



Registration of a Charge

Company name: **HALLMARK CARE HOMES (BILLERICAY) LIMITED**

Company number: **06520757**



X6HO2XQ2

Received for Electronic Filing: **23/10/2017**

Details of Charge

Date of creation: **13/10/2017**

Charge code: **0652 0757 0004**

Persons entitled: **BARCLAYS BANK PLC (AS "SECURITY AGENT")**

Brief description: **LAND KNOWN AS OUTWOOD COMMON COMMUNITY CENTRE,
OUTWOOD COMMON ROAD, BILLERICAY CM11 2LE REGISTERED AT
LAND REGISTRY WITH TITLE NUMBER EX836255**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

PINSENT MASONS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6520757

Charge code: 0652 0757 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th October 2017 and created by HALLMARK CARE HOMES (BILLERICAY) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd October 2017 .

Given at Companies House, Cardiff on 25th October 2017

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

EXECUTION VERSION

DATED 13 October 2017

(1) HALLMARK CARE HOMES (BILLERICAY) LIMITED

**(2) BARCLAYS BANK PLC
(as Security Agent)**

LEGAL MORTGAGE

relating to

LAND AT OUTWOOD COMMON ROAD, BILLERICAY CM11 2LE



Pinsent Masons

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THIS DEED is made on

13 October

2017

BETWEEN:-

- (1) **HALLMARK CARE HOMES (BILLERICAY) LIMITED** with company number 06520757 and whose registered office is at 2 Kingfisher House, Woodbrook Crescent Radford Way, Billericay, Essex, CM12 0EQ (the "**Chargor**"); and
- (2) **BARCLAYS BANK PLC** (the "**Security Agent**") as agent and trustee for itself and each of the Secured Parties (as defined below).

INTRODUCTION

- (A) The Secured Parties have agreed to make credit facilities available to the Borrower on the terms and conditions set out in the Facility Agreement (as is defined below).
- (B) The Chargor has agreed to enter into this Deed to provide Security over its assets to the Security Agent to hold on trust for itself and the other Secured Parties.

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

In this Deed:-

"Assigned Insurances"	means the Insurances (if any) specified in Schedule 2 (<i>Assigned Insurances</i>) (including any renewal, substitution or replacement of such Insurance)
"Declared Default"	means an Event of Default which has resulted in the Agent exercising any of its rights under Clause [25.19] (<i>Acceleration</i>) of the Facility Agreement
"Default"	has the meaning given to that term in the Facility Agreement
"Default Rate"	means the rate specified in clause 10.4 (<i>Default interest</i>) of the Facility Agreement
"Event of Default"	has the meaning given to that term in the Facility Agreement
"Facility Agreement"	means the facility agreement dated on or about the date of this Deed between, among others, Hallmark Care Homes Group Holdings Limited (as borrower), Barclays Bank plc (as agent) and the Security Agent
"Finance Documents"	has the meaning given to the term "Finance Documents" in the Facility Agreement
"Insurances"	means any contracts and policies of insurance or assurance taken out by or on behalf of the Chargor or (to the extent of its interest) in which the Chargor has an interest excluding, in each case, contracts and policies of insurance or assurance which relate to liabilities to

third parties

"Land"	has the meaning given to that term in section 205(1) of the LPA but for these purposes "Land" excludes heritable property situated in Scotland
"LPA"	means the Law of Property Act 1925
"Obligor"	has the meaning given to that term in the Facility Agreement (and "Obligors" shall be construed accordingly)
"Party"	means a party to this Deed
"Plant and Equipment"	means all plant, machinery or equipment (including office equipment, computers, vehicles and other equipment) of the Chargor of any kind and the benefit of all licences, warranties and contracts relating to the same at any time and from time to time in, on or affecting or relating to the Secured Assets
"Receiver"	means any receiver, receiver and manager or, to the extent permitted by law, an administrative receiver (whether appointed pursuant to this Deed or any statute, by a court or otherwise) of the whole or any part of the Secured Assets
"Regulations"	means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements
"Related Rights"	means in relation to any Secured Asset:- (a) the proceeds of sale of all or any part of that Secured Asset; (b) allotments, rights, money or property arising from that Secured Asset, by way of conversion, exchange, redemption, bonus, preference, option or otherwise; (c) all rights under any licence, agreement for sale or agreement for lease in respect of that Secured Asset; (d) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that Secured Asset; and (e) any moneys and proceeds or income paid or payable in respect of that Secured Asset
"Secured Assets"	means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the Security created in favour of the Security Agent by or pursuant to this Deed

