



Registration of a Charge

Company name: **Luminus Homes Limited**

Company number: **03736718**



X5DZLJGW

Received for Electronic Filing: **23/08/2016**

Details of Charge

Date of creation: **17/08/2016**

Charge code: **0373 6718 0036**

Persons entitled: **LUMINUS FINANCE LIMITED**

Brief description: **2-12 AND 14 CHURCHILL TERRACE HUNTINGDON CAMBRIDGESHIRE
PE29 1AP. FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

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:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3736718

Charge code: 0373 6718 0036

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th August 2016 and created by Luminus Homes Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd August 2016 .

Given at Companies House, Cardiff on 24th August 2016

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



Companies House



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

Dated 17 August 2016

LUMINUS HOMES LIMITED
as Chargor

LUMINUS FINANCE LIMITED
as Chargee

WE HEREBY CERTIFY THAT THIS IS
A TRUE COPY (AS REDACTED) OF
THE ORIGINAL
Addleshaw Goddard LLP
DATE 22/08/2016
ADDLESHAW GODDARD LLP

FIXED CHARGE

(To: The Chief Land Registrar. Note: This Deed contains (in clauses 4.3 and 6) applications by the Chargor to enter certain restrictions in the Proprietorship Register and Charges Register and (in clause 4.4) an application by the Chargor to enter a notice on the Charges Register.)

ADDLESHAW GODDARD

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This Deed is dated

17 August

2016 and made between:

- (1) **Luminus Homes Limited**, a company limited by guarantee with registered number 3736718 and a Registered Provider registered with the Social Housing Regulator under registration number LH4253 (the **Chargor**); and
- (2) **Luminus Finance Limited** a company limited by guarantee registered under the Companies Act 1985 with registered number 06438705 as chargee (the **Chargee**)).

Whereas

- (A) The Chargee has agreed to provide credit and other facilities to the Chargor pursuant to a facility agreement dated 30 March 2011 between the Chargor, the Chargee and Canada Life Limited as Facility Agent (**On-Lending Downstairs Agreement**).
- (B) It is a condition to the granting of such credit and other facilities that the Chargor enters into this Deed.
- (C) It is intended by the parties hereto that this Deed shall take effect as a deed.

It is agreed:

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Charged Assets means all the assets, rights, property and undertaking of the Chargor from time to time charged in favour of or assigned or agreed to be assigned (whether at law or in equity) to the Chargee by the Chargor by or pursuant to this Deed

Collateral Rights means all rights, powers and remedies of the Chargee provided by or pursuant to this Deed or by law

Default Rate means the rate at which interest shall accrue on any Unpaid Sum, calculated in accordance with clause 8.3 (Default interest) of the On-Lending Downstairs Agreement

Event of Default has the meaning given to it in the On-Lending Downstairs Agreement

Finance Documents has the meaning given to it in the On-Lending Downstairs Agreement

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on any Property and includes all fixtures, fittings, plant, machinery, equipment, installations and apparatus from the date of this Deed and from time to time in or on or belonging to any Property

Greater London Authority means the Greater London Authority as constituted pursuant to Part I of the Greater London Authority Act 1999

Homes and Communities Agency means the Homes and Communities Agency constituted pursuant to Part 1 of the Housing and Regeneration Act and any successor for the time being or any similar future authority carrying on any of the same grant/investment making functions (which for the purposes of this definition does not include the functions of the Social Housing Regulator), and where the context so requires, reference to the Homes and Communities Agency shall include reference to the Greater London Authority (as applicable).

Housing and Regeneration Act means the Housing and Regeneration Act 2008 (as amended by the Localism Act 2011)

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by or with the authority and on behalf of the Chargor in relation to the Real Property or (to the extent of such interest) in which the Chargor has an interest in relation to the Real Property

Letting Document means any past, present or future lease, tenancy or licence to occupy or any past, present or future agreement for any of the same from time to time granted or entered into by the Chargor or any predecessor in title of the Chargor (as the case may be) in respect of the Real Property and any licence, consent or approval given thereunder

Planning Acts means the Town and Country Planning Acts 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings

Property means all estates and interests of the Chargor in any freehold or leasehold property wherever situate now or in the future legally or beneficially owned by it and all buildings, Fixtures, fittings (other than tenant's fixtures and fittings) and fixed plant and machines from time to time thereon, and references to "Property" or "property" shall be taken to include references to the whole or any part or parts of any property comprised therein at any time.

Real Property means:

- (a) the freehold and leasehold property in England and Wales specified in Schedule 1 and
- (b) any buildings, Fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property

and includes all Related Rights

Receiver means a receiver or receiver and manager, administrative receiver administrator or attorney or other person appointed to carry out the duties of such person who is a 'qualified person' under the terms of the Insolvency Act 1986

Registered Provider means a 'registered provider of social housing' as such term is defined in the Housing and Regeneration Act

Regulation Committee means the Regulation Committee of the Homes and Communities Agency as constituted pursuant to Part 7 of the Localism Act 2011.

Related Rights means, in relation to any asset:

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

- (d) any moneys and proceeds paid or payable in respect of that asset

Residential Unit has the meaning given to it in the On-Lending Downstairs Agreement

Right to Buy has the meaning given to it in the On-Lending Downstairs Agreement

Secured Obligations means all present and future obligations and liabilities (whether joint or several, actual or contingent) due, owing or incurred by the Chargor to the Chargee under or in connection with the On-Lending Downstairs Agreement and the other Finance Documents in any manner and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such liabilities and all costs, charges and expenses incurred by the Chargee under the On-Lending Downstairs Agreement and any of the other Finance Documents, except for any obligation which, if it were included here, would result in a contravention of a prohibition against providing financial assistance in any jurisdiction

Security Interest means any mortgage, pledge, lien, charge (including, for the avoidance of doubt, a floating charge), security assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security or any other type of preferential arrangement having a similar effect

Shared Ownership Lease has the meaning given to it in the On-Lending Downstairs Agreement

Social Housing Regulator means the Regulation Committee and any successor or successors for the time being or in each case any similar future authority carrying on any of the same regulatory/supervisory functions as the Regulator of Social Housing (as defined in the Housing and Regeneration Act).

Value or Valuation of the Real Property has the meaning given to it in the On-Lending Downstairs Agreement

1.2 Interpretation

- (a) In this Deed unless the contrary intention appear, a reference to:

- (i) the **Chargor** or the **Chargee** shall be construed so as to include its or their (and any subsequent) successors and any permitted assignees and transferees in accordance with their respective interests (in each case whether immediate or derivative);
- (ii) a Finance Document or another document is a reference to that Finance Document or other document as from time to time amended, novated, replaced, restated, supplemented or varied;
- (iii) a clause or a schedule or annex is a reference to a clause of, or a schedule to, or annex to, this Deed; and
- (iv) a law or statute is a reference to that law or statute as re-enacted, amended or replaced.

