



Registration of a Charge

Company name: **HIGHBROOK HOMES (KIRKSTONE) LIMITED**

Company number: **09916778**



X8281M2J

Received for Electronic Filing: **28/03/2019**

Details of Charge

Date of creation: **27/03/2019**

Charge code: **0991 6778 0001**

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

Brief description: **LAND ADJOINING HALA CARR FARM, BOWERHAM ROAD, LANCASTER, LA1 4LP AND REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER LAN177904.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

WALKER MORRIS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9916778

Charge code: 0991 6778 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th March 2019 and created by Highbrook Homes (Kirkstone) Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th March 2019 .

Given at Companies House, Cardiff on 29th March 2019

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

dated 27 March 2019

Highbrook Homes (Kirkstone) Limited (Chargor)

and

**Homes and Communities Agency (trading as Homes England)
(Homes England)**

Debenture

(To: The Chief Land Registrar. Note: This Charge contains (in clause 5.1) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of Homes England to enter a restriction in the Proprietorship Register and (in clause 5.3.3) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of Homes England to enter a notice on the Charges Register.)

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Deed

dated

27 March 2019

Parties

- (1) **Highbrook Homes (Kirkstone) Limited** a company incorporated in England and Wales with registered number 09916778) whose registered office is at Stramongate House, 53 Stramongate, Kendal, Cumbria, LA9 4BH (the **Chargor**); and
- (2) **Homes and Communities Agency** (trading as Homes England) of Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington WA3 7QH (**Homes England**).

Introduction

- (A) Homes England has agreed to make funding available to the Chargor in accordance with the terms of the Finance Documents.
- (B) It is a condition precedent to the provision of the funding under the Finance Documents that the Chargor enters into this deed.
- (C) It is intended by the parties to this document that it will take effect as a deed despite the fact that a party may only execute this document under hand.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Account Bank means [REDACTED] or any other any bank, building society or financial institution with whom an Account is, from time to time, maintained;

Accounts means:

- (a) each Controlled Account;
- (b) the Operating Account; and
- (c) any other account opened or maintained by the Chargor with any bank, building society or other financial institution,

and **Account** will be construed accordingly;

Administrator has the meaning given to it by paragraph 1 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002);

Applicable Rate the rate set out in Paragraph 6.4 of the Standard Terms and Conditions;

Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are usually open for business;

Controlled Accounts means the Deposit Account and the Rent Account;

Certificate of Title means any report on or a certificate of title relating to the Mortgaged Property provided to Homes England by the Chargor (or on its behalf);

Collateral Rights means all rights, powers and remedies of Homes England provided by or pursuant to this Deed or by law;

Competent Authority means any legal person and/or any court of law or tribunal in each case having authority under applicable Environmental Law;

Dangerous Substance means any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or any other living organism or causing damage to the Environment or public health and includes, but is not limited to, any controlled, special, hazardous, toxic, radioactive or dangerous waste or substance;

Debts means all book and other debts of the Chargor, all other monies due and owing to the Chargor and the benefit of all rights, securities or guarantees in respect of such book and other debts;

Deposit Account means the "Deposit Account" under and defined in the Loan Facility Agreement being the account of the Chargor held with the Account Bank with sort code [REDACTED] and account number [REDACTED] as that account may be renumbered or redesignated and/or replaced from time to time;

Environment means the environment as defined in Section 1(2) of the Environmental Protection Act 1990;

Environmental Audit means a full risk assessment of the Security Assets to ascertain the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to the environment by any activity, including soil, air or water testing of the Security Assets and any other property;

Environmental Claim means any claim by any person:

- (a) in respect of losses or liabilities suffered or incurred by that person as a result of or in connection with any violation of Environmental Laws; or
- (b) that arises as a result of or in connection with Environmental Contamination and that could give rise to any remedy or penalty (whether interim or final) that may be enforced or assessed by private or public legal action or administrative order or proceedings;

Environmental Contamination means the following and the consequences thereof:

- (a) any release, emission, leakage or spillage at or from any site owned or occupied by any person into any part of the Environment of any Dangerous Substance; or
- (b) any accident, fire, explosion or sudden event which adversely affects the Environment and which is attributable to the operations,

management or control of any site owned or occupied by any person including (without limitation) the storage, handling, labelling or disposal of Dangerous Substances;

Environmental Consents means all licences, authorisations, consents or permits of any kind under or relating to Environmental Laws including any conditions which attach thereto, which relate to or affect the Security Assets and which is required by Environmental Law;

Environmental Law means any common or statutory law, regulation, publicly available code of practice, circular or guidance note (if not having the force of law being of a kind that is customary for the relevant person (or persons of its status or type carrying on a similar business) to comply with) issued by any official body, concerning the protection of human health, the workplace or the Environment;

Event of Default has the meaning given to it in the Loan Facility Agreement;

Finance Documents means the "Finance Documents" under and as defined in the Loan Facility Agreement and **Finance Document** shall be construed accordingly;

Financial Collateral shall have the meaning given to that expression in the Financial Collateral Regulations;

Financial Collateral Regulations means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226);

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on the Mortgaged Property and includes all fixtures, fittings, plant, materials, machinery, equipment, installations and apparatus now and from time to time in or on the Mortgaged Property;

Floating Charge Assets means the assets charged pursuant to clause 3.3;

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by or with the authority or on behalf of the Chargor in relation to the Security Assets;

Insured Risks means fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion, malicious damage, landslip, subsidence, burst pipes, environmental pollution, terrorist acts and other such risks as Homes England may, from time to time, require including demolition and site clearance costs and expenses and architects', surveyors' and other professional fees and all other incidental expenses;

Intellectual Property means claims and intellectual property rights including all patents, patent applications, trade marks and service marks (whether registered or not), trade mark applications, service mark applications, trade names, registered designs, design rights, copyrights, computer programmes, know-how and trade secrets and all other industrial or intangible property or rights and all licences, agreements and ancillary and connected rights relating to intellectual and intangible property now or from time to time after the date of this deed owned by the Chargor;

Loan Facility Agreement means the development facility agreement dated on or about the date of this Deed between the Chargor and Homes England under which Homes England has agreed to make available loan facilities to the Chargor;

Mortgaged Property means all the freehold and leasehold property specified in Schedule 1 and any other freehold or, as the case may be, leasehold property which is the subject of a Security Interest under this Deed;

Occupational Lease Document means any tenancy or licence to occupy or any agreement for any of the same from time to time granted or entered into by the Chargor in respect of any part of the Mortgaged Property and any licence, consent or approval given thereunder;

Operating Account means the "Operating Account" under and defined in the Loan Facility Agreement being the account of the Chargor held with the Account Bank with sort code [REDACTED] and account number [REDACTED] as the account may be renumbered or redesignated and/ or replaced from time to time;

Planning Acts means the **consolidating Acts** as defined in the Planning (Consequential Provisions) Act 1990 together with the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Localism Act 2011 and all applicable laws, orders, regulations, instruments, by laws, instructions and standards, whether national, regional or local, including any subordinate legislation relating to town and country planning and to the use and/or occupation of a Mortgaged Property;

Receiver means a receiver or receiver and manager of the whole or any part of the Security Assets;

Related Rights means, in relation to any asset which comprises the Security Assets:

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

Rent Account means the "Rent Account" under and defined by Paragraph 8.3 of the Standard Terms and Conditions, opened or maintained by the Chargor with any bank, buildings society or other financial institution as that account may be renumbered or redesignated and/or replaced from time to time;

Rental Income has the meaning given to that term in the Standard Terms and Conditions;

Secured Liabilities means all present and future monies, obligations and liabilities now or hereafter due owing or incurred to Homes England by the Chargor under the terms of any Finance Document (including, without limitation, under any amendments, supplements or restatements of any of the Finance Documents or in relation to any new or increased

advances or utilisations) whether incurred alone or jointly with another, whether actual or contingent and whether as principal or surety, together with all interest accruing thereon and all costs, charges and expenses incurred by Homes England in connection therewith and

Secured Liability means any one of such obligations;

Securities means all shares, stock, warrants, debentures, and other securities present and future (certificated or uncertificated) or units in an account of balance (whether held in the name of the Chargor or by a nominee) of the Chargor and all income and rights deriving from or attaching to the same;

Security means the security constituted by or pursuant to this Deed;

Security Assets means all the assets, rights, property and undertaking of the Chargor from time to time mortgaged, charged, assigned or agreed to be assigned to, Homes England by the Chargor under this Deed including, without limitation, the Mortgaged Property;

Security Financial Collateral Arrangement shall have the meaning given to that expression in the Financial Collateral Regulations;

Security Interest means any mortgage, pledge, lien, charge, security assignment, right of set off, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement (including, without limitation, title transfer or retention of title) having a similar effect;

Security Period means the period beginning on the date hereof and ending on the date upon which Homes England is satisfied that all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of being outstanding;

Standard Terms and Conditions means the "Standard Terms and Conditions" as defined in the Loan Facility Agreement;

Tax includes any form of taxation, levy, duty, charge, contribution or impost of whatever nature (including any applicable fine, penalty, surcharge or interest) imposed by any government authority, body or official (whether central, local, state or federal) anywhere in the world competent to impose any of them; and

Valuation means any valuation relating to the Mortgaged Property supplied to Homes England by the Chargor (or on its behalf).

