



Registration of a Charge

Company name: **BARKING RIVERSIDE LIMITED**

Company number: **05055132**



X91Z0JGO

Received for Electronic Filing: **31/03/2020**

Details of Charge

Date of creation: **31/03/2020**

Charge code: **0505 5132 0005**

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

Brief description: **THE CHARGOR'S FREEHOLD INTEREST IN THE LAND AT BARKING REACH, BARKING REGISTERED AT THE LAND REGISTRY WITH FREEHOLD TITLE ABSOLUTE UNDER TITLE NUMBERS EGL334572, EGL471051 AND EGL201689 BUT EXCLUDING THE LAND SHOWN EDGED AND NUMBERED 16 IN BLUE ON THE TITLE PLAN TO TITLE EGL201689 APPENDED TO SCHEDULE 5 OF THE DEBENTURE DATED 31 MARCH 2020.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **SALONI MALDE**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5055132

Charge code: 0505 5132 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st March 2020 and created by BARKING RIVERSIDE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st March 2020 .

Given at Companies House, Cardiff on 1st April 2020

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



Companies House



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

EXECUTION VERSION

dated 31 March 2020

Barking Riverside Limited

(as Chargor)

and

Homes and Communities Agency

(trading as Homes England)

Debenture

trowers & hamlins

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Deed

dated 31 March 2020

Parties

- (1) **Barking Riverside Limited** of 29-35 West Ham Lane, London E15 4PH (the **Chargor**); and
- (2) **Homes and Communities Agency (trading as Homes England)** of One Friargate, Coventry CV1 2GN (**Homes England**).

Introduction

- (A) Homes England has agreed to make loan facilities available to the Chargor in accordance with the terms of the Funding Agreement (as defined below).
- (B) It is a condition precedent to the granting of the loan facilities under the Funding Agreement that the Chargor enters into this Deed to provide security to Homes England for the purposes and on the terms as described below.
- (C) It is intended by the parties to this document that it will take effect as a deed.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Accounts means the Deposit Account and the Operating Account and **Account** means any one of them;

Account Bank has the meaning given to it in the Funding Agreement;

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

Assigned Contracts means the agreements and deeds listed in Schedule 1;

Business Days has the meaning given to it in the Funding Agreement;

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

Claim Form has the meaning given to it in the Funding Agreement;

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

Dangerous Substances means any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or

disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or any other living organism or causing damage to the Environment or public health and includes, but is not limited to, any controlled, special, hazardous, toxic, radioactive or dangerous waste or substance;

Debts means all book and other debts of the Chargor, all other monies due and owing to the Chargor and the benefit of all rights, securities or guarantees in respect of such book and other debts in each case arising in relation to the Chargor's ownership of the Mortgaged Property;

Default Rate means the rate of interest to be 2% above the Bank of England Base Rate;

Deposit Account means the Chargor's account with the Account Bank designated as such under clause 7.1 of the Funding Agreement and includes any replacement of that Account;

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

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

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

Environmental Licence means a licence, permit, certificate of registration, consent, or approval, including any conditions which attach thereto, which relates to or affects the Security Assets and which is required by an Environmental Law;

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

Funding has the meaning given to it in the Funding Agreement;

Funding Agreement means the funding agreement dated on or around the date of this Deed between the Chargor and Homes England under which Homes England has agreed to make available certain loan facilities to the Chargor;

Finance Documents has the meaning given to it in the Funding Agreement;

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

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

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on the Mortgaged Property and includes all fixtures, fittings, plant, materials,

machinery, equipment, installations and apparatus now and from time to time in or on the Mortgaged Property;

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

Insurances has the meaning given to it in the Funding Agreement;

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

Intellectual Property Rights shall include without limitation all rights to, and any interests in, any patents, designs, trade marks, copyright, know-how, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) in respect of any technology, concept, idea, data, program or other software (including source and object codes), specification, plan, drawing, schedule, minutes, correspondence, scheme, formula, programme, design, system, process logo, mark, style, or other matter or thing, existing or conceived, used, developed or produced by any person;

Reservations has the meaning given to it in the Funding Agreement;

Material Contract has the meaning given to it in the Funding Agreement;

Monitoring and Progress Report has the meaning given to it in the Funding Agreement;

Mortgaged Property means the Chargor's freehold interest in the land at Barking Reach, Barking registered at the Land Registry with freehold title absolute under title numbers EGL334572, EGL471051 and EGL201689 but excluding the land shown edged and numbered 16 in blue on the title plan to title EGL201689 in Schedule 5;

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

Operating Account means the Chargor's account with the Account Bank designated as such under clause 7.3 of the Funding Agreement and includes any replacement of that Account;

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

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

Recycled Funding Request has the meaning given to it in the Funding Agreement;

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

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

Rent means all amounts payable to or for the benefit of the Chargor by way of rent or licence fee, service charge, dilapidations, ground rent and rent charge in respect of any part of the Mortgaged Property whether under an Occupational Lease Document or otherwise and all other monies payable to or for the benefit of the Chargor in respect of the occupation or use of any part of the Mortgaged Property;

Secured Liabilities means all present and future monies, obligations and liabilities now or hereafter due owing or incurred to Homes England by the Chargor under the Finance Documents in any manner whatsoever, in any currency or currencies (whether present or future, actual or contingent) and whether owed by the Chargor as principal or surety or incurred solely or jointly with another, together with all interest accruing thereon and all costs, charges and expenses incurred by Homes England in connection therewith and for the avoidance of doubt including any new or increased advances or utilisations;

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

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

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

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

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

Security Period means the period beginning on the date hereof and ending on the date upon which Homes England is satisfied (acting reasonably) that all the Secured Liabilities

have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of being outstanding;

Sterling means the lawful currency of the United Kingdom;

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

Valuation means any valuation relating to the Mortgaged Property supplied to Homes England by the Chargor (or on its behalf) pursuant to the Finance Documents; and

Works has the meaning given to it in the Funding Agreement.

1.2 Interpretation

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

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

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

the **Chargor** or **Homes England** includes a reference to its respective successors, permitted assigns and permitted transferees;

a **person** includes a permitted body corporate, unincorporated association and partnership, in each case, whether or not having a separate legal personality;

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

one gender shall include a reference to other genders; an individual will be treated as including corporations and vice versa; words importing the singular will be treated as including the plural and vice versa and words importing the whole will be treated as including a reference to any part, in each case except where the context specifically requires otherwise;

this Deed or to any provision of this Deed or any other document (including, without limitation any of the Finance Documents) is a reference to it as amended, restated, supplemented, varied or novated from time to time;

the words **include** or **including** (or any similar term) are not to be construed as implying any limitation and general words introduced by the word **other** (or any similar term) will not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;

a statute, a statutory provision, enactment or an EC Directive or subordinate legislation is a reference to any amendment, modification, extension, consolidation, replacement or re-

enactment of any such statute, statutory provision, enactment or EC Directive, whether before or after the date of this Deed;

the making of an administration order shall be treated as including a reference to the appointment of an Administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's property) or paragraph 22 (by the Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986;

the making of an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an Administrator under paragraphs 14 or 22 of that Schedule, or giving notice under paragraphs 15 or 26 of that Schedule of intention to appoint an Administrator; and

an Event of Default is continuing if it has not been remedied or waived.