- (b) Unless the contrary intention appear, all terms and expressions used but not defined herein shall have the meanings given to them in the On-Lending Downstairs Agreement.

- (c) The terms of the documents under which the Secured Obligations arise and of any agreements between the parties hereto in relation to such documents are incorporated herein to the extent required for any purported disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (d) The index to and the headings in this Deed are for convenience only and are to be ignored in construing this Deed.
- (e) Save where the context otherwise requires, any word in this Deed importing the singular shall include the plural and vice versa.

1.3 Contracts (Rights of Third Parties) Act 1999

- (a) A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- (b) The consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

2 Payment of Secured Obligations

- (a) The Chargor as principal obligor hereby unconditionally and irrevocably covenants with the Chargee that it shall, at the time and in the manner provided in the Finance Documents relating thereto, discharge all of the obligations which it may at any time have to the Chargee (or any person on behalf of it pursuant to the Finance Documents (including this Deed)) in respect of any Secured Obligations including any liability in respect of any further advances made thereunder and hereunder, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity) and the Chargor shall pay to the Chargee when due and payable in the manner provided in the Finance Documents every sum at any time owing, due or incurred by it to the Chargee (or any person on behalf of it) in respect of any such obligations and liabilities.
- (b) Any amount not paid hereunder when due shall bear interest (as well after as before judgement and payable on demand) at the Default Rate from the due date until the date such amount is unconditionally and irrevocably paid and discharged in full.

3 Fixed charges and assignments

3.1 Fixed charges

The Chargor hereby charges with full title guarantee in favour of the Chargee for the payment and discharge of the Secured Obligations, by way of first fixed charge (which so far as it relates to land in England and Wales the legal title to which is vested in the Chargor at the date of this Deed shall be a charge by way of legal mortgage) all the Chargor's right, title and interest from time to time in, to and under each of the following present and future assets (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party):

- (a) the Real Property;
- (b) the Insurances and all claims and returns of premiums in respect thereof;
- (c) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held in connection with the Real Property or the use of the Real

Property and the right to recover and receive all compensation which may at any time become payable to it in respect thereof; and

- (d) if and in so far as any legal mortgage set out in this clause 3.1 or any assignment set out in clause 3.2 shall for any reason be ineffective as a legal mortgage or assignment in relation to any asset, any relevant asset referred to in those clauses.

3.2 Assignments

The Chargor hereby assigns and agrees to assign with full title guarantee by way of security to the Chargee (to the fullest extent assignable or capable of assignment without first infringing any contractual provision restricting the same (unless any applicable consent or waiver to any such assignment has been given)) as security for the payment and discharge of the Secured Obligations, all the Chargor's right, title and interest from time to time in, to and under each of the following present and future assets:

- (a) the personal agreements and covenants (still subsisting and capable of being enforced) by the tenants, lessees, licensees or other parties under any Letting Document in respect of the Real Property and by all guarantors in respect thereof and all Security Interests held by the Chargor from time to time, whether present or future, in respect of the obligations of the tenants, lessees, licensees or other parties under any Letting Document (including, without limiting the generality of the foregoing, all moneys due and owing to the Chargor or which may become due and owing to the Chargor at any time in the future in connection therewith);

(b)

- (i) all agreements now or from time to time entered into or to be entered into to enable the charging or assignment by way of security of the Charged Assets; and
- (ii) all agreements now or from time to time entered into or to be entered into for the sale, letting or other disposal or realisation of the whole or any part of the Real Property,

(including, without limiting the generality of the foregoing, all moneys due and owing to the Chargor or which may become due and owing to the Chargor at any time in the future in connection therewith);

- (c) all agreements, contracts, deeds, licences, undertakings, guarantees, covenants, warranties, representations and other documents (including all documents entered into now or in the future so as to enable the Chargor to perfect its rights under this Deed or any such agreement, contract, deed, licence, undertaking, guarantee, covenant, warranty, representation or other document) now or hereafter entered into by or given to the Chargor in respect of the Real Property and all claims, remedies, awards or judgments paid or payable to the Chargor (including, without limitation, all liquidated and ascertained damages payable to the Chargor under the above) in each case relating to the Real Property;
- (d) all licences held now or in the future in connection with the Real Property and also the right to recover and receive all compensation which may at any time become payable to the Chargor in relation to the Real Property;

- (e) all rights and claims to which the Chargor is now or may hereafter become entitled in relation to any development, construction project, redevelopment, refurbishment, repair or improvement of or on the Real Property;
- (f) all guarantees, warranties, bonds and representations given or made now or hereafter by, and any rights or remedies against, all or any of the designers, builders, contractors, surveyors, valuers, professional advisers or sub-contractors or manufacturers, suppliers and installers of any Fixtures in each case in connection with the Real Property (including the benefit of all collateral or other warranties from the Valuer or any other surveyor in each case as referred to in, or as contemplated by, the On-Lending Downstairs Agreement); and
- (g) all rental income and disposal proceeds in each case relating to the Real Property which has not been assigned pursuant to clause 3.2(a), 3.2(b) or 3.2(c) and the right to make demand for and receive the same,

in each case provided always that:

- (h) until an Event of Default has occurred and is continuing, the Chargor shall (provided by doing so it does not breach a Finance Document) be entitled to exercise its rights under or in connection with the agreements and covenants referred to in clauses 3.2(a) and 3.2(b) (in relation to letting agreements and sale agreements in respect of Right to Buy and Shared Ownership Property disposals contemplated by the terms of the On-Lending Downstairs Agreement and all other Finance Documents or in relation to other lettings or disposals permitted pursuant to the terms of the On-Lending Downstairs Agreement and all other Finance Documents) and clauses 3.2(c) to 3.2(g) inclusive;
- (i) on irrevocable payment and discharge of all the Secured Obligations the Chargee will at the request and cost of the person lawfully requiring the Chargee so to do reassign the same and prior to such payment or discharge upon being requested so to do by the Chargor and upon being provided with a full indemnity for (and, if so required, payment in advance of) its costs, the Chargee will either take such steps (including where appropriate the issue of proceedings) as the Chargor may require to enforce the terms of any of the agreements referred to in this clause 3.2 or, at the option of the Chargee, taking due regard of the representations made by the Chargor, reassign the relevant agreement or the rights of action accrued thereunder to the Chargor to the extent necessary to enable the Chargor to enforce the same; and
- (j) the Chargee shall not give or require the Chargor to give any notice of assignment contained in this clause 3.2 to any person (other than any landlord of Real Property of which the Chargor is a tenant) pursuant to clause 4.1 (Notices of assignment) unless and until an Event of Default has occurred and is continuing.