1.2 Interpretation

In this Deed, unless the context otherwise requires, a reference to:

1.2.1 **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

1.2.2 an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing or registration;

- 1.2.3 the **Chargor** or **Homes England** includes a reference to its respective successors, permitted assigns and permitted transferees;
- 1.2.4 a **person** includes a permitted body corporate, unincorporated association and partnership, in each case, whether or not having a separate legal personality;
- 1.2.5 a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.6 one gender shall include a reference to other genders; an individual will be treated as including corporations and vice versa; words importing the singular will be treated as including the plural and vice versa and words importing the whole will be treated as including a reference to any part, in each case except where the context specifically requires otherwise;
- 1.2.7 this Deed or to any provision of this Deed or any other document (including, without limitation any of the Finance Documents) is a reference to it as amended, restated, supplemented, varied or novated from time to time;
- 1.2.8 the words **include** or **including** (or any similar term) are not to be construed as implying any limitation and general words introduced by the word **other** (or any similar term) will not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;
- 1.2.9 a statute, a statutory provision, enactment or an EC Directive or subordinate legislation is a reference to any amendment, modification, extension, consolidation, replacement or re-enactment of any such statute, statutory provision, enactment or EC Directive, whether before or after the date of this Deed;
- 1.2.10 the making of an administration order shall be treated as including a reference to the appointment of an Administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's property) or paragraph 22 (by the Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986; and
- 1.2.11 the making of an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an Administrator under paragraphs 14 or 22 of that Schedule, or giving notice under paragraphs 15 or 26 of that Schedule of intention to appoint an Administrator.

1.3 **Facility Agreement**

Words and expressions defined in the Loan Facility Agreement will have the same meanings when used in this Deed, unless the context otherwise requires. In the case of inconsistency between the terms of, or the definitions in, this deed and those set out in the Loan Facility Agreement, the Loan Facility Agreement will prevail.

1.4 Headings

The clause, paragraph and Schedule headings and the table of contents are inserted for ease of reference only and will not affect construction.

1.5 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Finance Documents under which the Secured Liabilities arise and of any side letters between any parties in relation hereto are incorporated into this Deed.

1.6 Nature of security over Mortgaged Property

A reference in this Deed to a charge or mortgage of or over the Mortgaged Property includes:

1.6.1 all buildings and Fixtures and fittings (including trade and tenant's Fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Mortgaged Property at any time; and

1.6.2 all Related Rights.

1.7 Third party rights

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy, any term of this Deed.

1.8 Qualifying floating charge

This deed contains a qualifying floating charge which gives Homes England the power to appoint an administrator of the Chargor and paragraph 14 of schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3 of this Deed.

1.9 Avoidance of payments

If Homes England considers an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the insolvency, liquidation or administration of the Chargor or otherwise set aside, that amount shall not have been irrevocably and unconditionally paid for the purposes of this Deed.

2 Payment of Secured Liabilities

2.1 Covenant to pay

The Chargor covenants with Homes England that it will, on demand, pay and discharge the Secured Liabilities as and when they fall due for payment in the manner provided in the Loan Facility Agreement and/or other relevant Finance Documents.

2.2 Interest on demand

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor will pay interest on such sum (before and after any judgment) from the date of demand until the date of payment calculated on a daily basis at the Applicable Rate at such intervals as Homes England shall determine. Such interest will be calculated on the basis of a 360 day year according to the usual practice of Homes England.

3 Security

3.1 Fixed charges

The Chargor hereby charges in favour of Homes England with full title guarantee as containing security for the payment and discharge of the Secured Liabilities:

3.1.1

- (a) by way of a first fixed legal mortgage the Mortgaged Property and any proceeds of sale of such Mortgaged Property together with all Fixtures on the Mortgaged Property;
- (b) by way of a first fixed legal mortgage all estates or interests in any freehold or leasehold property (except any assets specified in clause 3.1.1(a)) now belonging to it;

3.1.2 by way of specific equitable charge all estates or interests in any freehold or leasehold properties (other than those properties effectively charged by way of legal mortgage under Clause 3.1.1) at any time after the date of this Deed belonging to or charged in favour of the Chargor and any proceeds of sale of those estates or interests together with all Fixtures at any time on those estates or interests.

3.1.3 by way of first fixed charge:

- (a) the proceeds of sale of any property or asset referred to in Clauses 3.1.1 and/or 3.1.2 and all other Related Rights in respect of each such property or asset;
- (b) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by the Chargor in connection with the Security Assets or the use of any of the Security Assets and all rights in connection with them;
- (c) the benefit of all other rights, contracts, guarantees, appointments, covenants, easements, claims, warranties or other benefits relating to

the Mortgaged Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to letting, development, sale, purchase, use or the operation of the Mortgaged Property or any part of it or otherwise relating to the Mortgaged Property;

- (d) all furniture, furnishings, tools, vehicles, computers, computer software and hardware and office and other equipment and other chattels belonging to the Chargor and not regularly disposed in the ordinary course of business together with the benefit of all contracts, licences and warranties relating to the same;
- (e) all Fixtures;
- (f) the Securities;
- (g) the Deposit Account and all monies at any time standing to the credit of the Deposit Account together with all interest from time to time accruing on such monies, any investment made out of such monies or account and all rights of repayment of any of the forgoing;
- (h) the Rent Account and all monies at any time standing to the credit of the Rent Account together with all interest from time to time accruing on such monies, any investment made out of such monies or account and all rights of repayment of any of the forgoing;
- (i) all choses in action and the Intellectual Property;
- (j) all present and future goodwill, uncalled and called but unpaid capital of the Chargor;
- (k) all its rights and interests in and claims under the Insurances issued in relation to the Security Assets;
- (l) all negotiable instruments at any time drawn, issued or endorsed in favour of or held by or on behalf of, the Chargor, including any such instruments which at any time have been deposited with Homes England (whether or not endorsed by Homes England);
- (m) the benefit of any interest rate swap, currency swap, cap or collar arrangement, future, option, forward rate agreement or other derivative instrument (howsoever described) or any other agreement with Homes England or any third party for protecting or hedging any of the Secured Liabilities at any time;
- (n) all debts relating to or arising from the disposal by the Chargor of any Residential Units (as defined in the Loan Facility Agreement) and the proceeds or payment or realisation of each of them until payment of such proceeds into a Controlled Account in accordance with Clause 13 (or into the client account of the Chargor's solicitors);

- (o) any monies standing to the credit of the client account of the Chargor's solicitors in respect of the disposal proceeds of any Residential Units (as defined in the Loan Facility Agreement) sold by the Chargor; and
- (p) insofar as the legal mortgages referred to in clause 3.1.1 or any of the assignments referred to in clause 3.2 shall for any reason be ineffective as a legal mortgage or an assignment, the assets referred to in those clauses.

3.2 **Assignments**

The Chargor hereby assigns and agrees to assign by way of security to Homes England with full title guarantee for the payment and discharge of the Secured Liabilities all the Chargor's right, title and interest in, to and under each of the following present and future assets:

- 3.2.1 the benefit of each of the Assigned Contracts and the benefit of any guarantee or security for the performance of each Assigned Contract;
- 3.2.2 all its rights and interests in and claims under the Insurances;
- 3.2.3 all Rental Income, and all other sums, payable under any Occupational Lease Document;
- 3.2.4 the benefit of any guarantee or security for Rental Income or otherwise relating to the performance of each Occupational Lease Document (whether contained in the relevant Occupational Lease Document or otherwise);
- 3.2.5 all other rights and claims in relation to any Mortgaged Property including, without limitation, all rights and claims against any lessees, tenants, sub-lessees, sub-tenants, licensees or occupiers of the Mortgaged Property from time to time and all guarantors and sureties for the obligations of such persons (whether under the Occupational Lease Documents or otherwise);
- 3.2.6 the benefit of all contracts, deeds, undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargor and relating to the Mortgaged Property and all compensation paid in relation to the Mortgaged Property and all VAT payable on the same;
- 3.2.7 the benefit of any development documents and all undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargor;
- 3.2.8 the benefit of all guarantees, warranties and representations given or made by, and any rights or remedies to which the Chargor may now or in the future be entitled against, all or any professional advisors and contractors in relation to the Mortgaged Property, and any business carried on thereat, and the manufacturer supplier and installers of all plant, machinery, Fixtures and fittings or other items now or hereafter in buildings located on the Mortgaged Property and any other person now or from time to time under contract or under a duty to the Chargor including without limitation the right to prosecute in the name of the Chargor

proceedings against any such person and the benefit of all sums recovered in proceedings against all or any such persons;

- 3.2.9 all claims, remedies, awards or judgments paid or payable to the Chargor (including, without limitation, all liquidated and ascertained damages payable to the Chargor under the above);
- 3.2.10 the Deposit Account and all monies at any time standing to the credit of the Deposit Account together with all interest from time to time accruing on such monies, any investment made out of such monies or account and all rights of repayment of any of the forgoing; and
- 3.2.11 the Rent Account and all monies at any time standing to the credit of the Rent Account together with all interest from time to time accruing on such monies, any investment made out of such monies or account and all rights of repayment of any of the forgoing;

provided that, in each case, to the extent (if any) that the benefits, rights, titles, claims and interests assigned under this clause 3.2 are not assignable, such assignment will operate as an assignment of all proceeds received by the Chargor in connection with such benefits, rights, titles, claims and interests.

