



**Registration of a Charge**

Company name: **BRENDONCARE ENTERPRISES LIMITED**

Company number: **03263756**



X57VSAKO

Received for Electronic Filing: **27/05/2016**

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**Details of Charge**

Date of creation: **19/05/2016**

Charge code: **0326 3756 0002**

Persons entitled: **PERBURY (DEVELOPMENTS) LIMITED**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS LAND ON THE NORTH WEST SIDE OF OTTERBOURNE ROAD, SHAWFORD, WINCHESTER (SO21 2DE) AND REGISTERED AT HM LAND REGISTRY WITH TITLE NUMBER HP372607**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

**BLAKE MORGAN LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3263756

Charge code: 0326 3756 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th May 2016 and created by BRENDONCARE ENTERPRISES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th May 2016 .

Given at Companies House, Cardiff on 31st May 2016

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

Date:

*19th May*

2016

- (1) **Brendoncare Enterprises Limited**
- (2) **Perbury (Developments) Limited**

## **Legal Mortgage**

BLAKE   
MORGAN

New Kings Court  
Tollgate  
Chandler's Ford  
Eastleigh  
Hampshire  
SO53 3LG

Ref: LRB/46938/151

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THIS DEED IS DATED THE 19<sup>th</sup> DAY OF May 2016 AND MADE

**BETWEEN:**

- (1) **BRENDONCARE ENTERPRISES LIMITED** whose registered office is at The Malthouse Victoria Road Winchester Hampshire SO23 7DU (registered number 3263756) (the **Chargor**); and
- (2) **PERBURY (DEVELOPMENTS) LIMITED** whose registered office is at 3 West Links, Tollgate, Chandlers Ford, Eastleigh, Hampshire, SO53 3TG (registered number 00733312) (the **Chargee**).

**WHEREAS:**

- (A) The Chargor is registered at HM Land Registry as the Proprietor with absolute title to the Property subject as mentioned in the register of title but otherwise free from encumbrances.
- (B) The Chargee has agreed to grant loan or other credit facilities or financial accommodation to The Brendoncare Foundation upon having the repayment thereof secured on the terms and conditions set out in this Deed.

**NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

1.1 Expressions defined in the recitals to this Agreement shall bare the same meaning as used herein.

1.2 In this Deed:

**"Advance"** means £1,600,000 (one million six hundred thousand pounds) owed by The Brendoncare Foundation to the Chargee pursuant to the Agreement;

**"Agreement"** means the agreement between The Brendoncare Foundation and the Chargee dated 24 December 2015 relating to law at the rear of Penarth House Otterbourne Hill Winchester SO21 2HS;

**"Charged Property"** means the property assets debts rights and undertaking charged to the Chargee by this Charge and includes any part of or interest therein;

**"Default Rate"** means the rate per annum which is 8% above the base rate from time to time of the Bank of England;

**"Encumbrance"** means any mortgage charge pledge lien assignment hypothecation security interest preferential right or trust arrangement or other encumbrance security agreement or arrangement of any kind or any right conferring a priority of payment;

**"Enforcement Event"** means any of the events or circumstances described in clause 8 and each and every Event of Default as defined in the Agreement;

**"Environmental Laws"** means in relation to Environmental Matters all or any relevant statutes, rules, regulations, statutory instruments, treaties, directives,

directions, by-laws, codes of practice, circulars, guidance notes, orders, notices, demands, injunctions, statute law or common law, statutory or common law, duty of care of any governmental authority or agency or any regulatory or other body having authority or jurisdiction in the UK;

**"Environmental Matters"** means any of the following:

- (a) any discharge, release, entry or introduction whether direct or indirect into the environment;
- (b) any deposit, disposal, keeping, treatment of any waste or Relevant Substance or any importation, exportation, transportation, handling, processing, manufacture, collection, sorting or presence of any hazardous, dangerous, toxic, poisonous, radioactive, offensive, harmful, flammable, explosive, infectious or polluting substance;
- (c) any discharge, release or entry into water, including (without limitation) into any river, water course, lake, loch or pond (whether natural or artificial or above or below ground) or reservoir, the surface of the river bed or of other land supporting such waters, ground waters (as defined in s 1(12) Environmental Protection Act 1990), sewer or the sea;
- (d) nuisance, noise, defective premises, health and safety at work, industrial illness, industrial injury due to environmental health problems, the conservation, preservation or protection of the natural or built environment or of man or any living organisms supported by the environment or any other matter whatsoever affecting the environment or any part of it,

and so that "environment", "release" and "waste" have the respective meanings ascribed thereto by the Environmental Protection Act 1990 (as amended) or under the relevant environmental legislation applicable to the appropriate jurisdiction in which either the Property is situated or the Business is conducted or carried on;

**"Expenses"** means all interest commission fees and legal and other costs charges and expenses which the Chargee or any Receiver may charge or incur in relation to the Chargor or this Charge or the Agreement and the preparation negotiation and creation of this Charge and/or in relation to the Charged Property and/or breach of any provision of and the protection realisation or enforcement of this Charge in each case on a full indemnity basis;