4 Perfection of security

4.1 Notices of assignment

Subject to clause 3.2(j), the Chargor shall deliver to the Chargee (or procure delivery of) notices of assignment duly executed by, or on behalf of, the Chargor in respect of any Charged Asset which is the subject of an assignment pursuant to clause 3.2 (Assignments) promptly upon the request of the Chargee from time to time and in each case shall use all reasonable endeavours to procure that each notice of assignment is promptly acknowledged by the obligor or debtor specified by the Chargee.

4.2 Real Property: Deposit of title deeds

The Chargor shall deposit all deeds and documents of title relating to the Real Property with the Chargee or, subject to the terms of all other Finance Documents and on receipt of an undertaking from the relevant solicitors in a form satisfactory to the Chargee, deposit with the solicitors to the Chargor approved by the Chargee all deeds and documents of title relating to the Real Property (and it is hereby agreed that such deeds and documents of title will be held by such solicitors to the order of the Chargee) except in each case to the extent that any such Real Property (a) is sold pursuant to the Right to Buy or Shared Ownership Sale or (b) is released by the Chargee from the Security Interests comprised in this Deed pursuant to the terms of the Finance Documents.

4.3 Land registration

- (a) The Chargor hereby consents to the lodgement at the Land Registry of an application by or on behalf of the Chargee for the entry of the following restriction in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Real Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated [the date of this Deed] in favour of Luminus Finance Limited referred to in the charges register or its secretary or conveyancer".

- (b) The Chargor hereby consents to the lodgement at the Land Registry of an application by or on behalf of the Chargee for the entry of the following restriction in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Real Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the sub-charge dated [the date of this Deed] in favour of Prudential Trustee Company Limited referred to in the charges register or by its conveyancer."

- (c) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to clause 3 (Fixed charges and assignments). It shall be implied in respect of clause 3 (Fixed charges and assignments) that the Chargor is disposing of the Charged Assets free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

4.4 Further advances

- (a) Subject to the terms of the On-Lending Downstairs Agreement, the Chargee may be required to make further advances to the Chargee in accordance with the terms of the On-Lending Downstairs Agreement.
- (b) For the purposes of section 94(1)(c) of the Law of Property Act 1925, section 49(3) of the Land Registration Act 2002 and Rule 108 of the Land Registration Rules 2003, the obligation on the Chargee to make further advances will be deemed to be incorporated in this Deed as if the same were set out in this Deed.

- (c) For the purposes of the Land Registration Rules 2003 and sub-section 49(3) of the Land Registration Act 2002, the Chargor hereby consents to the lodgement at the Land Registry of an application by or on behalf of the Chargee of a note of the obligation to make further advances to the Chargee on the Charges Register of any registered land forming part of the Real Property.

5 Further assurance

5.1 Further assurance - general

The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require) in favour of the Chargee or its nominee(s):

- (a) to create, perfect, protect and maintain the Security Interests created or intended to be created under or evidenced by this Deed or for the exercise of or for the exercise of the Collateral Rights; and/or
- (b) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests created by or under this Deed.

Any document required to be executed by the Chargor under this clause 5 will be prepared at the cost of the Chargor.

5.2 Necessary action

The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interests conferred or intended to be conferred on the Chargee by or pursuant to this Deed.

5.3 Consents

The Chargor shall use all reasonable endeavours to obtain (in form and content satisfactory to the Chargee) as soon as possible any consents necessary to enable the relevant assets of the Chargor purported to be so charged or assigned to be the subject of an effective fixed charge or assignment pursuant to clause 3 (Fixed charges and assignments) and immediately upon obtaining any such consent, the asset concerned shall become subject to such Security Interests and the Chargor shall promptly deliver a copy of each consent to the Chargee.

5.4 Preservation of rights

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

- (a) the winding-up, dissolution, administration or reorganisation of the Chargor or any other person or any change in its status, function, control or ownership;
- (b) any of the obligations of the Chargor or any other person under the Finance Documents or under any other security relating to the Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;

- (c) time or other indulgence being granted or agreed to be granted to the Chargor or any other person in respect of its obligations under the Finance Documents or under any such other security;
- (d) any amendment to, or any variation, waiver or release of any obligation of the Chargor or any other person under, the Finance Documents or under any such other security;
- (e) any failure to take, or fully to take, any security contemplated by the Finance Documents or otherwise agreed to be taken in respect of the Chargor or any other person's obligations under the Finance Documents;
- (f) any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of an the Chargor's or any other person's obligations under the Finance Documents; or
- (g) any other act, event or omission which, but for this clause 5.4, might operate to discharge, impair or otherwise affect any of the obligations of the Chargor or any other person or any of the rights, powers or remedies conferred upon the Chargee by the Finance Documents or by law.

5.5 Implied covenants for title

The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

6 Property Further Assurance

6.1 Definitions

In this clause 6 and Schedule 2:

- (a) "Perpetuity Period" means the period of 80 years from the date of this Mortgage;
- (b) "Property" means Property A; and
- (c) "Retained Land" means Retained Land A;
- (d) "Easements" means the means those easements and other rights detailed in Schedule 2.

6.2 The Easements

The Chargor for itself and its successors in title to each and every part of the Retained Land including any mortgagee of the Retained Land respectively covenants with the Chargee for the benefit of the Property and each and every part of it:

- (a) that if the Property does not enjoy the benefit of all rights and easements which are necessary for its use and enjoyment but to do so it would require further easements in respect of the Retained Land and the Chargee requires the same to be granted within the Perpetuity Period then the Chargor will grant by deed(s) to the Chargee or the Chargee's successors in title or such other successors in title to or owners or occupiers of the Property and each and every part thereof within twenty eight days of a written demand by the

Chargee the Easements or such other rights as the Chargee and the successors in title may reasonably agree and the Chargor hereby irrevocably appoints the Chargee and separately any receiver appointed by the Chargee to be its attorney for this purpose;

- (b) that it will procure that any mortgagee or chargee of the Retained Land enters into such deed(s) referred to in clause 6.2 (a) above; and
- (c) that it will not after the date hereof and while this Mortgage is still subsisting make a freehold disposal of the Retained Land or any part thereof without procuring from the other party to the disposition or dealing a deed retaining for the benefit of the Property and each and every party thereof the Easements or such other rights as the Chargee and such other party may reasonably agree.
- (d) to the extent that any of the Retained Land over which the Easements are intended to be granted is subject to a lease or tenancy then the Easements over such land shall be modified to the extent of the easements excepted and reserved to the lessor in such lease or tenancy

