



**Registration of a Charge**

Company name: **QUEEN ELIZABETH'S FOUNDATION FOR DISABLED PEOPLE**

Company number: **00892013**



X7KNSBMA

Received for Electronic Filing: **12/12/2018**

---

**Details of Charge**

Date of creation: **07/12/2018**

Charge code: **0089 2013 0014**

Persons entitled: **CAPITAL CRANFIELD PENSION TRUSTEES LIMITED, DAVID CHARLES HYPHER OBE DL, PAUL SEDGWICK AND JOHN DIXON SCOTCHER**

Brief description: **1. QUEEN ELIZABETH FOUNDATION DEVELOPMENT CENTRE, OAKLAWN ROAD, LEATHERHEAD KT22 0BT KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY92971; 2. LAND AT THE BACK OR DORINCOURT, OAKLAWN ROAD, LEATHERHEAD, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY181453; 3. LAND LYING TO THE SOUTH EAST OF OAKLAWN ROAD, LEATHERHEAD, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY673394; 4. BANSTEAD PLACE PARK ROAD, BANSTEAD, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY483071; 5. EAST SIDE OF PARK ROAD, BANSTEAD, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY482689; 6. LAND LYING TO THE SOUTH WEST OF FOUNTAIN DRIVE, CARSHALTON, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SGL714677; 7. MOBILITY CENTRE, FOUNTAIN DRIVE, CARSHALTON SM5 4NR KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SGL593461; 8. LEATHERHEAD COURT, WOODLANDS ROAD, LEATHERHEAD KT22 0BN, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY750322; AND 9. WOODLANDS LAND, LEATHERHEAD, KNOWN AT HM LAND REGISTRY UNDER TITLE NUMBER SY750394 PLEASE REFER TO INSTRUMENT FOR FULL PARTICULARS**

**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: **BLAKE MORGAN LLP**



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

Company number: 892013

Charge code: 0089 2013 0014

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th December 2018 and created by QUEEN ELIZABETH'S FOUNDATION FOR DISABLED PEOPLE was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th December 2018 .

Given at Companies House, Cardiff on 13th December 2018

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



**Companies House**



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

Date: [x] 4<sup>th</sup> December 2018

- (1) Queen Elizabeth's Foundation for Disabled People
- (2) The Trustees of the Queen Elizabeth's Foundation for Disabled People Pension & Assurance Scheme (as listed herein)
- (3) The Board of the Pension Protection Fund

## **Security Agreement**

relating to

**Queen Elizabeth's Foundation for Disabled People**



Blake Morgan LLP  
New Kings Court  
Tollgate  
Chandler's Ford  
Eastleigh SO53 3LG  
[www.blakemorgan.co.uk](http://www.blakemorgan.co.uk)  
Ref: CO.KJS.596853/1

Confidential

## CONTENTS

---

2	Covenant to Pay.....	10
3	Creation of Security.....	10
4	Payments .....	12
5	Representations .....	12
6	Covenants .....	15
7	When Security becomes enforceable .....	21
8	Enforcement of Security .....	22
9	Receiver .....	23
10	Powers of Receiver .....	24
11	Application of proceeds.....	26
12	Expenses and indemnity.....	27
13	Delegation .....	28
14	Further assurances .....	29
15	Power of attorney .....	29
16	Preservation of Security .....	29
17	Changes to the Parties.....	31
18	Amendments .....	32
19	Release .....	32
20	Substitution of Property.....	32
21	Remedies and waivers.....	32
22	Set-off.....	33
23	Severability, Remedies and waivers .....	33
24	Counterparts.....	33
25	Certificates and Determinations .....	33
26	Notices .....	33
27	Language .....	34
28	Governing Law .....	34
29	Enforcement.....	34
	Schedule 1 Property .....	35

THIS DEED IS DATED THE 7<sup>th</sup> DAY OF December ~~NOVEMBER~~ 2018

- (1) **Queen Elizabeth's Foundation for Disabled People** a company limited by guarantee registered in England with number 892013 and registered charity with number 251051 whose registered office is at Leatherhead Court, Woodlands Road, Leatherhead, Surrey KT22 0BN (the **Charity**); and
- (2) **Capital Cranfield Pension Trustees Limited, David Charles Hypher OBE DL, Paul Sedgwick and John Dixon Scotcher** as the trustees of the Queen Elizabeth's Foundation for Disabled People Pension and Assurance Scheme C/o Capital Cranfield Trustees Limited, 2<sup>nd</sup> Floor, 42 New Broad Street, London EC2M 1JD (the **Trustees**); and
- (3) **The Board of the Pension Protection Fund** a statutory corporation established by the Pensions Act 2004 of Renaissance, 12 Dingwall Road, Croydon, Surrey CR0 2NA (the **PPF**).

#### **BACKGROUND**

- (A) The Charity has issued the Notes (as defined herein) in favour of the Trustees.
- (B) The Charity has agreed to secure the payment and discharge of the Secured Liabilities.
- (C) It is intended that following the issue and allotment of the Notes to the Trustees, the Notes, with the benefit of this Security, and other rights under this Deed, may be transferred to the PPF such that, among other things, the PPF will become the secured party for the purposes of this Deed.

#### **IT IS AGREED AS FOLLOWS:**

### **1 INTERPRETATION**

#### **1.1 Definitions**

In this Deed:

<b>Act</b>	means the Law of Property Act 1925
<b>Assessment Period</b>	means an assessment period for the purposes of section 132 of the Pensions Act
<b>Banstead</b>	means the property that is listed in row number 2 in the table listed in Schedule 1
<b>Berkeley Land</b>	the parcels of land shown separately edged yellow on the plan (marked with reference QEF-L-P1) annexed to this Deed

<b>Business Day</b>	means a day (other than a Saturday or a Sunday) on which banks are open for general business in London
<b>Carshalton</b>	means the property that is listed in row number 3 in the table listed in Schedule 1
<b>Certificate of Title</b>	means any certificate of title on the Property addressed to and provided at the request of the Trustees before the date of this Deed
<b>Creditors' Process</b>	means, in relation to a person, any expropriation, attachment, sequestration, distress or execution (or any analogous event in any jurisdiction) which affects a material part of the assets of that person, and is not discharged within fourteen (14) days
<b>CVA</b>	means the Company Voluntary Arrangement pursuant to Part 1 of the Insolvency Act 1986 in respect of the Charity approved on or about the date of this Deed
<b>Demand</b>	means any demand made on the Charity by the Trustees under Clause 2 (Covenant to pay) in relation to the Secured Liabilities of the Charity
<b>Development</b>	means the development of new campus buildings pursuant to a development agreement dated 26 January 2017 and made between (1) the Charity and (2) QEF Developments Limited
<b>Disposal Proceeds</b>	means all capital monies or other sums or other consideration paid or payable in respect of the disposal of the Charity's interest in all or any part of any Properties
<b>Dorincourt</b>	means the property that is listed in row number 1 in the table listed in Schedule 1
<b>Environmental Approval</b>	means any consent, approval, authorisation, permission or licence required by any Environmental Law
<b>Environmental Claim</b>	means any action or claim by any person in connection with: <ul style="list-style-type: none"> <li>(a) a breach, or alleged breach, of an Environmental Law;</li> <li>(b) a liability, or alleged liability, under Environmental Law;</li> <li>(c) a failure to comply with any Environmental</li> </ul>

Approval;

(d) any accident, fire, explosion or other event of any type involving an emission or substance which is capable of causing harm to any living organism or the environment; or

(e) any other environmental contamination.