"Secured Party"	has the meaning given to that term in the Facility Agreement (and "Secured Parties" shall be construed accordingly)
"Secured Liability"	means all present and future obligations and liabilities expressed to be due, owing or payable by any Obligor under or in connection with any of the Finance Documents (whether present or future, actual or contingent and whether incurred solely or jointly (or jointly and severally) with any other person) (together the "Secured Liabilities")
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period beginning on the date of this Deed and ending on the date which:- (a) all of the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Finance Documents
"Transaction Security"	means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents
"Transaction Security Documents"	has the meaning given in the Facility Agreement

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement shall have the same meanings in this Deed.

1.3 Interpretation

- 1.3.1 The principles of interpretation set out in clauses 1.2 to 1.4 of the Facility Agreement shall apply to this Deed insofar as they are relevant to it.
- 1.3.2 Unless the context otherwise requires, a reference to the **"Facility Agreement"**, a **"Finance Document"** or any other agreement, deed or instrument is a reference to that Finance Document or other agreement, deed or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement, deed or instrument and includes any increase in, extension of or change to any facility made available under that Finance Document or other agreement, deed or instrument.

1.4 Acknowledgement

The Chargor acknowledges that the Security Agent enters into this Deed for itself and as trustee for the Secured Parties who shall be entitled to the full benefit of this Deed.

1.5 Effect as a deed

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

1.6 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.7 Third party rights

1.7.1 Each Secured Party, any Receiver and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, but no other person who is not a Party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.7.2 Notwithstanding any term of any Finance Document, the Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a Party.

2. COVENANT TO PAY

2.1 Secured Liabilities

The Chargor covenants that it will on demand pay and discharge the Secured Liabilities when due.

2.2 Interest

The Chargor covenants to pay interest at the Default Rate to the Security Agent on any sum not paid in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after judgment).

3. CHARGES

3.1 Land

The Chargor charges:

3.1.1 by way of first legal mortgage all Land described in Schedule 1 (*Details of Land*); and

3.1.2 by way of first fixed charge:-

- (a) all Land vested in the Chargor on the date of this Deed to the extent not effectively mortgaged by Clause 3.1.1;
- (b) all licences to enter upon or use Land and the benefit of all other agreements relating to Land;
- (c) all Related Rights in respect of the Secured Assets; and
- (d) all Land acquired by the Chargor after the date of this Deed.

3.2 Plant and Equipment

The Chargor charges by way of first fixed charge:-

- 3.2.1 the Plant and Equipment (to the extent not effectively charged by Clauses 3.1.1 or 3.1.2) other than any Plant and Equipment which is for the time being part of the Chargor's stock-in-trade or work-in-progress; and
- 3.2.2 all Related Rights under or in connection with the Plant and Equipment.

3.3 Assigned Insurances

To the extent not otherwise assigned to the Security Agent as security for the payment and discharge of the Secured Liabilities, the Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Liabilities, all its right, title and interest from time to time in:-

- 3.3.1 the Assigned Insurances to which it is a party; and
- 3.3.2 all Related Rights under or in connection with the Assigned Insurances to which it is a party.

3.4 Trust

If or to the extent that for any reason the assignment or charging of any Secured Asset is prohibited, the Chargor shall:-

- 3.4.1 hold it on trust for the Security Agent as security for the payment and discharge of the Secured Liabilities; and
- 3.4.2 take such steps as the Security Agent may require to remove the impediment to assignment or charging it.

3.5 Nature of Security created

The Security created under this Deed is created:-

- 3.5.1 as a continuing security to secure the payment and discharge of the Secured Liabilities and shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Liabilities;
- 3.5.2 in favour of the Security Agent as trustee for the Secured Parties; and
- 3.5.3 with full title guarantee.