1.3 Funding Agreement

1.3.1 Words and expressions defined in the Funding Agreement will have the same meanings when used in this Deed, unless the context otherwise requires. In the case of inconsistency, definitions set out in the Funding Agreement will prevail.

1.3.2 In the event of any inconsistency, ambiguity or discrepancy between the provisions of the Funding Agreement and the provisions of this Deed, then the provisions of the Funding Agreement shall prevail.

1.4 Headings

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

1.5 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of Schedule 1 paragraph 19 Land Registration (Amendment) Rules 2008 the covenant set out in section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

1.6 Nature of security over Mortgaged Property

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

1.6.1 all buildings and Fixtures and fittings and fixed plant and machinery which are situated on or form part of the Mortgaged Property at any time; and

1.6.2 all Related Rights.

1.7 Third party rights

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

1.8 Qualifying floating charge

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

1.9 Avoidance of payments

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

2 Payment of Secured Liabilities

2.1 Covenant to pay

The Chargor covenants with Homes England that it will, on demand, pay and discharge the Secured Liabilities as and when they fall due for payment in the manner provided in the relevant Finance Document.

2.2 Interest on demand

If the Chargor fails to pay any sum due pursuant to the Finance Documents on the due date for payment of that sum the Chargor will pay interest on such sum (before and after any judgment) from the date of demand until the date of payment calculated on a daily basis at the Default Rate at such intervals as Homes England shall determine. Such interest will be calculated on the basis of a 365 day year according to the usual practice of Homes England.

3 Security

3.1 Fixed charges

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

3.1.1 by way of a fixed legal mortgage the Mortgaged Property;

3.1.2 by way of first fixed charge:

- (a) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by the Chargor in connection with the Security Assets or the use of any of the Security Assets and all rights in connection with them;
- (b) the benefit of all other contracts, guarantees, appointments, covenants and warranties relating to the Mortgaged Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to letting, development, sale, purchase, use or the operation of the Mortgaged Property or any part of it or otherwise relating to the Mortgaged Property;

- (c) all furniture, furnishings, tools, vehicles, computers, computer software and hardware and office and other equipment and other chattels belonging to the Chargor and not regularly disposed in the ordinary course of business together with the benefit of all contracts, licences and warranties relating to the same insofar as they relate to the Mortgaged Property;
- (d) all Fixtures;
- (e) all of the Chargor's rights title and interest from time to time in monies from time to time standing to the credit of the Deposit Account and debts represented thereby together with all entitlements to interest and other rights and benefits accruing to or arising in connection therewith;
- (f) the Securities;
- (g) the Debts and the proceeds of payment or realisation of each of them until payment of such proceeds into the Accounts in accordance with clause 13;
- (h) all choses in action and the Intellectual Property Rights arising in relation to the Mortgaged Property;
- (i) all present and future goodwill, uncalled and called but unpaid capital of the Chargor;
- (j) all its rights and interests in and claims under the Insurances issued in relation to the Security Assets;
- (k) all negotiable instruments at any time drawn, issued or endorsed in favour of or held by or on behalf of, the Chargor, including any such instruments which at any time have been deposited with Homes England (whether or not endorsed by Homes England);
- (l) the benefit of any interest rate swap, currency swap, cap or collar arrangement, future, option, forward rate agreement or other derivative instrument (howsoever described) or any other agreement with Homes England or any third party for protecting or hedging any of the Secured Liabilities at any time; and
- (m) insofar as the legal mortgages referred to in clause 3.1.1 or any of the assignments referred to in clause 3.2 shall for any reason be ineffective as a legal mortgage or an assignment, the assets referred to in those clauses.

3.2 **Assignments**

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

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

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

3.3 **Floating charge**

The Chargor hereby charges in favour of Homes England with full title guarantee for the payment and discharge of the Secured Liabilities by way of floating charge the whole of the Chargor's undertaking, property and assets, present and future wherever situate not from time to time subject to an effective fixed charge or assignment under this Deed.

4 Conversion of the Floating Charge

4.1 Notice of conversion

4.1.1 Homes England may from time to time, by notice in writing to the Chargor following the occurrence of Event of Default, which is continuing or if Homes England, acting reasonably, considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other legal process or to otherwise be in jeopardy, convert the floating charge contained in clause 3.3 into a fixed charge as regards any Floating Charge Assets specified in such notice.

4.1.2 The floating charge contained in clause 3.3 may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000.

4.2 Automatic conversion

Notwithstanding anything contained in this Deed, if (without the prior written consent of Homes England);

4.2.1 the Chargor creates any Security Interest over or otherwise encumbers any of the Security Assets created by this Deed or attempts to do so other than as permitted under the Finance Documents;

4.2.2 any person levies or attempts to levy any distress, execution, diligence, sequestration or other process against the Security Assets which is not frivolous and vexatious and/or being diligently contested by the Chargor;

4.2.3 a resolution is passed or a petition is presented for the winding up, dissolution, administration or re-organisation of the Chargor other than any petition which is frivolous and vexatious or has been disclosed to Homes England and is being diligently contested by the Chargor;

4.2.4 a receiver, an administrative receiver or a receiver and manager is appointed over the Security Assets or, if any person entitled to do so, gives notice of intention to appoint a receiver, an administrative receiver or a receiver and manager over the Security Assets or files such a notice with the court; or

4.2.5 an Administrator is appointed in respect of the Chargor or Homes England receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of the Chargor,

the floating charge created by this Deed over the Floating Charge Assets shall with immediate effect and without notice automatically convert into a fixed charge.

5 The Land Registry

5.1 Land registration

The Chargor hereby consents to an application being made to the Land Registry by or on behalf of Homes England to enter the following restriction in the Proprietorship Register of

any property which is, or is required to be, registered forming part of the Mortgaged Property:

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

5.2 Implied covenants

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

6 Further assurance

6.1 Further assurance: general

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

- 6.1.1 to perfect or protect the security created or intended to be created in respect of the Security Assets (which may include the execution by the Chargor of a fixed charge or assignment over all or any of the assets constituting, or intended to constitute, Security Assets) or for the exercise of the Collateral Rights; and/or
- 6.1.2 to facilitate the realisation of the Security Assets; and/or
- 6.1.3 to obtain all necessary consents to procure the registration of this Deed with the registrar of companies (if applicable).