**Environmental Law**

means any law or regulation concerning:

(a) the protection of health and safety;

(b) the environment; or

(c) any emission or substance which is capable of causing harm to any living organism or the environment.

**Event of Default**

means, in relation to the Notes, an event specified as such in the instrument constituting the Term Notes, or the Sale Notes as applicable

**Existing Security**

means the charge in favour of Welbeck Strategic Land LLP dated 2 April 2013 and registered against title numbers SY750322 and SY750394

**Fixtures**

means all fixtures and fittings and fixed plant and machinery on the Properties

**Headlease**

means a lease under which any Properties may be held by the Charity

**Insolvency Event**

has the meaning given to it in section 121 of the Pension Act 2004

**Insured Property Assets**

means the Premises and all the Charity's other assets of an insurable nature in or on the Properties

**Leatherhead**

means the property that is listed in row number 4 in the table listed in Schedule 1

**Material Adverse Effect**

means a material adverse effect on:

(a) the ability of the Charity to perform its payment obligations under this Deed;

(b) the validity or enforceability of, or the effectiveness, making or ranking of, this Deed; or

(c) the validity or enforceability, or the effectiveness or



ranking of, any right or remedy of the Trustees under this Deed.

**Net Enforcement Proceeds**

means, in relation to any Security Asset:

(a) any proceeds of sale or enforcement; and/or

(b) any rental or other income derived from the Properties,

collected or received by the Trustees (or any Receiver) arising from that Security Asset following the enforcement of this Security, less all costs, expenses, remuneration and other items relating thereto contemplated in Clause 11.1 (Application of Proceeds)

**Notes**

means the Sale Notes and the Term Notes or the principal amount outstanding thereof from time to time

**Occupational Lease**

means any lease, agreement for lease, licence or other occupational interest subject to which the Charity's interest in a Property is held, now or in the future, including any guarantee and rent deposit arrangements entered into under the terms of them

**Party**

means a party to this Deed

**Pensions Act**

means the Pensions Act 2004 and its underlying regulations

**Pension Protection Fund**

means the Board of the Pension Protection Fund as established under Part 2 of the Pensions Act

**Pension Scheme**

means the Queen Elizabeth's Foundation for Disabled People Pension and Assurance Scheme established by an interim trust deed dated 15 December 1966 and currently governed by the Fourth Definitive Trust Deed, entered into between the Charity and the then trustees, dated 10 March 2014 and rules attached to that deed (as amended from time to time), which is administered by the Trustees

**Pensions Regulator**

means the body of that name and referred to as the "Regulator" in the Pensions Act

**PPF Creditor Rights**

means the rights and powers in relation to the debts

owed to the Trustees which pass to the PPF by virtue of section 137 and/or section 161 of the Pensions Act

**Premises** means all buildings and erections situated on the Properties

**Properties** means the real property listed in Schedule 1 and **Property** means any one of them and in either case any part of them as the context requires

**Qualifying Insolvency Event** means a qualifying insolvency event for the purposes of section 127 of the Pension Act 2004

**Receiver** means a receiver and manager or a receiver or an administrator or an administrative receiver, in each case, appointed under this Deed

**Reservations** means:

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and damages may be regarded as an adequate remedy;
- (b) the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally;
- (c) the statutory time-barring of claims;
- (d) defences of set off or counterclaim;
- (e) rules against penalties and similar principles;
- (f) the fact that security which is described as fixed security may in fact be floating security;
- (g) the possibility that an undertaking to assume liability for, or indemnify a person against, non-payment of stamp duty may be void;
- (h) the fact that a court may refuse to give effect to a purported contractual obligation to pay costs imposed upon another person in respect of costs of an unsuccessful litigation brought against that person or may not award by way of costs all of the expenditure incurred by a successful litigant in proceedings brought before that court or that a

court may stay proceedings if concurrent proceedings based on the same grounds and between the same parties have previously been brought before another court; and/or

- (i) any steps for perfection not required by the terms of this Deed to be taken,

and any other reservations or qualifications of law contained in any legal opinion delivered to the Trustees in respect of this Deed.

<b>Restructuring Agreement</b>	means the agreement dated November 2018 between the Charity, the Trustees and the PPF relating to the approval of the CVA and the issue of the Notes
<b>Sale Notes</b>	means the £7,500,000 2% secured Loan Notes to be issued by the Charity on or about the date of this Deed
<b>Sale Properties</b>	means Banstead and Dorincourt and the Berkeley Land and <b>Sale Property</b> means any one of them
<b>Secured Liabilities</b>	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of the Charity under or pursuant to the Notes
<b>Security Assets</b>	means all assets of the Charity the subject of any Security Interest created, or purported to be created, by this Deed and any Supplemental Security Agreement
<b>Security Interest</b>	any mortgage, charge, pledge, lien, assignment, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
<b>Security Period</b>	the period beginning on the date of this Deed and ending on the date on which all Secured Liabilities which may be or become due have been unconditionally and irrevocably paid and discharged in full
<b>Subsidiary</b>	<ul style="list-style-type: none"><li>(a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and</li><li>(b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006</li></ul>

<b>Substitute Property</b>	means a freehold or leasehold property approved by the Trustees pursuant to Clause 20 (Substitution of Property) in their absolute discretion
<b>Supplemental Security Agreement</b>	a security agreement supplemental to this Deed executed by the Charity in favour of the Trustees containing a charge by way of legal mortgage over a Substitute Property
<b>Tax</b>	any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)
<b>Tax Deduction</b>	a deduction or withholding for or on account of Tax from a payment under this Deed
<b>Term Notes</b>	the £22,500,000 secured Loan Notes 2050 to be issued by the Charity on or about the date of this Deed

## 1.2 Construction

1.2.1 In this Deed unless the contrary intention appears, a reference to:

- (a) **the Trustees** includes anyone who is a trustee of the Pension Scheme from time to time, the PPF and any person who is from time to time the holder of any of the Notes;
- (b) **assets** includes present and future properties, revenues and rights of every description and includes uncalled capital;
- (c) an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- (d) **disposal** means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
- (e) **this Security** means any Security Interests created by this Deed and any Supplemental Security Agreement;
- (f) a **person** includes any individual, firm, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
- (g) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which persons to which it applies are accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (h) **Sterling or £** is a reference to the lawful currency for the time being of the United Kingdom;
- (i) a **provision of law** is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
- (j) a **Clause**, a **Subclause**, a **Paragraph**, a **Subparagraph** or a **Schedule** is a reference to a clause, a subclause, a paragraph or a subparagraph of, or a schedule to, this Deed;
- (k) a **Party** or any other person includes its successors in title, permitted assigns and permitted transferees and this Deed shall be binding on and enforceable by any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme (and this subparagraph (k) shall be in addition to, and not affect, the provisions of the Trustee Act dealing with transfers of assets and liabilities from one trustee to another);
- (l) this **Deed** (or any specified provision of it) or any other document shall be construed as a reference to this Deed, that provision or that document as in force for the time being and as amended, restated, varied, supplemented or novated from time to time;
- (m) **including** shall not be construed narrowly but be taken as reading **including without limitation**;
- (n) a **time of day** is a reference to London time; and
- (o) words importing the singular shall include the plural and vice versa.