**"Full Title Guarantee"** has the meaning ascribed by the Law of Property (Miscellaneous Provisions) Act 1994;

**"Insolvency Event"** in relation to a person includes bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganisation, Administration, administrative or other receivership, or dissolution of that person and any equivalent or analogous proceeding by whatever name known in whatever jurisdiction, and any step taken (including, but without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing;

**"Insured Risks"** means fire storm lightning earthquake explosion aircraft riot civil commotion malicious damage impact terrorism aircraft and other aerial devices or articles dropped therefrom tempest flood bursting and overflowing of water tanks apparatus or pipes and damage by or resulting from vehicular impact and such other

risks as the Chargee shall approve including demolition and site clearance costs and expenses architects surveyors and other professional fees and all other incidental expenses and loss of rents payable by the tenants or other occupiers of the Property for a period of three years or for such longer period as the Chargee shall from time to time require;

**"Interest"** means Interest at the highest rate(s) charged to the Chargor by the Chargee from time to time under the Agreement and so that interest shall be computed and compounded as well after as before any demand made or decree or judgment obtained under this Deed;

**"LPA"** means the Law of Property Act 1925;

**"Planning Acts"** means the Town and Country Planning Act 1990 the Planning (Listed Buildings and Conservation Areas) Act 1990 the Planning (Hazardous Substances) Act 1990 the Planning (Consequential Provisions) Act 1990 and the Planning and Compensation Act 1991 and all regulations and orders made or confirmed under any of them;

**"Property"** means the freehold leasehold or immovable property referred to in the Schedule and any part or parts of it and including all rights attached or appurtenant to it and all buildings fixtures fittings plant and machinery from time to time situate on it;

**"Receiver"** means a receiver and/or administrative receiver and/or manager and any substitute for any such person and whether appointed under this Deed or pursuant to any statute or otherwise;

**"Rental Income"** means the gross rents licence fees and other moneys receivable now or hereafter at any time by the Chargor in respect of or arising out of any lease of the Property or any agreement for lease or otherwise without limitation derived by the Chargor from the Property or otherwise paid to or received by the Chargor in respect of the Property (including without limitation all mesne profits) but save for insurance rents or service charges or the like;

**"Secured Liabilities"** means the Advance and all or any other liabilities which are for the time being and from time to time due, owing or payable, or expressed to be due, owing or payable, to the Chargee by The Brendoncare Foundation, pursuant to the Agreement, together with Interest and Expenses;

**"Security"** means the Security constituted by this Deed and any other security created or constituted by the The Brendoncare Foundation and the Chargor pursuant to or in compliance with any requirement made pursuant to this Deed; and

**"The Brendoncare Foundation"** means The Brendoncare Foundation whose registered office is at The Malthouse Victoria Road Winchester SO23 7DU (registered number 01791733).

1.3 In this Deed, unless the context otherwise requires:

1.3.1 references to this Deed or to any other agreement or document shall be construed as references to this Deed or, as the case may be, such other agreement or document, in each case as amended, supplemented, restated or novated from time to time;



- 1.3.2 references to clauses, sub-clauses and schedules are references to the clauses and sub-clauses of, and schedules to, this Deed;
- 1.3.3 the words "**hereof**", "**hereunder**" and similar words shall be construed as references to this Deed as a whole and not limited to the particular clause, sub-clause or provision in which the relevant reference appears;
- 1.3.4 references to a "**judgment**" shall be construed so as to include any judgment, order, injunction, decree, determination or award of any court or any judicial, administrative or governmental authority or body;
- 1.3.5 references to a "**person**" shall include any person, firm, company, corporation, unincorporated body of persons or any state or government or any agency thereof;
- 1.3.6 references to statutes and other legislation include all modifications, re-enactments and amendments thereof;
- 1.3.7 references to times of the day are to London time;
- 1.3.8 the expressions "**Chargee**" and "**Chargor**" and "**The Brendoncare Foundation**" where the context admits include their respective transferees, successors and assigns; and
- 1.3.9 words in the singular include the plural and vice versa and words in one gender include any other gender.
- 1.4 Words and expressions defined in the Agreement shall have the same meanings when used in this Deed.
- 1.5 The headings in this Deed are inserted for convenience only and shall be ignored in construing this Deed.
- 1.6 The Chargor intends this document to be a deed and agrees to execute and deliver it as a deed.
- 2 COVENANT TO PAY**
- 2.1 The Chargor covenants with the Chargee that The Brendoncare Foundation will pay to the Chargee or discharge the Advance and all Secured Liabilities as and when the same fall due for payment in accordance with their respective terms or if earlier forthwith upon the occurrence of an Enforcement Event.
- 2.2 The Chargor covenants that all sums payable by the Chargor and The Brendoncare Foundation under this Deed shall be paid without any set-off, counterclaim, withholding or deduction whatsoever unless required by law in which event the Chargor shall (or shall ensure) simultaneously with making the relevant payment under this Deed pay to the Chargee such additional amount as will result in the receipt by the Chargee of the full amount which would otherwise have been receivable and will supply the Chargee promptly with evidence satisfactory to the Chargee that the Chargor has accounted to the relevant authority for the sum withheld or deducted.
- 2.3 If The Brendoncare Foundation fails to discharge any Secured Liability when due the Chargor shall ensure that The Brendoncare Foundation pays to the Chargee

interest on such Secured Liability at the Default Rate in the case of Expenses from the date on which the relevant Expense was incurred and in the case of any other Secured Liability from the date on which the Secured Liability became due until payment or discharge (both before and after judgment) which interest shall accrue from day to day and may be compounded in accordance with the usual practice of the Chargee to the extent that it shall remain unpaid.