6.2 Consents

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

6.3 Notice of assignment of Assigned Contracts

The Chargor will as soon as reasonably practicable give notice of assignment in the form set out in part I of Schedule 2 to each counterparty, to an Assigned Contract and shall use reasonable endeavours to procure that each relevant party acknowledges that notice substantially in the form set out in part II of Schedule 2.

6.4 Notice of charge of Accounts

- 6.4.1 The Chargor will promptly give notice to the bank at which the Deposit Account is held in the form set out in part 1A of Schedule 3 and shall use reasonable endeavours to procure that the Account Bank acknowledges that notice substantially in the form set out in part IIA of Schedule 3.
- 6.4.2 The Chargor will as soon as reasonably practicable give notice to the bank at which an Account which is not the Deposit Account is held in the form set out in part 1B of Schedule 3 and shall use reasonable endeavours to procure that the Account Bank acknowledges that notice substantially in the form set out in part IIB of Schedule 3.

6.5 Notices of assignment of Insurances

The Chargor will as soon as reasonably practicable give notice of assignment to all insurers in respect of the Insurances in the form set out in part I of Schedule 4 and shall use reasonable endeavours to procure that such insurers acknowledge the notice in the form set out in part II of Schedule 4.

6.6 Preservation of rights

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

- 6.6.1 the winding-up, dissolution, administration or reorganisation of the Chargor or any other person or any change in its status, function, control or ownership;
- 6.6.2 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;
- 6.6.3 any time or other indulgence being granted or agreed to be granted to the Chargor or any other person in respect of its obligations under the Finance Documents;
- 6.6.4 any amendment to, or any variation, waiver or release of any obligation of the Chargor or any other person under the Finance Documents;
- 6.6.5 any failure to take, or fully to take, any security contemplated by the Finance Documents or otherwise agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents;
- 6.6.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents; or
- 6.6.7 any other act, event or omission which, but for this clause 6.6, might operate to discharge, impair or otherwise affect any of the obligations of the Chargor or

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

7 Negative pledge and disposal restrictions

7.1 Negative pledge

Save as permitted by the Finance Documents, the Chargor will not during the Security Period, without the prior written consent of Homes England, create, purport to create, or permit to subsist (in favour of any person other than Homes England) any Security Interest over any of the Security Assets now or in the future, or agree or attempt to do so.

7.2 Disposal of fixed charge assets

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

7.3 Disposal of Floating Charge Assets

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

8 Representations and warranties

8.1 Duration and to whom made

The representations and warranties made by the Chargor in this clause 8 are given to Homes England and are deemed to be repeated on the date of each Claim Form and of each payment of Funding, on the date of each Recycled Funding Request and the date of delivery of each Monitoring and Progress Report (by reference to the facts and circumstances then existing).

8.2 Matters represented – Mortgaged Property

Except as disclosed in writing to Homes England or in the Certificate of Title on or prior to the date of this Deed or on or prior to the date the Mortgaged Property becomes subject to a fixed charge hereunder:

- 8.2.1 the Chargor is the legal and beneficial owner of the Mortgaged Property, and has good and marketable title to the Mortgaged Property;
- 8.2.2 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 in all material respects to any development and the existing use of the Mortgaged Property, and the Planning Acts and all relevant building regulations or previously relevant building bye-laws have been complied with in

respect of all developments, alterations and improvements to the Mortgaged Property and they have also been materially complied with in respect of the use of the Mortgaged Property;

- 8.2.3 nothing has arisen or has been created or is subsisting which would be an overriding interest over the Mortgaged Property which materially adversely affects or is likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to Homes England;
- 8.2.4 the Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Mortgaged Property or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to Homes England;
- 8.2.5 nothing has arisen, or has been created, which would be an overriding interest in any Mortgaged Property;
- 8.2.6 the Mortgaged Property will be free from any tenancies or licences, other than those tenancies or licences permitted under the Finance Documents;
- 8.2.7
- (a) all written information supplied by the Chargor or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects as at its date or as at the date (if any) on which it was stated to be given;
 - (b) the information referred to in clause 8.2.7(a) was, as at its date or as at the date (if any) on which it was stated to be given, complete and the Chargor did not omit to supply any information which, if disclosed, would adversely affect the Valuation or Certificate of Title; and
 - (c) in the case of the first Valuation or Certificate of Title only, as far as the Chargor is aware or ought to be aware after due enquiry, nothing has occurred since the date the information referred to in clause 8.2.7(a) was supplied and the date of this Deed which would adversely affect such Valuation or Certificate of Title;
- 8.2.8 the Chargor has disclosed to Homes England full details of all inspections, investigations, studies, Environmental Audits (if any) and other analyses commissioned by it in relation to environmental matters in respect of the Mortgaged Property and any adjoining land;
- 8.2.9 the Chargor is, and has at all times been, in compliance with in all material respects all applicable Environmental Law; and
- 8.2.10 the Chargor has obtained and is, and has at all times been, in compliance with all Environmental Licences.

8.3 Matters represented – Security Assets

- 8.3.1 There are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Security Assets which materially adversely affect or are reasonably likely to materially adversely affect the Security Assets or the ability of the Chargor to perform its obligations owed to Homes England.
- 8.3.2 No facilities necessary for the enjoyment and use of the Security Assets are enjoyed by the Security Assets on terms entitling any person to terminate or curtail its or their use which materially adversely affects or is reasonably likely to materially adversely affect the Security Assets or the ability of the Chargor to perform its obligations owed to Homes England.
- 8.3.3 The Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Security Assets or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to Homes England.

8.4 Security created

Subject to registration with the registrar of companies (if applicable) and to the Reservations, this Deed creates those Security Interests it purports to create ranking as set out above and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

9 General undertakings

9.1 Duration and benefit

The undertakings in this clause 9:

- 9.1.1 shall remain in force during the Security Period; and
- 9.1.2 are given to Homes England.

9.2 Not to jeopardise the Security

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

9.3 Maintenance

The Chargor will keep all plant, machinery, Fixtures, fittings, vehicles, computers and other equipment of a repairable nature included in the Security Assets in a good state of repair and in good working order and condition, (fair wear and tear arising from the use of the Security Assets in the ordinary course of business excepted) and when necessary replace the same by items of similar quality and value.

9.4 Information and access

The Chargor will, at the written request of Homes England, as soon as reasonably practicable provide Homes England with such information as Homes England may reasonably require about the Security Assets and the Chargor's compliance with the terms of this Deed and the Chargor will permit Homes England, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice:

9.4.1 to view the Security Assets (without becoming liable as mortgagee in possession); and

9.4.2 to inspect and take copies and extracts from such books, accounts and records of the Chargor as relate to the Security Assets.