1.2.2 Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:

- (a) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
- (b) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
- (c) notwithstanding subparagraph (a) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.

1.2.3 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and, notwithstanding any term of this Deed, no consent of any third party is required for any variation (including any release or compromise of any

liability) or termination of this Deed. As contemplated by subparagraph 1.2.1(k) above, any person who is for the time being a trustee of the Scheme may enforce or enjoy the benefit of any term of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

- 1.2.4 If the Trustees consider that an amount paid to them under this Deed is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.2.5 Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset.
- 1.2.6 The headings in this Deed do not affect its interpretation.
- 1.2.7 It is intended by the Parties that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### 1.3 PPF

- 1.3.1 Expressions defined in the Pensions Act shall have the same meaning when used in this Clause 1.2 if not already defined in this Deed.
- 1.3.2 The PPF is entering into this Deed pursuant to Section 111 of the Pensions Act (and all other powers empowering it) and on the following assumptions (the "**Assumptions**") which the other parties acknowledge:
  - (a) the Pension Scheme is an Eligible Scheme; and
  - (b) on or before the date which is 30 days after the date of this Agreement, a Qualifying Insolvency Event will occur in relation to every Employer in relation to the Pension Scheme triggering an Assessment Period and the PPF Creditor Rights in relation to the whole of the Pension Scheme.
- 1.3.3 The PPF enters into this Deed, and the other Parties acknowledge that the PPF enters into this Deed, on the basis that:
  - (a) it does so without having made any enquiries in relation to the Assumptions, and without passing any opinion on or acknowledging whether or not the Assumptions (or any of them) are true or correct; and
  - (b) nothing in this Deed or otherwise shall be construed so as to create any obligation on the PPF to confirm that an Assessment Period has commenced or to assume responsibility for the Pension Scheme or any part of it.
- 1.3.4 The Parties (other than the PPF) agree that, in accordance with section 137 of the Pensions Act, if an Assessment Period commences in relation to the Pension Scheme (or any part of it), then unless and until:

(a) the PPF ceases to be involved with the Pension Scheme pursuant to section 149 of the Pensions Act; or

(b) subsection 154(1) of the Pensions Act applies to the Pension Scheme,

the PPF shall take the benefit of this Deed and may exercise any of the rights or powers of the Trustees under this Deed, but without prejudice to the protections and exclusions in the Trustees' favour.

#### **1.4 Trustees**

1.4.1 No Trustee shall incur any personal liability in any circumstance by virtue of this Deed, nor in relation to any related matter, claim, transfer, assignment or other documents made pursuant to this Agreement, except in the case of his personal dishonesty or wilful default.

1.4.2 Upon the issue by the PPF of a Transfer Notice pursuant to section 160 of the Pensions Act, any obligation or liability of the Trustees under this Agreement to perform obligations shall be discharged, whereupon the Trustees shall cease to be a party to this Agreement (without prejudice to the protections and exclusions in the Trustees' favour), and all references in this Agreement to the Trustees shall be references to the PPF.

1.4.3 Nothing in this Agreement shall conflict with the Trustees' duty under s154 of the Pensions Act or otherwise restrict the Trustees' powers under the Trust Deed or statute.

#### **1.5 Charities Act 2011**

1.5.1 The land charged pursuant to this Deed is held by (or in trust for) Queen Elizabeth's Foundation for Disabled People a non-exempt charity and this charge (or mortgage) is not one falling within Section 124(9) of the Charities Act 2011 so that the restrictions imposed by Section 124 of that Act apply.

1.5.2 The trustees of the Charity certify that they have power under the trusts pursuant to which they hold the land charged to effect this charge and that they have obtained and considered such advice as is mentioned in Section 124 (2) of the Charities Act 2011.

#### **2 COVENANT TO PAY**

The Charity covenants with the Trustees that it will pay and discharge the Secured Liabilities as and when the same are expressed to be due for payment in accordance with their respective terms.

#### **3 CREATION OF SECURITY**

##### **3.1 General**

3.1.1 All the Security Interests created under this Deed:

- (a) are created in favour of the Trustees;
- (b) are created over present and future assets of the Charity;
- (c) are created as first ranking Security Interests subject only to the Existing Security;
- (d) are continuing security for the payment of all the Secured Liabilities; and
- (e) are made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.1.2 If the rights of the Charity under a document cannot be secured without the consent of a party to that document:

- (a) the Charity must notify the Trustees promptly;
- (b) this Security will secure all amounts which the Charity may receive, or has received, under that document but exclude the document itself; and
- (c) unless the Trustees otherwise require, the Charity must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under this Deed.

3.1.3 The payment obligations of the Charity under this Deed shall survive the enforcement of the whole or any part of the Security Assets.

## **3.2 Charge**

The Charity charges and agrees to charge, subject (if applicable) to the rights of the holder of the Existing Security:

3.2.1 by way of legal mortgage the Properties;

3.2.2 by way of fixed charge

- (a) all buildings, fixtures, fittings and fixed plant and machinery and Fixtures on the Properties; and
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of the Properties;
- (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Properties;
- (d) any warranties, guarantees, professional appointments, building or engineering contracts, or other agreements relating to the Properties, now existing or which come into existence after the date hereof and during the continuance of the Security; and
- (e) any rental income paid or payable in respect of the Properties; and



- (f) all easements, licences and other rights at any time vested in the Charity in connection with the Properties.

#### **4 PAYMENTS**

##### **4.1 Funds**

Payments under this Deed to the Trustees must be made for value on the due date at such times and in such funds as the Trustees may specify to the Charity as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

##### **4.2 Currency**

Any amount payable under this Deed is payable in Sterling.

##### **4.3 No set-off or counterclaim**

Subject to paragraph 12.6, all payments made by the Charity under this Deed shall be calculated and must be made without (and be free and clear of any deduction for) set-off or counterclaim.

##### **4.4 Business Days**

If a payment under this Deed is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

#### **5 REPRESENTATIONS**

##### **5.1 Representations**

The representations set out in this Clause 5 are made by the Charity to the Trustees and to the PPF.

##### **5.2 Status**

5.2.1 It is a company limited by guarantee, duly incorporated and validly existing under the laws of England and Wales.

5.2.2 It has the power to own its assets and carry on its business as it is being conducted.

##### **5.3 Powers and authority**

5.3.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

5.3.2 No limit on its powers will be exceeded as a result of the grant of this Deed.

#### **5.4 Legal validity**

Subject to the Reservations, the obligations expressed to be assumed by it in this Deed are legal, binding, valid and enforceable obligations.

#### **5.5 Non-conflict**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

5.5.1 any law or regulation applicable to it; or

5.5.2 its constitutional documents; or

5.5.3 any document which is binding upon it or any of its assets nor shall it constitute a default or termination event (however so described) under any such document;

#### **5.6 No insolvency**

Other than the CVA, no Creditors' Process has been taken or, to its knowledge, threatened in relation to it and no Insolvency Event has occurred and is continuing unremedied or undischarged or, to its knowledge, threatened in relation to the Charity.

#### **5.7 No default**

5.8 As far as the Charity is aware, and otherwise than by reason of the CVA, no event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing, would constitute) a default or termination event (howsoever described) under any document which is binding on it or any of its assets to an extent or in a manner which as or is reasonably likely to have a Material Adverse Effect.

#### **5.9 Authorisations**

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Deed have been obtained or effected (as appropriate) and are in full force and effect, including any consent required under any Headlease.

