



**Registration of a Charge**

Company name: **ELLSON HOMES LIMITED**

Company number: **05114668**

Received for Electronic Filing: **10/12/2018**



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**Details of Charge**

Date of creation: **10/12/2018**

Charge code: **0511 4668 0027**

Persons entitled: **KIM ELYOTT CHARLES HACK  
GLYN JAMES THOMPSON  
CHATFORD LIMITED**

Brief description: **LAND ON THE SOUTH EAST SIDE OF RALEIGH ROAD, BEDMINSTER,  
BRISTOL**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **VWV LLP**



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

Company number: 5114668

Charge code: 0511 4668 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th December 2018 and created by ELLSON HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th December 2018 .

Given at Companies House, Cardiff on 11th December 2018

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Legal Charge of Freehold Property known as Land on  
the South East Side of Raleigh Road, Bedminster,  
Bristol

Dated: 10 December 2018

Ellson Homes Limited

— and —

Kim Elyott Charles Hack, Glyn James Thompson, Chatford Limited

We certify this to be a true copy of the original:

VVV LLP

Veale Wasbrough Vizards LLP  
Narrow Quay House, Narrow Quay, Bristol BS1 4QA

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LAND REGISTRY  
LAND REGISTRATION ACT 2002

Administrative area	City of Bristol
Title number(s)	BL140386
Property	Freehold Property known as Land on the South East Side of Raleigh Road, Bedminster, Bristol

THIS LEGAL CHARGE is made on [date].

## PARTIES

- (1) Ellson Homes Limited incorporated and registered in England and Wales with company number 05114668 whose registered office is at Highfield House, The Meads, Leighterton, Tetbury, Gloucestershire GL8 8UW (the **Borrower**) and
- (2) Kim Elyott Charles Hack of 7 Apsley Road Clifton Bristol BS8 2SH (**Lender 1**)
- (3) Glyn James Thompson of 42 College Road, Clifton Bristol BS8 (**Lender 2**).
- (4) Chatford Limited incorporated and registered in the United Kingdom whose registered office is at 58 Alma Road, Clifton, Bristol BS8 3DG (**Lender 3**). Together "**the Lenders**".

THIS DEED witnesses:

### 1 Definitions and interpretation

- 1.1 For all purposes of this Legal Charge the terms defined in this clause 1 have the meanings specified.

<b>Business Day</b>	A day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
<b>Facility Agreement</b>	the amounts as agreed in writing from time to time between the Borrower and the Lenders to be secured as required by this Deed.
<b>HBL</b>	The Handelsbanken Loans which Lender 1 has with Svenska Handelsbanken AB (publ) (Handelsbanken) as detailed in Schedule 3
<b>Interest Payment Days</b>	means a date decided by the Lender acting reasonably.
<b>Interest Rate</b>	means 3.25% above the rate of NatWest Bank Plc from time to time or, should this rate cease to exist, at another rate of interest closely comparable with the Interest Rate to be agreed between the parties or in default of agreement to be determined by a chartered accountant decided on by the Lender acting reasonably and interest is to be compounded every quarter or 91 days
<b>Planning Acts</b>	means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Localism Act 2011 and all statutes, regulations and orders included by virtue of clause 1.8.
<b>Principal</b>	means the following sums loaned by the Lenders to the Borrowers:

Lender 1: £3,083,122;  
Lender 2: £202,249; and  
Lender 3: £636,530

and including any further amounts agreed in writing from time to time between the Borrower and the Lenders to be secured as required by this Deed.

**Property** means the property specified in Schedule 1 and all buildings, erections, structures, fixtures, fittings and appurtenances on the Property from time to time.

**Redemption Date** Monday 21 September 2020

**Secured Liabilities** All present and future monies, obligations and liabilities owed by the Borrower to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under clause 15.3.2, together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities.

**VAT** means value added tax or any other tax of a similar nature and unless otherwise expressly stated all references to sums payable by the Borrower are exclusive of VAT.

- 1.2 Unless the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa;
  - 1.2.2 references to persons includes references to firms, companies, corporations or limited liability partnerships and vice versa; and
  - 1.2.3 references in the masculine gender include references in the feminine or neuter genders and vice versa.
- 1.3 The clause and schedule headings do not form part of this document and are not to be taken into account in its construction or interpretation.
- 1.4 Unless the context otherwise requires the expressions the **Borrower** and the **Lenders** include their respective successors and assigns whether immediate or derivative and where appropriate the survivors or survivor of them and where either party comprises two or more persons include any one or more of those persons.
- 1.5 Where any party to this Deed for the time being comprises two or more persons, obligations expressed or implied to be made by or with that party are deemed to be made by or with the persons comprising that party jointly and severally.
- 1.6 Any covenant by the Borrower not to do anything includes an obligation to use reasonable endeavours not to permit or suffer that thing to be done by another person where the Borrower is aware that the thing is being done.
- 1.7 Any reference in this document to a clause without further designation is to be construed as a reference to the clause of this document so numbered.
- 1.8 Unless expressly stated to the contrary, any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that statute and any regulations or orders made under it, and any general reference to a statute includes any regulations or orders made under that statute.
- 1.9 If the Lenders consider that an amount paid in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

- 1.10 If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **2 Background**

### **2.1 Title**

The Borrower is registered at the Land Registry as proprietor with title absolute of the property described in Schedule 1 subject to the mortgages specified in Schedule 3 but otherwise free from incumbrances.

### **2.2 Prior security**

The principal sums secured by the mortgages specified in Schedule 3, are still owing with current interest.

### **2.3 Agreement to lend**

The Lenders have agreed to lend to the Borrower the Principal and amounts secured under any Prior Security on condition that its repayment together with interest is secured in the manner set out in this document.

## **3 Payment of Principal, interest and costs**

In consideration of the Principal now paid by the Lenders to the Borrower (receipt of which the Borrower acknowledges) the Borrower covenants with the Lenders as set out in this clause 3.

### **3.1 Payment of Principal**

The Borrower covenants with the Lenders to pay the Principal to the Lenders free from any legal or equitable right of set-off on the Redemption Date or, if earlier, immediately on demand if:

- 3.1.1 any interest or other sum payable under this or any prior security is not paid within 10 days of becoming due; or
- 3.1.2 the Borrower or any surety fails to comply with any term, condition, covenant or provision of or to perform any of his obligations or liabilities under this or any associated or collateral or prior security; or
- 3.1.3 any representation or warranty given by the Borrower or any surety to the Lenders is or becomes incorrect; or
- 3.1.4 any judgment or order made against the Borrower or any surety by any court is not complied with within 10 days; or
- 3.1.5 the property of the Borrower or any surety becomes subject to any forfeiture or to any procedure for the taking of control by another; or
- 3.1.6 a mortgagee takes possession of or exercises or seeks to exercise any power of sale or of an appointment of a receiver in relation to the property charged by this Deed or any other property of the Borrower or of any surety; or
- 3.1.7 in the case of an individual:
  - (a) the Borrower or any surety becomes subject to an Interim order or makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part VIII or enters, or seeks to enter, into any other form of composition or arrangement with his creditors whether in whole or in part; or
  - (b) a petition is presented for the bankruptcy of the Borrower or any surety; or
  - (c) the Borrower or any surety dies or becomes mentally incapable; or
- 3.1.8 in the case of a company or limited liability partnership:
  - (a) the Borrower or any surety ceases or threatens to cease to carry on, or disposes or threatens to dispose of, its business or a material part of its business; or

- (b) the Borrower or any surety makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters, or seeks to enter, into any other form of composition or arrangement with its creditors whether in whole or in part; or
- (c) the Borrower or any surety becomes subject to a notice of an intended appointment of an administrator or an application is made to any court or any meeting of directors or members is called with a view to the Borrower or any surety entering into administration; or
- (d) an administrative receiver is appointed in respect of the whole or any part of the undertaking of the Borrower or any surety; or
- (e) a petition is presented in any court or a meeting is convened for the purpose of considering a resolution for the winding up of the Borrower or any surety (except in the case of a reconstruction or amalgamation that has the previous approval in writing of the Lenders).

