any sums due under paragraph 2.1 of this Schedule without consideration and not to unreasonably withhold consent to the registration of such a disposition
 - (b) when requested to do so (pursuant to the restriction contained in the Clawback Legal Charge) to provide a written consent signed on behalf of the Transferor to any such disposition which is the subject of an Exempted Disposition
 - (c) not to withhold consent to the registration of a disposition of the Property if the donee of the same shall have entered into a Deed of Covenant and Clawback Legal Charge with the Transferor and the Transferor shall have received the same from the donee
 - (d) when requested to do so (pursuant to the restriction contained in the Clawback Legal Charge or the clawback restriction contained in clause 6 of this transfer) to provide a written consent signed on behalf of the Transferor to any such disposition where the terms of the preceding sub paragraph have been complied with
 - (e) that the Transferor may be requested to consent (such consent not to be unreasonably withheld or delayed) to the postponement of the Clawback Legal Charge (as defined in Schedule 2) to a first legal charge to secure such sum as will enable the Transferee or any successor to complete its purchase of the Property or any part of the Property and/or (in the case of undeveloped land) to undertake

development of it pursuant to planning permissions obtained or likely to be obtained PROVIDED that the Transferor's consent to the said postponement of the Clawback Legal Charge to any such first legal charge will only be granted if the first mortgagee enters into a deed with the Transferor whereby it agrees not to exercise its power of sale without procuring from the proposed transferee a covenant with the Transferor for clawback on the same terms as the provisions of Schedule 2 and Schedule 3 (including a new Clawback Legal Charge to secure the same and provided further that the Transferor may in its absolute discretion withhold its consent where the proposed first mortgagee is a person or party Connected to the Transferee (or any successor in title).

- (f) that the Transferor will as mortgagee consent to and join in any agreement or deed required by any planning authority to facilitate the grant of Planning Permission or any other authority and/or service supply company to secure the provision of and adoption of all conduits, services and roads to be constructed on the Property subject to the Transferee indemnifying the Transferor in respect of all such matters on terms acceptable to the Transferor acting reasonably
- (g) as soon as reasonably possible after the Termination Date and provided that all sums due from Trigger Events arising prior to the Termination Date have been paid as cleared funds to the Transferor to execute and deliver to the Transferee:
 - (i) the relevant form to cancel the entries on the Title Register relating to the Planning Clawback Restriction which shall be based on the current form of Land Registry form RX3; and
 - (ii) the relevant form to cancel the entries on the Title Register relating to the Clawback Legal Charge which shall be based on the current form of Land Registry form DS1.

8. For the avoidance of doubt:

8.1 At all times during the Clawback Period the Transferee must:-

- 8.1.1 comply in all respects with the TCPA 1990 and any Act replacing or modifying it or any order or direction under it whether as to the permitted use of the Property or otherwise

8.1.2	at its own expense obtain any permissions licences consents and approvals required by law for carrying out any operations on the Property or for any use of it that may constitute development within the meaning of the TCPA 1990
8.1.3	not act in collusion with any third party with a view to avoiding or deferring any payment due under the provisions of this Schedule
8.2	the provisions of Schedules 1, 2 and 3 shall apply:-
8.2.1	only to produce sums payable by the Transferee to the Transferor and in no circumstances shall any sum become payable (or repayable) by the Transferor to the Transferee
8.2.2	(in relation to Turn Clawback) as often as any Disposition occurs prior to the end of the Turn Period and shall not, for example, cease to apply on the occurrence of the first or any subsequent Disposition
8.2.3	(in relation to Planning Clawback) as often as any Trigger Event occurs prior to the end of the Clawback Period and shall not, for example, cease to apply on the occurrence of the first or any subsequent Trigger Event
8.3	the Clawback Legal Charge shall not be discharged by any payment within the Clawback Period but shall continue to apply until the Clawback Period has expired and all monies secured by the Clawback Legal Charge have been paid but for the avoidance of doubt the terms of this Schedule shall not be binding on the owners and occupiers of any part of the Property which having been the subject of an Exempted Disposition has been released from the Clawback Legal Charge
8.4	the Transferee shall be under an obligation when applying for the registration of this Transfer to register the Clawback Legal Charge both at Companies House and at the Land Registry with the required statutory priority periods and shall not send the original Clawback Legal Charge to the Land Registry but only a certified copy of the Clawback Legal Charge.
8.5	the Transferee for itself and its successors in title being bodies corporate hereby covenants with the Transferor
8.5.1	to comply with all laws whatsoever affecting them and take all appropriate steps so as to make the Clawback Legal Charge enforceable against them and their liquidators and
8.5.2	(without prejudice to the generality of the foregoing) if the Transferee or successor is a limited company registered under the Companies Acts, to produce to Companies House the original and procure