3.3 Floating charge

- 3.3.1 The Chargor hereby charges in favour of Homes England with full title guarantee for the payment and discharge of the Secured Liabilities by way of floating charge the whole of the Chargor's undertaking, property and assets, present and future not from time to time subject to an effective mortgage, fixed charge or assignment under this Deed.
- 3.3.2 Any asset acquired by the Chargor after any crystallisation of the floating charge created under this deed that, but for the crystallisation, would be subject to a floating charge under this deed, shall unless Homes England confirms otherwise to the Chargor in writing) be charged to Homes England by way of first fixed charge.

4 Conversion of the Floating Charge

4.1 Notice of conversion

- 4.1.1 Homes England may from time to time, by notice in writing to the Chargor following the occurrence of Event of Default or if Homes England considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other legal process or to otherwise be in jeopardy, convert the floating charge contained in clause 3.3 into a fixed charge as regards any Floating Charge Assets specified in such notice.
- 4.1.2 The floating charge contained in clause 3.3 may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000.

4.2 Automatic conversion

Notwithstanding anything contained in this Deed:

- 4.2.1 in the case of any Floating Charge Asset, the floating charge created by this Deed over any such Floating Charge Asset shall, with immediate effect and without notice, automatically convert into a fixed charge if, (without the prior written consent of Homes England):
- (a) the Chargor creates any Security Interest over or otherwise encumbers such Floating Charge Asset or attempts to do so other than as permitted under the Loan Facility Agreement;
 - (b) any person levies or attempts to levy any distress, execution, diligence, sequestration or other process against that Floating Charge Asset (or notified the Chargor that it intends to do so); or
 - (c) (without prejudice to the provisions of Clause 7.1 (*Negative Pledge*)) a receiver is appointed over such Floating Charge Asset or, if any person entitled to do so, gives notice of its intention to appoint a receiver over that Floating Charge Asset or files such a notice with the court; and
- 4.2.2 the floating charge created by this Deed over all Floating Charge Assets shall with immediate effect and without notice automatically convert into a fixed charge as regards all and any of the property, assets, rights and undertaking of the Chargor (present and future) not then already being the subject of an effective mortgage, fixed charge or assignment under this Deed if;
- (a) a resolution is passed or a petition is presented for the winding up, dissolution, administration or re-organisation of the Chargor other than any petition which is frivolous and vexatious has been disclosed to Homes England and is being diligently contested by the Chargor;
 - (b) an administrative receiver or a receiver and manager is appointed over the Security Assets or, if any person entitled to do so, gives notice of its intention to appoint an administrative receiver or a receiver and manager over the Security Assets or files such a notice with the court;
 - (c) an Administrator is appointed in respect of the Chargor or Homes England receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of the Chargor; or
 - (d) the Chargor ceases to carry on business or to be a going concern.

5 The Land Registry and further advances

5.1 Land registration

The Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of Homes England to enter the following restriction (in form P of Schedule 4 to

the Land Registration Rules 2003) in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Mortgaged Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [the date of this Deed] in favour of Homes and Communities Agency (trading as Homes England) referred to in the Charges Register or their conveyancer or an individual identified as an authorised signatory of Homes England".

5.2 Implied covenants

For the purposes of Rule 68(1) of the Land Registration Rules 2003, the covenants set out in Sections 2 to 5 (inclusive) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

5.3 Further advances

- 5.3.1 Subject to the terms of the Finance Documents, Homes England is under an obligation to make further advances to the Chargor.
- 5.3.2 For the purposes of section 94(1)(c) of the Law of Property Act 1925, section 49(3) of the Land Registration Act 2002 and Rule 108 of the Land Registration Rules 2003, the obligation on Homes England to make further advances will be deemed to be incorporated in this Deed as if the same were set out in this Deed.
- 5.3.3 For the purposes of the Land Registration Rules 2003 and section 49(3) of the Land Registration Act 2002, the Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of Homes England for the entry of a note of the obligation to make further advances on the Charges Register of any registered land forming part of the Mortgaged Property.

6 Further assurance

6.1 Further assurance: general

The Chargor shall, at its own expense, promptly do all such acts or execute all such documents (including, without limitation, assignments, transfers, mortgages, charges, notices and instructions) as Homes England or any Receiver may specify (and in such form as Homes England or any Receiver may require) in favour of Homes England or its nominees:

- 6.1.1 to perfect or protect the security created or intended to be created in respect of the Security Assets (which may include the execution by the Chargor of a mortgage, fixed charge or assignment over all or any of the assets constituting, or intended to constitute, Security Assets) or for the exercise of the Collateral Rights; and/or
- 6.1.2 to facilitate the realisation of the Security Assets; and/or

- 6.1.3 to obtain all necessary consents to procure the registration of this Deed with the registrar of companies (if applicable) and, in respect of the Mortgaged Property, at the Land Registry or on the Land Charges Register, as appropriate.

6.2 Consents

The Chargor will use all reasonable endeavours to obtain (in form and content satisfactory to Homes England) as soon as possible any consents necessary to enable the relevant Security Assets purported to be so charged or assigned to be the subject of an effective fixed charge or assignment pursuant to clauses 3.1 and 3.2 and, immediately upon obtaining any such consent, the relevant Security Asset shall become subject to such Security and the Chargor shall promptly deliver a copy of each such consent to Homes England.

6.3 Notices of Assignment

The Chargor shall comply with the requirements of Clauses 10.10 (*Notice to tenants under occupational leases*) 11.6 (*Notice of assignment of Insurances*) 12.2 (*Notice of Assignment of Assigned Contracts*) and 13.2 (*Notice of assignment of Controlled Accounts*).

6.4 Preservation of rights

Neither the obligations of the Chargor contained in this Deed nor the rights, powers and remedies conferred in respect of the Chargor upon Homes England by the Finance Documents or by law shall be discharged, prejudiced or otherwise affected by:

- 6.4.1 the winding-up, dissolution, administration or reorganisation of the Chargor or any other person or any change in its status, function, control or ownership;
- 6.4.2 any of the obligations of the Chargor or any other person under the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- 6.4.3 any time or other indulgence being granted or agreed to be granted to the Chargor or any other person in respect of its obligations under the Finance Documents;
- 6.4.4 any amendment to, or any variation, waiver or release of any obligation of the Chargor or any other person under the Finance Documents;
- 6.4.5 any failure to take, or fully to take, any security contemplated by the Finance Documents or otherwise agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents;
- 6.4.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents; or
- 6.4.7 any other act, event or omission which, but for this clause 6.4, might operate to discharge, impair or otherwise affect any of the obligations of the Chargor or any

other person or any of the rights, powers or remedies conferred upon Homes England by the Finance Documents or by law.

7 Negative pledge and disposal restrictions

7.1 Negative pledge

Save as permitted by the Loan Facility Agreement, the Chargor will not, without the prior written consent of Homes England, create, purport to create, or permit to subsist (in favour of any person other than Homes England) any Security Interest over any of the Security Assets now or in the future, or agree or attempt to do so, or increase or extend any liability of the Chargor secured on any of the Security Assets.

7.2 Disposal of fixed charge assets

Save as permitted by the Loan Facility Agreement, the Chargor will not, without the prior written consent of Homes England (whether by a single transaction or number of related or unrelated transactions, and whether at the same time or over a period of time) sell, transfer, lease out, lend or otherwise dispose of any of the Security Assets charged or assigned by clauses 3.1 and 3.2 or following the crystallisation of the floating charge created by clause 3.3 the Floating Charge Assets charged by clause 3.3 or any interests therein or the right to receive or to be paid the proceeds arising from their disposal or agree or attempt to do so.

7.3 Disposal of Floating Charge Assets

The Chargor will not dispose of any of the Floating Charge Assets charged by clause 3.3 other than in the ordinary course of and for the purposes of, carrying on its trading business whilst the floating charge remains uncrystallised.

8 Representations and warranties

8.1 Duration and to whom made

The representations and warranties made by the Chargor in this clause 8 will remain in force (and will be deemed repeated on each day falling during) during the Security Period and are given to Homes England.

8.2 Matters represented

Except as disclosed in writing to Homes England or in any certificate of title addressed to Homes England on or prior to the date of this deed or on or prior to the date the Mortgaged Property becomes subject to a fixed charge hereunder:

- 8.2.1 the Chargor is the legal and beneficial owner of the Security Assets;
- 8.2.2 the Chargor has disclosed to Homes England full details of all inspections, investigations, studies, Environmental Audits and other analyses commissioned by it in relation to environment matters in respect of the Security Assets and any adjoining land;
- 8.2.3 the Chargor is, and has at all times been, in compliance with Environmental Law and there is no Environmental Claim which is current, pending or threatened

against it and there are no past or present acts, omissions, events or circumstances that could form the basis of any Environmental Claim against it;

- 8.2.4 there are no circumstances that may prevent or interfere with it obtaining or being in compliance with any Environmental Consent in the future and no action is pending or threatened by any authority against it which would result in any Environmental Consent being revoked, suspended or varied; and
- 8.2.5 the Chargor has obtained and is, and has at all times been, in compliance with Environmental Consents and no circumstances exist which might reasonably be expected to prevent or interfere with such compliance in the future.
- 8.2.6 there are no agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Security Assets which materially adversely affect or are likely to materially adversely affect the value of the Security Assets or the ability of the Chargor to perform its obligations owed to Homes England; and
- 8.2.7 the Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Security Assets or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to Homes England.