3.1.9 Handelsbanken require the repayment of the whole or part of the loans advanced by Handelsbanken to Lender 1 as listed in Schedule 3 provided that the repayment demanded is not as a result of the default by Lender 1 in relation to any obligations that he has with Handelsbanken

## **3.2 Interest**

### **3.2.1 Payment of interest**

The Borrower covenants with the Lenders to pay to the Lenders interest on the Principal (or so much of it as may from time to time remain outstanding) at the Interest Rate, from the date of this Deed, by equal monthly payments on the Interest Payment Days, such interest to be payable as well after as before any demand or judgment or the administration or liquidation or, as appropriate, bankruptcy, death or mental incapacity of the Borrower.

## **3.3 Costs, charges, expenses and other liabilities**

### **3.3.1 Payment of costs, charges, expenses and other liabilities**

The Borrower covenants with the Lenders to pay to the Lenders within five Business Days demand, and on a full and unlimited indemnity basis, all costs, charges, expenses and liabilities paid and incurred by the Lenders (whether directly or indirectly) in relation to the security constituted by and the obligations owed under and associated with this Deed (including all commission, legal and other professional costs and fees and disbursements and VAT on them) together with interest from the date when the Lenders becomes liable for them until payment by the Borrower at the Interest Rate, such interest to be payable in the same manner as interest on the Principal.

### **3.3.2 Costs included**

Without prejudice to the generality of the provisions of that clause, the Borrower's liability under clause 3.3.1 will include not only those costs, charges, expenses and liabilities that would otherwise be allowable on the taking of an account between a mortgagor and mortgagee but also (and in so far as they are not so allowable) those incurred in relation to or arising out of:

- (a) the contemplation and institution of all proceedings and other action in connection with the enforcement, preservation and protection of the security constituted by this Deed;
- (b) the contemplation and institution of all proceedings and other action (whether against the Borrower or otherwise) for the payment or discharge of the money and liabilities secured by or associated with this Deed;
- (c) the exercise or contemplated exercise of any power, right or discretion conferred by this Deed or by law on the Lenders;
- (d) any default by the Borrower or any surety in compliance with the obligations imposed by the terms of this security or associated with it;



- (e) any impeachment or attempted impeachment of the title of the Lenders (whether by the Borrower or by a third party) or of the title of the Borrower; and
- (f) the contemplation or doing of any other matter or thing which the Lenders considers to be for the benefit or improvement of the security.

#### **4 Legal charge**

The Borrower, with full title guarantee, charges the Property to the Lenders by way of second legal mortgage, subject to the mortgage specified in Schedule 3, with payment or discharge of the Secured Liabilities.

#### **5 Borrower's representations and warranties**

The Borrower represents and warrants to the Lenders that the Borrower is the legal and beneficial owner of the Property and that the said Property is free from any Security other than the Security created by this Deed.

#### **6 Borrower's covenants as to the Property**

The Borrower covenants with the Lenders as set out in this clause 6.

##### **6.1 Negative Pledge and Disposal Restrictions**

6.1.1 The Borrower shall not at any time, except with the prior written consent of the Lenders:

- (a) Create, purport to create or permit to subsist any Security other than a Permitted Security on, or in relation to, the Property other than this deed;
- (b) Sell, assign, transfer, part with possession or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or
- (c) Create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

##### **6.2 Preservation of Property**

6.2.1 The Borrower shall not:

- (a) Withdraw or transfer all or any part of the Property until after the Security Period has expired; or
- (b) Do, or permit to be done, any act or thing which would be or might depreciate, jeopardise or otherwise prejudice the security held by the lender or materially diminish the value of the Property or the effectiveness of the security created by this deed.

##### **6.3 Enforcement of Rights**

6.3.1 The Borrower shall use its best endeavours to:

- (a) Procure the prompt observance and performance by the counterparty to any agreement or arrangement with the Borrower relating to the Property; and
- (b) Enforce any rights and institute, continue or defend any proceedings relating to the Property which the Lenders may require from time to time.

##### **6.4 Notice of Breaches**

6.4.1 The Borrower shall promptly on becoming aware of any of the same give the Lenders notice in writing of any breach of:

- (a) Any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) Any breach of covenant set out in this Deed.

##### **6.5 Title Documents**

6.5.1 The Borrower shall on execution of this Deed, deposit with the Lenders and the Lenders shall, for the duration of this Deed, be entitled to hold all deeds and documents of title

relating to the Property which are in the possession or control of the Borrower (if these are not within the possession and/or control of the Borrower, the Borrower undertakes to obtain possession of all such deeds and documents of title).

**6.6 Further Assurance**

- 6.6.1 The Borrower, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Lenders may reasonably require) in favour of the Lenders as the Lenders, in their absolute discretion, require from time to time over all or any part of the Property and give all notices, orders and directions which the Lenders may require, in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Property.

**6.7 Appointment of Accountants**

- 6.7.1 The Borrower shall:
- (a) At its own cost, if at any time so required by the Lenders, appoint an accountant or firm of accountants nominated by the Lenders to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Lenders; and
  - (b) Cooperate fully with any accountants so appointed and immediately provide such accountants with all information requested.
- 6.7.2 The Borrower authorises the Lenders to make such appointment as it shall think fit at any time, without further authority from the Borrower. In every such case, the fees and expenses of those accountants shall be paid by the Borrower, but if paid by the Lenders on the Borrower's behalf, those fees and expenses shall be fully reimbursed to the Lenders.

**6.8 Property Covenants**

**6.8.1 To pay outgoings**

- (a) To pay all taxes assessments and outgoings charged on or otherwise payable in respect of the Property.

**6.8.2 Alienation**

- (a) Not without the prior written consent of the Lenders to let agree to let or licence others to occupy nor to part with or share possession or occupation of the Property or any part of it nor to hold it on trust for any other person.

**6.8.3 Duty to insure**

To insure the Property against public liability and to insure the buildings erected on the Property after the date of this Deed for not less than their re-instatement value to pay all premiums when due in respect of the insurance required and to produce to the Lenders on demand evidence of such insurance.

**6.8.4 General covenant to comply with statutes etc**

The Borrower will ensure that any legislation, regulations or bye-laws for the time being in force applicable to the Property are complied with in all respects.

**6.8.5 General covenant to produce notices etc**

- (a) to forward a copy of any notices received from any public or statutory authority or the owner or occupier of any neighbouring premises or any reversioner

**6.8.6 To permit entry**

- (a) To permit the Lenders and any other person reasonably authorised by it to enter and inspect the Property or in connection with the exercise of the Lenders' powers contained herein to carry out work upon the Property.