#### **5.10 Nature of security**

5.10.1 This Deed creates those Security Interests it purports to create and is not liable to be amended or otherwise set aside in the insolvency, liquidation or administration of the Charity or otherwise.

5.10.2 The Security Interests created by this Deed constitute a first priority Security Interest of the type described over the Security Assets and the Security Assets are not subject to any prior or pari passu Security Interest, subject only to the Existing Security.

#### **5.11 Litigation**

38977953\_7

No litigation, arbitration or administrative proceedings are current or, to its knowledge, pending or threatened against it or any of its Subsidiaries, which have or, if adversely determined, are reasonably likely to have a Material Adverse Effect.

**5.12 Title**

Except as disclosed in any Certificate of Title or on the title to the Property or any of it maintained at the Land Registry:

- 5.12.1 it is the sole legal and beneficial owner of the Security Assets;
- 5.12.2 no breach of any law or regulation is outstanding which affects or might affect materially the value of the Properties;
- 5.12.3 there are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Properties;
- 5.12.4 so far as it is aware, nothing has arisen or has been created or is subsisting which would be an overriding interest, or an unregistered interest which overrides first registration or registered dispositions, over the Properties;
- 5.12.5 no facilities necessary for the enjoyment and use of the Properties are enjoyed by the Properties on terms entitling any person to terminate or curtail their use;
- 5.12.6 it has received no notice of any adverse claims by any person in respect of the ownership of the Properties or any interest in it, nor has any acknowledgement been given to any person in respect of the Properties; and
- 5.12.7 Except for the Existing Security, the Properties are held by it free from any Security Interest.

**5.13 Information**

- 5.13.1 any information supplied to the Trustees, or to the issuer of any Certificate of Title in relation to the Security Assets prior to the date of this Deed was, at the date stated therein or the date when such information was provided, true, accurate and complete in all material respects;
- 5.13.2 no material information regarding Properties has been withheld from the Trustees, or the issuer of any Certificate of Title; and
- 5.13.3 as at the date of this Deed, the Charity is not aware that anything has occurred since the date of supply of any information referred to in paragraph 5.13.1 above, which renders that information untrue or misleading in any material respect.

**5.14 Environmental matters**

- 5.14.1 The Charity is in compliance with Subclause 6.7.1 (Environmental matters) and no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.

5.14.2 So far as the Charity is aware no dangerous substance has been used, disposed of, generated, stored, dumped, released, deposited, buried or emitted at, on, from or under the Properties.

5.14.3 No Environmental Claim has been made or so far as it is aware is threatened against the Charity which has or is reasonably likely to have a Material Adverse Effect.

#### **5.15 Centre of main interest and establishments**

For the purposes of the EU Regulation on Insolvency Proceedings 2015/848 (**the Recast Regulations**) the Charity's "centre of main interest" (as that term is used in Article 3(1) of the Recast Regulations) is situated in England and Wales and it has no "establishment" (as that term is defined in Article 2 of the Recast Regulation) in any other jurisdiction.

### **6 COVENANTS**

#### **6.1 General**

The Charity agrees to be bound by the covenants set out in this Clause 6 so long as any Secured Liabilities are outstanding.

#### **6.2 Notification of breach**

The Charity must notify the Trustees of any breach of any of the provisions of this Deed promptly upon becoming aware of its occurrence.

#### **6.3 Authorisations**

The Charity must promptly obtain, maintain and comply with the terms of any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, this Deed.

#### **6.4 Compliance with laws**

The Charity must comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.

#### **6.5 Pari passu ranking**

The Charity must ensure that its payment obligations under this Deed rank at least pari passu with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by laws of general application to companies.

#### **6.6 Disposals and negative pledge**

The Charity must not:

6.6.1 except for the Existing Security or as permitted by the Restructuring Agreement, create, purport to create or permit to subsist any Security Interest on any Security Asset (other than this Security); or

- 6.6.2 sell, assign, transfer, licence, lease or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interests in, any Security Asset except for the sale of the Sale Properties as provided in accordance with Clause 4 of the Restructuring Agreement.

## **6.7 Environmental matters**

### **6.7.1 The Charity must:**

- (a) obtain all Environmental Approvals required to be obtained by it where failure to do so is reasonably likely to have a Material Adverse Effect;
- (b) comply in all material respects with any Environmental Approval or Environmental Law applicable to it where failure to do so is reasonably likely to have a Material Adverse Effect;
- (c) ensure that the Trustees do not incur any liability by reason of any breach by the Charity of any Environmental Law or Environmental Approval; and
- (d) promptly upon becoming aware notify the Trustees of:
  - (i) any Environmental Claim current or, to its knowledge, pending or threatened; or
  - (ii) any circumstances reasonably likely to result in an Environmental Claim.

In each case where such Environmental Claim has, or might reasonably be expected to have, a Material Adverse Effect.

### **6.7.2 The Charity must indemnify each Trustee against any loss or liability which:**

- (a) that Trustee incurs as a result of any actual or alleged breach of any Environmental Law or Environmental Approval by the Charity; and
- (b) which would not have arisen if this Deed had not been entered into, unless it is caused by that Trustee's gross negligence or wilful misconduct.

## **6.8 Repair**

### **The Charity must keep:**

- 6.8.1 the Premises and all fixed and movable plant, machinery, fixtures, fittings, cables, wires, drains, pipes and sanitary, water and other services comprised in them (in so far as the same are owned by the Charity or their maintenance and repair is the responsibility of the Charity) in reasonable repair and condition and in and, except for the Development, not, without the prior written consent of the Trustees (such consent not to be unreasonably withheld or delayed), alter, pull down, remove or

dispose of any of the same except in the ordinary course of repair, maintenance or improvement; and

- 6.8.2 the Fixtures and all plant and machinery owned by it and which are in or on the Premises in a reasonable state of repair and in reasonable order and condition,

## **6.9 Development**

The Charity shall comply with its obligations under Clause 6 of the Restructuring Agreement in relation to the Development.

## **6.10 Insurance**

- 6.10.1 The Charity must insure the Properties against:

- (a) loss or damage by fire;
- (b) other risks normally insured against by persons carrying on the same class of business as that carried on by it; and
- (c) any other risks which the Trustees may reasonably require.

- 6.10.2 Any insurance must be in a sum or sums not less than the replacement value of the Insured Property Assets. For this purpose, replacement value means the total cost of entirely rebuilding, reinstating or replacing those Insured Property Assets in the event of their being completely destroyed, together with architects' fees and any other professional fees which would be considered reasonably necessary in the circumstances.

- 6.10.3 Any insurance required under this subclause 6.10 must be:

- (a) in an amount and form reasonably acceptable to the Trustees; and
- (b) with an insurance company or underwriter that is reasonably acceptable to the Trustees.

- 6.10.4 If the Trustees give notice to the Charity that the insurance company or underwriter has ceased to be acceptable to them upon reasonable grounds, the Charity shall, subject to it being able to do so upon terms and at a price that are commercially reasonable, put in place replacement insurances in accordance with this subclause 6.10 with an insurance company or underwriter that is acceptable to the Trustees acting reasonably by the date falling sixty (60) days after the date of the notice from the Trustees provided that the Charity shall not be obliged to terminate a policy of insurance that has more than 30 days unexpired term where to do so would expose the Charity to any penalty or charge for early termination.