### **3 SECURITY**

3.1 In consideration of the making by the Chargee of the Advance the Chargor with Full Title Guarantee charges as continuing security for the payment and discharge of the Secured Liabilities:

3.1.1 by way of legal mortgage the Property;

3.1.2 by way of fixed charge all buildings and other structures on, and items fixed to, the Property;

3.1.3 by way of fixed charge all plant, machinery and other items affixed to and forming part of the Property on or at any time after the date of this Charge;

3.1.4 by way of fixed charge the proceeds of any claim made under any insurance policy relating to any of the property charged under this Charge; and

3.2 As further security for the Secured liabilities, the Chargor assigns and covenants to assign absolutely to the Chargee all its right title interest and benefit in and to all Rental Income present or future and whether payable now or in the future and the proceeds of any sale lease or other disposition of the Property and all rights and claims of the Chargor against all lessees sub-lessees licensees or occupiers of the Property and all guarantors and sureties for the obligations of any such person or other third parties in relation to the Property now or in the future existing and capable of being satisfied by the payment of money provided that nothing in this sub-clause shall constitute the Chargee as a mortgagee in possession.

### **4 RESTRICTIONS**

4.1 The Chargor shall not without the prior written consent of the Chargee:

4.1.1 create or permit to subsist or arise any Encumbrance or any right or option on the Property or any part thereof; subject as aforesaid any mortgage or charge on the Property created by the Chargor (otherwise than in favour of the Chargee) shall be expressed to be subject to this Charge;

4.1.2 sell convey assign or transfer the Property or any interest therein or otherwise part with or dispose of any property or assign or otherwise dispose of any moneys payable to the Chargor in relation to the Property or agree to do any of the foregoing;

4.1.3 exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or accept the surrender of any lease underlease or tenancy or agree to do any of the foregoing;

- 4.1.4 part with or share possession or occupation of the Property or any part of it or grant any tenancy or licence to occupy the Property or agree to do any of the foregoing; and
- 4.1.5 compound release exchange set-off grant time or indulgence in respect of or otherwise deal with any of the Rental Income or the debts or policies charged to the Chargee under this Charge or do anything whereby the recovery of the same may be impeded delayed or prevented and the Chargor shall enforce its rights in respect of the same.

## **5 COVENANTS BY THE CHARGOR**

### **5.1 The Chargor covenants with the Chargee at all times during the continuance of this security:**

- 5.1.1 to keep the buildings installations and structures (whether fully built or in course of construction) and all fixtures and fittings therein or thereon and other erections from time to time upon the Property in good and substantial repair and condition and fully protected from damage or deterioration as a result of weather or malicious damage or any other cause and to replace any fixtures and fittings which have become worn out or otherwise unfit for use by others of a like nature and equal value;
- 5.1.2 to keep the said buildings installations and structures and all fixtures and fittings situate thereon and other erections insured against loss or damage by the Insured Risks in their full replacement value for the time being in such office or offices and on such terms as the Chargee shall approve and including (if available on reasonable terms) a Chargee protection clause whereby the insurance effected will not be vitiated or avoidable as against a mortgagee in the event of any misrepresentation act or neglect or failure to disclose on the part of the Chargor or the insured party (if not the Chargor) or in the event of any circumstances beyond the control of the insured party or parties (subject to the payment of any increased premium required by the insurer) with the Chargee named as co-insured and co-payee;
- 5.1.3 to maintain in such office or offices as the Chargee shall approve such insurance in respect of employers' liability public liability and liability under the Defective Premises Act 1972 as the Chargee shall require;
- 5.1.4 punctually to pay all premiums (and other moneys) in respect of such insurances and on demand to deliver to the Chargee the policy or policies of all such insurances and the receipt for every such payment;
- 5.1.5 that all moneys received under any policy or policies of insurance whether maintained or effected by the Chargor the Chargee or by a third party and whether or not in pursuance of the Chargor's obligations under this Charge shall be applied at the Chargee's option either in making good the loss or damage to the Property (any deficiency being made good by the Chargor) or towards the discharge of the Secured Liabilities and any such moneys received by the Chargor shall be held by the Chargor on trust for the Chargee accordingly;
- 5.1.6 to comply with the terms and conditions of any policy of insurance on the Property or otherwise contemplated by this Clause and not to do or omit to

do anything whereby any such insurance may become void or voidable wholly or in part;