**6.8.7 To perform covenants**

- (a) To observe and perform all covenants and obligations affecting the Property and to indemnify the Lenders against any loss or liability arising from breach or non-performance

**6.9 Consolidation and Powers of Sale**

6.9.1 The power of sale and all other statutory powers vested in the Lenders shall arise and become exercisable 30 days after the date of this Deed in favour of a purchaser or other party dealing with the Lenders for value provided that the Lenders will not (unless the Borrower is in default of any of the provisions of this Charge on the proviso that such breach is not rectified within 14 days after notice of breach being served on the Borrower as appropriate) take any steps to enforce the security constituted by this Charge until the Repayment Date.

6.9.2 The restriction on consolidation contained in Section 93 of the Law of Property Act 1925 shall not apply to this Deed.

6.9.3 The Lenders may grant or accept surrenders of leases without restrictions.

6.9.4 The Borrower shall have no right to set off against any of the moneys secured by this Deed.

**6.10 Application to register a restriction**

6.10.1 The Lenders will apply to the Chief Land Registrar to register a restriction on the Register of the title to the Property in the following terms:

*"No disposition or charge of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by Kim Elyott Charles Hack of 7 Apsley Road Clifton Bristol BS8 2SH and Glyn James Thompson of 42 College Road, Clifton Bristol BS8 and or their personal representatives and Chatford Limited incorporated and registered in the United Kingdom whose registered office is at 58 Alma Road, Clifton, Bristol BS8 3DG or their respective conveyancers"*

**6.11 Notification of events of default**

Upon becoming aware of the occurrence of any of the matters referred to in clauses 3.1.1–3.1.8 the Borrower will immediately give the Lenders notice in writing of that occurrence.

**7 Lenders' powers and rights**

**7.1 Power to remedy**

7.1.1 The Lenders shall be entitled (but shall not be obliged) to remedy a breach at any time by the Borrower of any of its obligations contained in this deed and the Borrower irrevocably authorises the Lenders and their agents to do all such things as are necessary or desirable for that purpose.

**7.2 Exercise of rights**

7.2.1 The rights of the Lenders under clause 7.1 are without prejudice to any other rights of the Lenders under this Deed. The exercise of those rights shall not make the Lenders liable to account as a mortgagee in possession.

**7.3 Prior Security**

7.3.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lenders may:

- (a) redeem such or any other prior Security, or procure its transfer to itself; and  
(b) settle and pass any account of the holder of any prior Security.

7.3.2 Any accounts so settled and passed shall be, in the absence of any manifest error conclusive and binding on the Borrower. All monies paid by the Lenders to an encumbrancer in settlement of such an account shall, as from its payment by the Lenders, be due from the

Borrower to the Lenders on current account and shall bear interest at the Default Rate of interest specified in the HBL and be secured as part of the Secured Liabilities.

#### **7.4 Enforcement**

##### **7.4.1 This deed shall be enforceable if:**

- (a) any of the Secured Liabilities are not paid or discharged when the same ought to be paid or discharged by the Borrower (whether on demand, at scheduled maturity, or by acceleration or otherwise, as the case may be); or
- (b) the Borrower is in breach of any of its obligations under this deed or under any other agreement between the Borrower and the Lenders and that breach (if capable of remedy) has not been remedied to the satisfaction of the Lenders within 14 days of notice by the Lenders to the Borrower to remedy the breach; or
- (c) the Borrower:
  - (i) becomes unable to pay its debts as they fall due (and/or the value of the Borrower's assets is less than the amount of its liabilities, taking into account the Borrower's contingent and prospective liabilities);
  - (ii) commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness; or
  - (iii) makes a general assignment for the benefit of, or a composition with, its creditors; or
- (d) the Borrower passes any resolution or takes any corporate action, or a petition is presented or proceedings are commenced, or any action is taken by any person for its winding up, dissolution, administration or reorganisation or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues or assets; or
- (e) a distress, execution, attachment or other legal process is levied, or enforced on or sued against all or any part of the assets of the Borrower and remains undischarged for seven days; or
- (f) any event occurs in relation to the Borrower that is analogous to those set out in clause 7.4.1(c), 7.4.1(d) or 7.4.1(e) or
- (g) any representation, warranty or statement made or deemed to be made by the Borrower under this deed is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; or
- (h) a repayment event occurs pursuant to the Facility Agreement and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Lenders, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Lenders may, in their absolute discretion, enforce all or any part of the security created by this deed as they sees fit.

##### **7.4.2 Power of Sale**

- (a) The power of sale under this deed (including any statutory power of sale) shall, as between the Lenders and a purchaser from the Lenders, arise on and be exercisable at any time after the execution of this deed, but the Lenders shall not exercise such power of sale until the security constituted by this deed has become enforceable under clause 7.4.1.

##### **7.4.3 Protection of Third Parties**

No purchaser, mortgagee or other person dealing with the Lenders or any Receiver shall be concerned:

- (a) To enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power the Lenders or a Receiver is purporting to exercise has become exercisable; or

- (b) To see to the application of any money paid to the Lenders or any Receiver.

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

- (a) Neither the Lenders nor any Receiver shall be liable to account as mortgagee in possession in respect of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, the Property for which a mortgagee in possession might be liable as such.

#### **7.4.5 Appointment of Receiver**

- (a) At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lenders may, without further notice:
  - (i) appoint by way of deed, or otherwise in writing, any one or more person or persons to be a receiver of all or any part of the Property; and
  - (ii) from time to time, by way of deed, or otherwise in writing, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.
- (b) When more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Lenders specifies to the contrary).
  - (i) The Lenders may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this deed which shall be due and payable immediately upon its being paid by the Lenders.

#### **7.4.6 Power of Sale Additional**

- (a) The powers of sale and appointing a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lenders under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the Law of Property Act 1925 or otherwise.
- (b) The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lenders despite any prior appointment in respect of all or any part of the Property

#### **7.4.7 Agent of the Borrower**

- (a) Any Receiver appointed by the Lenders under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.

#### **7.4.8 Powers of Receiver**

- (a) Any Receiver appointed by the Lenders under this deed shall, in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986, have the power to do all such acts and things as an absolute owner could do in the management of the Property

#### **7.4.9 Order of application of proceeds**

- (a) All monies received by the Lenders or a Receiver in the exercise of any enforcement powers conferred by this deed shall be applied:
  - (i) first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Lenders (and any Receiver, attorney or agent appointed by it);

- (ii) second in paying the remuneration of any Receiver (as agreed between the Receiver and the Lenders);
- (iii) third in or towards discharge of the Secured Liabilities in such order and manner as the Lenders determines; and
- (iv) finally in paying any surplus to the Borrower or any other person entitled to it.

#### **7.4.10 Appropriation**

- (a) Neither the Lenders nor any Receiver shall be bound (whether by virtue of section 109(8) of the Law of Property Act 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

#### **7.4.11 Suspense Account**

- (a) All monies received by the Lenders or a Receiver under this deed may, at the discretion of the Lenders or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Lenders and the Borrower, and may be held in such account for so long as the Lenders or Receiver thinks fit.

#### **7.4.12 Power of Attorney**

- (a) By way of security, the Borrower irrevocably appoints the Lenders and every Receiver separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:
  - (i) the Borrower is required to execute and do under this deed, including execute any document required by the Lenders under clause 6.6; and/or
  - (ii) any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this deed or by law on the Lenders or any Receiver.

#### **7.4.13 Ratification of Acts of Attorney**

- (a) The Borrower ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in clause 7.4.12.