- 6.10.5 All moneys received or receivable under any insurance in respect of the Insured Property Assets must be applied:

- (a) in replacing, restoring or reinstating the Insured Property Assets destroyed or damaged or in any other manner which the Trustees may agree; or
- (b) after an Event of Default has occurred, if the Trustees so direct and the terms of the relevant insurances allow, in or towards satisfaction of the Secured Liabilities.

6.10.6 The Charity must procure that the Trustees are named as co-insured on all insurance policies in respect of the Insured Property Assets.

6.10.7 The Charity must not do or permit anything to be done which may make void or voidable any policy of insurance in connection with any Insured Property Asset.

6.10.8 The Charity must promptly pay all premiums and do all other things necessary to keep each policy of insurance in respect of the Insured Property Assets in force.

6.10.9 The Charity must, immediately on demand by the Trustees, produce to the Trustees the policy, certificate or cover note relating to any insurance policy in respect of the Insured Property Assets and the receipt for the payment of any premium for any such insurance policy as the Trustees may request.

#### **6.11 No structural alterations**

Except for the Development, the Charity shall ensure that neither it nor any other person makes any structural alteration to the Properties which materially and adversely affects the value of the Properties without the prior written consent of the Trustees.

#### **6.12 Title covenants**

The Charity shall procure that all material covenants, agreements, obligations, stipulations and conditions now or at any time:

- 6.12.1 affecting the Properties or their use or enjoyment (so far as the same subsist and are capable of being enforced) shall be observed and performed; and
- 6.12.2 benefiting the Properties shall be diligently enforced and such obligations shall not be waived, varied or released, or any agreement made to do the same,

including those contained in any Headlease and/or those contained in any agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on the Charity or affecting the Properties or the use or enjoyment of the Properties and the Charity shall not take or omit to take any action of any kind whereby any interest or estate in the Properties may be materially adversely affected.

#### **6.13 Pay outgoings**

The Charity shall:

- 6.13.1 punctually pay or procure to be paid all rates, rents, taxes, levies, charges, duties, assessments, impositions and outgoings and other sums payable out of or in

respect of the Properties and provide to the Trustees, when required, proof of such payment; and

- 6.13.2 indemnify, or procure the indemnification of, the Trustees on demand against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever,

whether imposed by deed or by statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character which now or at any time during the continuance of this Security are payable in respect of the Properties.

#### **6.14 Compliance with leases**

The Charity must:

- 6.14.1 perform all the terms on its part contained in any Occupational Lease and enforce those on the part of the occupational tenant;
- 6.14.2 perform all the terms on its part contained in any Headlease and enforce those on the part of the landlord; and
- 6.14.3 not do or allow to be done any act as a result of which any Headlease may become liable to forfeiture or otherwise be terminated.

#### **6.15 Compliance with applicable laws and regulations**

The Charity must:

- 6.15.1 perform all its obligations under any law or regulation in any way related to or affecting the Properties if failure to do so might reasonably be expected to have a Material Adverse Effect; and
- 6.15.2 not suffer to be done on the Properties anything which shall cause, constitute or contribute to any breach of the Town and Country Planning Act 1990 and any other legislation relating to town and country planning in force from time to time or any orders or regulations made under them if failure to do so might reasonably be expected to have a Material Adverse Effect;
- 6.15.3 other than in relation to the Development, not apply for any planning consent for development or change of use of any material part of the Security Assets without the Trustees' prior consent (such consent not to be unreasonably withheld or delayed).

#### **6.16 Notices**

The Charity must, within fourteen (14) days after the receipt by the Charity of any application, requirement order or notice served or given by any public or local or any other authority with respect to the Security Assets (or any part of it):

- 6.16.1 deliver a copy to the Trustees; and



6.16.2 inform the Trustees of the steps taken or proposed to be taken to comply with the relevant requirement.

**6.17 Leases**

The Charity must not without the consent of the Trustees (such consent not to be unreasonably withheld or delayed) grant or agree to grant (whether in exercise or independently of any statutory power) or vary or agree to vary any Occupational Lease or confer upon any person any contractual licence or right to occupy the Properties.

**6.18 H.M. Land Registry**

The Charity authorises the Trustees to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estate[s]:

"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 security agreement dated [●] and made between (1) Queen Elizabeth's Foundation for Disabled People, (2) the Trustees of the Queen Elizabeth's Foundation for Disabled People and (3) the Board of the Pension Protection Fund referred to in the Charges Register (or its conveyancer)."

**6.19 Access**

The Charity must permit (or procure the permission of any tenant in possession of the Properties) the Trustees and any person nominated by them at all reasonable times to enter any part of the Properties and view the state of it.

**6.20 Commonhold**

The Charity shall not convert any freehold estate comprised in the Properties to a freehold estate in commonhold under Part 1 of the Commonhold and Leasehold Reform Act 2002.

**6.21 Investigation of Title**

The Charity must grant the Trustees and/or their lawyers on request all facilities within the power of the Charity to enable the Trustees or their lawyers (at the expense of the Charity) to:

6.21.1 carry out investigations in relation to the Properties; and

6.21.2 make such enquiries in relation to any part of the Properties as a prudent mortgagee might carry out.

Provided that the Trustees may only exercise the right in this clause 6.21 if they reasonably believe that an Event of Default has occurred and is continuing unremedied.

## **6.22 Power to remedy**

If the Charity fails to perform any covenant in this Clause 6 affecting the Properties, the Charity must allow the Trustees or their agents and contractors upon reasonable notice:

- 6.22.1 to enter any part of the Properties;
- 6.22.2 to comply with or object to any notice served on the Charity in respect of the Properties; and
- 6.22.3 to take any action as the Trustees may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

The Charity must immediately on request by the Trustees pay the costs and expenses of the Trustees or their agents and contractors incurred in connection with any action taken by them under this Subclause.

## **6.23 Notices to landlords**

The Charity must where required under the terms of any Headlease, give notice to the landlord of the Properties of the completion of this Deed.

## **6.24 Negotiations with local or other authority**

The Charity shall not conduct any negotiations or make any agreement with any local or other authority concerning the acquisition of the Properties without the consent of the Trustees (such consent not to be unreasonably withheld or delayed subject to the terms of the Restructuring Agreement).

## **7 WHEN SECURITY BECOMES ENFORCEABLE**

### **7.1 Event of Default**

The Security Interests constituted by this Deed will become immediately enforceable if a demand is issued by a holder of any of the Notes for repayment in full of the Notes following the occurrence of an Event of Default.

### **7.2 Discretion**

After this Security has become enforceable, the Trustees may in their absolute discretion enforce all or any part of this Security in any manner they see fit.

### **7.3 Power of sale**

The power of sale and other powers conferred by Section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

## **8 ENFORCEMENT OF SECURITY**

### **8.1 General**

- 8.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- 8.1.2 Section 103 of the Act (restricting the power of sale) and Section 93 of the Act (restricting the right of consolidation) do not apply to this Security.
- 8.1.3 The statutory powers of leasing conferred on the Trustees are extended so as to authorise the Trustees to lease, make agreements for leases, accept surrenders of leases and grant options as the Trustees may think fit and without the need to comply with any provision of Section 99 or 100 of the Act.

### **8.2 No liability as mortgagee in possession**

No Trustee nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### **8.3 Privileges**

Each Receiver and each Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply.