6.3 The Chargee for itself and its successors in title to the benefit of the Charge over the Property (or any part thereof) hereby granted hereby covenants with the Chargor for the benefit of the Retained Land and each and every part of it:

- (a) that it will if required by the Chargor grant by deed(s) to the Chargor as owners of the Retained Land and each and every part thereof within 28 days of a written demand by the Chargor the Easements or such other rights as the Chargor may reasonably agree over the Property in favour of the Retained Land (but to the intent that for the purposes of this clause 29(a) only references in Schedule 2 below to the "Property" shall be replaced by references to the "Retained Land" and vice versa) and the Chargee hereby irrevocably appoints the Chargor to be its attorney for this purpose;
- (b) that it will procure that any mortgagee or chargee of the Property enters into such deed(s) referred to in clause 29(a) above; and
- (c) that it will not after the date hereof and while this Mortgage is still subsisting make an assignment of the benefit of this Charge without procuring from the other party to the disposition or dealing a deed retaining for the benefit of the Retained Land and each and every party thereof the Easements or such other rights as the Chargor and such other party may reasonably agree.
- (d) to the extent that any of the Property over which the Easements are intended to be granted is subject to a lease or tenancy then the Easements over such land shall be modified to the extent of the easements excepted and reserved to the lessor in such lease or tenancy

6.4 The Land Registry

The Chargor hereby applies or consents to the lodgement at the Land Registry of applications to enter:

- (a) in the registers of title to the Retained Land such of the rights and covenants as are capable of registration; and
- (b) a restriction in the Proprietorship Register of the title to the Retained Land as follows:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, is to be registered without a certificate signed on behalf of Luminus Finance Limited or by its conveyancer that the provisions of clause 6 of a fixed charge dated [] have been complied with or do not apply"

AND upon compliance with the terms of this clause 6 the Chargee shall promptly issue the Chargor with a certificate to confirm compliance with the terms of the abovementioned restriction

- (c) a restriction in the Charges Register of the title to the Property (to be entered in the said Charges Register immediately below the entry relating to the registration of the Charge hereby granted) as follows:-

"No disposition of the fixed charge dated [] and made between Luminus Homes Limited and Luminus Finance Limited by the proprietor of the registered charge, is to be registered without a certificate signed on behalf of Luminus Homes Limited by its secretary or conveyancer or other authorised signatory or by a Conveyancer that the provisions of clause 6 of that charge have been complied with or do not apply"

AND upon compliance with the terms of this clause 6 the Chargor shall promptly issue the Chargee with a certificate to confirm compliance with the terms of the abovementioned restriction

6.5 Further Covenant

The Chargor hereby covenants to apply with all reasonable expedition to the Social Housing Regulator (or successor body) for the any consents that may be required for the valid grant of the easements and rights referred to in this clause 6 (or where applicable to comply with the terms of any General Consent issued by the Social Housing Regulator (or successor body) in so far as the same may (subject to conditions) permit the grant of the easements referred to in this clause 6)

7 Representations and warranties

7.1 Duration and to whom made

The representations and warranties made by the Chargor in this clause 7 shall remain in force for the period for which the Secured Obligations are outstanding and are given to the Chargee.

7.2 Matters represented

(a) The Real Property:

Save as disclosed in writing to the Chargee (including in any certificate of title addressed to the Chargee) on or prior to the date of this Deed:

- (i) the Chargor is the legal and beneficial owner of the Real Property, subject to any Right to Buy arrangements;

- (ii) planning permission has been obtained or is deemed to have been granted in accordance with statute for the purposes of the Planning Acts and has been complied with respect to any development and the existing use of the Real Property and the Planning Acts and all relevant building regulations or previously relevant building bylaws have been complied with in respect of all developments, alterations and improvements to the Real Property save where such building regulations or by laws did not apply to the Chargor's relevant predecessor in title (whether immediate or derivative) at the relevant time and they have also been complied with in respect of the use of the Real Property;
- (iii) there are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Real Property which materially adversely affect or are likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents;
- (iv) nothing has arisen or has been created or is subsisting which would be an overriding interest over the Real Property which materially adversely affects or is likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents;
- (v) no facilities necessary for the enjoyment and use of the Real Property are enjoyed by the Real Property on terms entitling any person to terminate or curtail its or their use which materially adversely affects or is likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents;
- (vi) the Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Real Property or any interest therein, nor has any acknowledgement been given to any person in respect thereof in any such case where the same materially adversely affects or is likely to materially adversely affect the Value of the Real Property or otherwise materially adversely affect the ability of the Chargor to perform its obligations under the Finance Documents; and
- (vii) the Real Property will be free from any tenancies or licences other than those tenancies or licences permitted pursuant to the terms of the On-Lending Downstairs Agreement and the Finance Documents.

(b) Security:

Subject to registration at Companies House and at the Land Registry or on the Land Charges Register as appropriate, this Deed creates those Security Interests it purports to create ranking as set out above and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

(c) Valuation:

The Real Property (set out in schedule 1) consists of the same properties as have been valued in a Valuation for the benefit of the Chargee and the Finance Parties, as updated by a letter or letters dated on or about the date of this Deed from the relevant Valuer to such parties.

7.3 Times for making representations and warranties

The representations and warranties set out in clause 6.2 (Matters represented) are made on the date of this Deed and are deemed to be repeated on each day whilst this Deed is in force with reference to the facts and circumstances then existing.

8 Insurance

8.1 Insurance undertakings

(a) Insurance:

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

- (i) insure and keep insured or procure the insurance of the Real Property and all its other assets of an insurable nature against loss or damage by fire, explosion, aircraft and other risks as is customary or otherwise prudent for Registered Providers to insure against and such other risks as the Chargee shall from time to time reasonably require in a sum or sums not less than the replacement value thereof (meaning the total cost of entirely rebuilding, reinstating or replacing the Real Property and such other assets in the event of their being completely destroyed together with architects' and surveyors' fees, liabilities to employees and third parties and contingencies arising under any Act and common law) less such excess as is usual and not imprudent for a Registered Provider and such other amount in respect of loss of rent as is customary or otherwise prudent for Registered Provider to insure against or as the Chargee shall from time to time reasonably require and effect and maintain, to the satisfaction of the Chargee, insurance against such other risks as is customary or otherwise prudent for Registered Providers to insure against;
- (ii) ensure that all monies which may at any time hereafter be received or receivable under any insurance in respect of the Real Property or such other assets whether or not effected pursuant to the foregoing provisions shall be applied in replacing, restoring or reinstating the Real Property or assets destroyed or damaged or in such manner as the Chargee and the Chargor may agree or, after the occurrence of an Event of Default or Potential Event of Default which is continuing if the Chargee so directs and the terms of the relevant insurances or any prior Security Interest (in the case of assets other than the Real Property) so permit, in or towards satisfaction of the Secured Obligations;
- (iii) in the case of any Real Property the subject of a Development, until Practical Completion maintain or procure the maintenance, in accordance with any development, building or other similar contract, of the insurance of any works under the terms of the contractors' all risk policy of insurance, in a form approved by the Chargee with Insurers or underwriters approved by the Chargee, in the full re-instatement value from time to time of the works and the full replacement value from time to time of goods and materials (together with provisions for professional fees, forward inflation and debris removal) and all other costs less such excess as is not unusual and not imprudent for a Registered Provider to accept, in the joint names of the Chargor, the Chargee and (as appropriate) such contractor and if such joint insurance is

not possible to ensure that the interest of the Chargee is noted on the policy of insurance;