#### **7.4.14 Additional rights of the Lenders**

- (a) If the Lenders take possession of the Property the Lenders are authorised as agent for the Borrower and at the Borrower's expense to remove store sell or otherwise deal with any items which the Borrower shall fail or refuse to remove and the Lenders shall not be liable for any loss or damage occasioned to the Borrower and the Borrower shall indemnify the Lenders against all expenses and liabilities incurred by the Lenders in relation to such items and the Lenders shall not have any charge or right in respect of any such items or the proceeds of sale of them which would otherwise constitute this Deed as a bill of sale.
- (b) In relation to any receiver appointed by the Lenders in accordance with Section 109 of the Law of Property Act 1925 the following provisions shall apply.
- (c) A Receiver shall have the powers set out in this clause in addition to his statutory powers.

- (d) The section shall apply to this Deed as if sub-section read "in payment of the monies (whether for interest or otherwise) in arrear or accruing due under the Mortgage"
- (e) Such Receiver shall have power in respect of any work incidental to the receivership to employ and to appoint and to pay agents, and
- (f) A Receiver may be an employee or officer of the Lenders or any person at the Lenders' discretion.

## **8 Indulgence and waiver**

The Lenders may, at their discretion, grant time or other indulgence or make any other arrangement, variation or release with any person that is not a party to this deed (whether or not such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them, without prejudice either in this deed or to the liability of the Borrower for the Secured Liabilities..

## **9 Demands and notices**

### **9.1 Form and mode of deemed service**

All notices must be in delivered in writing to the address as noted in this Deed (unless further addresses are subsequently notified to the other party in writing)

- 9.1.1 Giving a notice or delivering a document to a party's Legal Advisor (as notified in writing to the other party) has the same effect as giving or delivering it to that party
- 9.1.2 Where delivery of the original document is not essential a notice or document is validly given or sent if it is sent
  - (a) By fax; or
  - (b) By email to an email address for the intended recipient given in the contract.
- 9.1.3 A notice is given and a document is delivered when it is received
- 9.1.4 A notice or document sent through a document exchange is received when it is available for collection
- 9.1.5 A notice or document which is received after 4:00pm on a working day, or on a day which is not a working day is to be treated as having been received on the next working day
- 9.1.6 An automated response to a notice or document sent by e-mail that the intended recipient is out of the office is to be treated as proof that the document was not received
- 9.1.7 Sub clause 9.1.8 applies unless there is proof
  - (a) That a notice or document has not been received, or
  - (b) Of when it was received.
- 9.1.8 A notice or document sent by the following means is treated as having been received as follows:
  - (a) by first-class post: before 4:00pm on the second working day after posting
  - (b) by second-class post: before 4:00pm on the third working day after posting
  - (c) through a document exchange : before 4:00pm on the first working day after the day on which it would normally be available for collection by the addressee
  - (d) by fax: one hour after despatch
  - (e) by e-mail: before 4:00pm on the first working day after despatch

## **10 Validity and severability**

### **10.1 Enforceability**

Each of the provisions of this mortgage is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

### **10.2 Lack of capacity**

If this mortgage is executed by or on behalf of more than one person and any one or more of those persons is not bound by its provisions (whether by reason of lack of capacity or improper execution or for any other reason), the remaining parties shall continue to be so bound as if those who are not bound had not been parties to the security.

## **11 Repayment and Release**

11.1 Subject to clause 15.3, on the expiry of the Security Period (but not otherwise), the Lenders shall, at the request and cost of the Borrower, take whatever action is necessary to release the Property from the security constituted by this deed and the Lenders Covenant with the Borrower that

11.1.1 on receipt of the proceeds of sale of each house after the satisfaction of any priority charge the Lenders will release the charge or proportion thereof and hand to the Borrower the required form of release

11.1.2 on receipt of all monies due under this Deed the Lenders will release their legal charge and will hand to the Borrower the required form of release save for the operation of the Facility Agreement between the Borrower and Kim Elyott Charles Hack dated 30 September 2013

## **12 Assignment and Transfer**

### **12.1 Assignment by the Lenders**

12.1.1 At any time, without the consent of the Borrower, the Lenders may assign or transfer any or all of its rights and obligations under this deed.

12.1.2 The Lenders may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Property and this deed that the Lenders considers appropriate.

### **12.2 Assignment by the Borrower**

12.2.1 The Borrower may not assign any of its rights, or transfer any of its rights or obligations under this deed.

## **13 Lenders' right of set-off**

13.1 The Lenders may at any time set off any liability of the Borrower to the Lenders against any liability of the Lenders to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. Any exercise by the Lenders of their rights under this clause 13 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

13.2 The Lenders are not obliged to exercise its rights under clause 13.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

## **14 Amendments and Waivers**

14.1 No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

14.2 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.



14.3 A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lenders shall be effective unless it is in writing.

14.4 The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **15 Further Provisions**

15.1 The Security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that the Lenders may hold for any of the Secured Liabilities at any time. No prior security held by the Lenders over the whole or any part of the Property shall merge in the security created by this Deed.

15.2 This Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lenders discharge this deed in writing.

15.3 Any release, discharge or settlement between the Borrower and the Lenders shall be deemed conditional on no payment or security received by the Lenders in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

15.3.1 the Lenders or their nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Property, for such period as the Lenders deems necessary to provide the Lenders with security against any such avoidance, reduction or order for refund; and

15.3.2 the Lenders may recover the value or amount of such security or payment from the Borrower subsequently as if such release, discharge or settlement had not occurred.

15.4 A certificate or determination by the Lenders as to any amount for the time being due to it from the Borrower shall (in the absence of any manifest error) be conclusive evidence of the amount due.

## **16 Counterparts**

16.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one Deed.

## **17 Exclusion of third party rights**

Nothing in this mortgage is intended to confer any benefit on any person who is not a party to it.

## **18 Governing law and jurisdiction**

### **18.1 Construction**

This mortgage shall be governed by and construed in accordance with English law.

### **18.2 Jurisdiction of English courts**

It is irrevocably agreed for the exclusive benefit of the Lenders that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this mortgage and that accordingly any suit, action or proceeding arising out of or in connection with this mortgage may be brought in those courts.

### **18.3 Jurisdiction of other courts**

Nothing in this clause 18 shall limit the Lenders' right to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

Signed as a deed by ELLSON  
HOMES LIMITED acting by a  
director in the presence of

Director

.....

signature of director

.....

name of director

.....

signature of witness

Name of witness

.....

Address

.....

.....

.....

Signed as a deed by CHATFORD  
LIMITED acting by a director in the  
presence of

Director

.....

signature of director

.....

name of director

.....

signature of witness

Name of witness

.....

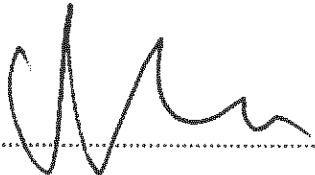
Address


.....

.....

.....

Signed as a deed by KIM ELYOTT  
CHARLES HACK in the presence of  
a witness

  
signature

  
signature of witness

Name of witness

STEVEN MILLS

Address

10 BASTON RD  
KNOWLE  
BRISTOL BS4 1JH

Signed as a deed by GLYN JAMES  
THOMPSON in the presence of a  
witness

.....  
signature

.....  
signature of witness

Name of witness

.....

Address

.....

.....

.....