### **8.4 Protection of third parties**

No person (including a purchaser) dealing with the Trustees or a Receiver or its or his agents will be concerned to enquire:

- 8.4.1 whether the Secured Liabilities have become payable;
- 8.4.2 whether any power which the Trustees or a Receiver is/are purporting to exercise has become exercisable or is being properly exercised;
- 8.4.3 whether any money remains due in respect of the Secured Liabilities;
- 8.4.4 how any money paid to a Trustee or to that Receiver is to be applied; or
- 8.4.5 about any propriety or regularity on the part of a Trustee or of a Receiver in relation to any of the dealings referred to in this Clause 8.

### **8.5 Redemption of prior mortgages**

- 8.5.1 At any time after this Security has become enforceable, the Trustees may:
  - (a) redeem any prior Security Interest against any Security Asset; and/or
  - (b) procure the transfer of that Security Interest to themselves; and/or

- (c) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Charity.

8.5.2 The Charity must pay to the Trustees, immediately on demand, the costs and expenses incurred by the Trustees in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## **9 RECEIVER**

### **9.1 Appointment of Receiver**

9.1.1 Except as provided below, the Trustees may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- (a) this Security has become enforceable; or
- (b) the Charity so requests the Trustees in writing at any time.

9.1.2 Any appointment under Subclause 9.1.1 may be by deed, under seal or in writing under hand.

9.1.3 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under Section 109(1) of the Act) does not apply to this Deed.

9.1.4 The Trustees are not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

### **9.2 Removal**

The Trustees may by writing (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by them and may, whenever they think fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **9.3 Remuneration**

The Trustees may fix the remuneration of any Receiver appointed by them from time to time, the maximum rate specified in Section 109(6) of the Act will not apply and the remuneration of the Receiver shall be a debt secured by this Deed which shall be due and payable immediately upon its being paid by the Trustees.

### **9.4 Agent of the Charity**

9.4.1 A Receiver will be deemed to be the agent of the Charity for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Charity alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.

- 9.4.2 The Trustees will not incur any liability (either to the Charity or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **9.5 Relationship with Trustees**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Trustees in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## **10 POWERS OF RECEIVER**

### **10.1 General**

10.1.1 A Receiver has all of the rights, powers and discretions set out below in this Clause 10 in addition to those conferred on it by any law; this includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.

10.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### **10.2 Possession**

A Receiver may take immediate possession of, get in and collect any Security Asset.

### **10.3 Carry on business**

A Receiver may carry on any business of the Charity in any manner he thinks fit.

### **10.4 Employees**

10.4.1 A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.

10.4.2 A Receiver may discharge any person appointed by the Charity.

### **10.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

### **10.6 Sale of assets**

10.6.1 A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

10.6.2 The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

10.6.3 Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Charity.

#### **10.7 Leases**

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

#### **10.8 Works**

A Receiver may alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and abandon, complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Charity was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land).

#### **10.9 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Charity or relating in any way to any Security Asset.

#### **10.10 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

#### **10.11 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

#### **10.12 Subsidiaries**

A Receiver may form a Subsidiary of the Charity and transfer to that Subsidiary any Security Asset.

#### **10.13 Delegation**

A Receiver may delegate his powers in accordance with this Deed.

#### **10.14 Lending**

A Receiver may lend money or advance credit to any customer of the Charity.

#### **10.15 Protection of assets**

A Receiver may:

10.15.1 effect any repair or insurance and do any other act which the Charity might do in the ordinary conduct of its business to protect or improve any Security Asset;

10.15.2 commence and/or complete any building operation; and

10.15.3 apply for and maintain any planning permission, building regulation approval or any other authorisation,

in each case as he thinks fit.

#### **10.16 Other powers**

A Receiver may:

10.16.1 do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;

10.16.2 exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and

10.16.3 use the name of the Charity for any of the above purposes.

### **11 APPLICATION OF PROCEEDS**

Any moneys received by the Trustees or any Receiver after this Security has become enforceable must be applied in the following order of priority:

11.1 in or towards payment of or provision for all costs and expenses incurred by the Trustees or any Receiver under or in connection with this Deed, of all remuneration due to any Receiver under or in connection with this Deed and the discharge of any liabilities incurred by any Receiver in, or incidental to, the exercise of any of their powers;

11.2 in or towards payment of or provision for the Secured Liabilities; and

11.3 in payment of the surplus (if any) to the Charity or other person entitled to it.

This Clause 11 is subject to the payment of any claims having priority over this Security. This Clause 11 does not prejudice the right of the Trustees to recover any shortfall from the Charity.

**12 EXPENSES AND INDEMNITY**

**12.1 Amendment costs**

If the Charity requests an amendment, waiver or consent, or delivers any proposals, the Charity shall, within (3) three Business Days of demand, reimburse the Trustees for the amount of all costs and expenses (including legal fees) reasonably incurred by the Trustees in responding to, evaluating, negotiating or complying with that request or those proposals.

**12.2 Enforcement and preservation costs**

The Charity shall, within (3) three Business Days of demand, pay to the Trustees the amount of all costs and expenses (including legal fees) incurred by the Trustees in connection with the enforcement of or the preservation of any rights under this Deed or this Security and any proceedings instituted in any jurisdiction by or against the Trustees as a consequence of taking, holding or enforcing this Deed or this Security.

**12.3 Stamp taxes and fees**

The Charity shall pay and, within (3) three Business Days of demand, indemnify the Trustees against any cost, loss or liability that the Trustees incur in relation to all stamp duty, stamp duty land tax, registration and other similar Tax and fees payable in respect of this Deed.

**12.4 Charity default**

The Charity shall, within (3) three Business Days of demand, indemnify the Trustees against any cost, expense loss or liability incurred by the Trustees as a result of:

- 12.4.1 the occurrence of any Event of Default in relation to the Charity;
- 12.4.2 investigating any event which it reasonably believes is an Event of Default in relation to the Charity;
- 12.4.3 the use or occupation by any person of the Security Assets (including any Environmental Claim); or
- 12.4.4 any default by the Charity in the performance of any of the obligations expressed to be assumed by it in this Deed.

Except in the case of the Trustees' gross negligence or wilful default.

**12.5 Value added taxes**

- 12.5.1 Any amount payable under this Deed by the Charity is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Charity must pay to the Trustees (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.
- 12.5.2 If the Charity is required by this Deed to reimburse or indemnify the Trustees for any cost or expense, the Charity shall reimburse or indemnify (as the case may be)



the Trustees for the full amount of such cost or expense, including such part thereof as a value added tax or any other Tax of a similar nature, save to the extent that the Trustees reasonably determine that they are entitled to a credit or repayment in respect of such Tax from the relevant tax authority.

## **12.6 Tax gross-up**

12.6.1 The Charity must make all payments to be made by it under this Deed without any Tax Deduction, unless a Tax Deduction is required by law.

12.6.2 If the Charity is aware or becomes aware that it must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Trustees.

12.6.3 If, as a result of:

- (a) any change in law or regulation;
- (b) any change in the application or interpretation of any law or regulation; or
- (c) any change by the Charity of its residence or tax status

a Tax Deduction is required by law to be made by the Charity or the Trustees, the amount of the payment due from the Charity will be increased to an amount which (after making the Tax Deduction leaves an amount equal to the payment which would have been due of no Tax Deduction had been required).

12.6.4 If the Charity is required to make a Tax Deduction, the Charity must make the minimum Tax Deduction required by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.