8.3 Security created

Subject to registration at Companies House, the Financial Services Authority, the Land Registry or at the Land Charges Registry as appropriate, this deed creates those security interests it purports to create ranking as set out above and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

9 General undertakings

9.1 Not to jeopardise the Security

The Chargor will not do or allow to be done anything which could reasonably be expected materially to decrease the value of the Security to Homes England (other than fair wear and tear arising from the use of the Security Assets in the ordinary course of business).

9.2 Law

The Chargor will comply with all applicable laws and regulations affecting the Security Assets.

9.3 Information and access

The Chargor will at the request of Homes England, promptly provide Homes England with such information as Homes England may reasonably require about the Security Assets and the Chargor's compliance with the terms of this Deed and the Chargor will permit Homes England, its representatives and professional advisers free access at all reasonable times and on reasonable notice to inspect and take copies and extracts from such books, accounts and records of the Chargor as relate to the Security Assets.

10 **Mortgaged Property**

The Chargor undertakes to Homes England at all times:

10.1 **Repair**

to keep the Mortgaged Property in good and substantial repair and condition and as contemplated by the Finance Documents;

10.2 **Outgoings**

to pay punctually all Taxes, rents, rates, duties, assessments and other outgoings payable in respect of the Mortgaged Property;

10.3 **Covenants**

to perform and observe all covenants (positive and restrictive), conditions and stipulations from time to time affecting the Mortgaged Property or the use or enjoyment of it;

10.4 **User**

to use the Mortgaged Property only for such purpose or purposes as may for the time being be authorised as the permitted use or user thereof under or by virtue of the Planning Acts;

10.5 **Planning**

to comply with all necessary Consents in respect of the Mortgaged Property and in particular to procure that no work constituting development for which planning permission is required under the Town and Country Planning Act 1990 is carried out without having obtained detailed planning consent and to comply with any conditions attached to any planning consent relating to or affecting the Mortgaged Property and not to carry out any development on or of the Mortgaged Property other than as contemplated by the necessary Consents and the Loan Facility Agreement;

10.6 **Notices**

to pass onto Homes England immediately upon receipt a copy of any notice or proposal for a notice or order served on the Chargor under any legislation, regulation or bye-law by any Competent Authority and to give notice to Homes England immediately on becoming aware of any other matter which is likely to affect adversely the value of the Mortgaged Property and if Homes England so requires or approves and at the Chargor's cost to make such representations in respect of such notice or order as Homes England may require;

10.7 **Information**

at the request of Homes England promptly to provide Homes England with such documents or information relating to the Mortgaged Property or its development as Homes England may reasonably require;

10.8 Leases

where the Mortgaged Property is leasehold or subject to any lease, agreement for lease, tenancy or licence:

- 10.8.1 to observe and perform all the covenants, stipulations and obligations contained in any lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessee, tenant or licensee;
- 10.8.2 to comply with all covenants on the part of the lessor or licensor contained in the lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessor or licensor; and
- 10.8.3 not without the prior written consent of Homes England to grant or accept a surrender of, or vary, any lease or licence of, nor part with or share possession or occupation of, the Mortgaged Property nor reduce any sum payable under them nor enter into any onerous or restrictive obligations affecting the Mortgaged Property or consent to any assignment or underletting of any interest in the Mortgaged Property;

10.9 Environmental matters

- 10.9.1 to obtain and maintain all necessary Environmental Consents and comply in all material respects with all Environmental Law applicable to it; and
- 10.9.2 to ensure that no Dangerous Substances are used, disposed of, generated, stored, transported, dumped, released deposited, buried or emitted at, on, from or under any premises owned, leased, occupied, controlled or used by the Chargor in circumstances where this results or could be expected to result in a liability on the Chargor.

10.10 Notice to tenants under Occupational Lease Documents

to immediately upon request being made by Homes England following the occurrence of an Event of Default, issue a notice in the form of part I of Schedule 4 to all other parties to any Occupational Lease Document (or any document containing any guarantee or security for the performance thereof) to pay all Rental Income and all other sums due under any Occupational Lease Document (and/or any guarantee or security in respect thereof) to Homes England or into such Controlled Account as Homes England may require and use all reasonable endeavours to procure that such parties acknowledge such notice in the form of part II of Schedule 4 as soon as practicable thereafter.

11 Insurance

11.1 Insured Risks

Except where insured by the lessor of any Mortgaged Property, the Chargor will insure all of the Security Assets (which are of an insurable nature) against:

- 11.1.1 the Insured Risks;
- 11.1.2 loss of rents payable by the tenants or other occupiers of the Mortgaged Property for a period of three years;

11.1.3 third party and public liability; and

11.1.4 any other risks normally insured against by persons carrying on the same class of business as that carried on by it.

11.2 Replacement value

Any insurance must be in a sum or sums not less than the replacement value of the Security Assets. For this purpose, 'replacement value' means the total cost of rebuilding, reinstating or replacing those Security Assets in the event of their being completely destroyed, together with any relevant architects' and surveyors' fees.

11.3 Insurance company

Any insurance required under this clause must be with an insurance company or underwriters acceptable to Homes England.

11.4 Application

Subject to the provisions of any lease or prior charge of all or part of the Security Assets, all monies received or receivable under any insurance must (subject to Paragraph 8 (*The Accounts*) of the Standard Terms and Conditions) be applied in accordance with Paragraph 10.4.5 of the Standard Terms and Conditions.

11.5 Co-insurance/Note of interest

The Chargor will procure and ensure that such insurance policy contains such provision for the protection of Homes England as Homes England may from time to time reasonably require.

11.6 Notice of assignment of Insurances

The Chargor will immediately upon the execution of this Deed (or, if later, the date upon which the relevant Insurance is entered into) give notice of assignment in the relevant form set out in Schedule 6 to each counterparty to an Insurance and shall use all reasonable endeavours to procure that each relevant party acknowledges that notice substantially in the relevant form set out in part II of Schedule 6 as soon as practicable thereafter.

11.7 Avoidance of policy

The Chargor will not do or permit anything to be done which may make void or voidable any policy of insurance in connection with any Security Assets.

11.8 Premiums

The Chargor will promptly pay all premiums and do all other things necessary to keep each policy of insurance in respect of the Security Assets in force.

11.9 Return of policy

The Chargor will, immediately at the request of Homes England, produce to Homes England the policy, certificate or cover note relating to any insurance policy and the receipt

for the payment of the last premium and will if Homes England requests deposit all policies of insurance relating to the Security Assets with Homes England.

12 Assigned Contracts

12.1 Performance

The Chargor will remain liable to perform all the obligations to be performed in respect of any of the Assigned Contracts and/or Occupational Lease Documents and Homes England will have no obligation of any kind whatsoever in relation to them or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations in respect of them. The Chargor agrees to indemnify and hold Homes England harmless from all costs, claims, damages or liabilities whatsoever and howsoever arising out of the performance of or the failure in performance of the Chargor's obligations in respect of the Assigned Contracts and/or the Occupational Lease Documents (or any of them).

12.2 Notices of assignment of Assigned Contracts

The Chargor will, immediately upon request being made by Homes England following the occurrence of an Event of Default, give notice of assignment in the form set out in part I of Schedule 3 to each counterparty to an Assigned Contract and shall use all reasonable endeavours to procure that each relevant party acknowledges that notice substantially in the form set out in part II of Schedule 3 as soon as practicable thereafter.

12.3 No amendments

Save as permitted under the Loan Facility Agreement, the Chargor will not without the prior written consent of Homes England:

12.3.1 amend, supplement, novate or waive any provision of or terminate any Assigned Contract; or

12.3.2 do anything which might jeopardise the enforceability of any Assigned Contract.

13 Account and Debts

13.1 Further Assurance: The Accounts

Without prejudice to the generality of the provisions of Clause 6 (*Further Assurance*) and/or 4.2 (*Conversion of the Floating Charge*) (as applicable), the Chargor will, at its own expense:

13.1.1 in the case of any Controlled Account established after the date of this Deed, promptly upon such account being established; and

13.1.2 in the case of the Operating Account or any other Account (not being a Controlled Account referred to in Clauses 13.2 and/or 13.1.1 above) immediately upon any request made by Homes England following the occurrence of an Event of Default,

do all such acts or execute all such documents (including, without limitation, assignments, transfers, mortgages, charges, notices and instructions) as Homes England may specify (and in such form as Homes England or any Receiver may require) in favour of Homes

England or its nominees to perfect or protect the security created or intended to be created in respect of any Account (which may include the execution by the Chargor of a mortgage, fixed charge or assignment over all or any of those Accounts) or for the exercise of the Collateral Rights in respect of such Account.

13.2 Notice of assignment of Accounts

The Chargor will immediately upon the execution of this Deed (or, if later, the date upon which such Controlled Account is established) give notice, substantially in the form set out in Part I of Schedule 5, to the Account Bank with which the relevant Controlled Account has been opened and procure that the relevant Account Bank acknowledges that notice substantially in the form set out in Part II of Schedule 5 as soon as reasonably practicable and in any event within 5 Business Days of the date of such notice.

13.3 Restriction on dealing

Other than as permitted by the Finance Documents the Chargor will not without the prior written consent of Homes England deal with its Debts (including, without limitation, the Rental Income) otherwise than by collecting them in the ordinary course of business and will not charge, factor, discount or assign any of its Debts (including, without limitation, any Rental Income) in favour of any third party.