9.5 Law

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

10 Mortgaged Property

The Chargor undertakes to Homes England at all times during the Security Period:

10.1 Repair

to keep the Mortgaged Property which is of a repairable nature in good and substantial repair and condition (fair wear and tear arising from the use of the Security Assets in the ordinary course of business and any part of the Mortgaged Property which is to be demolished as part of the Works excepted);

10.2 Outgoings

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

10.3 Covenants

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

10.4 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) not without the prior written consent of Homes England or except as permitted under the Finance Documents to carry out or permit any development of the Mortgaged Property, or remove any of the Fixtures on the Mortgaged Property (except in connection with the renewal or replacement of them);

10.5 User

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

10.6 Planning

10.6.1 to comply with any conditions attached to any planning permissions relating to or affecting the Mortgaged Property;

10.6.2 not without the prior written consent of Homes England or except as permitted under the Finance Documents to make any application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement or undertaking under the Planning Acts in each case in respect of the Mortgaged Property;

10.7 Notices

to pass onto Homes England as soon as reasonably practicable following receipt a copy of any notice or proposal for a notice or order served on the Chargor by any public or local or any other authority in respect of the Mortgaged Property or any part thereof and to give notice to Homes England as soon as reasonably practicable upon becoming aware of any other matter which is likely to materially adversely affect the value of the Mortgaged Property, and in each case if Homes England so requires and at the Chargor's cost to make such representations in respect of such notice or order as Homes England may reasonably require;

10.8 Information

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

10.9 Compliance with leases

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

10.9.1 to observe and perform all the covenants, stipulations and obligations contained in any lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessee, tenant or licensee; and

10.9.2 to comply with all covenants on the part of the lessor or licensor contained in the lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessor or licensor;

10.10 Environmental matters

10.10.1 to obtain and maintain all licences required by it under Environmental Law and comply in all material respects with all Environmental Law applicable to it; and

- 10.10.2 to ensure that no Dangerous Substances are used, disposed of, generated, stored, transported, deposited, buried or emitted at, on, from or under any premises (whether or not owned, leased, occupied or controlled by it) in circumstances where this might result in a liability of Homes England;

10.11 Leases

- 10.11.1 save as permitted by the Finance Documents, not without the previous consent in writing of Homes England to grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Mortgaged Property or any part thereof or accept a surrender of any lease or tenancy or confer upon any person any contractual licence or right to occupy the Mortgaged Property and provided, on request by Homes England, it notifies Homes England of all leases, tenancies, licences or rights to occupy granted or surrendered by it and if so reasonably requested by Homes England provided it sends a copy thereof to Homes England as soon as reasonably practicable following request;
- 10.11.2 to enforce and not waive or release the covenants, conditions, agreements and obligations contained in or imposed by any of the Occupational Lease Documents or any guarantee in respect of the obligations of the tenants, lessees, licensees or other parties thereunder which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property without the prior written consent of Homes England;
- 10.11.3 not without the prior written consent of Homes England to accept or agree to accept the surrender or alteration of any of the Occupational Lease Documents which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property and observe and perform all the covenants, conditions, agreements and obligations on its part in all material respects; and
- 10.11.4 to deliver to Homes England within 10 Business Days of demand full particulars of all Occupational Lease Documents.

10.12 Commonhold

The Chargor shall not convert, or permit the conversion of, any freehold estate of any of the Mortgaged Property to a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002.

11 Assigned Contracts

11.1 Performance

The Chargor will remain liable to perform all the obligations to be performed in respect of any of the Assigned Contracts and until such time as there is an Event of Default which is continuing shall have the benefit of the rights under the Assigned Contracts necessary to ensure performance by the relevant counterparty of its obligations under the Assigned Contract and Homes England will have no obligation of any kind whatsoever in relation to them or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations in respect of them. The Chargor agrees to indemnify and hold Homes England harmless from all costs, claims, damages or liabilities whatsoever and

howsoever arising out of the performance of or the failure in performance of the Chargor's obligations in respect of the Assigned Contracts.

11.2 No amendments

Save as permitted under the Finance Documents, the Chargor will not without the prior written consent of Homes England:

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

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

12 Deposit Account

12.1 Deposit Account

The Chargor will open and maintain the Deposit Account in accordance with the Funding Agreement.

12.2 Withdrawal

Except as permitted under the Funding Agreement, the Chargor will not withdraw all or any monies (including interest) standing to the credit of the Deposit Account except with the prior written consent of Homes England.

12.3 Statements

Upon written request by Homes England, the Chargor will provide Homes England and the Monitoring Surveyor with full statements and particulars of the Deposit Account and advise Homes England prior to making any change to them.

13 Account and Debts

13.1 Restriction on dealing

The Chargor will not without the prior written consent of Homes England deal with its Debts otherwise than by collecting them in the ordinary course of business and will not charge, factor, discount or assign any of its Debts in favour of any third party.

13.2 Payment

The Chargor will collect all Debts charged to Homes England under this Deed and will as soon as reasonably practicable pay the proceeds of payment or realisation of all such Debts into the Operating Account.

13.3 Withdrawal from Operating Account

The Chargor may withdraw sums standing to the credit of the Operating Account until such time as an Event of Default has occurred and is continuing or Homes England considers the assets of the Chargor to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other legal process or to otherwise be in jeopardy.

14 Securities

14.1 Calls and other payments

In relation to the Securities:

- 14.1.1 the Chargor will duly and promptly pay all calls or other payments due or payable in respect of any Securities and will comply with all other conditions and obligations assumed by it in relation to any of the Securities;
- 14.1.2 Homes England will not incur any liability in relation to any calls or other payments relating to the Securities;
- 14.1.3 if the Chargor defaults in complying with its obligations under clause 14.1.1 Homes England may in its absolute discretion make such payments on behalf of the Chargor; and
- 14.1.4 the Chargor agrees to reimburse Homes England on demand all sums properly expended by Homes England under clause 14.1.3.

14.2 Notices

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

14.3 Rights prior to enforcement

Until the Security becomes enforceable:

- 14.3.1 the Chargor may exercise or direct all voting and other rights relating to the Securities provided that such exercise does not materially and adversely affect the Securities or Homes England or the Security; and
- 14.3.2 except as otherwise permitted by Homes England in writing or by the Funding Agreement, all interest, dividends and other distributions in relation to the Securities will be paid into the Operating Account.

14.4 Rights after enforcement

Upon the Security becoming enforceable:

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

- 14.4.4 Homes England shall be entitled to complete all instruments of transfer referred to in clause 14.5 and otherwise have any Securities registered in its name or the name of its nominee.