## SCHEDULE 1 : THE PROPERTY

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Freehold Property known as Land on the South East Side of Raleigh Road, Bedminster, Bristol as registered at the Land Registry under title number BL140386

## SCHEDULE 2 : THE PRIOR MORTGAGES

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- 1 (1) National Westminster Bank Plc (2) Ellson Homes Limited dated 22 February 2018

### SCHEDULE 3 : THE HANDELSBANKEN LOANS

---

The sums loaned from Svenska Handelsbanken AB (publ) to Lender 1 pursuant to loan agreements dated 23 September 2015, 17 November 2015, 13 January 2016 and 13 January 2016

Legal Charge of Freehold Property known as Land on  
the South East Side of Raleigh Road, Bedminster,  
Bristol

Dated: 10 December 2018

Ellson Homes Limited

— and —

Kim Elyott Charles Hack, Glyn James Thompson, Chatford Limited

We certify this to be a true copy of the original

VWV LLP

Veale Wasbrough Vizards LLP  
Narrow Quay House, Narrow Quay, Bristol BS1 4QA

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LAND REGISTRY  
LAND REGISTRATION ACT 2002

Administrative area	City of Bristol
Title number(s)	BL140386
Property	Freehold Property known as Land on the South East Side of Raleigh Road, Bedminster, Bristol

THIS LEGAL CHARGE is made on [date].

**PARTIES**

- (1) Ellson Homes Limited incorporated and registered in England and Wales with company number 05114668 whose registered office is at Highfield House, The Meads, Leighterton, Tetbury, Gloucestershire GL8 8UW (the **Borrower**) and
- (2) Kim Elyott Charles Hack of 7 Apsley Road Clifton Bristol BS8 2SH (**Lender 1**)
- (3) Glyn James Thompson of 42 College Road, Clifton Bristol BS8 (**Lender 2**).
- (4) Chatford Limited incorporated and registered in the United Kingdom whose registered office is at 58 Alma Road, Clifton, Bristol BS8 3DG(**Lender 3**). Together "**the Lenders**".

THIS DEED witnesses:

**1 Definitions and interpretation**

- 1.1 For all purposes of this Legal Charge the terms defined in this clause 1 have the meanings specified.

**Business Day** A day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Facility Agreement** the amounts as agreed in writing from time to time between the Borrower and the Lenders to be secured as required by this Deed.

**HBL** The Handelsbanken Loans which Lender 1 has with Svenska Handelsbanken AB (publ) (Handelsbanken) as detailed in Schedule 3

**Interest Payment Days** means a date decided by the Lender acting reasonably.

**Interest Rate** means 3.25% above the rate of NatWest Bank Plc from time to time or, should this rate cease to exist, at another rate of interest closely comparable with the Interest Rate to be agreed between the parties or in default of agreement to be determined by a chartered accountant decided on by the Lender acting reasonably and interest is to be compounded every quarter or 91 days

**Planning Acts** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Localism Act 2011 and all statutes, regulations and orders included by virtue of clause 1.8.

**Principal** means the following sums loaned by the Lenders to the Borrowers:

Lender 1: £3,083,122;

Lender 2: £202,249; and

Lender 3: £636,530

and including any further amounts agreed in writing from time to time between the Borrower and the Lenders to be secured as required by this Deed.

<b>Property</b>	means the property specified in Schedule 1 and all buildings, erections, structures, fixtures, fittings and appurtenances on the Property from time to time.
<b>Redemption Date</b>	Monday 21 September 2020
<b>Secured Liabilities</b>	All present and future monies, obligations and liabilities owed by the Borrower to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under clause 15.3.2, together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities.
<b>VAT</b>	means value added tax or any other tax of a similar nature and unless otherwise expressly stated all references to sums payable by the Borrower are exclusive of VAT.

- 1.2 Unless the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa;
  - 1.2.2 references to persons includes references to firms, companies, corporations or limited liability partnerships and vice versa; and
  - 1.2.3 references in the masculine gender include references in the feminine or neuter genders and vice versa.
- 1.3 The clause and schedule headings do not form part of this document and are not to be taken into account in its construction or interpretation.
- 1.4 Unless the context otherwise requires the expressions the **Borrower** and the **Lenders** include their respective successors and assigns whether immediate or derivative and where appropriate the survivors or survivor of them and where either party comprises two or more persons include any one or more of those persons.
- 1.5 Where any party to this Deed for the time being comprises two or more persons, obligations expressed or implied to be made by or with that party are deemed to be made by or with the persons comprising that party jointly and severally.
- 1.6 Any covenant by the Borrower not to do anything includes an obligation to use reasonable endeavours not to permit or suffer that thing to be done by another person where the Borrower is aware that the thing is being done.
- 1.7 Any reference in this document to a clause without further designation is to be construed as a reference to the clause of this document so numbered.
- 1.8 Unless expressly stated to the contrary, any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that statute and any regulations or orders made under it, and any general reference to a statute includes any regulations or orders made under that statute.
- 1.9 If the Lenders consider that an amount paid in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

- 1.10 If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **2 Background**

### **2.1 Title**

The Borrower is registered at the Land Registry as proprietor with title absolute of the property described in Schedule 1 subject to the mortgages specified in Schedule 3 but otherwise free from incumbrances.

### **2.2 Prior security**

The principal sums secured by the mortgages specified in Schedule 3, are still owing with current interest.

### **2.3 Agreement to lend**

The Lenders have agreed to lend to the Borrower the Principal and amounts secured under any Prior Security on condition that its repayment together with interest is secured in the manner set out in this document.

## **3 Payment of Principal, interest and costs**

In consideration of the Principal now paid by the Lenders to the Borrower (receipt of which the Borrower acknowledges) the Borrower covenants with the Lenders as set out in this clause 3.

### **3.1 Payment of Principal**

The Borrower covenants with the Lenders to pay the Principal to the Lenders free from any legal or equitable right of set-off on the Redemption Date or, if earlier, immediately on demand if:

- 3.1.1 any interest or other sum payable under this or any prior security is not paid within 10 days of becoming due; or
- 3.1.2 the Borrower or any surety fails to comply with any term, condition, covenant or provision of or to perform any of his obligations or liabilities under this or any associated or collateral or prior security; or
- 3.1.3 any representation or warranty given by the Borrower or any surety to the Lenders is or becomes incorrect; or
- 3.1.4 any judgment or order made against the Borrower or any surety by any court is not complied with within 10 days; or
- 3.1.5 the property of the Borrower or any surety becomes subject to any forfeiture or to any procedure for the taking of control by another; or
- 3.1.6 a mortgagee takes possession of or exercises or seeks to exercise any power of sale or of an appointment of a receiver in relation to the property charged by this Deed or any other property of the Borrower or of any surety; or
- 3.1.7 in the case of an individual:
  - (a) the Borrower or any surety becomes subject to an interim order or makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part VIII or enters, or seeks to enter, into any other form of composition or arrangement with his creditors whether in whole or in part; or
  - (b) a petition is presented for the bankruptcy of the Borrower or any surety; or
  - (c) the Borrower or any surety dies or becomes mentally incapable; or
- 3.1.8 in the case of a company or limited liability partnership:
  - (a) the Borrower or any surety ceases or threatens to cease to carry on, or disposes or threatens to dispose of, its business or a material part of its business; or

- (b) the Borrower or any surety makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters, or seeks to enter, into any other form of composition or arrangement with its creditors whether in whole or in part; or
- (c) the Borrower or any surety becomes subject to a notice of an intended appointment of an administrator or an application is made to any court or any meeting of directors or members is called with a view to the Borrower or any surety entering into administration; or
- (d) an administrative receiver is appointed in respect of the whole or any part of the undertaking of the Borrower or any surety; or
- (e) a petition is presented in any court or a meeting is convened for the purpose of considering a resolution for the winding up of the Borrower or any surety (except in the case of a reconstruction or amalgamation that has the previous approval in writing of the Lenders).