13.4 Payment

Subject to and in accordance with the terms of the Finance Documents:

13.4.1 the Chargor will collect (or procure the collection of) all Rental Income charged to Homes England under this Deed and will without delay pay (or procure the payment of) the proceeds of payment or realisation of all Rental Income into the Rent Account or such other Account as Homes England may specify and pending that payment will hold all money so received upon trust for Homes England; and

13.4.2 the Chargor will collect (or procure the collection of) all Net Disposal Proceeds (as defined in the Loan Facility Agreement) charged to Homes England under this Deed and will without delay pay (or procure the payment of) the proceeds of payment or realisation of all such sums into the Deposit Account (or, if Homes England has first provided its written consent to the same into the client account of the Chargor's solicitor) or such other Account as Homes England may specify and pending that payment will hold all money so received upon trust for Homes England; and

13.4.3 subject to Clauses 13.4.1 and 13.4.2, the Chargor will, in relation to all other Debts, collect (or procure the collection of) such Debts in the ordinary course of realising the same and will without delay pay (or procure the payment of) the proceeds or payment or realisation of the same into the Operating Account (or, following the occurrence of an Event of Default which is continuing into such Controlled Account as Homes England may from time to time specify).

13.5 Withdrawal

13.5.1 The Chargor will not withdraw all or any monies standing to the credit of the Controlled Account without Homes England's prior written consent or as permitted by the Finance Documents.

13.5.2 Following the occurrence of an Event of Default which is continuing the Chargor shall deal with all Debts (both collected and uncollected) and the Operating Account (and any other Account from time to time held by the Chargor) in accordance with the directions from time to time given by Homes England (and, in the absence of such directions, in accordance with the terms of this Deed).

13.6 **Statements**

The Chargor will provide to Homes England from time to time at the request of Homes England full statements and particulars of any Account and advise Homes England prior to any change to it.

14 **Securities**

14.1 **Calls and other payments**

In relation to the Securities:

14.1.1 the Chargor will duly and promptly pay all calls or other payments due or payable in respect of any Securities and will comply with all other conditions and obligations assumed by it in relation to any of the Securities;

14.1.2 Homes England will not incur any liability in relation to any calls or other payments relating to the Securities;

14.1.3 if the Chargor defaults in complying with its obligations under clause 14.1.1 Homes England may in its absolute discretion make such payments on behalf of the Chargor; and

14.1.4 the Chargor agrees to reimburse Homes England on demand all sums expended by Homes England under clause 14.1.3.

14.2 **Notices**

The Chargor will forward to Homes England any notices, reports, accounts, circulars and other documents relating to the Securities material to the rights of Homes England hereunder promptly after they are received.

14.3 **Rights prior to enforcement**

Until the Security becomes enforceable:

14.3.1 the Chargor may exercise or direct all voting and other rights relating to the Securities provided that such exercise does not adversely affect the Securities or the Finance Parties or the Security; and

14.3.2 except as otherwise permitted by Homes England in writing or by the Loan Facility Agreement, all interest, dividends and other distributions in relation to the Securities will be paid into the Account(s); but, if paid to the Chargor, the Chargor

will immediately upon receipt pay them into the Account(s) and until that payment will hold them on trust for Homes England.

14.4 Rights after enforcement

Upon the Security becoming enforceable:

- 14.4.1 Homes England shall be entitled to exercise in the name of the Chargor all voting or other rights in relation to the Securities and the Chargor will (and will procure that its nominees will) comply with any directions Homes England may in its absolute discretion, give concerning the exercise of those rights and powers;
- 14.4.2 Homes England shall be entitled to receive and retain all dividends, and other distributions paid in respect of the Securities;
- 14.4.3 Homes England shall be entitled to exercise or direct the exercise of all voting or other rights in relation to the Securities in such means as it considers fit; and
- 14.4.4 Homes England shall be entitled to complete all instruments of transfer referred to in clause 14.5 and otherwise have any Securities registered in its name or the name of its nominee.

14.5 Deposit of certificates

The Chargor will on the date of this deed, or if later, on the date of acquisition of any Securities, deposit with Homes England, in addition the documents of title and other documentary evidence required by clause 14, such duly executed instruments of transfer (with the name of the transferee, date and consideration left blank) as Homes England may require to perfect the title of Homes England or its nominee to such Securities and/or to enable Homes England to vest such Securities in any purchaser upon exercise of Homes England's power of sale.

14.6 Liability of Homes England

The Chargor agrees with Homes England that neither Homes England nor Homes England's nominee will have any liability:

- 14.6.1 for failing to present any coupon or other document relating to any of the Securities for payment or redemption;
- 14.6.2 for failing to accept any offer relating to any of the Securities;
- 14.6.3 for failing to attend or to vote at any meetings related to the Securities;
- 14.6.4 for failing to notify the Chargor of any matters mentioned in this clause 14 or of any communication received by Homes England in relation to the Securities; or
- 14.6.5 for any loss arising out of or in connection with the exercise or non-exercise of any rights or powers attaching or accruing to the Securities or which may be exercised by Homes England or any nominee for Homes England under this deed.

15 Intellectual Property

15.1 The Chargor shall:

- 15.1.1 if requested by Homes England at any time, register the interest of Homes England in all or any part of any Intellectual Property;
- 15.1.2 if requested by Homes England at any time, execute all such documents and do all such things as Homes England may require to record the interest of Homes England in any registering relating to the Intellectual Property;
- 15.1.3 preserve, maintain and renew as and when necessary all Intellectual Property required by the Chargor for carrying on its business; and
- 15.1.4 promptly notify Homes England of any infringements of the Intellectual Property and take all steps as may be necessary to prevent such infringement and/or recover damages in respect thereof.

16 Deposit of title deeds

The Chargor will deposit all deeds and documents of title relating to the Security Assets with Homes England and such other documents relating to the Security Assets as Homes England may require from time to time, for the duration of the Security Period, except to the extent that any such Security Assets are released by Homes England pursuant to the terms of the Finance Documents.

17 Power to remedy

In the case of default by the Chargor in repairing or keeping in repair or insuring the Security Assets or any part thereof or in observing or performing any of the covenants or stipulations affecting the same, the Chargor will permit Homes England or its agents and contractors to enter on the Security Assets and to comply with or object to any notice served on the Chargor in respect of the Security Assets and to effect such repairs or insurance or generally do such things or pay all such costs, charges and expenses as Homes England may consider are necessary or desirable to prevent or remedy any breach of covenant or stipulation or to comply with or object to any notice. The Chargor will indemnify and keep Homes England indemnified against all losses, costs, charges and expenses reasonably incurred in connection with the exercise of the powers contained in this clause 17.

18 Enforcement of Security

18.1 When Security becomes enforceable

The Security shall be immediately enforceable if an Event of Default occurs. After the Security has become enforceable, Homes England may in its absolute discretion enforce all or any part of such Security at the times, in the manner, and on the terms as it shall think fit and take possession of or hold or dispose of all or any part of the Security.

18.2 Exercise of powers

At any time after the Security becomes immediately enforceable, Homes England may, without notice to the Chargor or prior authorisation from any court, in its absolute

discretion whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

18.3 Right of appropriation

To the extent that any of the Security Assets constitutes Financial Collateral and this Deed and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement Homes England shall have the right, at any time after this Deed has become enforceable, to appropriate all or any part of such Financial Collateral in or towards payment and/or discharge of the Secured Liabilities in such order as Homes England in its absolute discretion may from time to time determine. For this purpose each of the Chargor and Homes England agrees that the value of such Financial Collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the Account(s), together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of Securities, the market price of such Securities at the time the right of appropriation is exercised as determined by Homes England by reference to any recognised market index or by such other process as Homes England may select, including, without limitation, independent valuation. In each case, each of the Chargor and Homes England agrees that the method of valuation provided for in this clause 18 shall constitute a commercially reasonable method of valuation for the purpose of the Financial Collateral Regulations.

18.4 Possession

If Homes England, any Receiver or any delegate of any such person takes possession of the Security Assets, it or he may at any time relinquish such possession.

18.5 No liability as mortgagee in possession

Homes England will not be liable to account as a mortgagee in possession in respect of all or any part of the Security Assets or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Security Assets to which a mortgagee in possession might otherwise be liable.

18.6 Power of sale

The power of sale under this Deed may be exercised notwithstanding that Homes England or the Receiver may have previously waived or refrained from exercising that power; and no demand or notice of sale made or given under this Deed will be waived by the acceptance of any payment on account of the Secured Liabilities, or by any negotiations between Homes England and the Chargor or any other party who is acting as agent for the Chargor or on behalf of it.

18.7 Receiver's liability

All the provisions of clause 18.5 will apply, mutatis mutandis, in respect of the liability of any Receiver and delegate of the Receiver or Homes England or any officer, employee or agent of Homes England, any Receiver or any delegate.

19 Extension and variation of the Law of Property Act 1925

19.1 Extension of powers

The power of sale or other disposal conferred on Homes England and on any Receiver by this Deed will operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power will arise (and the Secured Liabilities will be deemed due and payable for that purpose) on or execution of this Deed.

19.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 will not apply to this Deed or to the exercise by Homes England of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by Homes England without notice to the Chargor.

19.3 Power of leasing

The statutory powers of leasing may be exercised by Homes England at any time and Homes England and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it will think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Law of Property Act 1925.