- (iv) cause to be insured the site of each Real Property the subject of a Development in respect of sufficient public liability insurance as is customary and prudent for a Registered Provider; and
- (v) upon Practical Completion cause any Real Property the subject of a Development to be insured in accordance with clause 8.1(a)(i) and following Practical Completion of any works ensure that the said works are of a reasonable standard so that NHBC, Foundation 15 or equivalent insurance (or other similar insurance customary and prudent for Registered Providers) should be available and use reasonable endeavours to procure that such insurance is in place as soon as practicable after Practical Completion;

(b) **Noting of interest:**

procure that a note of the Chargee's and the Finance Parties' interest (in a manner satisfactory to the Chargee) is endorsed upon all policies of insurance (except to the extent that such insurance is effected in the joint names of the Chargor and the Chargee and, as appropriate, any third party) which shall at any time during the subsistence of this security be effected, maintained or held by the Chargor or any person on its behalf pursuant to clause 8.1(a) and procure that the policies provide that the policies of insurance will not be terminated or otherwise allowed to lapse unless at least 14 days' prior notice is given to the Chargee;

(c) **Premiums:**

promptly pay all premiums and other moneys payable under all its policies of insurance when the same fall due for payment and do all other things necessary to keep all of the Insurances in force and promptly upon request by the Chargee produce to the Chargee a copy of each policy and evidence (reasonably acceptable to the Chargee) of the payment of such sums;

(d) **Deposit:**

upon the request of the Chargee (but subject to the provisions of any lease of the Real Property), deposit all policies of insurance relating to the Real Property with the Chargee; and

(e) **Maintenance of Insurances:**

not do or knowingly permit anything to be done in or upon or relating to the Real Property or any part thereof which may make void or voidable any Insurance in connection therewith.

8.2 Insurance: Default

If the Chargor defaults in complying with clause 8.1 (Insurance undertakings) the Chargee 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 Chargee in doing so shall be reimbursed by the Chargor to the Chargee on demand and shall carry interest from the date of payment by the Chargee until reimbursed at the Default Rate.

9 Real Property

9.1 Lease covenants:

The Chargor shall, in relation to any lease, agreement for lease or other right to occupy to which all or any part of the Real Property is at any time subject:

- (a) pay the rents (if the lessee) and observe and perform in all material respects the covenants, conditions and obligations imposed (if the lessor) on the lessor or, (if the lessee) on the lessee; and
- (b) not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Real Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term.

9.2 General Real Property undertakings

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

(a) Repair:

- (i) repair and keep in good and tenantable repair and adequately and properly painted and decorated to the satisfaction of the Chargee all the Real Property and keep the Fixtures and all plant, machinery, implements and other effects for the time being owned by it and which are in or upon the Real Property or elsewhere in a good working order (save for fair wear and tear);
- (ii) not at any time without the prior written consent of the Chargee sever or remove any of the Fixtures or any of the plant or machinery (other than stock in trade or work in progress) on or in the Real Property (except for the purpose of any necessary repairs or replacement thereof) if such severance or removal would have a material adverse effect on the Value of such Real Property or otherwise have a material adverse effect on the Chargor's ability to perform its obligations under the Finance Documents; and
- (iii) comply with and observe and perform:
 - (A) all applicable requirements of all planning and environmental legislation, regulations and bylaws relating to the Real Property;
 - (B) any conditions attaching to any planning permissions relating to or affecting the Real Property; and
 - (C) any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Real Property, to the extent a failure to do so would have a material adverse effect on the Value of such Real Property or otherwise have a material adverse effect on the Chargor's ability to perform its obligations under the Finance Documents;

(b) Compliance with leases:

pay upon demand (if it is the lessee) the rents reserved by and (in any event) perform and observe all the covenants, agreements and stipulations on the part of the Chargor contained in any lease or leases comprised within the Real Property and not

do or suffer to be done any act or thing whereby the said lease or leases may become liable to forfeiture or otherwise be determined provided that if a notice pursuant to section 146 of the Law of Property Act 1925 is served on the Chargor, the Chargor shall promptly inform the Chargee;

(c) **Taxes and outgoings:**

pay as and when the same shall become payable all Taxes, rates, duties, charges, assessments and outgoings whatsoever (whether parliamentary, parochial, local or of any other description) which shall be assessed, charged or imposed upon or payable in respect of the Real Property or any part thereof (but not in respect of the occupier thereof where the Chargor is not the occupier);

(d) **User:**

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

(e) **Notices:**

within 7 days after the receipt by the Chargor of any application, requirement, order or notice served or given by any public or local or any other authority in relation to the Real Property or any part thereof where the cost of compliance with that application, requirement, order or notice when aggregated with others outstanding at that time in respect of the Chargor is in excess of £50,000 give written notice thereof to the Chargee and also (within 7 days after demand) produce the same or a copy thereof to the Chargee and inform it of the steps taken or proposed to be taken to comply with any such requirement thereby made or implicit therein;

(f) **Statutes:**

duly and punctually perform and observe all its obligations in connection with the Real Property under any present or future statute or any regulation, order or notice made or given thereunder;

(g) **Development:**

not carry out or permit to be carried out on any part of the Real Property, except with the previous consent in writing of the Chargee any development (within the meaning of that expression in the Planning Acts and being development for which the permission of the local planning authority is required) other than repairs, modifications or other adaptations which form part of the normal management of properties by a Registered Provider;

(h) **Leases:**

(i) not, without the previous consent in writing of the Chargee, grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Real Property or any part thereof or confer upon any person any contractual licence or right to occupy the Real Property other than as permitted under the On-Lending Downstairs Agreement and all other Finance Documents and provided, on request by the Chargee following an Event of Default which is continuing, it notifies the Chargee of all leases, tenancies,

licences or rights to occupy granted or surrendered by it and if so requested by the Chargee provided it sends a copy thereof to the Chargee as soon as practicable upon request;