4. PERFECTION OF SECURITY

4.1 Notices of assignment

- 4.1.1 The Chargor must deliver notices of assignment in relation to the Assigned Insurances:-
 - (a) on the date on which the assignment is granted, by issuing a notice in the form set out in Schedule 3 (*Form of notice of assignment of Assigned Insurance*) addressed to the relevant insurer; and
 - (b) if the Chargor renews, substitutes or replaces any Assigned Insurance, by issuing, on or within 5 Business Days of the date of the renewal, substitution or replacement, a notice in the form set

out in Schedule 3 (*Form of notice of assignment of Assigned Insurance*) addressed to the relevant insurer.

4.1.2 The Chargor shall use all reasonable endeavours to procure that, within 14 days of the date of the each notice of assignment delivered pursuant to Clause 4.1.1 above, each notice of assignment is acknowledged by the party to whom it is addressed.

4.1.3 The Chargor will deliver to the Security Agent:-

- (a) a copy of each notice of assignment, within 5 Business Days of delivery to the relevant counterparty; and
- (b) a copy of each acknowledgment of a notice of assignment, within 5 Business Days of receipt from the relevant counterparty.

4.2 Documents of Title

The Chargor shall upon the execution of this Deed and upon the acquisition by the Chargor of any interest in any Land deliver (or procure delivery) to the Security Agent of either:-

- 4.2.1 all deeds, certificates and other documents relating to such Land (which the Security Agent shall be entitled to hold and retain at the expense and risk of the Chargor); or
- 4.2.2 an undertaking from the Borrower's solicitors (in form and substance acceptable to the Security Agent) to hold all deeds, certificates and other documents of title relating to such Land strictly to the order of the Security Agent.

4.3 Application to the Land Registry

The Chargor and the Security Agent apply to the Land Registry for the following to be entered on the registered title to any Land now or in the future owned by it:-

4.3.1 a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated *[insert date]* in favour of Barclays Bank PLC referred to in the charges register (Form P)"

4.3.2 a notice that:-

"Barclays Bank PLC are under an obligation to make further advances."

5. COVENANTS

5.1 Further assurance

The Chargor shall, from time to time and at its own expense, promptly do whatever the Security Agent requires to:-

- 5.1.1 give effect to the requirements of this Deed;
- 5.1.2 perfect, preserve or protect the Security created or expressed to be created by this Deed, or its priority; or

- 5.1.3 once the Security created by this Deed has become enforceable, facilitate the realisation of the Secured Assets or the exercise of any rights vested in the Security Agent or any Receiver by this Deed or by law,

including executing any transfer, conveyance, charge, assignment or assurance of or in respect of the Secured Assets (whether to the Security Agent or its nominees or otherwise), making any registration and giving any notice, order or direction. The obligations of the Chargor under this Clause 5.1 (*Further assurance*) are in addition to the covenants for further assurance deemed to be included by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

5.2 Negative pledge

The Chargor undertakes that it shall not create or permit to subsist any Security over any Secured Assets, nor do anything else prohibited by clause 23.13 (*Negative pledge*) of the Facility Agreement, except as expressly permitted under the terms of the Finance Documents.

5.3 Disposals

The Chargor undertakes that it shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Secured Assets except as permitted by clause 23.14 (*Disposals*) of the Facility Agreement.

5.4 Land

The Chargor shall promptly notify the Security Agent in writing if it intends to acquire any estate or interest in Land and shall promptly on request by the Security Agent (at the cost of that Chargor) execute a legal mortgage in favour of the Security Agent of that property in any form which the Security Agent may require. If the title to any such estate or interest is registered (or required to be registered) at the Land Registry, the Chargor will procure the registration of the legal mortgage at the Land Registry.

6. ASSIGNED INSURANCES

6.1 The Chargor shall:-

- 6.1.1 deliver to the Security Agent, promptly following execution of the same, such documents relating to the Assigned Insurances as the Security Agent may reasonably require;
- 6.1.2 perform all its obligations under the Assigned Insurances in a diligent and timely manner; and
- 6.1.3 notify the Security Agent of any breach of or default under the Assigned Insurance by it or any other party and any right that arises entitling it or any other party to terminate or rescind the Assigned Insurance, promptly upon becoming aware of the same.