registration of the Clawback Legal Charge or other document making the Transferee or successor liable thereunder at Companies House in accordance with the obligation placed on its directors by such Acts

- (a) within twenty one (21) days of the date hereof or
- (b) within twenty one (21) days of the acquisition of the Property subject to the Clawback Legal Charge

as the case may be

- 8.5.3 to produce to the Transferor within twenty eight (28) days after the Transferee receives same the original certificate of registration of the Clawback Legal Charge at Companies House or a copy of said certificate certified by a solicitor to be a true copy or with such other authority as is appropriate and failure to comply with this obligation will entitle the Transferor to notify Companies House of the failure and to require the Transferee to enter into a fresh Clawback Legal Charge and to pay the full costs and fees of this additional work.

ANNEX 1

CLAWBACK LEGAL CHARGE

Land Registry

Legal charge of a registered estate

CH1

This form should be accompanied by either Form AP1 or Form FR1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

'Conveyancer' is a term used in this form. It is defined in rule 217(1) of the Land Registration Rules 2003 and includes, among others, solicitor, licensed conveyancer and fellow of the Institute of Legal Executives.

Leave blank if not yet registered.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Give full name(s).

Complete as appropriate where the borrower is a company.

Give full name(s).

Complete as appropriate where the lender is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each proprietor may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

1	Title number(s) of the property: MS566148
2	Property: Carlett Park Fuel Depot, Ferry Road, Eastham, Wirral
3	Date:
4	<p>Borrower: Hampstead Regeneration Limited</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 12611735</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in England and Wales including any prefix:</p>
5	<p>Lender for entry in the register:</p> <p>THE SECRETARY OF STATE FOR DEFENCE</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in England and Wales including any prefix:</p>
6	<p>Lender's intended address(es) for service for entry in the register:</p> <p>C/O Defence Infrastructure Organisation, Ramillies Building, Marlborough Lines, Monxton Road, Andover SP11 8HJ AND c/o Property Team, MOD Legal Advisers, MOD Abbey Wood, Poplar 2b, #2216, Bristol, BS34 8JH</p>

Place 'X' in any box that applies.

Add any modifications.

Place 'X' in the appropriate box(es).

You must set out the wording of the restriction in full.

Standard forms of restriction are set out in Schedule 4 to the Land Registration Rules 2003.

Insert details of the sums to be paid (amount and dates) and so on.