14.5 Deposit of certificates

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

14.6 Liability of Homes England

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

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

15 Intellectual Property Rights

The Chargor shall:

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

16 Deposit of title deeds

The Chargor will hold all deeds and documents of title relating to the Security Assets and such other documents relating to the Security Assets within its possession or control to the order of Homes England pursuant to an undertaking from the Chargor's solicitors in a form agreed by Homes England, for the duration of the Security Period, except to the extent that any such Security Assets are released by Homes England pursuant to the terms of the Finance Documents.

17 Power to remedy

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

18 Enforcement of Security

18.1 When Security becomes enforceable

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

18.2 Exercise of powers

At any time after the Security becomes enforceable, Homes England may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

18.3 Right of appropriation

To the extent that any of the Security Assets constitutes Financial Collateral and this Deed and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement Homes England shall have the right, at any time after this Deed has become enforceable, to appropriate all or any part of such Financial Collateral in or towards payment and/or discharge of the Secured Liabilities in such order as Homes England in its absolute discretion may from time to time determine. For this purpose each of the Chargor and Homes England agrees that the value of such Financial Collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the

Account(s), together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of Securities, the market price of such Securities at the time the right of appropriation is exercised as determined by Homes England by reference to any recognised market index or by such other process as Homes England may select, including, without limitation, independent valuation. In each case, each of the Chargor and Homes England agrees that the method of valuation provided for in this clause 18 shall constitute a commercially reasonable method of valuation for the purpose of the Financial Collateral Regulations.

18.4 Possession

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

18.5 No liability as mortgagee in possession

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

18.6 Power of sale

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

18.7 Receiver's liability

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

19 Extension and variation of the Law of Property Act 1925

19.1 Extension of powers

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

19.2 Restrictions

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

19.3 **Power of leasing**

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

19.4 **Non-application**

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

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

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

19.4.3 Section 6(2).

19.5 **Application**

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

19.5.1 in the payment of:

(a) all costs, charges, liabilities and expenses incurred by Homes England or any Receiver in the exercise of those powers or incidental to any Receiver's appointment, together with interest at the applicable rate set out in clause 2.2 (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full; and

(b) any Receiver's remuneration;

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

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

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

19.6 **Application of sums received**

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

20 Appointment of Receiver

20.1 Appointment and removal

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

- 20.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Security Assets or an Administrator of the Chargor;
- 20.1.2 remove (so far as it is lawfully able) any Receiver or an Administrator so appointed; and
- 20.1.3 appoint another person(s) as an additional or replacement Receiver(s) or Administrator(s).

20.2 Capacity of Receivers

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

- 20.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 20.2.2 for all purposes will be deemed to be the agent of the Chargor which will be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for Homes England; and
- 20.2.3 entitled to remuneration for his services at a rate to be fixed by Homes England from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

20.3 Statutory powers of appointment

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

21 Powers of Receiver

21.1 Powers

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

- 21.1.1 to take possession of and generally to manage the Security Assets and any business of the Chargor;

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

22 Protection of purchasers

22.1 Consideration

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

22.2 Protection of purchaser

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

23 Power of attorney

23.1 Appointment and powers

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

23.1.1 the Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Security Assets) but has failed to do;

23.1.2 enable Homes England and any Receiver or Administrator or any delegate or sub-delegate to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Security Assets).

23.2 Ratification

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

24 Effectiveness of Security

24.1 Continuing Security

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

24.2 Cumulative rights

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

security held by Homes England over the whole or any part of the Security Assets will merge into the Security.

24.3 No prejudice

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

24.4 Remedies and waivers

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

24.5 No liability

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

24.5.1 taking any action permitted by this Deed; or

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

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

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

24.6 Partial invalidity

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

24.7 Other security

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

24.8 Variation

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

25 Release of Security

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

26 Subsequent Security Interests

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

27 Assignment

27.1 Right of Homes England to assign

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

27.2 Restriction on Chargor

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

27.3 Confidentiality

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

28 Expenses, stamp taxes and indemnity

28.1 Expenses

The Chargor will, from time to time on the written demand of Homes England, reimburse Homes England on a full indemnity basis for all the (in the case of clause 28.1.1 below) properly incurred costs and expenses (including legal fees) together with any VAT thereon properly incurred by it or by any Receiver in connection with:

- 28.1.1 the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the security contemplated in this Deed; or

28.1.2 the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Deed or any proceedings instituted by or against Homes England or any Receiver as a consequence of taking or holding the security or of enforcing the Collateral Rights,

and such expenses will carry interest until so reimbursed at the rate referred to in clause 2.2.

28.2 Stamp taxes

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

28.3 Indemnity

The Chargor will, notwithstanding any release or discharge of all or any part of the Security, indemnify Homes England, its agents, attorneys and any Receiver against any reasonable 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 Security Assets.

29 Payments free of deduction

All payments to be made under this Deed will be made free and clear of and without deduction or withholding whatsoever for or on account of any Tax except to the extent that the Chargor is required by law to make such payment subject to the deduction or withholding of any Tax. If any Tax or amount in respect of Tax is required to be deducted from any amounts payable or paid by the Chargor, the Chargor will pay such additional amounts as may be necessary to ensure that after the making of the deduction or withholding which is required the relevant recipient receives and retains (free from any liability in respect of any such deduction or withholding) a net amount equal to the full amount which it would have received and retained had no such deduction or withholding been made.

30 Discretion and delegation

30.1 Discretion

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

30.2 Delegation

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

exercise of such power, authority or discretion by Homes England or the Receiver itself or any subsequent delegation or revocation thereof.

31 Perpetuity period

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

32 Counterparts

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

33 Certification

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

34 Reorganisation

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

35 Set off

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

36 Payment of monies

36.1 Date for payment

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

36.2 Currency

The Chargor's liability under this Deed is to discharge the Secured Liabilities in Sterling. If at any time Homes England receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than Sterling, then such payment will take effect as a payment to Homes England of the amount in Sterling which

Homes England is able to purchase (after deduction of any relevant costs) with the amount of the payment so received in accordance with its usual practice.

36.3 Currency indemnity

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

36.4 Certificates

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

37 Notices

37.1 Service

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

37.1.1 sent to the Chargor at:

Renwick Road, Barking, Essex IG11 0DS

Email: PaulMiller@barkingriversideltd.org

Attention: Paul Miller

37.1.2 sent to Homes England at:

One Friargate,

Coventry

CV1 2GN

Attention: Ian Charlesworth

unless either party has communicated another address, e mail or fax number to the other in which case it must be sent to the last address or fax number so communicated.

37.2 Receipt by Chargor

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

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

37.2.2 if sent by first class pre-paid post, on the next business day after posting; or

37.2.3 if sent by fax, when received in legible form.