- 5.1.7 to procure that all such insurance required by this Clause 5.1 shall be taken out, as the Chargee may require, either in the joint names of the Chargee and the Chargor, or with the interests of the Chargee as such noted thereon and with the Chargee named as loss payee in respect thereof;
- 5.1.8 to pay when due all taxes charges duties assessments impositions and other outgoings whatsoever charged assessed levied or imposed upon the Property or upon the owner or occupier thereof or payable in respect of the Property;
- 5.1.9 to perform and observe all covenants restrictions stipulations provisions regulations and conditions affecting the Property or the use or enjoyment of it;
- 5.1.10 other than in accordance with the provisions of the Agreement not without the previous written consent of the Chargee to demolish pull down remove or permit or suffer to be demolished pulled down or removed any building installation or structure for the time being upon the Property or except in connection with the renewal or replacement thereof any fixtures or erect or make or suffer to be erected or made on the Property any building installation structure or alteration or a change of use thereof within the meaning of the Planning Acts or otherwise commit any waste upon or destroy or injure in any manner or by any means lessen or suffer to be lessened the value of the Property;
- 5.1.11 where at the date of this Charge or at any time during the continuance of the Security the Property or any part of it is intended to be developed or is in the course of development:
  - (a) to proceed diligently and to the satisfaction of the Chargee and any competent authority with such development in all respects in conformity with the planning and bye-law consents therefor and to produce all plans and specifications in relation to such development to the Chargee for approval and not to amend such plans and specifications in any manner which might diminish the finished value (or increase the cost to a material extent) without the Chargee's approval;
  - (b) at the request of the Chargee to assign to the Chargee as further security for the Secured Liabilities, and in such form as the Chargee shall require:
    - (i) the benefit of all the Chargor's rights and claims with regard to such work against the building contractor and any other person carrying out services for the Chargor in connection with such works, and their respective subcontractors and suppliers;
    - (ii) any rights, licences, warranties, guarantees or maintenance agreements in connection with such works of which the Chargor has the benefit;

- 5.1.12 to comply in all respects with the Planning Acts and all licences consents permissions or conditions granted or imposed thereunder;
- 5.1.13 not to make any application for planning permission without the prior consent of the Chargee and not to enter into or agree to enter into any agreement under Section 106 of the Town and Country Planning Act 1990 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or Section 38 of the Highways Act 1980 or any similar Act;
- 5.1.14 to comply with the requirements of any valid enforcement notice or other notice or order (whether issued under the Planning Acts or any other statute) within such time as may be specified therein or if no time is specified within such period as may be reasonably required by the Chargee and to pay to the Chargee in reduction of the Secured Liabilities any compensation received as a result of any such notice or order;
- 5.1.15 to permit representatives of the Chargee with or without workmen or others to enter the Property at all reasonable times to view the state of repair and condition of the Property;
- 5.1.16 promptly, and in any event within three days of receipt to produce to the Chargee a copy of any notice order direction permission or proposal affecting the Property or its use or value and to comply immediately with the terms thereof or if the Chargee so requires or approves and at the Chargor's cost to make such objections representations against or in respect of such notice order proposal permission or consent as aforesaid as the Chargee may require;
- 5.1.17 on request to produce to or provide for the Chargee such documents or information relating to the Property or its development as the Chargee may require;
- 5.1.18 to comply (in all material respects) with all obligations imposed under any present or future statute regulation order or instrument or under any bye-laws regulations or requirements of any competent authority or approvals licences or consents relative to the Property or its use or enjoyment;
- 5.1.19 to keep the Chargee (and any Receiver appointed by the Chargee) fully and effectively indemnified from and against all actions proceedings costs charges claims demands expenses and liabilities (including Value Added Tax and any other taxes and/or legal and other professional fees) whatsoever in respect of any breach or non-observance or non-performance of any covenants obligations warranties or undertakings on the part of the Chargor contained in this Charge or the Agreement or the making good of any such breach or non-observance or non-performance;
- 5.1.20 to make no election pursuant to paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 in relation to land and/or buildings comprising the Property without the prior written consent of the Chargee such consent not to be unreasonably withheld or delayed;
- 5.1.21 comply (at its own cost) with the terms and conditions of all Environmental Laws applicable to the Property including, without limitation any

remediation notice served on the Borrower pursuant to Part IIA of the Environmental Protection Act 1990 as substituted by the Environment Act 1995;

5.1.22 promptly upon receipt of the same, notify the Chargee of any claim, notice or other communication served on it in respect of, or if it becomes aware of:

(a) any breach or any Environmental Laws in respect of the Property;  
or

(b) the issue in respect of the Property of any enforcement or prohibition or similar notice by a regulatory authority, including without limitation if any remediation notice or deeding notice is served on the Borrower pursuant to Part IIA of the Environment Protection Act 1990 as substituted by the Environment Act 1995 or receipt of any complaint, demand, civil claim or enforcement proceeding relating to the Property, or its occupation thereof;

5.1.23 at any time on written demand by the Chargee procure that the Rental Income shall be paid directly to such account as the Chargee may from time to time direct and the Chargor shall forthwith upon any such demand so instruct its lessees and occupiers of the Property by notice in writing. Following any such demand until such payment the Chargor shall hold all Rental Income on trust for the Chargee; and

5.1.24 to deposit with the Chargee to hold and retain during the continuance of the Security (unless held by a prior mortgagee at the date hereof and for as long as it remains the prior mortgagee) all deeds and documents of title relating to the Property.