- (ii) not without the prior written consent of the Chargee accept or agree to accept the surrender or alteration of any of the Letting Documents which materially adversely affects or is likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents and observe and perform all the covenants, conditions, agreements and obligations on its part under the Letting Documents in all material respects to the extent in the opinion of the Chargee non-compliance materially adversely affects or is likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents;
- (iii) enforce and not waive or release the covenants, conditions, agreements and obligations contained in or imposed by any of the Letting Documents or any guarantee in respect of the obligations of the tenants, lessees, licensees or other parties thereunder where a breach of this covenant in the opinion of the Chargee materially adversely affects or is likely to materially adversely affect the Value of the Real Property or the ability of the Chargor to perform its obligations under the Finance Documents;
- (iv) at any time after an Event of Default has occurred and is continuing issue irrevocable instructions to the other parties to any Letting Document to pay rents and sums due under any Letting Document to the Chargee or into such account(s) as the Chargee may require; and
- (v) deliver to the Chargee, within 21 days of demand, full particulars of all agreements, leases, tenancies or licences to occupy affecting the Real Property however remote or inferior provided that such demand shall not be made in circumstances where there is no Event of Default or Potential Event of Default which is continuing;

(i) **Access:**

duly and punctually perform and observe all covenants and stipulations restrictive or otherwise affecting all or any part of the Real Property and indemnify the Chargee in respect of any breach thereof and permit the Chargee and any person nominated by it at all times (provided that reasonable notice has been given by the Chargee) to enter upon the Real Property and view the state of the same subject to the terms of any relevant Letting Document;

(i) **Investigation of title:**

after the occurrence of an Event of Default or Potential Event of Default which is continuing, grant the Chargee or its lawyers on request all such facilities within the power of the Chargor to enable such lawyers to carry out investigations of title to the Real Property and other Property which is or may be subject to this security and enquiries into matters in connection therewith as may be carried out by a prudent mortgagee, such investigations and enquiries to be at the expense of the Chargor; and

(k) **Report on title:**

after the occurrence of an Event of Default or Potential Event of Default which is continuing and only to the extent that no investigation of title has been conducted pursuant to clause 9.2(j), as soon as practicable and in any event within 30 days of demand by the Chargee provide the Chargee with a solicitor's report (at the Chargor's cost) in a form acceptable to the Chargee as to the title of the Chargor to the Real Property and other property which is or may be subject to this security and related matters concerning the items which a prudent mortgagee would properly require in a solicitor's report of this nature.

9.3 Entitlement to remedy

If the Chargor fails to comply with any of the undertakings contained in this clause 9.3, the Chargee shall be entitled (with such agents, contractors and others as it sees fit) to do such things as may in the opinion of the Chargee be required to remedy such failure and all moneys spent by the Chargee in doing so shall be reimbursed by the Chargor on demand with interest from the date of payment by the Chargee until reimbursed at the Default Rate.

10 General undertakings

10.1 Information and access

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

10.2 Negative pledge and disposals

- (a) The Chargor shall not create, grant, extend or permit to subsist any Security Interest on any of the Charged Assets without the prior written consent of the Chargee or as permitted under the On-Lending Downstairs Agreement and all other Finance Documents.
- (b) The Chargor shall not sell, transfer, grant or lease or otherwise dispose of all or any part of the Charged Assets without the prior written consent of the Chargee and as permitted under the On-Lending Downstairs Agreement and all other Finance Documents.

11 Enforcement of security

11.2 Enforcement

On the occurrence of any Event of Default which is continuing, the Security Interests created by and under this Deed are immediately enforceable.

11.3 Acts of enforcement

The Chargee may, at its absolute discretion, at any time after the Security Interests created by or under this Deed are enforceable:

- (a) enforce all or any part of the Security Interests created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Charged Assets;
- (c) appoint a Receiver to all or any part of the Charged Assets;
- (d) appoint an administrator respect of the Chargor, and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of the Chargor.

11.4 Statutory powers - general

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security Interests constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Chargee are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Chargee is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers when such Receivers have been duly appointed under the relevant Act.

11.5 Contingencies

If the Chargee enforces the Security Interests constituted by or under this Deed at a time when no amounts are due to the Chargee under the Finance Documents but at a time when amounts may or will become so due, the Chargee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

11.6 Mortgagee in possession - no liability

Neither the Chargee nor any Receiver will be liable, by reason of entering into possession of a Charged 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 otherwise be liable.

11.7 Redemption of prior security

At any time after the Security Interests created by or under this Deed have become enforceable, the Chargee may, at the sole cost of the Chargor (payable to Chargee on demand):

- (a) redeem any prior form of Security Interest over any Charged Asset; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

11.8 Possession

If the Chargee, any Receiver or any delegate of any such person shall take possession of the Charged Assets, it or he may at any time relinquish such possession.

11.9 Chargee's liability

The Chargee shall not in any circumstances (whether by reason of taking possession of the Charged Assets or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever):

- (a) be liable to account to the Chargor or any other person for anything except the Chargee's own actual receipts which have not been distributed or paid to the Chargor or the persons entitled, or at the time of payment honestly and reasonably believed by the Chargee to be entitled, thereto; or
- (b) be liable to the Chargor or any other person for any costs, charges, losses, damages, liabilities or expenses arising from or connected with any realisation of the Charged Assets or from any act, default, omission or misconduct of the Chargee, its officers, employees or agents in relation to the Charged Assets except to the extent that they shall be caused by its own gross negligence or wilful default or that of its officers or employees.

11.10 Receiver's liability

All the provisions of clause 11.8 (Chargee's liability) shall apply, mutatis mutandis, in respect of the liability of any Receiver and delegate of the Receiver of the Chargee or any officer, employee or agent of the Chargee, any Receiver or any delegate.

11.11 Indemnity

The Chargee and every Receiver, delegate, attorney, manager, agent or other person appointed by the Chargee hereunder shall be entitled to be indemnified out of the Charged Assets in respect of all liabilities and expenses incurred by any of them in the execution or purported execution of any of its rights and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets (other than where arising as a result of breach of trust, gross negligence or wilful misconduct by the Chargee), and the Chargee and any such Receiver, delegate, attorney, manager, agent or other person appointed by the Chargee hereunder may retain and pay all sums in respect of the same out of any moneys received.

12 Appointment of Receiver

12.1 Appointment of Receiver

- (a)

- (i) At any time after any Security Interest created by or under this Deed is enforceable the Chargee may appoint a Receiver to all or any part of the Charged Assets in accordance with clause 11.2(c) (Acts of enforcement).
 - (ii) At any time, if so requested in writing by the Chargor, without further notice, the Chargee may appoint a Receiver to all or any part of the Charged Assets, as if the Chargee had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Chargee be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:
- (i) obtaining a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

12.2 Removal

The Chargee may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

12.3 Powers of Receiver

(a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 12.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver who is an administrative receiver of the Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of the Chargor:
 - (A) do all other acts and things which he may consider expedient for realising any Charged Asset; and

- (B) exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) **Borrow monies**

A Receiver may raise and borrow monies (either unsecured or on the security of any Charged Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that monies need enquire as to the propriety or purpose of the exercise of that power or to check the application of any monies so raised or borrowed.