19.4 Non-application

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to clause 3 being:

19.4.1 the words 'other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about' in Section 3(1);

19.4.2 the words 'except to the extent that' and all words thereafter in Section 3(2); and

19.4.3 Section 6(2).

19.5 Application

Section 109(8) of the Law of Property Act 1925 will not apply, and all monies received by Homes England or any Receiver in the exercise of any powers conferred by this Deed will be applied in the following order:

19.5.1 in the payment of:

- (a) all costs, charges, liabilities and expenses incurred by Homes England or any Receiver in the exercise of those powers or incidental to any Receiver's appointment, together with interest at the rate set out in the relevant Finance Document (or where there is no such rate at the Applicable Rate) (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full; and
- (b) any Receiver's remuneration;

19.5.2 in or towards discharge of all liabilities having priority to the Secured Liabilities;

19.5.3 in or towards the satisfaction of the Secured Liabilities in such order as Homes England determines; and

19.5.4 in the payment of any surplus to the Chargor or other person entitled to it.

19.6 Application of sums received

The Chargor will have no rights in respect of the application by Homes England of any sums received, recovered or realised by Homes England under this Deed.

20 Appointment of Receiver

20.1 Appointment and removal

At any time after the Security becomes enforceable, or if requested to do so by the Chargor, Homes England may by deed or otherwise (acting through an authorised officer of Homes England), without prior notice to the Chargor:

20.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Security Assets or an Administrator of the Chargor;

20.1.2 remove (so far as it is lawfully able) any Receiver or an Administrator so appointed; and

20.1.3 appoint another person(s) as an additional or replacement Receiver(s) or Administrator(s).

20.2 Capacity of Receivers

Each person appointed to be a Receiver under this Deed will be:

20.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;

20.2.2 for all purposes will be deemed to be the agent of the Chargor which will be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for Homes England; and

20.2.3 entitled to remuneration for his services at a rate to be fixed by Homes England from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

20.3 Statutory powers of appointment

The powers of a Receiver will be in addition to all statutory and other powers of Homes England under the Law of Property Act 1925 (as extended by this Deed), an administrative receiver under the Insolvency Act 1986 or otherwise and such powers will remain exercisable from time to time by Homes England in respect of any part of the Security Assets.

21 Powers of Receiver

21.1 Powers

Every Receiver appointed by Homes England will (in addition to all powers conferred on him by law) have the following powers exercisable in respect of the Security Assets upon such terms and conditions as he thinks fit:

- 21.1.1 to take possession of and generally to manage the Security Assets and any business of the Chargor;
- 21.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract, transaction or arrangement to which the Chargor is or is to be a party;
- 21.1.3 to carry out on any Mortgaged Property (or on any other property which it may in his opinion be necessary or desirable to work upon) any development or new works or complete any unfinished works of building, reconstruction, maintenance, furnishing or equipment and to apply for and obtain all planning permissions, consents or licences as may be necessary or desirable for such purposes;
- 21.1.4 to purchase or acquire any land and purchase, acquire, grant or release any interest in or right over land and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Mortgaged Property;
- 21.1.5 to sell, lease, licence, surrender or accept surrender of leases or licences of, charge or otherwise deal with and dispose of the Security Assets without restriction including (without limitation) power to dispose of any Fixtures separately from the land;
- 21.1.6 to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Chargor;
- 21.1.7 to insure the Security Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees indemnities and security;
- 21.1.8 to engage, rely on the advice of and discharge advisers, consultants, officers, managers, agents, workmen and others;
- 21.1.9 to purchase materials, tools, equipment, goods or supplies;
- 21.1.10 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise in relation to the Security Assets or any part of them;
- 21.1.11 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purposes of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 21.1.12 to make any elections for VAT purposes; and

21.1.13 to do any other acts or things as:

- (a) he may consider to be necessary or desirable for the realisation of the Security Assets or any part thereof;
- (b) as he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law.

22 Protection of purchasers

22.1 Consideration

The receipt of Homes England or any Receiver will be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, Homes England or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

22.2 Protection of purchaser

No purchaser or other person dealing with Homes England or any Receiver will be bound to inquire whether the right of Homes England or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of Homes England or such Receiver in such dealings.

23 Power of attorney

23.1 Appointment and powers

The Chargor by way of security irrevocably appoints Homes England and every Receiver or Administrator and any delegate or sub-delegate severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which:

- 23.1.1 the Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, legal mortgages, assignments or other security and any transfers of the Security Assets);
- 23.1.2 enable Homes England and any Receiver or Administrator or any delegate or sub-delegate to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Security Assets).

23.2 Ratification

The Chargor will ratify and confirm all things lawfully done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

24 Effectiveness of Security

24.1 Continuing Security

The Security will remain in full force and effect as a continuing security for the Secured Liabilities during the Security Period.

24.2 Cumulative rights

The Security and the Collateral Rights will be cumulative, in addition to and independent of every other security which Homes England may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior security held by Homes England over the whole or any part of the Security Assets will merge into the Security.

24.3 No prejudice

Neither the Security nor the Collateral Rights will be prejudiced by any time or indulgence granted to the Chargor or any other person or by any other thing which might otherwise prejudice the Security or any Collateral Right.

24.4 Remedies and waivers

No failure on the part of Homes England to exercise, or any delay on its part in exercising, any Collateral Right will operate as a waiver thereof, nor will any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

24.5 No liability

None of Homes England, any Receiver or any delegate or sub-delegate will be liable by reason of:

24.5.1 taking any action permitted by this Deed;

24.5.2 any neglect or default in connection with the Security Assets; or

24.5.3 taking possession of or realising all or any part of the Security Assets

except in the case of negligence or wilful default or fraud upon its part.

24.6 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction will in any way be affected or impaired thereby and, if any part of the Security is invalid, unenforceable or ineffective for any reason, that will not affect or impair any other part of the Security.

24.7 Other security

Homes England will not be obliged to resort to any guarantees, indemnities, Security Interests or other means of payment now or hereafter held by or available to it before enforcing this Deed and no action taken or omitted by Homes England in connection with any such guarantee, indemnity, Security Interests or other means of payment will discharge, reduce, prejudice or affect the liability of the Chargor or the Secured Liabilities nor will Homes England be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such guarantees, indemnities, Security Interests or other means of payment.

24.8 Variation

No variation of the terms of this Deed will be valid unless it is in writing and executed as a deed by the Chargor and confirmed in writing by Homes England.

25 Release of Security

Upon the expiry of the Security Period and Homes England not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor, Homes England will, at the request and cost of the Chargor, release and cancel the Security and procure the reassignment to the Chargor of the property and assets assigned to Homes England pursuant to this Deed and without recourse to, or any representation or warranty by, Homes England or any of its nominees.

26 Subsequent Security Interests

If Homes England at any time receives or is deemed to have received notice of any subsequent Security Interest affecting all or any part of the Security Assets or any assignment or transfer of the Security Assets which is prohibited by the terms of this Deed, all payments thereafter by or on behalf of the Chargor to Homes England will be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when Homes England received such notice.

27 Assignment

27.1 Right of Agency to assign

Homes England may at any time assign or otherwise transfer all or any part of its rights under this Deed.

27.2 Restriction on Chargor

The Chargor may not assign or transfer any of its rights or obligations under this Deed.

27.3 Confidentiality

Homes England may give such information relating to the Chargor and the Secured Liabilities as it thinks fit to any person proposing to take an assignment and/or transfer from Homes England and/or to enter into contractual relations with Homes England with respect to this Deed.

28 Expenses, stamp taxes and indemnity

28.1 Expenses

The Chargor will, from time to time on demand of Homes England, reimburse Homes England on a full indemnity basis for all the costs and expenses (including legal fees) together with any VAT thereon properly incurred by it or by any Receiver in connection with:

- 28.1.1 the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the Security contemplated in this Deed; or
- 28.1.2 the exercise, preservation and/or enforcement of any of the Collateral Rights or the Security contemplated by this Deed or any proceedings instituted by or against Homes England or any Receiver as a consequence of taking or holding the Security or of enforcing the Collateral Rights,

and such expenses will carry interest until so reimbursed at the Applicable Rate.

28.2 Stamp taxes

The Chargor will pay all stamp, stamp duty land tax, registration and other Tax to which this Deed, the Security or any judgment given in connection with it is or at any time may be subject and will, from time to time, indemnify Homes England on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Tax.

28.3 Indemnity

The Chargor will, notwithstanding any release or discharge of all or any part of the Security:

- 28.3.1 be liable for and will indemnify Homes England, its agents, attorneys and any Receiver in full against all and any costs, expenses, actions, liabilities, losses, claims or proceedings which it (or they) may sustain as a consequence (direct or indirect) of:
 - (a) any breach by the Chargor of the provisions of this Deed or any other Finance Document or otherwise through the default or negligence of the Chargor;

- (b) the exercise or purported exercise of any of the rights and powers conferred on them by this Deed or otherwise relating to the Security Assets;

28.3.2 be liable for and will indemnify Homes England, its agents, attorneys and any Receiver in full against all and any costs, expenses, actions, liabilities, losses, claims or proceedings arising under statute or at common law in respect of personal injury or death of any person whomsoever or loss of or damage to property whether belonging to Homes England or otherwise or any claim by any third party arising out of or in the course of or caused or contributed to by the Chargor of its obligations under this Deed (except to the extent that the same is due to any act or neglect of Homes England or any such agent, attorney and/or Receiver).