## **6 POWER TO REMEDY**

6.1 If any building operations on the Property are not carried out in a proper and workmanlike manner and with diligent progress to the reasonable satisfaction of the Chargee or its surveyor the Chargee may (but shall not be under any obligation so to do) serve a written notice on the Chargor advising it of such failure and the Chargor shall have such period as the Chargee may specify to remedy the same failing which:

6.1.1 the Chargor shall if required by written notice from the Chargee within seven days assign to the Chargee or as it may direct all the benefit and interest of the Chargor in any building contract sub-contract appointment of professional advisers and such other contracts or agreements as the Chargor may have relating to such building operations and will take or procure such action as is necessary or desirable to provide the Chargee or the nominee of the Chargee as aforesaid with privity of contract with such parties or contractors with whom the Chargor may have privity of contract and take all such other steps as the Chargee may require to enable the Chargee to procure the completion of the said building operations; and

6.1.2 the Chargor shall permit the Chargee at the Chargor's cost to complete or procure the completion of the said building operations,

discharged valid, legal, binding and enforceable and will have the priority and ranking which it is expressed to have;

7.1.5 the entry into and performance by the Chargor of its obligations under this Deed do not and will not conflict with:

- (a) any law or regulation or any judgment;
- (b) the Memorandum or Articles of Association (or other statutes) of the Chargor; or
- (c) any agreement or document to the Chargor is a party; or
- (d) which is binding upon it or any of its assets,

nor result in the creation or imposition (other than in favour of the Chargee pursuant hereto or thereto) of any Encumbrance on any of its assets pursuant to the provisions of any such agreement or document;

7.1.6 all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Deed and (subject only to all necessary registrations thereof being made) the security hereby constituted have been obtained or effected and are in full force and effect and there are no circumstances which indicate that any of the same are likely to be revoked in whole or in part;

7.1.7 no Encumbrance exists over all or any of the Charged Property; and

7.1.8 the Chargor is the sole beneficial owner of the Charged Property.

## **8 ENFORCEMENT EVENTS**

8.1 If any of the following events shall occur then, the Secured Liabilities shall become immediately due and payable at any time on demand by the Chargee and the Chargee shall cease to be under any further obligation to the Chargor:

8.1.1 The Brendoncare Foundation fails to pay any of the Secured Liabilities when due; or

8.1.2 any default that occurs pursuant to the Agreement;

8.1.3 any representation or warranty made or deemed to be made or repeated by the Chargor in or pursuant to this Charge or by The Brendoncare Foundation pursuant to the Agreement is or proves to have been untrue or incorrect when made or when deemed to be repeated with reference to the facts and circumstances existing at such time; or

8.1.4 any Encumbrance on or over the business assets rights or revenues of The Brendoncare Foundation or the Chargor becomes enforceable; or

8.1.5 an encumbrancer takes possession (in either case) or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the undertaking assets rights or revenues of The Brendoncare Foundation or the Chargor or a distress or other process is

levied or enforced upon any of the assets rights or revenues of The Brendoncare Foundation or the Chargor; or

- 8.1.6 The Brendoncare Foundation or the Chargor is or is adjudicated or found to be insolvent or suspends payment of its respective debts or is (or is deemed to be) unable to or admits inability to pay its respective debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to The Brendoncare Foundation or the Chargor under any law regulation or procedure relating to reconstruction or adjustment of debts; or
- 8.1.7 a petition is presented by any person for an administration order in relation to The Brendoncare Foundation or the Chargor; or
- 8.1.8 any petition is presented by any person or any order is made by any competent Court or any resolution is passed by The Brendoncare Foundation or the Chargor for its winding-up or dissolution or for the appointment of a liquidator of The Brendoncare Foundation or the Chargor except for the purpose of an amalgamation or reconstruction on terms and conditions which shall have first been approved in writing by the Chargee; or
- 8.1.9 any other Insolvency Event occurs in respect of the The Brendoncare Foundation or the Chargor.

## **9 ENFORCEMENT**

Section 103 LPA shall not apply to this Deed nor to any sale by the Chargee or a Receiver under that Act and the Secured Liabilities shall be deemed to have become due, and the statutory power of sale and appointing a Receiver under Sections 101 and 109 of the LPA (as varied and extended under this Deed) shall as between the Chargee or such Receiver and a purchaser from the Chargee or such Receiver arise and be exercisable at any time after the execution of this Deed provided that the Chargee shall not exercise this power of sale until the Chargee shall have demanded payment of any of the Secured Liabilities or after any breach by the Chargor of any of the provisions of this Deed or the occurrence of an Enforcement Event but this proviso shall not affect a purchaser or put him upon enquiry whether such monies have become payable or such appointment has been made.

## **10 APPOINTMENT AND POWERS OF RECEIVER**

- 10.1 At any time after the Chargee shall have demanded payment of any of the Secured Liabilities or after any breach by the Chargor of any of the provisions of this Charge or the occurrence of an Enforcement Event or if requested by the Chargor the Chargee may appoint by writing any person or persons to be a Receiver of all or any part of the Charged Property and where more than one Receiver is appointed they may be given power to act either jointly or severally.
- 10.2 The Chargee may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another in his place.
- 10.3 The Receiver shall (so far as the law permits) be the agent of the Chargor (who shall alone be personally liable for his acts defaults omissions and remuneration) and



shall have and be entitled to exercise all powers conferred by the LPA and the Insolvency Act 1986 in the same way as if the Receiver had been duly appointed thereunder and in particular by way of addition to but without limiting any general powers referred to above (and without prejudice to any of the Chargee's powers) the Receiver shall have power in the name of the Chargor or otherwise to do the following things namely:

- 10.3.1 to take possession of collect and get in all or any part of the Charged Property and for that purpose to take any proceedings as he shall think fit;
- 10.3.2 to commence and/or complete any building operations on the Property and to apply for and obtain any planning permissions building regulation approvals and any other permissions consents or licences in each case as he may in his absolute discretion think fit;
- 10.3.3 for the purpose of exercising any of the rights powers authorities and discretions conferred on him by or pursuant to this Charge or for any other purpose to borrow moneys from the Chargee or others on the security of the Charged Property or otherwise on such terms as he may in his absolute discretion think fit;
- 10.3.4 to provide such facilities and services for tenants and generally to manage the Property in such a manner as he shall think fit;
- 10.3.5 to sell transfer assign let or lease or concur in selling letting or leasing the Property (either by public auction or private contract or otherwise) and the grant of any rights over the Property on such terms and conditions and for such consideration including without limitation shares securities (of any other company) or other investments payable at such time or times as he may in his absolute discretion think fit;
- 10.3.6 to vary the terms of termination grant renewals of or accept surrenders of leases or tenancies of the Property in such manner and for such terms with or without a premium or other compensation or consideration including the payment of money to a lessee or tenant on a surrender with such rights relating to other parts of the Property and containing such covenants on the part of the Chargor or otherwise and generally on such terms and conditions as in his absolute discretion he shall think fit;
- 10.3.7 to make any arrangements or compromise which the Chargee or he shall think fit whether in relation to any lease of the Property or to any covenants conditions or restrictions relating to the Property or without limitation otherwise;
- 10.3.8 to make and effect all repairs and improvements to the Property;
- 10.3.9 to enter into bonds covenants commitments guarantees indemnities and like matters and to make all payments needed to effect maintain or satisfy the same in relation to the Charged Property;
- 10.3.10 to settle adjust refer to arbitration compromise and arrange any claims accounts disputes questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to the Charged Property;

- 10.3.11 to effect such insurances of or in connection with the Charged Property as he shall in his absolute discretion think fit;
- 10.3.12 to appoint managers officers contractors and agents for the aforesaid purposes upon such terms as to remuneration or otherwise as he may determine;
- 10.3.13 to appoint a solicitor accountant or surveyor or other professionally qualified person to assist him in the performance of his functions;
- 10.3.14 to bring or defend any action or other legal proceedings in relation to the Charged Property;
- 10.3.15 to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he lawfully may or can do.

Provided nevertheless that the Receiver shall not be authorised to exercise any of the above powers if and insofar and so long as the Chargee shall in writing exclude the same whether in or at the time of his appointment or subsequently.

- 10.4 All of the powers of the Receiver under this Deed may be exercised by the Chargee at any time after the Secured Liabilities have become due, whether as attorney of the Chargor or otherwise, and whether or not a Receiver has been appointed.

## **11 APPLICATION OF MONIES BY RECEIVER**

- 11.1 All monies received by any Receiver shall (subject to the rights and claims of any person having prior rights thereto) be applied by him in the following order:
  - 11.1.1 in payment of the costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him (subject always to the discharge of any liability having priority to them);
  - 11.1.2 in payment of remuneration to the Receiver at such rates as may be agreed between him and the Chargee at or at any time after his appointment;
  - 11.1.3 in discharge of the Secured Liabilities in whatever order the Chargee may in its discretion determine;
  - 11.1.4 the surplus (if any) shall be paid to the Chargor or other person entitled to it,

and neither the Chargee nor any Receiver shall be bound (whether by virtue of Section 109(8) LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order as between any monies secured by this Deed. Provided that the Receiver may retain any moneys in his hands for so long as he shall think fit.

## **12 CHARGEES LIABILITY**

- 12.1 In no circumstances shall the Chargee be liable to account to the Chargor as a mortgagee in possession or otherwise for any moneys not actually received unconditionally and irrevocably by the Chargee.

- 12.2 In no circumstances shall the Chargee be liable to the Chargor or any other person for any costs charges losses damages liabilities or expenses arising from or connected with any realisation of the Charged Property or from any act default omission or misconduct of the Chargee or the Receiver or the officers employees or agents of either or both of them in relation to the Charged Property or in connection with this Charge or the Facility Agreement.

### **13 PROTECTION OF THIRD PARTIES**

Any purchaser or any other person dealing with the Chargee or any Receiver shall not be concerned to enquire whether the Secured Liabilities have become payable or whether any power which it or he is purporting to exercise has become exercisable or whether any money is due under this Charge or as to the application of any money paid raised or borrowed or as to the propriety or regularity of any sale by or other dealing with the Chargee or such Receiver. All the protection to purchasers contained in Sections 104 and 107 of the LPA shall apply to any person purchasing from or dealing with the Chargee or any Receiver.

### **14 POWERS OF LEASING**

The statutory powers of sale leasing and accepting surrenders exercisable by the Chargee are hereby extended so as to authorise the Chargee whether in the name of the Chargee or in that of the Chargor to grant a lease or leases of the whole or any part or parts of the Property with such rights relating to other parts of it and containing such covenants on the part of the Chargor and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Chargee (in its absolute discretion) shall think fit.