37.3 Receipt by Homes England

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

37.4 Confirmation in writing

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

37.5 Electronic communication

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

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

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

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

38 Governing law and jurisdiction

38.1 Governing law

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

38.2 Exclusive jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising in connection with this Deed (a **Dispute**). The parties agree that these courts are the most appropriate and convenient courts to settle any Dispute that arises under or in connection with this Deed and accordingly neither party will argue to the contrary.

38.3 Benefit of Homes England

This clause 38 is for the benefit of Homes England only. As a result Homes England will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Homes England may take concurrent proceedings in any number of jurisdictions.

In witness whereof this Deed has been executed as a deed by the parties hereto but is not intended to have legal effect until it has been unconditionally delivered and dated.

Schedule 1

Assigned Contracts

Each Material Contract.

Schedule 2

Part I

Form of notice of assignment of an Assigned Contract

To: []
[]

Date:

Notice of Assignment

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

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

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

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

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

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

Yours faithfully

.....
Authorised signatory
for and on behalf of
[Chargor]

Schedule 2

Part II

Form of acknowledgement of notice of assignment of an Assigned Contract

To: (as Homes England)

Copy: [Chargor]

Dated:

Dear Sirs

Acknowledgement of notice

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

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

Yours faithfully

for and on behalf of

[]

Schedule 3

Part IA

Form of notice of fixed charge in respect of the Deposit Account

To: [Bank]
[Address]

Date:

Dear Sirs

Notice of fixed charge

We hereby give notice that by a debenture dated [•] made between Barking Riverside Limited (the **Chargor**) (1) and Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**), the Chargor charged to Homes England all its rights, title and interest present and future over the following account opened by it with you:

Account: [•] **Account number:** [•] **Account sort code:** [•]

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

The Chargor hereby gives you notice that pursuant to the Debenture, it has, with full title guarantee, charged to Homes England all its rights, title and interest in and to all sums which may at any time be standing to the credit of the Account (the **Account Funds**).

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

- 1 to disclose to Homes England without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure, such information relating to the Account Funds and the debt represented thereby as Homes England may, at any time and from time to time, request you to disclose to it;
- 2 to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account Funds or the debt represented thereby which you receive at any time and from time to time from Homes England or without any reference to or further authority from the Chargor and without any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof; and
- 3 to accept all instructions from Homes England in connection with any payments from or withdrawals from the Account, at any time and from time to time, and to comply with all such instructions save that until you receive notice to the contrary from Homes England, all instructions relating to payments from or withdrawals from the Account may be validly given by us together with Homes England in accordance with the Account mandate. Upon receipt of such notice to the contrary from Homes England, you hereby agree to accept and comply with all such instructions from Homes England in connection with any payments from or withdrawals from the Account.

The instructions and authorisations which are contained in this letter will remain in full force and effect until Homes England gives you notice in writing revoking them.

We agree that you shall have no liability for having acted on the instructions from any person (including but not limited to, Homes England) which on their face appear to be genuine, and which comply with the latest bank account mandate held by you.

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

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

Yours faithfully

.....
Authorised Signatory
for and on behalf of
[Chargor]

Schedule 3

Part IB

Form of notice to Account Bank in respect of an Account which is not the Deposit Account

To: [Bank]
[Address]

Date:

Dear Sirs

Notice of charge

We hereby give notice that by a debenture dated [•] made between Barking Riverside Limited (the **Chargor**) (1) and Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**), the Chargor charged to Homes England all its rights, title and interest present and future over the following account opened by it with you:

Account: [•] **Account number:** [•] **Account sort code:** [•]

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

The Chargor hereby gives you notice that pursuant to the Debenture, it has, with full title guarantee, charged to Homes England all its rights, title and interest in and to all sums which may at any time be standing to the credit of the Operating Account (the **Account Funds**).

By signing and returning to this Homes England the additional copy of this letter, please acknowledge notice of this Debenture and confirm and agree that you have not received notice of any previous assignment, charge, lien or other security interest affecting the Operating Account.

The Chargor will be entitled, subject to the provisions of this notice, to withdraw amounts standing to the credit of the Operating Account until Homes England serves written notice to you that an Event of Default is continuing and that the Chargor's signing rights over the Operating Account are suspended. The Chargor hereby gives you notice that in the event that you are notified by Homes England that an Event of Default is continuing, the Chargor irrevocably and unconditionally authorises you to:

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

- 3 to accept all instructions from Homes England in connection with any payments from or withdrawals from the Account, at any time and from time to time, and to comply with all such instructions.

The Chargor acknowledges that you may comply with the instructions in this letter without any further permission from the Chargor.

We agree that you shall have no liability for having acted on the instructions from any person (including but not limited to, Homes England) which on their face appear to be genuine, and which comply with the latest bank account mandate held by you or relevant banking system procedure in the case of an electronic instruction.

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

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

Yours faithfully

.....
Authorised Signatory
for and on behalf of
[Chargor]

Schedule 3

Part IIA

Acknowledgement of notice of charge over the Deposit Account

To: [] (Homes England)

Copy: [Chargor]

Dated:

Dear Sirs

Acknowledgement of notice

Account number: [] (the Account)

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] (the **Notice**) and addressed to us by [•] (the **Chargor**) and we accept the instructions and authorisations contained in the Notice and undertake to act in accordance and comply with the terms thereof.

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

We confirm that we have not reviewed the Debenture and are not on notice of any provision contained in it, other than any provisions set out in the Notice detailed above.

We hereby acknowledge and confirm to each of the Chargor and Homes England that we will not make any claim or demand or exercise any rights of counterclaim, rights of set-off (other than off-setting those costs and expenses which are incurred in the ordinary course of banking transactions) or any other equities whatsoever against the Chargor in respect of the Account Funds or the debt represented thereby or any part thereof. This will only apply in respect of rights arising after the date of this acknowledgement.

We confirm that as at the date of this notice there are no outstanding liabilities incurred by the Chargor to us other than operational expenses incurred as a result of operating the Account.

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

We will be entitled to rely on any instruction or notice purporting to be from Homes England in relation to the Account which on its face appears to be genuine, and which complies with the latest account mandate held by you without further enquiry or investigation into: (a) the identity, capacity or authority of individuals providing such instruction or notice, or (b) whether a default or other event allowing the Debenture to provide such instruction or notice has in actual fact occurred, in each case

even if the Chargor notifies us that Homes England is not legally entitled to originate such instruction or notice.

The expressions defined and used in the Notice will have the same meaning when used in this Notice.

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

Yours faithfully

.....
Duly authorised signatory
for and on behalf of
Account bank

Schedule 3

Part IIB

Acknowledgement of notice of charge over Account which is not the Deposit Account

To: [] (Homes England)

Copy: [Chargor]

Dated:

Dear Sirs

Acknowledgement of notice

Account number: [] (the Account)

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] (the **Notice**) and addressed to us by [•] (the **Chargor**) and hereby acknowledge the Debenture (as defined in the Notice) and accept the Instructions and authorisations contained in the Notice.