6.2 The Chargor shall not, without the prior written consent of the Security Agent:

- 6.2.1 amend, supplement, supersede or waive any provision (or agree to do to any of the foregoing) of any Assigned Insurance;
- 6.2.2 exercise any right to rescind, cancel, terminate or release any counterparty from any obligations (or agree to do to any of the foregoing) in respect of any Assigned Insurance; or

6.2.3 assign, transfer, charge or otherwise deal with or dispose of any Assigned Insurance or any of the Chargor's rights, title, interest and benefits in, to and in respect of any Assigned Insurances,

except as permitted by the terms of the Finance Documents.

6.3 While no Event of Default is continuing, the Chargor may exercise all its rights in respect of the Assigned Insurances to which it is a party including receiving and exercising all rights relating to proceeds of those Assigned Insurances to the extent permitted pursuant to the terms of the Finance Documents.

7. PROTECTION OF SECURED ASSETS

7.1 Insurance

7.1.1 The Chargor shall at all times during the subsistence of this Deed:-

- (a) keep the Secured Assets insured in accordance with the terms of the Finance Documents;
- (b) if required by the Security Agent or the Finance Documents, cause each Insurance relating to the Secured Assets (other than any Insurances which are Assigned Insurances) to contain (in form and substance satisfactory to the Security Agent) a note of the interest of the Security Agent and an endorsement naming the Security Agent as sole loss payee in respect of all claims;
- (c) promptly, and in any event no later than their due date, pay all premiums and other moneys payable under all its Insurances or procure that such is done and promptly upon request, produce to the Security Agent a copy of each policy and evidence (acceptable to the Security Agent) of the payment of such sums (or procure that such is done);
- (d) comply with the terms of all Insurances relating to the Secured Assets and renew each policy in good time prior to its expiry date;
- (e) if any Insurances relating to the Secured Assets become void or voidable, immediately, at its own cost, effect a new Insurance of the same value as the void or voidable policy;
- (f) if required by the Security Agent or the Finance Documents, provide a copy of all Insurances relating to the Secured Assets to the Security Agent; and
- (g) ensure that all moneys received in respect of any Insurances in respect of the Secured Assets are applied in accordance with the terms of the Facility Agreement.

7.1.2 If the Chargor defaults in complying with Clause 7.1.1, the Security Agent may effect or renew any such Insurance on such terms, in such name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Security Agent in doing so shall be reimbursed by the Chargor to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

7.2 Application of Insurance Proceeds

- 7.2.1 All moneys received under any Insurance relating to the Secured Assets shall, prior to the occurrence of an Event of Default, be applied in accordance with the terms of the Finance Documents.
- 7.2.2 After the occurrence of an Event of Default the Chargor shall hold such moneys upon trust for the Security Agent pending payment to the Security Agent for application in accordance with Clause 10 (*Application of Moneys*) and each Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Secured Assets.

7.3 Power to remedy

If the Chargor fails to comply with any of its obligations in relation to any of its assets subject to Security pursuant to this Deed, or the Security Agent reasonably considers that a Chargor has failed to comply with any such obligations, the Security Agent may, if it thinks fit (but without any obligation) take such steps as it deems appropriate to remedy such failure (including, without limitation, the carrying out of repairs, the putting in place of insurance or the payment of costs, charges or other expenses) and the Chargor will co-operate with and will grant the Security Agent or its agents or contractors such access as the Security Agent may require to the relevant assets or otherwise in order to facilitate the taking of such steps.

8. DEMAND AND ENFORCEMENT

8.1 Enforcement

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

- 8.1.1 the occurrence of an Event of Default which is continuing;
- 8.1.2 any request being made by any Obligor to the Security Agent for the appointment of a Receiver or an administrator, or for the Security Agent to exercise any other power or right available to it; or
- 8.1.3 the occurrence of any event causing, or purporting to cause, the floating charge created by this Deed to become fixed in relation to any Secured Asset.