(c) **Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Asset.

(d) **Delegation**

A Receiver may delegate his powers in accordance with clause 10 (Delegation).

(e) **Leases**

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

(f) **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Charged Asset as he considers expedient.

(g) **Possession**

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

(h) **Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Charged Assets;
- (ii) commence and/or complete any building operations on and Charged Asset; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(i) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Charged Asset.

(j) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Charged Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture 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 such period as he thinks fit.

(k) **Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Charged Asset.

(l) **Deal with Charged Assets**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Charged Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Charged Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Charged Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(m) **Security**

A Receiver may redeem any prior security and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

(n) **Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(o) **Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Assets and to use the name of the Chargor for all the purposes set out in this clause 12.3.

12.4 Remuneration

The Chargee may from time to time fix the remuneration of any Receiver appointed by it.

13 Delegation

- 13.1 The Chargee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Chargee and the Receiver as appropriate under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Chargee and Receiver as appropriate may think fit.
- 13.2 The Chargee and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.
- 13.3 Any liberty or power which may be exercised or any determination which may be made hereunder by the Chargee or any Receiver may, subject to the terms and conditions of the Finance Documents, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

14 Protection of purchasers

- 14.1 No person (including a purchaser) dealing with the Chargee or a Receiver or its or his agents has an obligation to enquire of the Chargee, Receiver or others:
 - (a) whether the Secured Obligations have become payable;
 - (b) whether any power purported to be exercised has become exercisable;
 - (c) whether any Secured Obligations or other monies remain outstanding;
 - (d) how any monies paid to the Chargee or to the Receiver shall be applied; or
 - (e) the status, propriety or validity of the acts of the Receiver or Chargee.
- 14.2 The receipt by the Chargee or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Chargee or any Receiver.
- 14.3 In clauses 14.1 and 14.2, purchaser includes any person acquiring, for monies or monies worth, any lease of, or Security Interest over, or any other interest or right whatsoever in relation to, the Charged Assets or any of them.

15 Power of attorney

15.1 Appointment and powers

The Chargor by way of security irrevocably appoints the Chargee and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which:

- (a) the Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Assets); and
- (b) enable the Chargee and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on it by or pursuant to this Deed or by law (including, after the occurrence of an Event of Default, the exercise of any right of a legal or beneficial owner of the Charged Assets).

15.2 Ratification

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

16 Remedies and waivers

16.1 No failure to exercise, nor any delay in exercising, on the part of the Chargee or any Receiver, 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.

16.2 A waiver given or consent granted by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

17 Additional security

The Security Interests created by or under this Deed are in addition to, and is not in any way prejudiced by any guarantee or security now or subsequently held by the Chargee.

18 Settlements conditional

18.1 If the Chargee (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason then for the purposes of this Deed such amount shall not be considered to have been paid.

18.2 Any settlement, discharge or release between the Chargor and the Chargee shall be conditional upon no Security Interest or payment to or for the Chargee by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

19 Subsequent security

If the Chargee receives notice of any other subsequent Security Interest or other interest affecting all or any of the Charged Assets it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Chargee, all payments made by the Chargor to the Chargee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

20 Set-off

The Chargee may, set off any matured obligation due from the Chargor under the Finance Documents (to the extent beneficially owned by the Chargee) against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

21 Notices

21.1 Giving of notices

All notices or other communications under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter. Any such notice or communication will be deemed to be given as follows:

- (a) if in writing, when delivered (delivery shall be deemed to be immediate if by hand, or 2 days after posting if sent by first class post); and
- (b) if by fax, when received (provided that all of it is legible).

However, a notice or communication given in accordance with the above but received on a non-Business Day or after business hours in the place of receipt will only be deemed to be given on the next Business Day in that place. Further, any notice or communication or document to be made or delivered to the Chargee will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified below or any substitute as specified in the future.

21.2 Addresses for notices

- (a) The address and fax number of the Chargee for all notices or other communications under, or in connection with, this Deed, is:

Luminus Finance Limited
Brook House
Ouse Walk
Huntingdon
Cambridgeshire
PE29 3QW

Fax: 01480 396 705
Attention: Company Secretary

or such other as the Chargee may notify to the Chargor by not less than 7 days' notice.

- (b) The address and fax number of the Chargor for all notices or other communications under, or in connection with, this Deed is:

Luminus Homes Limited
Brook House
Ouse Walk
Huntingdon

Cambridgeshire
PE29 3QW

Fax: 01480 396 705
Attention: Company Secretary

or such other as the Chargor may notify to the Chargee by not less than 7 days' notice.

(c) Any notice given under or in connection with this Deed must be in English.

22 Release of security

22.1 Redemption of security

Upon the Secured Obligations being discharged in full and the Chargee not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under any of the Finance Documents, the Chargee shall, at the request and cost of the Chargor, release and cancel the security constituted by this Deed, subject to clauses 22.3 (Retention of security) and 22.4 (No prejudice) and without recourse to, or any representation or warranty by, the Chargee or any of its nominees.

22.2 Avoidance of payments

If the Chargee considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Deed and the Security Interests constituted hereby shall continue and such amount shall not be considered to have been irrevocably paid.

22.3 Retention of security

Where the Chargee has reasonable cause to be concerned that the Chargor is or may become insolvent and that any amount paid or credited to the Chargee may be avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the Chargee may retain this Deed, the Security Interests constituted by or pursuant to this Deed and all documents of title, certificates and other documents relating to or evidencing ownership of all or any part of the Charged Assets for a period of 7 months after any discharge in full of the Secured Obligations provided that if at any time during that 7 month period a petition is presented for an order for the winding-up of, or the making of an administration order in respect of, the Chargor or the Chargor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Chargee may continue to retain such security and such documents for such further period as the Chargee may determine and the security and such documents shall be deemed to have continued to have been held as security for the Secured Obligations.

22.4 No prejudice

The Security Interests created by or pursuant to this Deed and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person by the Chargee or by any other thing which might otherwise prejudice that security or any Collateral Right.

23 Non-competition

Until all Secured Obligations which may be or become payable by the Chargor have been irrevocably paid in full, the Chargor shall not, after a claim has been made or by virtue of any payment or performance by it under this Deed:

- (a) be subrogated to any rights, security or moneys held, received or receivable by the Chargee (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of its liability under this Deed;
- (b) claim, rank, prove or vote as a creditor of the Chargor or other member of the Group or its estate in competition with the Chargee (or any trustee or agent on its behalf); or
- (c) receive, claim or have the benefit of any payment, distribution or security from or on account of the Chargor or other member of the Group or exercise any right of set-off as against the Chargor.