3.1.9 Handelsbanken require the repayment of the whole or part of the loans advanced by Handelsbanken to Lender 1 as listed in Schedule 3 provided that the repayment demanded is not as a result of the default by Lender 1 in relation to any obligations that he has with Handelsbanken

## **3.2 Interest**

### **3.2.1 Payment of interest**

The Borrower covenants with the Lenders to pay to the Lenders interest on the Principal (or so much of it as may from time to time remain outstanding) at the Interest Rate, from the date of this Deed, by equal monthly payments on the Interest Payment Days, such interest to be payable as well after as before any demand or judgment or the administration or liquidation or, as appropriate, bankruptcy, death or mental incapacity of the Borrower.

## **3.3 Costs, charges, expenses and other liabilities**

### **3.3.1 Payment of costs, charges, expenses and other liabilities**

The Borrower covenants with the Lenders to pay to the Lenders within five Business Days demand, and on a full and unlimited indemnity basis, all costs, charges, expenses and liabilities paid and incurred by the Lenders (whether directly or indirectly) in relation to the security constituted by and the obligations owed under and associated with this Deed (including all commission, legal and other professional costs and fees and disbursements and VAT on them) together with interest from the date when the Lenders becomes liable for them until payment by the Borrower at the Interest Rate, such interest to be payable in the same manner as interest on the Principal.

### **3.3.2 Costs included**

Without prejudice to the generality of the provisions of that clause, the Borrower's liability under clause 3.3.1 will include not only those costs, charges, expenses and liabilities that would otherwise be allowable on the taking of an account between a mortgagor and mortgagee but also (and in so far as they are not so allowable) those incurred in relation to or arising out of:

- (a) the contemplation and institution of all proceedings and other action in connection with the enforcement, preservation and protection of the security constituted by this Deed;
- (b) the contemplation and institution of all proceedings and other action (whether against the Borrower or otherwise) for the payment or discharge of the money and liabilities secured by or associated with this Deed;
- (c) the exercise or contemplated exercise of any power, right or discretion conferred by this Deed or by law on the Lenders;
- (d) any default by the Borrower or any surety in compliance with the obligations imposed by the terms of this security or associated with it;

- (e) any impeachment or attempted impeachment of the title of the Lenders (whether by the Borrower or by a third party) or of the title of the Borrower; and
- (f) the contemplation or doing of any other matter or thing which the Lenders considers to be for the benefit or improvement of the security.

#### **4 Legal charge**

The Borrower, with full title guarantee, charges the Property to the Lenders by way of second legal mortgage, subject to the mortgage specified in Schedule 3, with payment or discharge of the Secured Liabilities.

#### **5 Borrower's representations and warranties**

The Borrower represents and warrants to the Lenders that the Borrower is the legal and beneficial owner of the Property and that the said Property is free from any Security other than the Security created by this Deed.

#### **6 Borrower's covenants as to the Property**

The Borrower covenants with the Lenders as set out in this clause 6.

##### **6.1 Negative Pledge and Disposal Restrictions**

6.1.1 The Borrower shall not at any time, except with the prior written consent of the Lenders:

- (a) Create, purport to create or permit to subsist any Security other than a Permitted Security on, or in relation to, the Property other than this deed;
- (b) Sell, assign, transfer, part with possession or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or
- (c) Create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

##### **6.2 Preservation of Property**

6.2.1 The Borrower shall not:

- (a) Withdraw or transfer all or any part of the Property until after the Security Period has expired; or
- (b) Do, or permit to be done, any act or thing which would be or might depreciate, jeopardise or otherwise prejudice the security held by the lender or materially diminish the value of the Property or the effectiveness of the security created by this deed.

##### **6.3 Enforcement of Rights**

6.3.1 The Borrower shall use its best endeavours to:

- (a) Procure the prompt observance and performance by the counterparty to any agreement or arrangement with the Borrower relating to the Property; and
- (b) Enforce any rights and institute, continue or defend any proceedings relating to the Property which the Lenders may require from time to time.

##### **6.4 Notice of Breaches**

6.4.1 The Borrower shall promptly on becoming aware of any of the same give the Lenders notice in writing of any breach of:

- (a) Any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) Any breach of covenant set out in this Deed.

##### **6.5 Title Documents**

6.5.1 The Borrower shall on execution of this Deed, deposit with the Lenders and the Lenders shall, for the duration of this Deed, be entitled to hold all deeds and documents of title

relating to the Property which are in the possession or control of the Borrower (if these are not within the possession and/or control of the Borrower, the Borrower undertakes to obtain possession of all such deeds and documents of title).

**6.6 Further Assurance**

- 6.6.1 The Borrower, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Lenders may reasonably require) in favour of the Lenders as the Lenders, in their absolute discretion, require from time to time over all or any part of the Property and give all notices, orders and directions which the Lenders may require, in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Property.

**6.7 Appointment of Accountants**

- 6.7.1 The Borrower shall:
- (a) At its own cost, if at any time so required by the Lenders, appoint an accountant or firm of accountants nominated by the Lenders to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Lenders; and
  - (b) Cooperate fully with any accountants so appointed and immediately provide such accountants with all information requested.
- 6.7.2 The Borrower authorises the Lenders to make such appointment as it shall think fit at any time, without further authority from the Borrower. In every such case, the fees and expenses of those accountants shall be paid by the Borrower, but if paid by the Lenders on the Borrower's behalf, those fees and expenses shall be fully reimbursed to the Lenders.

**6.8 Property Covenants**

**6.8.1 To pay outgoings**

- (a) To pay all taxes assessments and outgoings charged on or otherwise payable in respect of the Property.

**6.8.2 Alienation**

- (a) Not without the prior written consent of the Lenders to let agree to let or licence others to occupy nor to part with or share possession or occupation of the Property or any part of it nor to hold it on trust for any other person.

**6.8.3 Duty to insure**

To insure the Property against public liability and to insure the buildings erected on the Property after the date of this Deed for not less than their re-instatement value to pay all premiums when due in respect of the insurance required and to produce to the Lenders on demand evidence of such insurance.

**6.8.4 General covenant to comply with statutes etc**

The Borrower will ensure that any legislation, regulations or bye-laws for the time being in force applicable to the Property are complied with in all respects.

**6.8.5 General covenant to produce notices etc**

- (a) to forward a copy of any notices received from any public or statutory authority or the owner or occupier of any neighbouring premises or any reversioner

**6.8.6 To permit entry**

- (a) To permit the Lenders and any other person reasonably authorised by it to enter and inspect the Property or in connection with the exercise of the Lenders' powers contained herein to carry out work upon the Property.

**6.8.7 To perform covenants**

- (a) To observe and perform all covenants and obligations affecting the Property and to indemnify the Lenders against any loss or liability arising from breach or non-performance

**6.9 Consolidation and Powers of Sale**

6.9.1 The power of sale and all other statutory powers vested in the Lenders shall arise and become exercisable 30 days after the date of this Deed in favour of a purchaser or other party dealing with the Lenders for value provided that the Lenders will not (unless the Borrower is in default of any of the provisions of this Charge on the proviso that such breach is not rectified within 14 days after notice of breach being served on the Borrower as appropriate) take any steps to enforce the security constituted by this Charge until the Repayment Date.