8.2 Powers on enforcement

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

- 8.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 8.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Secured Assets, without the restrictions imposed by sections 99 and 100 of the LPA;
- 8.2.3 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liability (including transferring the

title in and to it to the Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18), the value of the property so appropriated being such amount as the Security Agent shall determine in a commercially reasonable manner; and

- 8.2.4 subject to Clause 9.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Secured Assets.

8.3 Disposal of the Secured Assets

In exercising the powers referred to in Clause 8.2 (*Powers on enforcement*), the Security Agent or any Receiver may sell or dispose of all or any of the Secured Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

8.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Security Agent, or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Security Agent shall have taken possession or appointed a Receiver of the Secured Assets.

8.5 Delegation

The Security Agent may delegate in any manner to any person any rights exercisable by the Security Agent under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent thinks fit.

9. RECEIVERS

9.1 Method of appointment or removal

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

9.2 Removal

The Security Agent may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Secured Assets of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Secured Assets) appoint a further or other Receiver or Receivers over all or any part of such Secured Assets.

9.3 Powers

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

- 9.3.1 of the Security Agent under this Deed;
- 9.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA (in each case as extended by this Deed);
- 9.3.3 in relation to, and to the extent applicable to, the Secured Assets or any of them, of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;

9.3.4 in relation to any Secured Assets, which he would have if he were its only beneficial owner; and

9.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

9.4 Receiver as agent

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

9.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

9.6 Receiver's remuneration

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

10. APPLICATION OF MONEYS

All sums received by virtue of this Deed and/or any other Transaction Security Documents by the Security Agent or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the order of priority set out in the Facility Agreement and section 109(8) of the LPA shall not apply to this Deed.

11. POWER OF ATTORNEY

11.1 Appointment

The Chargor irrevocably and by way of security appoints:-

11.1.1 the Security Agent (whether or not a Receiver has been appointed);

11.1.2 any delegate or sub delegate of, or other person nominated in writing by, an officer of the Security Agent; and

11.1.3 (as a separate appointment) each Receiver,

severally as the Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Chargor, which the Chargor could be required to do or execute under any provision of this Deed, or which the Security Agent in its sole opinion may consider necessary or desirable for perfecting its title to any of the Secured Assets or enabling the Security Agent or the Receiver to exercise any of its rights or powers under this Deed.

11.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 11.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 11.1 (*Appointment*).

12. CONSOLIDATION

12.1 Combination of accounts

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Security Agent and each Finance Party may at any time an Event of Default is continuing, without notice to the Chargor, combine or consolidate all or any accounts which it then has in relation to the Chargor (in whatever name) and any Secured Liabilities owed by the Chargor to the Security Agent or that Finance Party, and/or set-off or transfer any amounts standing to the credit of one or more accounts of the Chargor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

12.2 Application

The Security Agent's and each Finance Party's rights under Clause 12.1 (*Combination of accounts*) apply:-

- 12.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 12.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 12.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Security Agent and the relevant Finance Party may for the purpose of exercising its right elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and
- 12.2.4 in respect of any Secured Liabilities owed by the Chargor, whether owed solely or jointly, certainly or contingently, presently or in the future, as principal or surety, and howsoever arising.

13. PROTECTION OF THIRD PARTIES

13.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Security Agent, as varied and extended by this Deed, and all other powers of the Security Agent, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

13.2 Purchasers

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

- 13.2.1 to enquire whether any of the powers which the Security Agent or a Receiver have exercised has arisen or become exercisable;
- 13.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act;
- 13.2.3 as to the propriety or validity of the exercise of those powers; or
- 13.2.4 with the application of any moneys paid to the Security Agent, any Receiver or to any other person,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

13.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Agent, any other Finance Party, any Receiver or any person to whom any of them have delegated any of their powers.

14. PROTECTION OF THE SECURITY AGENT, THE SECURED PARTIES AND ANY RECEIVER

14.1 No liability

None of the Security Agent, the other Finance Parties, any Receiver or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

14.2 Not mortgagee in possession

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

14.2.1 to account as mortgagee in possession;

14.2.2 for any loss on realisation; or

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

and if and whenever the Security Agent or any Receiver enters into possession of any Secured Assets it shall be entitled at any time it or he thinks fit to relinquish possession.