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

We confirm that:

1. we have not reviewed the Debenture and are not on notice of any provision contained in it, other than any provisions set out in the Notice detailed above; and
2. we do not waive any rights of (i) set-off of those costs and expenses which incur in the ordinary course of banking transactions, (ii) lien, (iii) netting, (iv) combination or (v) consolidation which we may have now or in the future in respect of the Account or any monies standing to the credit of it.

We confirm that as at the date of this notice there are no outstanding liabilities incurred by the Chargor to us other than operational expenses incurred as a result of operating the Account.

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

Until receipt of notice to the contrary from Homes England in accordance with the Notice we hereby agree to accept instruction from the Chargor in respect of payments or withdrawals from the Operating Account.

We will be entitled to rely on any instruction or notice purporting to be from Homes England in relation to the Account without further enquiry or investigation into: (a) the identity, capacity or authority of individuals providing such instruction or notice, or (b) whether a default or other event

allowing the Debenture to provide such instruction or notice has in actual fact occurred, in each case even if the Chargor notifies us that Homes England is not legally entitled to originate such instruction or notice.

The expressions defined and used in the Notice will have the same meaning when used in this Notice.

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

Yours faithfully

Duly authorised signatory
for and on behalf of
[Account bank]

Schedule 4

Part I

Form of notice of assignment of Insurances

To: [Insurer]

Date:

Notice of assignment

We hereby give notice that by a debenture dated [•] made between Barking Riverside Limited (the **Chargor**) (1) and Homes and Communities Agency (trading as Homes England) (**Homes England**) (2) (the **Debenture**) that the Chargor has assigned in favour of Homes England all its rights, title and interest in and to the proceeds of *[insert details of insurance policy]* (the **Policy**).

We hereby instruct you with effect from the date you receive this notice to:

- 1 make all payments under or in respect of the Policy as Homes England may specify in writing from time to time;
- 2 note the interest of Homes England as first loss payee in respect of any claim in excess of £50,000 (other than in relation to insurance against third parties, professional indemnity and public liability risks) and as co-insured (composite) on the Policy;
- 3 disclose to Homes England without further approval from us such information regarding the Policy as Homes England may from time to time request; and
- 4 send a copy of all notices issued by you in respect of the Policy to Homes England.

All rights, interests and benefits accruing to the Chargor under the Policy belong to and are exercisable by Homes England.

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

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

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

Yours faithfully

.....
Authorised signatory
for and on behalf of
[Chargor]

Part II

Form of acknowledgement of assignment of Insurances

To: **[Homes England]**

Date:

We acknowledge receipt of the notice dated [•] (the **Notice**) and addressed to us by [•] (the **Chargor**) in relation to the Policy (as defined in the Notice) and we accept the instructions and authorisations contained in the Notice and confirm that:

- 1 we shall comply with the terms of the notice;
- 2 we have not received notice of any other interest relating to the Policy; and
- 3 no amendment or termination of the Policy shall be effective until the expiry of 30 days after the date we have given Homes England written notice of such amendment or termination.

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

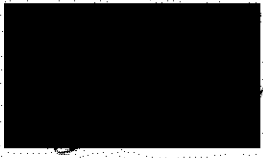
.....

For and on behalf of
[Insurer]

Schedule 5
Plan of Mortgaged Property



United Kingdom
Planning Department
Planning Policy Unit
100 Whitehall Road
London SW1A 2BQ
Tel: 020 7944 3000
Fax: 020 7944 3001
Email: ppu@planning.gov.uk
Website: www.planning.gov.uk



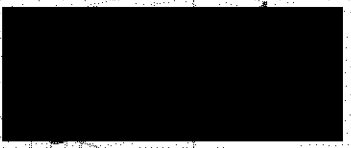
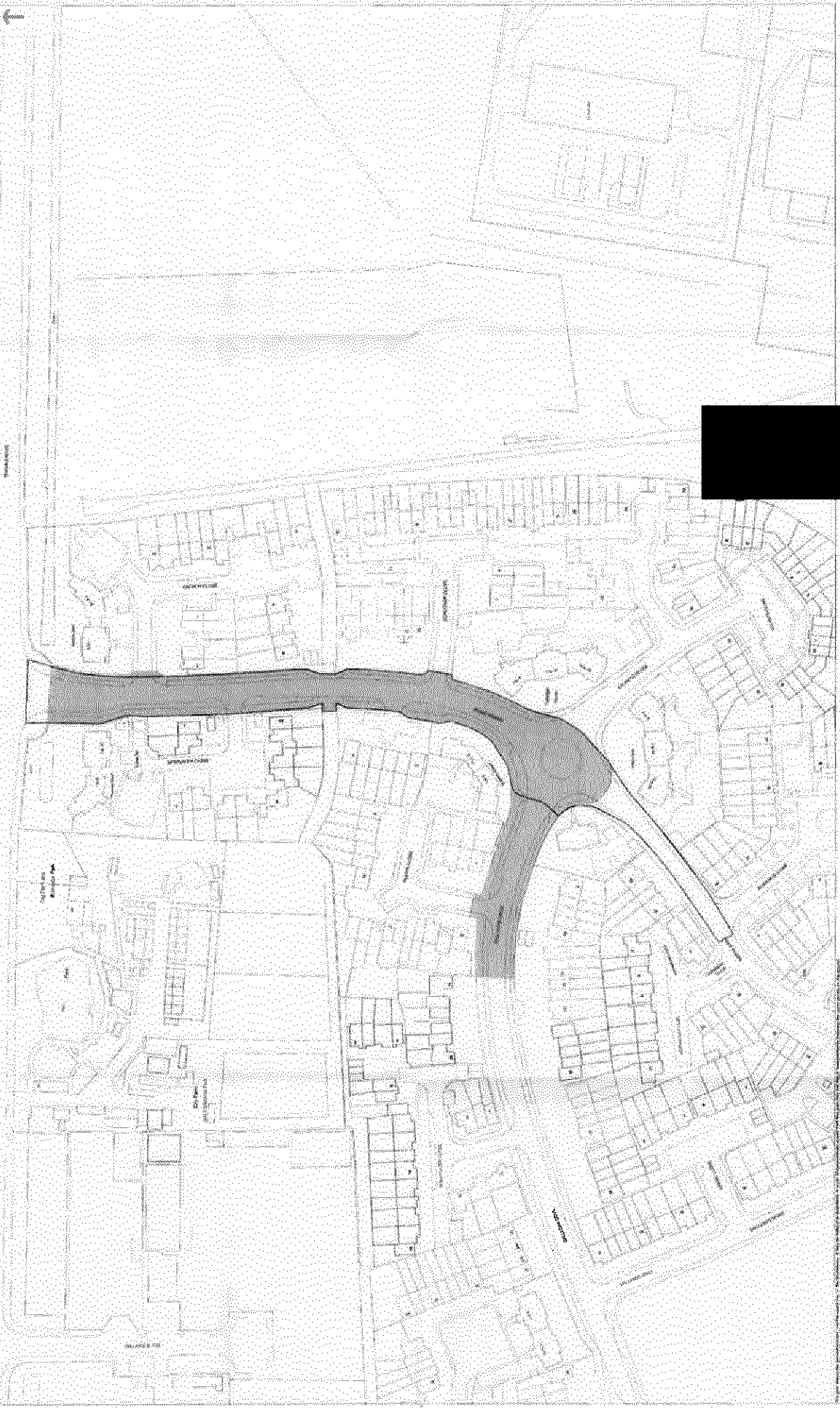
This document is the property of the Planning Department and is to be used for the purposes of the planning process only. It is not to be distributed outside the Planning Department. It is to be destroyed when no longer required for the planning process.

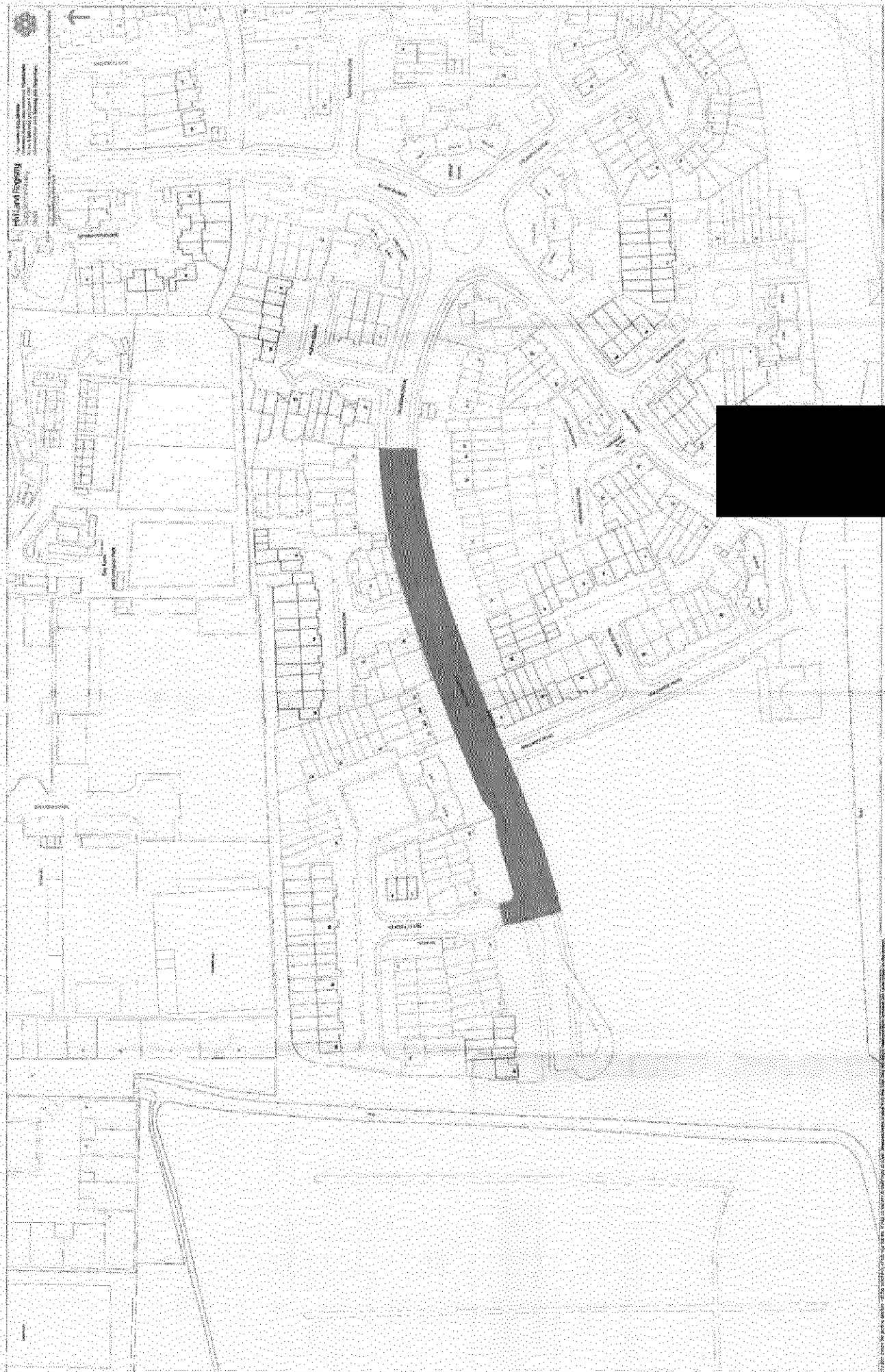






National Land Commission
Public Land Management
Department of Planning and Management
P.O. Box 10000, Nairobi, Kenya
Tel: +254 20 271 2000
Fax: +254 20 271 2001
Email: info@nlc.go.ke
Website: www.nlc.go.ke





Signatories

Executed as a deed by **BARKING**)
RIVERSIDE LIMITED acting by)
Diane Herk a director)

in the presence of) Director

witness signature: ...

name: PAUL MILLER

address:

occupation: FINANCE DIRECTOR

The common seal of)

HOMES AND COMMUNITIES AGENCY)

is hereunto affixed in the presence of)

Name

Authorised signatory

Signatories

Executed as a deed by **BARKING**)
RIVERSIDE LIMITED acting by)
_____, a director)

in the presence of:) Director

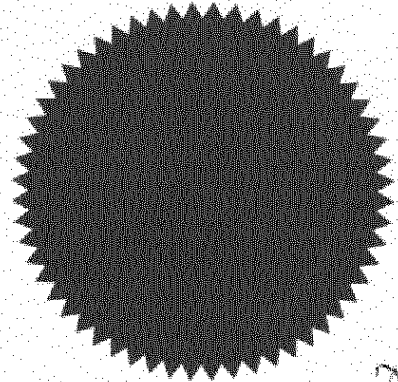
witness signature:

name:

address:

occupation:

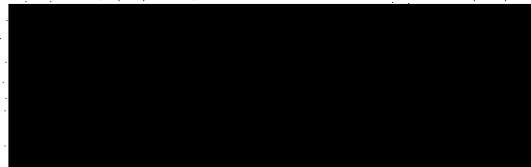
The common seal of)
HOMES AND COMMUNITES AGENCY)
is hereunto affixed in the presence of)



D27484

Name

Authorised signatory



Caren Blacker
General Manager - Infrastructure
and Complex Projects