7	<p>The borrower with</p> <p><input checked="" type="checkbox"/> full title guarantee</p> <p><input type="checkbox"/> limited title guarantee</p> <p>charges the property by way of legal mortgage as security for the payment of the sums detailed in panel 9</p>
8	<p><input checked="" type="checkbox"/> The lender is under an obligation to make further advances and applies for the obligation to be entered in the register</p> <p><input checked="" type="checkbox"/> The borrower applies to enter the following standard form of restriction in the proprietorship register of the registered estate:</p> <p>No disposition of the registered estate (other than a charge) 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 Secretary of State for Defence of C/O Defence Infrastructure Organisation, Ramillies Building, Marlborough Lines, Monxton Road, Andover SP11 8HJ or their conveyancer or any person authorised to authenticate the Corporate Seal of the Secretary of State for Defence</p>
9	<p>Additional provisions</p> <p>i. The Charge referred to in Panel 7 is made pursuant to the Transfer ("the Transfer") bearing even date herewith and to which the Borrower and the Lender are parties and the Borrower acknowledges that the Property is charged by way of legal mortgage as security for the repayment to the Lender of all moneys (including interest) covenanted to be paid to the Lender under the Transfer and which may be owing from time to time by the Borrower to the Lender and in respect of which the Borrower has covenanted in the Transfer that the Lender shall be paid on the occasion of any Trigger Event (as therein defined) the additional moneys as therein mentioned and Overage as therein mentioned</p> <p>ii. The Borrower HEREBY COVENANTS with the Lender to pay to the Lender all such moneys as the Lender shall be entitled to under the terms of the Transfer</p> <p>iii. The statutory powers of sale and of appointing a Receiver in respect of the security hereby created shall be in favour of a purchaser as defined by and in Section 205 of the Law of Property Act 1925 be deemed to arise and be exercisable immediately upon the execution thereof</p> <p>iv. The Borrower shall not have any power to dispose of the Property without the consent in writing of the Lender (and for the purposes of this clause "dispose of" shall be construed in accordance with the Transfer) subject however to the covenants on the part of the Lender contained in the Transfer</p> <p>v. For the avoidance of doubt this Charge shall not be discharged by any payment within the Clawback Period (as defined in the Transfer) but shall continue to apply until the Clawback Period has expired and all moneys secured by this Charge have been paid provided that this Charge shall cease to apply to any part of the Property which is the subject of an Exempted Disposition (as defined in the Transfer)</p>

The borrower must execute this charge as a deed using the space opposite. If there is more than one borrower, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If a note of an obligation to make further advances has been applied for in panel 8 this document must be signed by the lender or its conveyancer.

10 Execution

The Corporate Seal of
The Secretary of State for Defence
hereunto affixed is authenticated by

.....
Authorised signatory

.....
Sealing Reference

Executed as a Deed by **Hampstead
Regeneration Limited** acting by:

a director in the presence of:


Director

Witness Signature

.....
Witness Name

DEEPAK P BABU


Witness Occupation

Business Manager

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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ANNEX 2

DEED OF COVENANT

DEED OF COVENANT

THIS DEED is made the _____ day of _____ 202

BETWEEN

1. _____ of _____ (company registration number _____) whose registered office is situate at _____ ("the New Owner") and
2. **THE SECRETARY OF STATE FOR DEFENCE** ("the Secretary of State")

WHEREAS

1. By a Transfer dated _____ ("the Transfer") made between (1) the Secretary of State and (2) _____ certain land as therein more particularly described (hereinafter called "the Property") situate at _____ was transferred to _____ in fee simple who covenanted (inter alia) with the Secretary of State that upon any disposition of the Property or any part thereof (including a lease other than a mortgage term) prior to _____ ("the Termination Date") would procure that the disponee of the same would enter into a deed with the Secretary of State in such form as the Secretary of State may reasonably require
2. The Property is now registered under Title Number _____
3. By a Transfer of _____ 202 _____ the Property was transferred to the New Owner for an estate in fee simple and this Deed is entered into in compliance with the said covenant on the part of _____ in the Transfer

NOW THIS DEED WITNESSES as follows: -

1. The New Owner hereby covenants with the Secretary of State to comply with the obligations of _____ contained in the Transfer mutatis mutandis
2. The New Owner acknowledges that the charge and the restriction provided for in the Transfer shall continue to be registered against all parts of the Property until the Termination Date (as defined in the Transfer) and agrees to lodge the duplicate hereof with the Land Registry requesting the Chief Land Registrar to take all appropriate steps to ensure that the registration continues

IN WITNESS of which this Deed has been duly executed as a deed by the New Owner the day and year first before written

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 10 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to *Joint property ownership* and *practice guide 24: private trusts of land* for further guidance.

Remember to date this deed in panel 3.

12 Execution

The Corporate Seal of
**The Secretary of State for
Defence** hereunto affixed is
authenticated by

.....
Authorised signatory

.....
Sealing Reference

Executed as a Deed by **Hampstead
Regeneration Limited** acting by:

a director in the presence of:


Director

Witness Signat

.....
Witness Name

DEEPAK P BABU
.....


.....
Witness Occupation

Business Manager
.....

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

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