14.3 Indemnity

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

14.3.1 any act or omission by any of them in relation to all or any of the Secured Assets;

14.3.2 any payment relating to or in respect of all or any of the Secured Assets which is made at any time by any of them;

14.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

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

14.3.5 any breach by the Chargor of any of its covenants or other obligations to the Security Agent or any other Secured Party,

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

14.4 Interest

The Chargor shall pay interest at the Default Rate on the sums payable under this Clause 14 (*Protection of the Security Agent, the Secured Parties and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

14.5 Indemnity out of the Secured Assets

The Security Agent, the other Secured Parties, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Secured Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 14.3 (*Indemnity*).

14.6 Liability of Chargor related to Secured Assets

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Secured Assets. None of the Secured Parties, the Security Agent or any Receiver is under any obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

14.7 Continuing protection

The provisions of this Clause 14 (*Protection of the Security Agent, the Secured Parties and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

15. PROVISIONS RELATING TO THE SECURITY AGENT

15.1 Powers and discretions

The rights, powers and discretions given to the Security Agent in this Deed:-

15.1.1 may be exercised as often as, and in such manner as, the Security Agent thinks fit;

15.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

15.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

15.2 Certificates

A certificate by an officer of the Security Agent:-

15.2.1 as to any amount for the time being due to the Secured Parties or any of them; or

15.2.2 as to any sums payable to the Security Agent under this Deed,

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

15.3 Trusts

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

16. PRESERVATION OF SECURITY

16.1 Continuing Security

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

16.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Security Agent or any other Secured Party may have now or at any time in the future for or in respect of any of the Secured Liabilities.

16.3 Waiver of Defences

Neither the Security created by this Deed nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it, the Security Agent or any other Secured Party) including:-

- 16.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 16.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 16.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 16.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 16.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 16.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 16.3.7 an insolvency, liquidation, administration or similar procedure.

16.4 Immediate recourse

The Chargor waives any right it may have of first requiring the Security Agent or any other Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

16.5 Appropriations

During the Security Period the Security Agent and each Secured Party may:-

16.5.1 refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 10 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the same; and

16.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor on or account of the Secured Liabilities.

16.6 New accounts

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

16.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Security Agent confirms on behalf of the Secured Parties that the Secured Parties shall make further advances to the Chargor on the terms and subject to the conditions of the Finance Documents.

16.8 Deferral of Chargor's rights

During the Security Period and unless the Security Agent otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

16.8.1 to receive or claim payment from, or be indemnified by an Obligor;

16.8.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;

16.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;

16.8.4 to exercise any right of set-off against any Obligor; and/or

16.8.5 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

17. RELEASE

17.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Security Agent shall, or shall procure that its appointees will, at the request and cost of the Chargor:-

17.1.1 release the Secured Assets from this Deed; and

17.1.2 re-assign the Secured Assets that has been assigned to the Security Agent under this Deed.

17.2 Reinstatement

If the Security Agent considers that any amount paid or credited to any Secured Party under any Secured Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

17.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

17.2.2 the liability of the Chargor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

17.3 Consolidation

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

18. MISCELLANEOUS PROVISIONS

18.1 Severability

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

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

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

18.2 Information

The Security Agent may from time to time seek from any other person having dealings with the Chargor such information about the Chargor and their affairs as the Security Agent may think fit and the Chargor agrees to request any such person to provide any such information to the Security Agent and agrees to provide such further authority in this regard as the Security Agent or any such third party may from time to time require.

18.3 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

18.4 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

18.5 Counterparts

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

19. GOVERNING LAW

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

20. ENFORCEMENT

20.1 Jurisdiction of English Courts

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

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

20.1.3 This Clause 20.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

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

Schedule 1
DETAILS OF LAND

Title number	Description
EX836255	Land known as Outwood Common Community Centre, Outwood Common Road, Billericay CM11 2LE

Schedule 2

DETAILS OF ASSIGNED INSURANCES

The insurance policy underwritten by Zurich Insurance plc, Market International Insurance Company Ltd and certain Underwriters at Lloyds with policy number TCH020510.