### **15 FURTHER ASSURANCE AND POWER OF ATTORNEY**

- 15.1 The Chargor shall from time to time execute and do all such assurances and things as the Chargee may reasonably require for perfecting this Security and after the monies secured by this Deed shall have become payable for facilitating the realisation of all or any part of the Charged Assets and for exercising all powers, authorities and discretions conferred by this Deed or by law on the Chargee or any Receiver appointed by it.
- 15.2 The Chargor by way of security for the payment of the Secured Liabilities and the performance by the Chargor of its obligations under this Deed irrevocably appoints the Chargee to be the attorney of the Chargor in the name and on behalf of the Chargor to execute and do any assurances and things which the Chargor ought to execute and do under this Deed and generally to use the name of the Chargor in the exercise of all or any of the powers conferred on the Chargee or any Receiver appointed by it under this Deed and the Chargor expressly authorises the Chargee to pursue any insurance claim relating to the Charged Property in the name of the Chargor and to delegate all or any of the powers conferred by this Deed upon it to any Receiver appointed by it or to such other person or persons as it may in its absolute discretion think fit. The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under this Clause properly does or purports to do in the exercise of all or any of the powers authorities and discretions granted or referred to in this Deed.

**16 CHARGEES RIGHTS**

16.1 All powers of the Receiver may be exercised by the Chargee whether as attorney of the Chargor or otherwise.

16.2 The Chargor agrees that at any time after this Charge becomes enforceable:

16.2.1 upon any sale or other disposition in exercise of the powers contained or implied by this Charge the Chargee may sever any fixtures from the Property and sell the same apart from the Property without taking possession of the Property and apply the net proceeds of such sale in or towards satisfaction of the Secured Liabilities;

16.2.2 the Chargee may as agent of the Chargor remove and sell any chattels on the Property and the Chargee shall have the right to retain or set-off such proceeds of sale against any indebtedness of the Chargor to the Chargee.

16.3 The Chargee shall on receiving notice that the Chargor has encumbered or disposed of the Charged Property or any part of it or any interest in it be entitled to close any account or accounts of the Chargor and to open a new account or accounts with the Chargor and (without prejudice to any right of the Chargee to combine accounts) no money paid into or carried to the credit of any such new account shall be appropriated towards or have the effect of discharging any part of the amount due to the Chargee on any such closed account. If the Chargee does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice and as from that time all payments made by the Chargor to the Chargee shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Chargor to the Chargee when it received such notice.

16.4 The Chargee may, without notice to the Chargor and without prejudice to any other right of the Chargee under the General Law, set off any Secured Liabilities against any obligation (whether or not matured) owed by the Chargor to the Chargee.

16.5 The Chargee may place and retain on a suspense account for as long as it considers fit any moneys received, recovered or realised under or in connection with this Deed without any obligation on the part of the Chargee to apply the same in or towards the discharge of the Secured Liabilities.

**17 COSTS AND EXPENSES**

17.1 The Chargor shall on demand and on a full indemnity basis pay to the Chargee:

17.1.1 the amount of all costs and expenses (including legal and out of pocket expenses and any Value Added Tax on such costs and expenses) which the Chargee and/or any Receiver incurs in connection with:

- (a) the preparation negotiation execution and delivery of this Deed and any related document;
- (b) any stamping or registration of this Deed or the Security;
- (c) any actual or proposed amendment of or waiver or consent under or in connection with this Deed or the Security;

- (d) any discharge or release of this Deed or the Security;
- (e) the preservation or exercise (or attempted preservation or exercise) of any rights under or in connection with and the enforcement (or attempted enforcement) of this Deed and any related document;
- (f) obtaining payment of the Secured Liabilities;
- (g) dealing with or obtaining advice about any other matter or question arising out of or in connection with this Deed and any related document;
- (h) all other moneys paid by the Chargee in perfecting or otherwise in connection with this Charge or in respect of the Charged Property including (without limitation) all moneys expended by the Chargee under Clause 8 and all moneys advanced or paid by the Chargee to any Receiver for the purposes set out in Clause 10.

17.2 Such costs expenses and other moneys shall be recoverable from the Chargor as a debt and shall bear interest accordingly at the Default Rate and shall be charged on the Charged Property.

## **18 CONTINUING SECURITY**

18.1 The Security shall be a continuing security to the Chargee notwithstanding any settlement of account or other matter or thing whatsoever and shall be in addition to and shall not prejudice or affect or be prejudiced or affected by any security relating to the Charged Property or to any other property or any other security which the Chargee may now or at any time in the future hold in respect of the Secured Liabilities or any of them and shall continue in full force and effect as a continuing security until discharged.

18.2 Section 93 of the LPA shall not apply to this Deed or the Security.

## **19 RELEASE OF SECURITY**

19.1 Any release, discharge or settlement between the Chargee and the Chargor shall be conditional upon no security disposition or payment to the Chargee by the Chargor or any other person being avoided, set aside or ordered to be refunded or reduced pursuant to any provisions or enactment relating to bankruptcy, insolvency, winding-up or any similar process (including under sections 238 to 245 (inclusive) of the Insolvency Act 1986) and the Chargee shall be at liberty at its discretion to retain the Security for the period of one month plus such statutory period within which any security or payment given or made in respect of the Secured Liabilities may be avoided or invalidated under any such provision or enactment after the Secured Liabilities shall have been paid in full. If at any time within such period, an Insolvency Event shall occur in respect of the Chargor the Chargee shall be at liberty, notwithstanding the above, to continue to retain such security or any part thereof for and during such further period as the Chargee in its absolute discretion shall determine.