6.9.2 The restriction on consolidation contained in Section 93 of the Law of Property Act 1925 shall not apply to this Deed.

6.9.3 The Lenders may grant or accept surrenders of leases without restrictions.

6.9.4 The Borrower shall have no right to set off against any of the moneys secured by this Deed.

**6.10 Application to register a restriction**

6.10.1 The Lenders will apply to the Chief Land Registrar to register a restriction on the Register of the title to the Property in the following terms:

*" No disposition or charge of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by Kim Elyatt Charles Hack of 7 Apsley Road Clifton Bristol BS8 2SH and Glyn James Thompson of 42 College Road, Clifton Bristol BS8 and or their personal representatives and Chatford Limited incorporated and registered in the United Kingdom whose registered office is at 58 Alma Road, Clifton, Bristol BS8 3DG or their respective conveyancers"*

**6.11 Notification of events of default**

Upon becoming aware of the occurrence of any of the matters referred to in clauses 3.1.1–3.1.8 the Borrower will immediately give the Lenders notice in writing of that occurrence.

**7 Lenders' powers and rights**

**7.1 Power to remedy**

7.1.1 The Lenders shall be entitled (but shall not be obliged) to remedy a breach at any time by the Borrower of any of its obligations contained in this deed and the Borrower irrevocably authorises the Lenders and their agents to do all such things as are necessary or desirable for that purpose.

**7.2 Exercise of rights**

7.2.1 The rights of the Lenders under clause 7.1 are without prejudice to any other rights of the Lenders under this Deed. The exercise of those rights shall not make the Lenders liable to account as a mortgagee in possession.

**7.3 Prior Security**

7.3.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lenders may:

- (a) redeem such or any other prior Security, or procure its transfer to itself; and  
(b) settle and pass any account of the holder of any prior Security.

7.3.2 Any accounts so settled and passed shall be, in the absence of any manifest error conclusive and binding on the Borrower. All monies paid by the Lenders to an encumbrancer in settlement of such an account shall, as from its payment by the Lenders, be due from the

Borrower to the Lenders on current account and shall bear interest at the Default Rate of interest specified in the HBL and be secured as part of the Secured Liabilities.

#### **7.4 Enforcement**

##### **7.4.1 This deed shall be enforceable if:**

- (a) any of the Secured Liabilities are not paid or discharged when the same ought to be paid or discharged by the Borrower (whether on demand, at scheduled maturity, or by acceleration or otherwise, as the case may be); or
- (b) the Borrower is in breach of any of its obligations under this deed or under any other agreement between the Borrower and the Lenders and that breach (if capable of remedy) has not been remedied to the satisfaction of the Lenders within 14 days of notice by the Lenders to the Borrower to remedy the breach; or
- (c) the Borrower:
  - (i) becomes unable to pay its debts as they fall due (and/or the value of the Borrower's assets is less than the amount of its liabilities, taking into account the Borrower's contingent and prospective liabilities);
  - (ii) commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness; or
  - (iii) makes a general assignment for the benefit of, or a composition with, its creditors; or
- (d) the Borrower passes any resolution or takes any corporate action, or a petition is presented or proceedings are commenced, or any action is taken by any person for its winding up, dissolution, administration or reorganisation or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues or assets; or
- (e) a distress, execution, attachment or other legal process is levied, or enforced on or sued against all or any part of the assets of the Borrower and remains undischarged for seven days; or
- (f) any event occurs in relation to the Borrower that is analogous to those set out in clause 7.4.1(c), 7.4.1(d) or 7.4.1(e) or
- (g) any representation, warranty or statement made or deemed to be made by the Borrower under this deed is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; or
- (h) a repayment event occurs pursuant to the Facility Agreement and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Lenders, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Lenders may, in their absolute discretion, enforce all or any part of the security created by this deed as they sees fit.

##### **7.4.2 Power of Sale**

- (a) The power of sale under this deed (including any statutory power of sale) shall, as between the Lenders and a purchaser from the Lenders, arise on and be exercisable at any time after the execution of this deed, but the Lenders shall not exercise such power of sale until the security constituted by this deed has become enforceable under clause 7.4.1.

##### **7.4.3 Protection of Third Parties**

No purchaser, mortgagee or other person dealing with the Lenders or any Receiver shall be concerned:

- (a) To enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power the Lenders or a Receiver is purporting to exercise has become exercisable; or



- (b) To see to the application of any money paid to the Lenders or any Receiver.

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

- (a) Neither the Lenders nor any Receiver shall be liable to account as mortgagee in possession in respect of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, the Property for which a mortgagee in possession might be liable as such.

#### **7.4.5 Appointment of Receiver**

- (a) At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lenders may, without further notice:
  - (i) appoint by way of deed, or otherwise in writing, any one or more person or persons to be a receiver of all or any part of the Property; and
  - (ii) from time to time, by way of deed, or otherwise in writing, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.
- (b) When more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Lenders specifies to the contrary).
  - (i) The Lenders may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this deed which shall be due and payable immediately upon its being paid by the Lenders.

#### **7.4.6 Power of Sale Additional**

- (a) The powers of sale and appointing a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lenders under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the Law of Property Act 1925 or otherwise.
- (b) The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lenders despite any prior appointment in respect of all or any part of the Property

#### **7.4.7 Agent of the Borrower**

- (a) Any Receiver appointed by the Lenders under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.

#### **7.4.8 Powers of Receiver**

- (a) Any Receiver appointed by the Lenders under this deed shall, in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986, have the power to do all such acts and things as an absolute owner could do in the management of the Property

#### **7.4.9 Order of application of proceeds**

- (a) All monies received by the Lenders or a Receiver in the exercise of any enforcement powers conferred by this deed shall be applied:
  - (i) first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Lenders (and any Receiver, attorney or agent appointed by it);

- (ii) second in paying the remuneration of any Receiver (as agreed between the Receiver and the Lenders);
- (iii) third in or towards discharge of the Secured Liabilities in such order and manner as the Lenders determines; and
- (iv) finally in paying any surplus to the Borrower or any other person entitled to it.

#### **7.4.10 Appropriation**

- (a) Neither the Lenders nor any Receiver shall be bound (whether by virtue of section 109(8) of the Law of Property Act 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

#### **7.4.11 Suspense Account**

- (a) All monies received by the Lenders or a Receiver under this deed may, at the discretion of the Lenders or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Lenders and the Borrower, and may be held in such account for so long as the Lenders or Receiver thinks fit.

#### **7.4.12 Power of Attorney**

- (a) By way of security, the Borrower irrevocably appoints the Lenders and every Receiver separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:
  - (i) the Borrower is required to execute and do under this deed, including execute any document required by the Lenders under clause 6.6; and/or
  - (ii) any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this deed or by law on the Lenders or any Receiver.

#### **7.4.13 Ratification of Acts of Attorney**

- (a) The Borrower ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in clause 7.4.12.

#### **7.4.14 Additional rights of the Lenders**

- (a) If the Lenders take possession of the Property the Lenders are authorised as agent for the Borrower and at the Borrower's expense to remove store sell or otherwise deal with any items which the Borrower shall fail or refuse to remove and the Lenders shall not be liable for any loss or damage occasioned to the Borrower and the Borrower shall indemnify the Lenders against all expenses and liabilities incurred by the Lenders in relation to such items and the Lenders shall not have any charge or right in respect of any such items or the proceeds of sale of them which would otherwise constitute this Deed as a bill of sale.
- (b) In relation to any receiver appointed by the Lenders in accordance with Section 109 of the Law of Property Act 1925 the following provisions shall apply.
- (c) A Receiver shall have the powers set out in this clause in addition to his statutory powers.