12.6.5 Within thirty (30) days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Charity must deliver to the Trustees evidence satisfactory to them (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

## **13 DELEGATION**

### **13.1 Power of Attorney**

The Trustees or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by them or it under this Deed.

### **13.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) which the Trustees or any Receiver may think fit.

### **13.3 Liability**

No Trustee nor any Receiver will be in any way liable or responsible to the Charity for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

## **14 FURTHER ASSURANCES**

The Charity must, at its own expense, take whatever action the Trustees or a Receiver may reasonably require for:

14.1 creating, perfecting or protecting any Security Interest intended to be created by this Deed; or

14.2 facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Trustees or any Receiver or any of their or its delegates or sub-delegates in respect of any Security Asset.

Including:

14.2.1 the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Trustees or their nominee; or

14.2.2 the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Trustees may think expedient.

## **15 POWER OF ATTORNEY**

The Charity, by way of security, irrevocably and severally appoints each Trustee, each Receiver and any of the foregoing's delegates or sub-delegates to be its attorney to take any action which the Charity is obliged to take under this Deed. The Charity ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 15.

## **16 PRESERVATION OF SECURITY**

### **16.1 Continuing security**

This Security is continuing and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

### **16.2 Reinstatement**

16.2.1 If any discharge, release or arrangement is made by the Trustees in whole or in part on the faith of any payment, security or other disposition which is avoided, set aside, refunded or reduced under any applicable law or proves to have been invalid or must be restored in insolvency, liquidation, administration or otherwise without limitation, the liability of the Charity under this Deed will continue as if the discharge, release or arrangement had not occurred.

- 16.2.2 The Trustees may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

### **16.3 Waiver of defences**

The liabilities and obligations of the Charity under this Deed shall remain in full force and effect and will not be affected by any act, omission, neglect, event or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to the Charity or any Trustee) including:

- 16.3.1 any time, waiver, consent or other accommodation granted to, or composition with, any person;
- 16.3.2 any release of any person under the terms of any composition or arrangement;
- 16.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- 16.3.4 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;
- 16.3.5 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- 16.3.6 any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous, and of whatsoever nature) or replacement of this Deed, and Secured Liability or any other document or security, including any agreement or document relating to the Scheme;
- 16.3.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under this Deed, or any Secured Liability or any other document or security;  
or
- 16.3.8 any Insolvency Event or similar proceedings.

### **16.4 Charity intent**

Without prejudice to the generality of Clause 16.3 (Waiver of defences) the Charity expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Secured Liabilities.

### **16.5 Immediate recourse**

The Charity waives any right it may have of first requiring any Trustee (or any trustee, agent or appointee on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from the Charity under this Deed. This waiver applies irrespective of any law to the contrary.

## **16.6 Appropriations**

Each Trustee (or any trustee, agent or appointee on its behalf) may at any time during the Security Period without affecting the liability of the Charity under this Deed:

### **16.6.1**

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Trustee (or any trustee or agent on its behalf) in respect of those amounts; or
- (b) apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Charity shall not be entitled to the benefit of the same; and

16.6.2 hold in an interest bearing suspense account any Net Enforcement Proceeds and any moneys received from the Charity or on account of the Charity's liability under this Deed including, without prejudice to the generality of the foregoing, until an Insolvency Event has occurred in relation to any Charity.

## **16.7 Additional security**

This Security is in addition to and is not in any way prejudiced or affected by, and shall not merge with any other judgment, guarantee, security, right or remedy now or subsequently obtained or held by the Trustees for the discharge and performance of any of the Secured Liabilities.

## **17 CHANGES TO THE PARTIES**

### **17.1 Assignments and transfers by the Charity**

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

### **17.2 Assignments and transfers by the Trustees**

17.2.1 The Charity acknowledges that:

- (a) the rights and obligations of the Trustees under this Deed may be transferred in whole or in part to the PPF as a result of the operation of Section 161 of and Schedule 6 to the Pensions Act; and
- (b) the rights and obligations under this Deed shall be binding upon and enure for the benefit of any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme.

17.2.2 Each Trustee may at any time and from time to time (without consent of or notice to the Charity) assign and/or transfer any or all of its rights and/or obligations under this Deed to any person or persons to whom the Notes or any of them are transferred.

**18 AMENDMENTS**

Any amendment of this Deed shall be in writing and signed by, or on behalf of, each Party.

**19 RELEASE**

**19.1 Disposal of Sale Properties**

19.1.1 Subject to the terms of the Restructuring Agreement the Trustees shall not unreasonably withhold or delay their consent to the sale of a Sale Property at any time while no Event of Default is continuing unwaived and unremedied.

19.1.2 Subject to the terms of the Restructuring Agreement, the Trustees shall, on completion of the sale of a Sale Property in accordance with the Restructuring Agreement and at the request and cost of the Charity, unconditionally and irrevocably release that Sale Property from the Security Interest constituted by this Deed and shall enter into such deeds of release, consents and other documents as the Charity may request in order to give effect to that release.

**19.2 Discharge of Secured Liabilities**

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Trustees shall, or shall procure that their appointees will, at the request and cost of the Charity release the Security Assets from the Security Interest constituted by this Deed and shall enter into such deeds of release, consents and other documents as the Charity may request in order to give effect to that release.

**20 SUBSTITUTION OF PROPERTY**

20.1 The Charity may, at any time, submit to the Trustees a request that there be substituted for any property forming part of the Properties another property of not materially less value (the **Substitute Property**).

20.2 The Charity shall supply such information in relation to the proposed Substitute Property as the Trustees shall request for the purpose of considering the Charity's request. If the Trustees in their absolute discretion consent to the proposed substitution then, subject to receipt by the Trustees of a Supplemental Security Agreement in substantially the same form as this Deed, the Substitute Property will become part of the Properties and the property for which the Substitute Property is to be substituted shall be released from this Security.

20.3 This Clause 20 shall not apply if this Security has become enforceable.

**21 REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Charity 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 are cumulative and not exclusive of any rights or remedies provided by law.

**22 SET-OFF**

A Trustee may set off any matured obligation owed to it by the Charity under this Deed (to the extent beneficially owned by that Trustee) against any obligation (whether or not matured) owed by that Trustee to the Charity, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Trustee may convert either obligation at a market rate of exchange selected by it (acting reasonably) for the purpose of the set-off.

**23 SEVERABILITY, REMEDIES AND WAIVERS**

23.1 If a term of this Deed is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect:

23.1.1 the legality, validity or enforceability in that jurisdiction of any other term of this Deed; or

23.1.2 the legality, validity or enforceability in other jurisdictions of that or any other term of this Deed.

23.2 No failure to exercise, nor any delay in exercising, on the part of any Trustee, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of any Trustee shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall 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.

**24 COUNTERPARTS**

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

**25 CERTIFICATES AND DETERMINATIONS**

Any certification or determination by the Trustees of an amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**26 NOTICES**

26.1 Any notice or other formal communication given under or pursuant to this Deed shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid first class or recorded delivery or registered post or (subject to Clause 26.3) email to the address and for the attention of the relevant party set out at the head of this Deed (or as otherwise notified by that party for the purpose of this clause 26). Any such notice or communication shall be deemed to have been received:

26.1.1 if delivered personally, at the time of delivery;

26.1.2 in the case of pre-paid first class post 48 hours from the date of posting and, in the case of pre-paid recorded delivery or registered post, at the time of actual delivery;

26.1.3 in the case of email at the time a received receipt is received by the Sender (or if received after 5pm on a Business Day, at 9 am on the next succeeding Business Day).