## **20 NOTICES**

20.1 Every notice demand or other communication under this Charge shall be in writing and may be delivered personally or by letter or facsimile or email despatched as follows:

20.1.1 if to the Chargee to the address specified at the head of this Charge or the following address;

20.1.2 if to the Chargor to its address specified at the head of this Charge or its registered or principal office for the time being or to the following address,

or to such other address and/or facsimile number and/or email address as may be notified in accordance with this Clause by the relevant party to the other party for such purpose.

20.2 Every notice demand or other communication shall be deemed to have been received (if sent by post) 24 hours after despatch and (if delivered personally or despatched by facsimile at the time of delivery or despatch if during normal business hours in the place of intended receipt on a working day in that place and otherwise at the opening of business in that place on the next succeeding such working day.

20.3 Any notices demands or other communication as aforesaid to be given by the Chargee may be made by the Chargee or by any person or firm acting as solicitor or solicitors for the Chargee.

## **21 TRANSFERS**

21.1 This Deed and the Security is freely assignable or transferable by the Chargee.

21.2 The Chargor may not assign or transfer any of its obligations under this Deed or enter into any transaction which would result in any of those obligations passing to another person.

21.3 The Chargee may disclose to any person related to the Chargee and/or any person to whom it is proposing to transfer or assign or has transferred or assigned this Charge any information about the Chargor and any person connected or associated with it. The Chargor represents and warrants that it has (and subject to any contrary requirement of law will maintain) any necessary authority by or on behalf of any such person to agree to the provisions of this Clause.

## **22 MISCELLANEOUS**

22.1 No delay or omission on the part of the Chargee in exercising any right or remedy under this Charge shall impair that right or remedy or operate as or be taken to be a waiver of it; nor shall any single partial or defective exercise of any such right or remedy preclude any other or further exercise under this Charge of that or any other right or remedy.

22.2 The Chargee's rights under this Charge are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Chargee deems expedient.

22.3 This Charge shall be in addition to and shall not affect or be affected by or merge with any other security, judgment, right or remedy obtained or held by the Chargee

from the Chargor or any other person from time to time for the discharge and performance of any of the Secured Liabilities.

- 22.4 Any waiver by the Chargee of any terms of this Charge or any consent or approval given by the Chargee under it shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 22.5 If at any time any one or more of the provisions of this Charge is or becomes illegal invalid or unenforceable in any respect under any law of any jurisdiction neither the legality validity and enforceability of the remaining provisions of this Charge nor the legality validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 22.6 Any certificate or determination of the Chargee as to the amount of the Secured Liabilities or (without limitation) any matter provided for in this Charge shall in the absence of manifest error be conclusive and binding on the Chargor.
- 22.7 The Chargor certifies that this Charge does not contravene any of the provisions of its Memorandum and Articles of Association.
- 22.8 If and to the extent that and for so long as the Chargor is unable to comply with its obligations hereunder as a result of obligations assumed by it under the prior charge, then, provided that it is complying fully with those obligations, it shall be deemed to be in compliance with its corresponding obligation under this Deed.

## **23 REGISTERED LAND**

- 23.1 The Chargor consents to the entry of the following restriction against the Chargor's title to the Property at HM Land Registry and shall provide the Chargee with all necessary assistance and/or documentation to permit entry of the restriction:

"No disposition of the registered estate by the registered proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] 19<sup>th</sup> May 2016 in favour of the proprietor referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer."

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## **24 LAW AND JURISDICTION**

This Charge is governed by and shall be construed in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English Courts.

## **25 CHARITIES ACT 2011**

- 25.1 The land charged is held Brendoncare Enterprises Limited in trust for The Brendoncare Foundation, a non-exempt charity, but this charge is not one falling within section 124(9) of the Charities Act 2011, so that the restrictions imposed by section 124 of that Act apply.
- 25.2 The charity trustees of the charity, being the persons who have the general control and management of its administration certify that:

- (a) they have power under the trusts of the charity to effect this charge; and
- (b) they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011.

### Execution

Executed as a Deed by **BRENDONCARE**

**ENTERPRISES LIMITED** acting by:

Carole A. Sawyer S.  
Isen P. MacHale

Director

Reaney

Director/Secretary

Executed as a Deed by **PERBURY (DEVELOPMENTS)**

**LIMITED** acting by:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

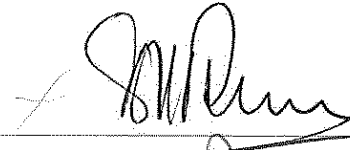



- (a) they have power under the trusts of the charity to effect this charge; and
- (b) they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011.

**Execution**

Executed as a Deed by PERBURY (DEVELOPMENTS)

LIMITED acting by:

}	
	Director
}	
	Director/Secretary

**Schedule 1**  
**The Property**

All that freehold property known as Land on the north west side of Otterbourne Road, Shawford, Winchester (SO21 2DE) registered at HM Land Registry under title number HP372607.