The Chargor shall hold in trust for and forthwith pay or transfer to the Chargee any payment or distribution or benefit of security received by it contrary to this clause 23.

24 Expenses, stamp taxes and indemnity

24.1 Expenses

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

- (a) the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the security contemplated in this Deed;
- (b) the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Deed or any proceedings instituted by or against the Chargee as a consequence of taking or holding the security or of enforcing the Collateral Rights,

and shall carry interest until so reimbursed at the Default Rate.

24.2 Stamp taxes

The Chargor shall pay all stamp, registration and other taxes to which this Deed, the security contemplated in this Deed or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Chargee on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

24.3 Indemnity

The Chargor shall, notwithstanding any release or discharge of all or any part of the security, indemnify the Chargee, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Deed, the exercise or purported exercise of any of the rights and powers conferred on them by this Deed or otherwise relating to the Charged Assets.

25 Perpetuity period

The perpetuity period under the rule against perpetuities, if applicable to this Deed, shall be the period of 125 years from the date of this Deed.

26 Counterparts

This Deed or any document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

27 Governing law

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

28 Enforcement

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or 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) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

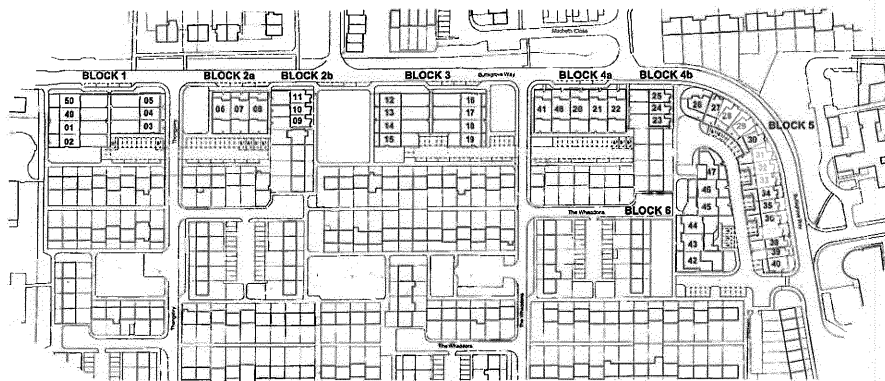
This clause 27 is for the benefit of the Chargee. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

This Deed has been signed on behalf of the Chargee and executed as a deed by the Chargor and is hereby delivered by the Chargor on the date written on the first page of this Deed.

Schedule 1

Details of Real Property

<u>Property</u>	<u>Title Number</u>
2-12 and 14 Churchill Terrace Huntingdon Cambridgeshire PE29 1AP.	Parts of CB259928 CB259929 and CB408999 as edged red on the annexed Plan 1. ("Property A, the remainder of title numbers CB259928 CB259929 and CB408999 being known as Retained Land A")



PLAN 1



3 Sordel House Mews
Groveville St
Ipswich
Suffolk IP4 1LN
Tel: 01473 222313 Fax: 01473 222381
www.ashburyconstruction.co.uk

Project Buntingford Way, Huntingdon

Client Luminus Group

Existing Description
The Whaddons, Charging

All dimensions unless stated are to the boundaries. The drawing is a copy of the original.
Date Oct 13 Drawn Scale 1:1250/BA3 Job No 01-12 Drawing No DEL03 Revision A

SCALE 1:1250
0 25 50 75 100 125m



Schedule 2

The Easements

- 1 The right of free passage and running of all services including but not limited to water, soil, gas and electricity through all service conduits serving the Property which now or within the Perpetuity Period pass through over or under the Retained Land and the right to enter onto the Retained Land upon giving reasonable prior notice (save in the case of emergency) with all necessary workmen and appliances for the purpose of inspecting, maintaining, cleaning, reinstating, renewing and repairing any such service conduits the persons exercising such rights causing as little damage and inconvenience as possible and making good all damage caused to the reasonable satisfaction of the owner of the Retained Land
- 2 The right of access onto the Retained Land with or without workmen, materials and apparatus for the purpose of maintaining and repairing those parts of the Retained Land which cannot otherwise be reached for those purposes subject to the persons exercising such rights giving at least 10 working days prior written notice to the owner or owners of the Retained Land (save in the case of emergency) and causing as little damage and inconvenience as possible and making good all damage caused forthwith to the reasonable satisfaction of the owner of the Retained Land

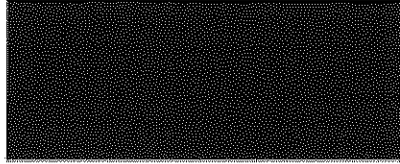
In conjunction with this right the right to place any necessary scaffolding on the Retained Land in positions to be first approved by the owner of the Retained Land (such approval not to be unreasonably withheld or delayed) provided that such scaffolding shall not obstruct the lawful access and egress of occupants of the Retained Land with or without vehicles to and from the Retained Land and otherwise shall not prevent or interfere with the use of the Retained Land
- 3 The right of support and protection for the Property as presently enjoyed from the Retained Land
- 4 The right at all times hereafter to discharge rainwater from eaves, spouts, gutters and pipes of any building which may now or hereafter within the Perpetuity Period be erected on the Property and overhanging the Retained Land and the right to have and retain foundations of the Property where they encroach into the Retained Land so far as these presently exist
- 5 Pending adoption of the same or the relevant part thereof full and free right and liberty to go pass and repass at all times and for all purposes with or without vehicles and on foot over and along the roads vehicular accessways and source roads footpaths pathways and other areas within the Perpetuity Period comprised in the Retained Land for the purposes of access to and egress from the Property.

SIGNATORIES TO THE FIXED CHARGE

The Chargor:

**Signed as a deed by Andrew John Chapman
as attorney for Luminus Homes Limited**

In the presence of:



Witness Signature:.....

Witness Name: LAURA FERGUSSON

Witness Address:.....

Witness Address:.....

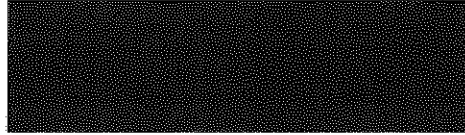
Witness Occupation: PA

The Chargee:

Signed as a deed by Andrew John Chapman

as attorney for Luminus Finance Limited

in the presence of:



Witness Signature:.....

Witness Name:..... LAURA FERGUSON

Witness Address:.....

.....

Witness Occupation:..... P.A.