**26.2 In proving service**

26.2.1 by delivery by hand it shall be necessary only to produce a receipt for the communication signed by or on behalf of the addressee;

26.2.2 by post it shall be necessary only to prove that the communication was contained in an envelope which was duly addressed and posted in accordance with this clause;

26.2.3 by Email it shall be necessary only to produce a received receipt confirming delivery of the email to the recipient at the correct email address.

26.3 For the avoidance of doubt, proceedings issued in respect of this Deed shall not be validly served if sent by e-mail.

**27 LANGUAGE**

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

**28 GOVERNING LAW**

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

**29 ENFORCEMENT**

**29.1 Jurisdiction**

29.1.1 The English courts have exclusive jurisdiction to settle any dispute in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed).

29.1.2 The Parties agree that the English courts are the most appropriate and convenient courts to settle any such dispute and accordingly no Party will argue to the contrary.

29.1.3 Notwithstanding paragraph 29.1.1 above, no Trustee shall be prevented from taking proceedings relating to any such dispute in any other courts with jurisdiction. To the extent allowed by law, any Trustee may take concurrent proceedings in any number of jurisdictions.

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

**Schedule 1**  
**Property**

	Property	Land Registry Description	Title Numbers
1	Dorincourt	1. Queen Elizabeth Foundation Development Centre, Oaklawn Road, Leatherhead KT22 0BT 2. Land at the back of Dorincourt, Oaklawn Road, Leatherhead 3. Land lying to the south east of Oaklawn Road, Leatherhead	1. SY92971 2. SY181453 3. SY673394
2	Banstead	1. Banstead Place Park Road, Banstead 2. East side of Park Road, Banstead	1. SY483071 2. SY482689
3	Carshalton	1. Land lying to the south west of Fountain Drive, Carshalton 2. Mobility Centre, Fountain Drive, Carshalton SM5 4NR	1. SGL714677 2. SGL593461
4	Leatherhead	1. Leatherhead Court, Woodlands Road, Leatherhead KT22 0BN 2. Woodlands Land, Leatherhead	1. SY750322 2. SY750394



**Signatories**

**CHARITY**

Executed as a deed and delivered when dated, by  
**QUEEN ELIZABETH'S FOUNDATION FOR DISABLED PEOPLE**  
acting by a director and its secretary or by two  
directors:

Director

*PETER DAVID GORDON*

Director/Secretary

*TIMOTHY JASON DAVIES*

Signed as a deed and delivered when dated, by **PETER  
GORDON AND JASON DAVIES** who have been authorised  
pursuant to a resolution passed in accordance with S333 of  
the Charities Act 2011 to execute this Deed for and on  
behalf of the Trustees of the Charity for the purposes of the  
certificate contained in Clause 1.5 of this Deed

Signature

*PETER DAVID GORDON*

Signature

*TIMOTHY JASON  
DAVIES*

in the presence of:

Witness signature

Name

(in block capitals)

*TIFFANY JOHNSON*

Address

Occupation

Who have been authorised pursuant to a resolution passed in accordance with S333 of the Charities  
Act 2011 to execute this Deed for and on behalf of the Charity for the purposes of the certificate  
contained in Clause 1.5 of this Deed

**TRUSTEES**

Executed as a deed and delivered when dated, by  
**CAPITAL CRANFIELD PENSION TRUSTEES LIMITED**  
acting by a director and its secretary or by two directors



Signed as a deed and delivered when dated, by **DAVID  
CHARLES HYPHER OBE DL** as trustee of the Queen  
Elizabeth's Foundation for Disabled People Pension and  
Assurance Scheme in the presence of:

.....  
David Charles Hypher OBE DL

Witness signature

Name  
(in block capitals)

Address

Occupation

.....

.....

.....

.....

.....

.....

Signed as a deed and delivered when dated, by **PAUL  
SEDGWICK** as trustee of the Queen Elizabeth's  
Foundation for Disabled People Pension and Assurance  
Scheme in the presence of:

.....  
Paul Sedgwick

Witness signature

38977953\_7

.....

2

Security

**TRUSTEES**

Executed as a deed and delivered when dated, by  
**CAPITAL CRANFIELD PENSION TRUSTEES LIMITED**  
acting by a director and its secretary or by two directors

.....  
Director

.....  
Director/Secretary

Signed as a deed and delivered when dated, by **DAVID  
CHARLES HYPHER OBE DL** as trustee of the Queen  
Elizabeth's Foundation for Disabled People Pension and  
Assurance Scheme in the presence of:

.....  
David Charles Hypher OBE DL

Witness signature

Name  
(in block capitals)

Address

Occupation

ANITA PHIPPS

Signed as a deed and delivered when dated, by **PAUL  
SEDGWICK** as trustee of the Queen Elizabeth's  
Foundation for Disabled People Pension and Assurance  
Scheme in the presence of:

.....  
Paul Sedgwick

Witness signature

38977953\_7

**Confidential**

**TRUSTEES**

Executed as a deed and delivered when dated, by  
**CAPITAL CRANFIELD PENSION TRUSTEES LIMITED**  
acting by a director and its secretary or by two directors

.....  
Director

.....  
Director/Secretary

Signed as a deed and delivered when dated, by **DAVID  
CHARLES HYPHER OBE DL** as trustee of the Queen  
Elizabeth's Foundation for Disabled People Pension and  
Assurance Scheme in the presence of:

.....  
David Charles Hypher OBE DL

Witness signature

Name  
(in block capitals)

Address

Occupation

Signed as a deed and delivered when dated, by **PAUL  
SEDGWICK** as trustee of the Queen Elizabeth's  
Foundation for Disabled People Pension and Assurance  
Scheme in the presence of:

.....  
Paul Sedgwick

Witness signature

38977953\_7

Confidential

Name  
(in block capitals)

Richard BEVAN.

Address

Occupation

Signed as a deed and delivered when dated, by **JOHN  
DIXON SCOTCHER** as trustee of the Queen Elizabeth's  
Foundation for Disabled People Pension and Assurance  
Scheme in the presence of:

.....  
John Dixon Scotcher

Witness signature

Name  
(in block capitals)

Address

Occupation

Name  
(in block capitals)

Address

Occupation

Signed as a deed and delivered when dated, by **JOHN DIXON SCOTCHER** as trustee of the Queen Elizabeth's Foundation for Disabled People Pension and Assurance Scheme in the presence of:

John Dixon Scotcher

Witness signature

Name  
(in block capitals)

Address

Occupation

GARY ELLIS

**THE PPF**

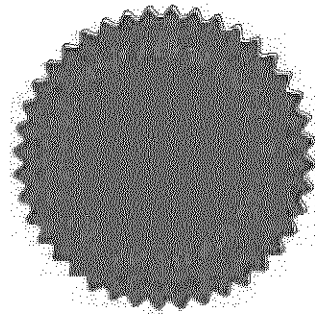
Executed as a deed and delivered when dated, by affixing  
the common seal of **THE BOARD OF THE PENSION  
PROTECTION FUND** in the presence of:



Authorised signatory

Name  
(in block capitals)

\_\_\_\_\_  
OLIVER MORLEY - CHIEF EXECUTIVE OFFICER



## PLAN