Schedule 3

FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

To be printed on the headed notepaper of the Chargor

To: [Insert name and address of relevant insurer]

Date: []

Dear Sirs,

[DESCRIPTION OF RELEVANT INSURANCE POLIC[Y][IES] INCLUDING POLICY NUMBER]
(THE "POLIC[Y][IES]") [refer to an attached schedule if there are a number of policies]

1. We give you notice that we have entered into a legal mortgage dated [] in favour of [SECURITY AGENT] (the "Security Agent") (the "Legal Mortgage").
2. We give you notice that, pursuant to the terms of the Legal Mortgage, we have assigned (and, to the extent not validly or effectively assigned, we have charged by way of fixed charge) to the Security Agent by way of security all of our rights, title, interest and benefits in to or in respect of the Polic[y][ies] including the benefit of all claims and returns of premiums in respect thereof to which we are or may at any time become entitled.
3. With effect from the date of receipt of this notice, we instruct you to:
 - 3.1 name the Security Agent (in its capacity as Security Agent) as loss payee in respect of [each of] the Polic[y][ies];
 - 3.2 promptly inform the Security Agent, without further approval from us, of any default in the payment of any premium or failure to renew [the][any] Policy;
 - 3.3 advise the Security Agent promptly of any proposed cancellation of [the][any] Policy and in any event at least 30 days before the cancellation is due to take place;
 - 3.4 if the insurance cover under [the][any] Policy is to be reduced or any insured risks are to be restricted, advise the Security Agent at least 30 days before the reduction or restriction is due to take effect; and
 - 3.5 disclose to the Security Agent, without further approval from us, such information regarding the Polic[y][ies] as the Security Agent may from time to time request and to send it copies of all notices issued by you under the Polic[y][ies].
4. Following the Security Agent's notification to you that the security created by the Legal Mortgage has become enforceable:-
 - 4.1.1 all payments and claims under or arising from the Polic[y][ies] are to be made to the Security Agent to such account (or to its order) as it may specify in writing from time to time;

- 4.1.2 all remedies provided for in the Polic[y][ies] or available at law or in equity are to be exercisable by the Security Agent; and
- 4.1.3 all rights to compel the performance of the Polic[y][ies] are to be exercisable by the Security Agent.
5. With effect from your receipt of this notice all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Polic[y][ies] (including all rights to compel performance) belong to and are exercisable by the Security Agent.
6. The authority and instructions contained in this notice cannot be revoked or varied by us without the prior written consent of the Security Agent.
7. By countersigning this letter, you confirm that:-
- 7.1 you have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in this notice;
- 7.2 no amendment or termination of [the][any] Policy shall be effective unless you have given the Security Agent 30 days written notice of it or, if it is not possible to comply with such notification to the Security Agent in accordance with the provisions of the [relevant] Policy, the notice will be provided to the Security Agent in relation to such termination as soon as possible; and
- 7.3 you will not, without the Security Agent's prior written consent, exercise any right of set-off or counterclaim in relation to any amounts owed under or in connection with [the][any] Policy.
8. This notice, and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with English law.

Please acknowledge receipt of this notice and your acknowledgement of the matters and instructions set out above within [5] days of receipt by signing, dating and returning the enclosed copy of this letter directly to the Security Agent at [] marked for the attention of [].

Yours faithfully,

for and on behalf of
[CHARGOR]

Acknowledged:

.....

For and on behalf of

[Name of insurer]

EXECUTION PAGES

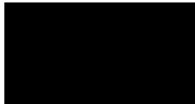
The Chargor

EXECUTED as a Deed
by HALLMARK CARE HOMES
(BILLERICAY) LIMITED
acting by RAM GOYAL, a Director,
in the presence of:-



Director

Signature of witness:



Name of witness: ANGELA POWER

Address:



Occupation: OFFICE MANAGER

The Security Agent

SIGNED for and on behalf of
BARCLAYS BANK PLC

)
)

EXECUTION PAGES

The Chargor)
)
EXECUTED as a Deed)
by **HALLMARK CARE HOMES**)
(BILLERICAY) LIMITED)
acting by , a Director,
in the presence of:- Director

Signature of witness:

Name of witness:

Address:

Occupation:

The Security Agent

SIGNED for and on behalf of
BARCLAYS BANK PLC