29 Payments free of deduction

29.1 All payments by the Chargor under or in connection with this deed shall be made without set-off or counterclaim, free and clear of and without any deduction or withholding, including, without limitation, for or on account of all taxes except for taxes which must be deducted by law.

29.2 If the Chargor is required by law to make any deduction or withholding the Chargor shall:

29.2.1 ensure that the deduction or withholding does not exceed the minimum amount legally required;

29.2.2 forthwith pay to Homes England such additional amount as may be determined by Homes England to be necessary to ensure that after making any required deduction or withholding Homes England receives and retains a net amount equal to the full amount which would have been received had no deduction or withholding been required;

29.2.3 pay to the applicable taxation or other authorities within the period for payment permitted by law the full amount of the deduction or withholding; and

29.2.4 supply to Homes England, within the period for the payment permitted by law, an official receipt of the applicable taxation or other authorities for all amounts deducted or withheld.

29.3 Without prejudice to any other provisions of this deed, if:

29.3.1 Homes England is required by law to make any payment on account of taxes (other than taxes on its overall net income) on or in relation to any sum received or receivable by Homes England under or in pursuant to this deed; or

29.3.2 any liability in respect of any such payment is imposed, levied or assessed against Homes England,

the Chargor shall on demand by Homes England indemnify Homes England against such payment or liability together with any interest, penalties and expenses payable or incurred in connection with it.

30 Discretion and delegation

30.1 Discretion

Any power or discretion which may be exercised or any determination which may be made hereunder by Homes England or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

30.2 Delegation

Each of Homes England and any Receiver will have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this deed (including the power of attorney) on such terms and conditions as it sees fit, which delegation may include power to sub-delegate and will not preclude either the subsequent exercise of such power, authority or discretion by Homes England or the Receiver itself or any subsequent delegation or revocation thereof.

31 Perpetuity period

The perpetuity period under the rule against perpetuities, if applicable to this Deed, will be the period of 125 years from the date of this Deed (as specified in section 5(1) of the Perpetuities and Accumulations Act 2009).

32 Counterparts

This Deed may be executed in counterparts, all of which when taken together will constitute a single deed.

33 Certification

The Chargor hereby certifies that its creation of this Deed in favour of Homes England does not contravene any of the provisions of the Companies Act 2006 or its constitutive documents.

34 Reorganisation

This Deed will remain binding on the Chargor notwithstanding any change in the constitution of Homes England or its absorption by, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The Security will remain valid and effective in all respects in favour of Homes England and for any assignee, transferee or other successor in title of Homes England.

35 Set off

Homes England may set off any matured obligation due from the Chargor under this Deed against any matured obligation owed by Homes England to the Chargor (whether actual or contingent, present or future), regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, Homes England may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

36 Payment of monies

36.1 Date for payment

Where neither the Loan Facility Agreement nor this Deed specified the due date for payment of any monies owed by the Chargor to Homes England such monies will be due and payable to Homes England by the Chargor on demand.

36.2 Currency

The Chargor's liability under this Deed is to discharge the Secured Liabilities in Sterling. If at any time Homes England receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than Sterling, then such payment will take effect as a payment to Homes England of the amount in Sterling which Homes England is able to purchase (after deduction of any relevant costs) with the amount of the payment so received in accordance with its usual practice.

36.3 Currency indemnity

If a payment is made under a court order or in satisfaction of a claim or proof and is treated by clause 36.2 as a payment of an amount which falls short of the relevant liability of the Chargor expressed in Sterling, the Chargor as a separate and independent obligation will on demand from time to time indemnify Homes England against such shortfall and pay interest on such shortfall from the date of such payment to the date on which the shortfall is paid.

36.4 Certificates

A certificate signed by an official of Homes England as to the amount due or owing from the Chargor will be conclusive evidence against the Chargor, except in the case of manifest error.

37 Notices

37.1 Service

Any notice or communication to be given in connection with this Deed will be in writing and delivered by hand or sent by first class prepaid post and:

37.1.1 sent to the Chargor at:

Address: Stramongate House
53 Stramongate, Kendal
Cumbria, England
LA9 4BH]

Attention: Christopher Middlebrook

37.1.2 sent to Homes England at:

Address: Arpley House
110 Birchwood Boulevard
Birchwood

Warrington, WA3 7QH

Attention: []

Unless either party has communicated another address to the other in which case it must be sent to the last address so communicated.

37.2 Receipt by Chargor

A notice or communication sent by Homes England to the Chargor under clause 37 will be deemed to have been received:

37.2.1 if delivered by hand, at the time of delivery; or

37.2.2 if sent by first class pre-paid post, on the next Business Day after posting.

37.3 Receipt by Agency

Any notice or communication given to Homes England by the Chargor shall be deemed to have been received only on actual receipt.

37.4 Confirmation in writing

The Chargor may not rely on any oral notice, waiver, consent, approval, representation, advice, statement or other communication by Homes England or any of its employees, agents or representatives except where such communications are confirmed in writing and signed for Homes England pursuant to clause 37.

37.5 Electronic communication

37.5.1 Any communication to be made between the Chargor and Homes England under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that they agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if they:

(a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

37.5.2 Any electronic communication made between the Chargor and Homes England will be effective only when actually received in readable form and in the case of any electronic communication made by the Chargor to Homes England only if it is addressed in such a manner as Agency shall specify for this purpose.

37.5.3 Any electronic communication which becomes effective, in accordance with clause 37.5.2 above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following Business Day.

38 Governing law

This deed will be governed by and is to be construed in accordance with the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute arising in connection with this deed.

This Deed has been executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this Deed.

Schedule 1

Mortgaged Property

Real Property Description	Title Number
Land adjoining Hala Carr Farm, Bowerham Road, Lancaster, LA1 4LP	LAN177904

Schedule 2

Assigned Contracts

- WM
- 1 Main Build contract between the Chargor and Highbrook Construction Limited dated 15 March 2019;
 - 2 Architect appointment between the Chargor and MCK Associates Limited dated 24 October ~~2019~~ ²⁰¹⁶ and
 - 3 Structural Engineer appointment between the Chargor and Curtins Consulting Limited dated 12 March 2019; and
 - 4 Architect appointment between the Chargor and MCK Associates Limited dated 21 June 2016.

Schedule 3

Part I

Form of notice of assignment of an Assigned Contract

To: []
[]

Date:

Notice of Assignment

We hereby give notice that by a debenture dated [•] made between Highbrook Homes (Kirkstone) Limited (the **Chargor**) (1) and the Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**), the Chargor assigned to Homes England all its rights, title and interest present and future in [the [•] between you and [•] dated [•]] [together with all ancillary or other agreements and documents entered into pursuant to or in connection therewith] (each an **Agreement** and together the **Agreements**) as security for the obligations more particularly referred to in the Debenture.

By signing and returning to Homes England the additional copy of this letter, please acknowledge notice of the security assignment constituted by the Debenture and confirm and agree that:

- 1 you have not received notice of any previous assignment, charge, lien or other security interest of or affecting the Agreement(s);
- 2 all monies due or to become due from you to the Chargor under the Agreement(s) will be paid to the Chargor's account number [•] ([•]) with [•] at its [•] (sort code [•]) or to such other account as Homes England (or the Chargor and Homes England) may notify you in writing and without set-off or counterclaim save as provided in the Agreement(s); and
- 3 you will not without prior written consent of Homes England determine, agree to amend or accept a waiver of your obligations under the Agreement(s).

Until Homes England serves written notice to the contrary, the Chargor will be entitled, subject to the provisions of this notice, to exercise its rights under the Agreement(s).

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

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

Yours faithfully

.....
Authorised signatory
for and on behalf of
Highbrook Homes (Kirkstone) Limited

Schedule 3

Part II

Form of acknowledgement of notice of assignment of an Assigned Contract

To: Homes and Communities Agency (trading as Homes England)

Copy: Highbrook Homes (Kirkstone) Limited

Dated:

Dear Sirs

Acknowledgement of notice

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] and addressed to us by Highbrook Homes (Kirkstone) Limited (the **Notice**) and hereby acknowledge the security assignment constituted by the Debenture (as defined the Notice) and accept the instructions and authorisations contained in the Notice.

We also confirm that we will pay all sums due under the Agreement(s) (as defined in the Notice) as directed in the Notice.

Yours faithfully

for and on behalf of

[]

Schedule 4

Part I

Form of notice to tenants under Occupational Lease Documents

To: []
[]

Date:

Dear Sirs

Notice of assignment

We refer to the lease dated [] and made between [] and [] (the **Lease**).

We hereby give notice that by a fixed charge dated [•] made between Highbrook Homes (Kirkstone) Limited (the **Chargor**) (1) and the Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Fixed Charge**), the Chargor charged to Homes England all its rights, title and interest present and future over the Lease.

We irrevocably instruct and authorise you, until you receive notice from Homes England to the contrary, and notwithstanding any previous instructions given by us to you, to pay any rent payable by you under the Lease to account at [], Account No. [No.], (the **Relevant Account**).

The instructions in this letter may not be revoked or amended without the prior written consent of Homes England.

This letter and all non contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by returning a copy of this letter addressed to us and to Homes England in the form attached hereto.