- (d) The section shall apply to this Deed as if sub-section read "in payment of the monies (whether for interest or otherwise) in arrear or accruing due under the Mortgage"
- (e) Such Receiver shall have power in respect of any work incidental to the receivership to employ ad to appoint and to pay agents, and
- (f) A Receiver may be an employee or officer of the Lenders or any person at the Lenders' discretion.

## **8 Indulgence and waiver**

The Lenders may, at their discretion, grant time or other indulgence or make any other arrangement, variation or release with any person that is not a party to this deed (whether or not such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them, without prejudice either in this deed or to the liability of the Borrower for the Secured Liabilities..

## **9 Demands and notices**

### **9.1 Form and mode of deemed service**

All notices must be in delivered in writing to the address as noted in this Deed (unless further addresses are subsequently notified to the other party in writing)

- 9.1.1 Giving a notice or delivering a document to a party's Legal Advisor (as notified in writing to the other party) has the same effect as giving or delivering it to that party
- 9.1.2 Where delivery of the original document is not essential a notice or document is validly given or sent if it is sent
  - (a) By fax; or
  - (b) By email to an email address for the intended recipient given in the contract.
- 9.1.3 A notice is given and a document is delivered when it is received
- 9.1.4 A notice or document sent through a document exchange is received when it is available for collection
- 9.1.5 A notice or document which is received after 4:00pm on a working day, or on a day which is not a working day is to be treated as having been received on the next working day
- 9.1.6 An automated response to a notice or document sent by e-mail that the intended recipient is out of the office is to be treated as proof that the document was not received
- 9.1.7 Sub clause 9.1.8 applies unless there is proof
  - (a) That a notice or document has not been received, or
  - (b) Of when it was received.
- 9.1.8 A notice or document sent by the following means is treated as having been received as follows:
  - (a) by first-class post: before 4:00pm on the second working day after posting
  - (b) by second-class post: before 4:00pm on the third working day after posting
  - (c) through a document exchange : before 4:00pm on the first working day after the day on which it would normally be available for collection by the addressee
  - (d) by fax: one hour after despatch
  - (e) by e-mail: before 4:00pm on the first working day after despatch

## **10 Validity and severability**

### **10.1 Enforceability**

Each of the provisions of this mortgage is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

### **10.2 Lack of capacity**

If this mortgage is executed by or on behalf of more than one person and any one or more of those persons is not bound by its provisions (whether by reason of lack of capacity or improper execution or for any other reason), the remaining parties shall continue to be so bound as if those who are not bound had not been parties to the security.

## **11 Repayment and Release**

### **11.1 Subject to clause 15.3, on the expiry of the Security Period (but not otherwise), the Lenders shall, at the request and cost of the Borrower, take whatever action is necessary to release the Property from the security constituted by this deed and the Lenders Covenant with the Borrower that**

11.1.1 on receipt of the proceeds of sale of each house after the satisfaction of any priority charge the Lenders will release the charge or proportion thereof and hand to the Borrower the required form of release

11.1.2 on receipt of all monies due under this Deed the Lenders will release their legal charge and will hand to the Borrower the required form of release save for the operation of the Facility Agreement between the Borrower and Kim Elyott Charles Hack dated 30 September 2013

## **12 Assignment and Transfer**

### **12.1 Assignment by the Lenders**

12.1.1 At any time, without the consent of the Borrower, the Lenders may assign or transfer any or all of its rights and obligations under this deed.

12.1.2 The Lenders may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Property and this deed that the Lenders considers appropriate.

### **12.2 Assignment by the Borrower**

12.2.1 The Borrower may not assign any of its rights, or transfer any of its rights or obligations under this deed.

## **13 Lenders' right of set-off**

### **13.1 The Lenders may at any time set off any liability of the Borrower to the Lenders against any liability of the Lenders to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. Any exercise by the Lenders of their rights under this clause 13 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.**

### **13.2 The Lenders are not obliged to exercise its rights under clause 13.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.**

## **14 Amendments and Waivers**

### **14.1 No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).**

### **14.2 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.**

14.3 A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lenders shall be effective unless it is in writing.

14.4 The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **15 Further Provisions**

15.1 The Security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that the Lenders may hold for any of the Secured Liabilities at any time. No prior security held by the Lenders over the whole or any part of the Property shall merge in the security created by this Deed.

15.2 This Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lenders discharge this deed in writing.

15.3 Any release, discharge or settlement between the Borrower and the Lenders shall be deemed conditional on no payment or security received by the Lenders in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

15.3.1 the Lenders or their nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Property, for such period as the Lenders deems necessary to provide the Lenders with security against any such avoidance, reduction or order for refund; and

15.3.2 the Lenders may recover the value or amount of such security or payment from the Borrower subsequently as if such release, discharge or settlement had not occurred.

15.4 A certificate or determination by the Lenders as to any amount for the time being due to it from the Borrower shall (in the absence of any manifest error) be conclusive evidence of the amount due.

## **16 Counterparts**

16.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one Deed.

## **17 Exclusion of third party rights**

Nothing in this mortgage is intended to confer any benefit on any person who is not a party to it.

## **18 Governing law and jurisdiction**

### **18.1 Construction**

This mortgage shall be governed by and construed in accordance with English law.

### **18.2 Jurisdiction of English courts**

It is irrevocably agreed for the exclusive benefit of the Lenders that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this mortgage and that accordingly any suit, action or proceeding arising out of or in connection with this mortgage may be brought in those courts.

### **18.3 Jurisdiction of other courts**

Nothing in this clause 18 shall limit the Lenders' right to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

Signed as a deed by ELLSON  
HOMES LIMITED acting by a  
director in the presence of


Director



signature of director

GEOFFREY A. HANSON

name of director



signature of witness

Name of witness

RORY YOUNG

Address

NARROW QUAY  
HOUSE, NARROW  
QUAY, BRISTOL  
BS1 4QA

Signed as a deed by CHATFORD  
LIMITED acting by a director in the  
presence of

Director



signature of director

GLYN THOMPSON

name of director



signature of witness

Name of witness

RORY YOUNG

Address

NARROW QUAY  
HOUSE, NARROW  
QUAY, BRISTOL  
BS1 4QA

Signed as a deed by KIM ELYOTT  
CHARLES HACK in the presence of  
a witness


.....  
signature

.....  
signature of witness

Name of witness

Address

Signed as a deed by GLYN JAMES  
THOMPSON in the presence of a  
witness

  
.....  
signature

  
.....  
signature of witness

Name of witness

Address

.....  
DORIS YOUNG  
.....  
NARROW QUAY  
.....  
HOUSE, NARROW  
.....  
QUAY, BRISTOL  
.....  
BS1 4QA

## SCHEDULE 1 : THE PROPERTY

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Freehold Property known as Land on the South East Side of Raleigh Road, Bedminster, Bristol as registered at the Land Registry under title number BL140386



## SCHEDULE 2 : THE PRIOR MORTGAGES

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1 (1) National Westminster Bank Plc (2) Ellson Homes Limited dated 22 February 2018

### SCHEDULE 3 : THE HANDELSBANKEN LOANS

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The sums loaned from Svenska Handelsbanken AB (publ) to Lender 1 pursuant to loan agreements dated 23 September 2015, 17 November 2015, 13 January 2016 and 13 January 2016 totalling £2,390,000