Yours faithfully

.....
Authorised Signatory
for and on behalf of
Highbrook Homes (Kirkstone) Limited

Schedule 4

Part II

Form of acknowledgement from tenants under Occupational Lease Documents

To: Highbrook Homes (Kirkstone) Limited
Homes and Communities Agency (trading as Homes England)

Date:

Dear Sirs

Acknowledgement of notice

We hereby acknowledge receipt of the notice (a copy of which is attached hereto) dated [] (the **Notice**) and addressed to us by Highbrook Homes (Kirkstone) Limited (the **Chargor**) in relation to the Lease (as defined in the Notice) and we accept the instructions and authorisations contained in the Notice.

We confirm that:

- 4 we have not, as at the date of this acknowledgement, received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Lease (as defined in the Notice); and
- 5 we shall pay all rent and all other monies payable by us under the Lease into the Rent Account (as defined in the Notice) and we shall continue to pay those monies into the Rent Account until we receive your written instructions to the contrary.

This letter and all non contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Yours faithfully

.....
For and on behalf of

[Tenant]

Schedule 5

Part I

Form of notice of assignment/ charge of an Account

Notice to Account Bank

To: []

Date: []

Notice of assignment and charge

We hereby give notice that by a debenture dated _____ made between Highbrook Homes (Kirkstone) Limited (the **Chargor**) (1) and the Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**), the Chargor assigned by way of security and charged to Homes England all its rights, title and interest present and future over the following account opened by it with you:

Account name: Highbrook Homes Kirkstone Ltd

Account number: 61619144

Sort Code: 40 26 02

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

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

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

- 1 to disclose to Homes England without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure, such information relating to the Account Funds and the debt represented thereby as Homes England may, at any time and from time to time, request you to disclose to it;
- 2 to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account Funds or the debt represented thereby which you receive at any time and from time to time from Homes England or without any reference to or further authority from the Chargor and without any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof;
- 3 to accept all instructions from Homes England in connection with any payments from or withdrawals from the Account, at any time and from time to time, and to comply with all such instructions without any reference to or further authority from the Chargor and without

any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof; and

- 4 to only accept instructions from the Chargor in connection with any payments from or withdrawals from the Account when accompanied by the written consent of Homes England in substantially the form set out in the Annexure to this notice.

The instructions and authorisations which are contained in this letter will remain in full force and effect until Homes England gives you notice in writing revoking them. The instructions and authorisations given by the Chargor are irrevocable and may not be revoked by the Chargor.

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

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

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

Yours faithfully

.....

Authorised Signatory

for and on behalf of Highbrook Homes (Kirkstone) Limited

Annexure - Notice of Account Bank

To: []
[]

Date:

Notice of authority to release funds

We hereby confirm that in accordance with clause 7 of the debenture dated [INSERT] made between Highbrook Homes (Kirkstone) Limited (the **Chargor**) (1) and the Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**) Homes England authorises the release of [£INSERT SUM] from the Account Funds on or within 10 working days of [INSERT DATE] to be made to [INSERT DETAILS OF PAYEE] in the following manner [by direct credit to the following account INSERT ACCOUNT DETAILS / by cheque made payable to [INSERT PAYEE].

Yours faithfully

.....
Authorised Signatory

for and on behalf of Homes and Communities Agency (trading as Homes England)

Schedule 5

Part II

Form of acknowledgement from Account Bank

To: Homes and Communities Agency (trading as Homes England) (**Homes England**)

Dated:

Dear Sirs

Acknowledgement of notice

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

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

We hereby acknowledge and confirm to each of the Chargor and Homes England that we will not accept any instructions in connection with any payments from or withdrawals from the Account from the Chargor unless accompanied by written consent from Homes England in substantially the form set out in the Annexure to the Letter.

We hereby acknowledge and confirm to each of the Chargor and Homes England that we have not, as at the date hereof, received any notice that any third party has or will have any right or interest whatsoever in or has made or will be making any claim or demand or taking any action whatsoever against the Account Funds or the debt represented thereby or any part thereof.

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

We agree that in the event of us receiving notice at any time that any person or entity other than the Chargor or Homes England claims to have or claims it will acquire any right or interest whatsoever in the Account Funds or any part thereof we will as soon as is reasonably practical give written notice of the terms thereof to both Homes England and the Chargor.

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

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

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

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

Yours faithfully

.....

Duly authorised signatory
for and on behalf of
[name of Account Bank]

Schedule 6

Part IA

Form of notice of an assignment of Insurance – for use where Agency is co-insured on the policy

To: []
[]

Date:

Notice of Assignment

Dear Sirs

We refer to the following policies [**INSERT POLICY DETAILS**] (together with any other agreement supplementing or amending the same) (the **Relevant Policies**).

We hereby request that the Homes and Communities Agency is added to the Relevant Policies as [[composite] insured and first loss payee].

In addition to the above we hereby notify you that a debenture dated [•] made between Highbrook Homes (Kirkstone) Limited (the **Chargor**) (1) and Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**) we have assigned to Homes England for the benefit of itself all our own right, title and interest in and to the Relevant Policies.

Subject to the rights of Homes England in its capacity as [insured and first loss payee] we further irrevocably and unconditionally authorise and request you:

- 1) to note Homes England's additional interests as assignee of our own rights in respect of the Relevant Policies; and
- 2) following notice from Homes England that an "Event of Default" (under and as defined in the Debenture) has occurred and is continuing, to act on the instructions of Homes England in relation to the Relevant Policies without any further reference to or authorisation from us.

Please sign and return the acknowledgment attached to one enclosed copy of this notice to Homes England and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of it or in connection with it) are governed by English law.

Yours faithfully

.....
Authorised signatory
for and on behalf of
Highbrook Homes (Kirkstone) Limited

Schedule 6

Part IB

Form of acknowledgment of an assignment of Insurance

We acknowledge receipt of the notice of assignment (**Notice**) of which the enclosed is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- 1 we have:
 - (a) added Homes England as a [composite insured] and [first loss payee] to the Relevant Policies in accordance with the instructions received from the insured;
 - (b) included our standard loss payee clause to the policy providing that, in respect of the Relevant Policies, Homes England is loss payee in respect of the Relevant Policies in accordance with the instructions received in the Notice;
 - (c) noted as against the Relevant Policies Homes England's additional interests as assignee of the rights of the Chargor,
- 2 we will give you [45] days notice of our intention to cancel or decline any renewal of any of the Relevant Policies;
- 3 each of the Relevant Policies includes contain a non-invalidating and non-vitiating clause under which the Relevant Policies will not be vitiated or avoided as against any insured party as a result of any circumstances beyond the control of that insured party or any misrepresentation, non-disclosure, or breach of any policy term or condition, on the part of any insured party or any agent of any insured party;
- 4 as at the date of this acknowledgment we have not received any notice of assignment or charge of the Chargor's interest in any Relevant Policy or the proceeds of any Relevant Policy in favour of any person other than Homes England; and
- 5 following the receipt by us from Homes England of any notice that an "Event of Default" under the Debenture has occurred we will correspond with Homes England directly in relation to the Relevant Policies without further reference to the Chargor.

We enclose a full copy of the policy wording for the covers applicable to the interest of Homes England.

The provisions of this acknowledgment (and any non-contractual obligations arising out of it or in connection with it) are governed by English law.

.....

For and on behalf of []

Schedule 6

Part IIB

Form of acknowledgement of an assignment of Insurance – for use where Agency is not already co/joint insured on the policy

We acknowledge receipt of the above notice and consent and agree to its terms. We confirm and agree to the matters set out in paragraph 6 in the above notice.

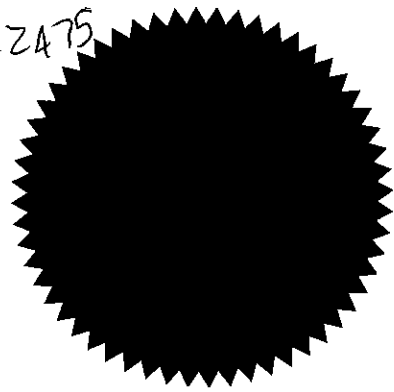
Yours faithfully

for and on behalf of

[]

Dated []

D12475



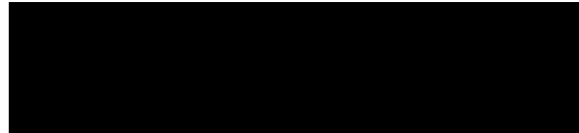
Signatories

the common seal of)

HOMES AND COMMUNITIES AGENCY)

was hereunto affixed in the presence of:)

Paul Tanner
Senior Specialist
Operational Risk



Authorised Signatory

Print Name:

Executed as a Deed)

by **HIGHBROOK HOMES (KIRKSTONE) LIMITED**)

acting by one Director in the)

presence of a witness)

Director

witness signature:

name:

address:

occupation:

Signatories

the common seal of)

HOMES AND COMMUNITIES AGENCY)

was hereunto affixed in the presence of:)

Authorised Signatory

Print Name:

Executed as a Deed)

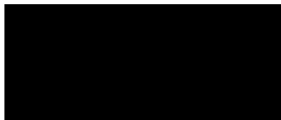
by **HIGHBROOK HOMES (KIRKSTONE) LIMITED**)

acting by one Director in the)

presence of a witness)



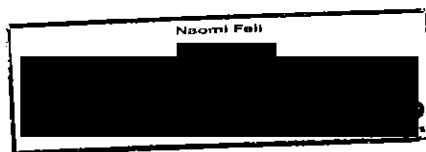
Director



witness signature:

name:

address:



occupation: