



Registration of a Charge

Company name: **RST HARPER ROAD LIMITED**

Company number: **11314927**



X8YNHPO9

Received for Electronic Filing: **12/02/2020**

Details of Charge

Date of creation: **10/02/2020**

Charge code: **1131 4927 0003**

Persons entitled: **ABC INTERNATIONAL BANK PLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **FOOT ANSTEY LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11314927

Charge code: 1131 4927 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th February 2020 and created by RST HARPER ROAD LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th February 2020 .

Given at Companies House, Cardiff on 13th February 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

Charge Over Shares

Dated 10 February 2020

RST Harper Road Limited (1)
Galliard Homes Limited (2)
ABC International Bank plc (3)

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THIS DEED is made on

10 February

2020

BETWEEN:

- (1) **RST HARPER ROAD LIMITED**, a limited company incorporated in England and Wales (company number 11314927) ("**RST**");
 - (2) **GALLIARD HOMES LIMITED** a limited company incorporated in England and Wales (company number 02158998) ("**GHL**");
- each a "**Chargor**" and together the "**Chargors**"; and
- (3) **ABC INTERNATIONAL BANK PLC** registered in England and Wales (registered number 02564490) (the "**Bank**").

1 Interpretation

1.1 The following expressions shall have the following meanings:

"**Company**" means Acorn (Trinity Square) limited company incorporated in England and Wales (company number 08741447).

"**Delegate**" means any person appointed by the Bank pursuant to clause 10, and any person appointed as attorney of the Bank or Delegate.

"**Event of Default**" has the meaning given to that expression in the Facility Agreement.

"**Facility Agreement**" means the £7,800,000 facility agreement dated on or around the date of this Deed between the Company as borrower and the Original Lender listed in part 1 of schedule 1 to such facility agreement and ABC International Bank PLC as Arranger, Agent and Security Agent, as amended, varied, supplemented and/or restated from time to time;

"**Financial Collateral**" has 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).

"**LPA 1925**" means the Law of Property Act 1925.

"**Material Adverse Effect**" has the meaning given to that expression in the Facility Agreement.

"**Obligor**" has the meaning given to that term in the Facility Agreement.

"**Related Rights**" means:

- (a) all moneys paid or payable in respect of the Shares (whether as income, capital or otherwise);
- (b) all shares, investments or other assets derived from the Shares; and
- (c) all rights derived from or incidental to the Shares.

"**Secured Assets**" means the undertaking and any property and assets of the Chargors subject to, or expressed to be subject to, any Security under this Deed.

"**Secured Liabilities**" means all monies and liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever)

now or at any time in the future due, owing or incurred by each of (a) the Obligor to the Bank pursuant to the Finance Documents or (b) Acorn (as obligor) to the Bank pursuant to the Trinity Finance Documents.

"Security Financial Collateral Arrangement" has the meaning given to the expression in the Financial Collateral Regulations.

"Security" means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

"Shares" means 200 ordinary shares of £1.00 each in the share capital of Company being 100 ordinary shares of £1.00 each in the share capital of Company held by RST ("**RST Shares**") and 100 ordinary shares of £1.00 each in the share capital of Company held by GHL ("**GHL Shares**"); and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 Construction

- (a) Capitalised terms defined in the Facility Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) Unless a contrary indication appears, a reference in this Deed to a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated.
- (c) References to statutes, statutory provisions and other legislations shall include all amendments, substitutions, modifications and re-enactments for the time being in force.
- (d) Clause headings are for reference only and are not to affect the interpretation of this Deed.
- (e) Reference in this Deed to clauses and schedules shall unless otherwise expressly specified be references to clauses and schedules of this Deed.
- (f) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (g) Any reference in this Deed to:
 - (i) **assets** includes present and future property, revenues and rights of every description;
 - (ii) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (iii) a **guarantee** includes any guarantee, indemnity, counter indemnity or other assurance in respect of the indebtedness of any person; and
 - (iv) a **person** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership

(whether or not having separate legal personality) or two or more of the foregoing and includes its successors.

1.3 Clawback

If the Bank considers that an amount paid by the Chargors in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the bankruptcy of the Chargors or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Perpetuity period

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).

1.5 Schedules

The schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the schedules.

2 Covenant to pay

2.1 The Chargors jointly and severally agree to pay or discharge on demand the Secured Liabilities when the same become due in accordance with the terms of the Finance Documents and the Trinity Finance Documents.

2.2 The recourse of the Bank to the Chargors in respect of their obligations under this Deed is limited to the Secured Assets and the proceeds thereof.

3 Grant of security

Each Chargor charges, with full title guarantee and as a continuing security for the Secured Liabilities, by way of fixed charge:

- (a) all the Shares owned by it or held by any nominee of trustee on its behalf; and
- (b) all Related Rights.

4 Liability of the Chargors and Bank protections

4.1 Each Chargor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities;
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Bank may now or after the date of this Deed have from or against the Chargors or any other person in connection with the Secured Liabilities;
- (c) any act or omission by the Bank or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Chargors or any other person;
- (d) any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities including, without limitation, any change in the purpose of, any increase in or extension of the Secured Liabilities and any addition of new Secured Liabilities;

- (e) any grant of time, indulgence, waiver or concession to the Chargors or any other person;
- (f) any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Chargors or any other person;
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Chargors or any other person in connection with the Secured Liabilities;
- (h) any claim or enforcement of payment from the Chargors or any other person; or
- (i) any other act or omission which would not have discharged or affected the liability of the Chargors had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargors or otherwise reduce or extinguish its liability under this Deed.

4.2 Each Chargor waives any right it may have to require the Bank:

- (a) to take any action or obtain judgment in any court against it or any other person;
- (b) to make or file any claim in its or any other person's bankruptcy, liquidation, administration or insolvency; or
- (c) to make demand, enforce or seek to enforce any claim, right or remedy against it or any other person,

before taking steps to enforce any of its rights or remedies under this Deed.

5 Representations and warranties

Each Chargor makes the representations and warranties set out in this clause 5 to the Bank.

5.1

- (a) The Shares are fully paid and are not subject to any option to purchase or similar rights.
- (b) The Shares represent the whole of the issued share capital of the Company and no person has any option, warrant or other similar right to subscribe for any shares of the Company.
- (c) RST is the sole legal and beneficial owner of the RST Shares;
- (d) GHL is the sole legal and beneficial owner of the GHL Shares;
- (e) The constitutional documents of the Company do not:
 - (i) restrict or inhibit any transfer of the Shares on creation or enforcement of the security constituted by this Deed; or
 - (ii) contain any rights of pre-emption.

5.2 The Secured Assets are free from any Security other than the Security created by this Deed.

5.3 The Chargors have not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

- 5.4 There are no covenants, agreements, reservations, conditions, interests, rights or other matter whatsoever, which affects the Secured Assets or has, or is reasonably likely to have, a Material Adverse Effect.
- 5.5 There is no breach of any law or regulation which affects the Secured Assets or has, or is reasonably likely to have, a Material Adverse Effect.
- 5.6 No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the bankruptcy of the Chargors or otherwise.
- 5.7 This Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargors, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms.
- 5.8 The representations and warranties set out in clause 5 are made by each Chargor on the date of this Deed and the representations and warranties contained in clause 5.1 to clause 5.7 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

6 Covenants

- 6.1 The Chargors shall not, except as expressly allowed under the Facility Agreement or this Deed or with the prior written consent of the Bank:
- (a) create or permit to subsist or arise any Security (other than a lien arising by operation of law) on any of the Secured Assets other than under this Deed or otherwise in favour of the Bank; or
 - (b) sell, convey, assign or transfer any of the Secured Assets or any interest therein, or otherwise part with or dispose of any of the Secured Assets or assign or otherwise dispose of any monies payable to the Chargors in relation to any of the Secured Assets or agree to do any of the above (in each case whether by a single transaction or a series of transactions whether related or not).
- 6.2 The Chargors shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the Security held by the Bank, or diminish the value of any of the Secured Assets or the effectiveness of the Security created by this Deed.
- 6.3 The Chargors waive any present or future rights of set-off they may have in respect of the Secured Liabilities (including sums payable by the Chargors under this Deed).
- 6.4 The Chargors shall comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them.
- 6.5 The Chargors shall use their best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Bank may require from time to time.
- 6.6 The Chargors shall, promptly on becoming aware of any of the same, notify the Bank in writing of:
- (a) any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
 - (b) any breach of any covenant set out in this Deed.
- 6.7 The Chargors shall on the execution of this Deed (or in the case of paragraph (c) below, promptly following request), deliver to the Bank, or as the Bank may direct:

- (a) all share certificates and other documents of title or evidence of ownership of the Secured Assets;
- (b) all stock transfer forms relating to the Secured Assets duly completed and executed by or on behalf of the Chargors but with the name of the transferee, the consideration and the date left blank; and
- (c) any other documents (in each case duly completed and executed by or on behalf of the Chargors) that the Bank may request to enable it, or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain legal title to, or to perfect its Security in any of the Secured Assets,

so that the Bank may, at any time after the security constituted by this Deed has become enforceable and without notice to the Chargors, complete and present those stock transfer forms and other documents to the Company for registration.

6.8

- (a) The Chargors shall immediately terminate all nominations they may have made in respect of any Secured Asset and, pending such termination, procure that any person so nominated:
 - (i) does not exercise any rights in respect of any Secured Asset without the prior written approval of the Bank; and
 - (ii) immediately upon receipt by it, forward to the Bank all communications or other information received by it in respect of any Secured Asset for which it has been so nominated.
- (b) The Chargors shall not at any time during the Security Period exercise the right to nominate any person other than the Bank to enjoy or exercise any right relating to any of the Secured Assets.

6.9 The Chargors shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association, other constitutional document or otherwise of the Company, for the transfer of the Secured Assets to the Bank or its nominee, or to a purchaser on enforcement of the Security constituted by this Deed;
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption and director's right of refusal to register a share transfer provisions) under the articles of association, other constitutional document or otherwise of the Company in any manner that the Bank may require in order to permit the transfer of the Secured Assets to the Bank or its nominee, or to a purchaser on enforcement of the Security constituted by this Deed; and
- (c) procure the amendment of the articles of association, other constitutional document or otherwise of the Company to remove any rights or potential rights of lien the Company may have now or in the future over the Secured assets.

6.10

- (a) Notwithstanding the Security created by this Deed, the Chargors shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any part of the Secured Assets.
- (b) If the Chargors fail to do so, the Bank may, at its discretion but without obligation, pay the calls, instalments or other payments on behalf of the Chargors.

- (c) The Chargors shall, immediately on request by the Bank, reimburse the Bank for any payment made by it under this clause 6.10.
- (d) The Chargors shall comply with, and shall remain liable to perform, all of the other conditions and obligations assumed by it in respect of all or any part of the Secured Assets.

6.11

- (a) The Chargors shall not take, or allow the taking of, any action on their behalf which may result in the rights attaching to, or conferred by, all or any of the Secured Assets being altered.
- (b) The Chargors shall not cause or permit:
 - (i) any of the Secured Assets to be consolidated, sub-divided or converted;
 - (ii) any other shares of the Company, which do not form part of the Secured Assets under this Deed, to be re-organised, exchanged or repaid; or
 - (iii) any further shares in the share capital of the Company to be issued without the prior written consent of the Bank.

6.12 The Chargors shall:

- (a) promptly following receipt, send to the Bank copies of any notice, circular, report, accounts and any other document received by it that relates to the Secured Assets; and
- (b) promptly notify the Bank in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargors' proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Bank's prior approval, implement those proposals at its own expense.

7 Voting rights and dividends

7.1 Voting rights and dividends - before enforcement

- (a) Before the occurrence of an Event of Default that is continuing, the Chargors may exercise all voting and other rights and powers in respect of the Secured Assets or, if any of the same are exercisable by the Bank or any of its nominees, direct in writing the exercise of those voting and other rights and powers provided that:
 - (i) it shall not do so in any way that would breach any provision of the Facility Agreement or this Deed or for any purpose inconsistent with the Facility Agreement or this Deed; and
 - (ii) the exercise of, or failure to exercise, those voting rights or other rights and powers would not, in the Bank's opinion, have an adverse effect on the value of any of the Secured Assets or otherwise prejudice the Bank's Security under this Deed.
- (b) Before the occurrence of an Event of Default that is continuing, the Chargors may retain and apply for their own use all dividends and other monies paid or payable in respect of the Secured Assets and, if any are paid or payable to the Bank or any of its nominees, the Bank will hold all those dividends and other monies received by it for the Chargors and will pay them to the Chargors promptly on request.

- (c) The Chargors shall indemnify the Bank against any loss or liability incurred by the Bank (or its nominee) as a consequence of the Bank (or its nominee) acting in respect of the Secured Assets at the direction of the Chargors.
- (d) The Bank shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Secured Assets which the Bank considers prejudicial to, or impairing the value of, the Security created by this Deed.

7.2 Voting Rights and Dividends - following an Event of Default that is continuing

After an Event of Default that is continuing, the Bank may at its discretion (in the name of the Chargors and without any further consent or authority from the Chargors and irrespective of any direction given by the Chargors):

- (a) exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all voting rights and any other powers or rights in respect of the Secured Assets, and the Chargors shall comply, or procure compliance, with any directions the Bank may give, in its absolute discretion, in respect of the exercise of those voting and other rights and powers;
- (b) apply all dividends or other monies paid or payable in respect of the Secured Assets in accordance with clause 11 and, if any such dividends or other monies are received by or on behalf of the Chargors, the Chargors shall hold all such dividends and other monies on trust for the Bank and shall immediately pay them to the Bank or as it may direct;
- (c) complete all instruments of transfer held by it in relation to the Secured Assets in favour of itself or such other person as it may select and have the Secured Assets transferred into its name or the name of its nominee or, as applicable, into an account in its own name or the name of its nominee; and
- (d) in addition to any other power created under this Deed, exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Secured Assets.

8 Powers of the Bank

- 8.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargors of any of its obligations contained in this Deed.
- 8.2 The Chargors irrevocably authorise the Bank and its agents to do all things that are necessary or desirable for that purpose.
- 8.3 Any monies expended by the Bank in remedying a breach by the Chargors of their obligations contained in this Deed, shall be reimbursed by the Chargors to the Bank on demand and on a full indemnity basis, together with interest at the Default Rate from the date of payment by the Bank of such monies until such reimbursement by the Chargors, both before and after judgment.
- 8.4 The rights of the Bank under clause 8.1 to 8.4 are without prejudice to any other rights of the Bank under this Deed.
- 8.5 The Bank shall not, in respect of any of the Secured Assets, have any duty or incur any liability for:
 - (a) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Secured Assets or

the nature or sufficiency of any payment whether or not the Bank has or is deemed to have knowledge of such matters; or

- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Secured Assets.

- 8.6 The Bank may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not such person is jointly liable with the Chargors) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this Deed or to the liability of the Chargors for the Secured Liabilities.

9 Enforcement

- 9.1 This Deed will become immediately enforceable if an Event of Default occurs and is continuing.

- 9.2 After the occurrence of an Event of Default that is continuing, the Bank may, in its absolute discretion, enforce all or any part of its Security constituted by this Deed at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

- 9.3 Section 103 of the Law of Property Act 1925 (the "LPA") shall not apply and the statutory power of sale and all other powers under the LPA or any other statutory powers as varied or extended by this Deed shall be exercisable at any time after this Deed has become enforceable under clause 9.1.

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

9.5

- (a) To the extent that:

- (i) the Secured Assets constitute Financial Collateral; and
- (ii) this Deed and the obligations of the Chargors under it constitute a Security Financial Collateral Arrangement,

the Bank shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment and discharge of the Secured Liabilities in any order that the Bank, in its absolute discretion, may from time to time determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause 9.5 shall be determined by any method that the Bank may select, including independent valuation.
- (c) The Chargors agree that the method of valuation provided for in this clause 9.5 is commercially reasonable for the purposes of the Financial Collateral Regulations.

- 9.6 At any time after the occurrence of an Event of Default, or after any powers conferred by any Security having priority to this Deed have become exercisable, the Bank may in its absolute discretion:

- (a) redeem any prior Security over all or any Secured Asset;
- (b) procure the transfer of that prior Security to it; and
- (c) settle and pass any accounts of the holder of any prior Security.

The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargors. All monies paid by the Bank to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Bank, be due from the Chargors to the Bank on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.

10 Delegation

- 10.1 The Bank may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under clause 14).
- 10.2 The Bank may delegate on any terms and conditions (including the power to sub-delegate) that it thinks fit.
- 10.3 The Bank shall not be in any way liable or responsible to the Chargors for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

11 Application of proceeds

- 11.1 Any moneys received by the Bank or any Delegate shall subject to the repayment of any claims having priority to the charges created by this Deed be applied in the following order but without prejudice to the right of the Bank to recover any shortfall from the Chargors:
- (a) in the payment of all costs charges and expenses of and incidental to the appointment of any Delegate and the exercise of all or any of his powers and of all outgoings paid by him;
 - (b) in the payment of any Delegate's remuneration;
 - (c) in or towards the satisfaction of the Secured Liabilities in such order as the Bank in its absolute discretion thinks fit;
 - (d) in payment of the surplus (if any) to the person or persons entitled to it.
- 11.2 All moneys received recovered or realised by the Bank under this Deed may be credited at the discretion of the Bank to any suspense or impersonal account and may be held in such account for so long as the Bank shall think fit pending its application from time to time in or towards the discharge of any of the Secured Liabilities.

12 Protection of third parties

- 12.1 Any person dealing with a Delegate or the Bank shall not be concerned to enquire whether the Secured Liabilities have become payable or whether any power which he or it is purporting to exercise has become exercisable or whether any money is due under this Deed or as to the application of any money paid raised or borrowed or as to the propriety or regularity of any sale by or other dealing with such Delegate or the Bank.
- 12.2 The receipt of the Bank or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Bank and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.
- 12.3 All the protections for purchasers contained in Sections 104 and 107 of the LPA shall apply to any person purchasing from or dealing with a Delegate or the Bank.

13 Entry into possession

If the Bank or any Delegate shall enter into possession of the property charged by this Deed or any part of such property it or he may from time to time and at any time go out of such

possession. Neither the Bank nor any Delegate shall in any circumstances (either by reason of any entry into or taking of possession of any such property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargors for anything except its or his actual receipts or be liable to the Chargors for any loss or damage arising from any realisation of the property hereby charged by this Deed or from any act, default or omission in relation thereto.

14 Power of attorney

14.1 The Chargors irrevocably appoint the Bank, any Delegate and any person nominated by the Bank jointly and also severally to be the attorney of the Chargors with the power of substitution and in its name and otherwise on its behalf and as its act and deed to sign any documents and carry out any action which the Bank or any Delegate may require or deem proper for or in connection with the exercise of its rights under this Deed or which the Chargors are required to do under this Deed.

14.2 The Chargors agree to ratify and confirm anything any attorney appointed under this clause 14 properly does or purports to do in the exercise of any of the powers, granted or referred to in this Deed.

15 Currency indemnity

For the purpose of or pending the discharge of any of the Secured Liabilities the Bank may convert any moneys received recovered or realised by the Bank under this Deed (including the proceeds of any previous conversion) from their existing currency into such other currency as the Bank may think fit and any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange for such other currency against the existing currency. As a separate and independent obligation the Chargors agree to indemnify and hold harmless the Bank against any shortfall between any amount received or recovered by it in respect of any payment due under this Deed and converted in accordance with this clause 15 into the currency in which such amount was payable and the amount in such currency which was due and payable to the Bank under this Deed.

16 New accounts

If the Bank shall at any time receive actual or constructive notice of any charge or other interest affecting any part of the Secured Assets then the Bank may open a new account or accounts for the Chargors and, if the Bank does not do so, then the Bank shall be treated as if it had in fact done so at the time when it received or was deemed to receive notice and as from that time all payments made by the Chargors to the Bank shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Deed at the time when the Bank received or was deemed to have received such notice.

17 Further assurance

The Chargors shall at their own cost whenever requested by the Bank immediately execute and sign all documents and carry out any action which the Bank may reasonably require for the purpose of perfecting or more effectively providing security to the Bank for the payment and discharge of the Secured Liabilities or, after this Deed has become enforceable, to facilitate the realisation of the property and assets charged by this Deed or the exercise of any rights vested in the Bank or any Delegate.

18 Set-off

18.1 The Bank may at any time after this Deed has become enforceable and without notice to the Chargors combine or consolidate all or any of the Chargors' then existing accounts with and liabilities to the Bank and set-off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the

Chargors to the Bank on any other account or in any other respects. The Bank shall notify the Chargors that such a transfer has been made.

- 18.2 All payments made by the Chargors to the Bank under this Deed or any other agreement between the Chargors and the Bank shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

19 Indemnity

The Bank and every Delegate, attorney or other person appointed by the Bank under this Deed and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the property and assets charged by this Deed in respect of all liabilities and expenses properly incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers granted to them under this Deed and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the property charged by this Deed and the Bank and any such Delegate may retain and pay all sums in respect of the same out of the moneys received under the powers conferred by this Deed.

20 Assignment

- 20.1 This Deed is assignable or transferable by the Bank.
- 20.2 The Chargors may not transfer any of its obligations under this Deed.
- 20.3 The Bank may disclose to any person connected with the Bank and/or any person to whom it is proposing to transfer or assign or has transferred or assigned any of the Secured Liabilities or its rights under this Deed any information about the Chargors or any party connected or associated with it.

21 Costs and expenses

- 21.1 The Chargors shall on demand by the Bank and on a full indemnity basis pay to the Bank the amount of all costs and expenses (including legal costs) together with VAT which the Bank reasonably incurs under or in connection with this Deed including in particular but without limitation all costs and expenses reasonably incurred in connection with the preservation or enforcement of the Bank's rights under this Deed.
- 21.2 If the Chargors do not pay on demand any costs and expenses referred to in clause 21.1 such sums still carry interest from the date of demand until they are paid in full.

22 Communications

- 22.1 Any demand or notice under this Deed shall be in writing signed by an officer or agent of the Bank and (without prejudice to any other effective means of serving it) may be served on the Chargors personally or by post and either by delivering it to the Chargors or any officer of the Chargors at any place or by despatching it addressed to the Chargors at the address stated in this document (or such other address as may from time to time be notified by the Chargors to the Bank for this purpose) or the Chargors' current registered office or the place of business or address last known to the Bank.
- 22.2 Any such demand or notice delivered personally shall be deemed to have been received immediately upon delivery.
- 22.3 Any such demand or notice sent by post shall be deemed to have been received at the opening of business in the intended places of receipt on the day following the day on which it was posted, even if returned undelivered.

23 Miscellaneous

- 23.1 No delay or omission on the part of the Bank in exercising any right or remedy under this Deed shall impair that right or remedy or operate as or be taken to be a waiver of it; nor shall any single, partial or defective exercise of any such right or remedy preclude any other or further exercise under this Deed of that or any other right or remedy.
- 23.2 The Bank's rights under this Deed are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Bank deems expedient.
- 23.3 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.
- 23.4 Any waiver by the Bank of any terms of this Deed or any consent or approval given by the Bank under it shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 23.5 If at any time any one or more of the provisions of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction neither the legality, validity and enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 23.6 Where any provision of this Deed provides for the payment of interest shall be calculated at the rate applicable to the Secured Liabilities (or, if there is more than one such rate, at the higher(est) of such rates) or, in the absence of any such rate, at 3% per annum above the base rate of the Bank of England from time to time in force.
- 23.7 No assurance, security or payment which may be avoided or adjusted under any enactment relating to bankruptcy or under the Insolvency Act 1986 or similar legislation binding on the Chargors in a jurisdiction other than England and Wales and no release, settlement or discharge given or made by the Bank on the faith of any such assurance, security or payment shall prejudice or affect the right of the Bank to recover from the Chargors (including the right to recover any moneys which it may have been compelled by due process of law to refund under the provisions of the Insolvency Act 1986 and any cost payable by it or otherwise incurred in connection with such process) or to enforce the security created by or in connection with this Deed to the full extent of all moneys and liabilities secured by this Deed.

24 Law and jurisdiction

- 24.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and Wales.
- 24.2 The Chargors irrevocably agree for the exclusive benefit of the Bank that the courts of England and Wales shall have jurisdiction to hear and determine any suit action or proceeding, and to settle any dispute, which may arise out of or in connection with this Deed and for such purposes irrevocably submits to the jurisdiction of such courts.

25 Release

At the end of the Security Period, the Bank must, at the request and cost of the Chargors, take whatever action is necessary to release the Secured Assets from this Deed.

THIS DEED has been executed as a deed on the date stated at the beginning of this document.

EXECUTION PAGE

The Chargors

EXECUTED as a DEED by
RST HARPER ROAD
LIMITED
acting by:

)
)
)
)

.....
Director

In the presence of:

Name:

Signature:

Address:

Occupation:

EXECUTED as a DEED by
GALLIARD HOMES LIMITED
acting by:

)
)
)

.....
Director

In the presence of:

Name:

Signature:

Address:

Occupation:

EXECUTION PAGE

The Chargors

EXECUTED as a DEED by
**RST HARPER ROAD
LIMITED**
acting by:

Melanie Omeron

.....
Director

In the presence of:

Name:

Kerry Nelson

Signature:



Address:

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London
EC4N 6AF

Occupation:

Trainee Solicitor

EXECUTED as a DEED by
GALLIARD HOMES LIMITED
acting by:

Jonathan Morgan

.....
Director

In the presence of:

Name:

Kerry Nelson

Signature:



Address:

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London
EC4N 6AF

Occupation:

Trainee Solicitor

The Bank

EXECUTED as a deed by

as authorised signatory for **ABC**
INTERNATIONAL BANK PLC
in its capacity as Security Agent
in the presence of:

)
)
)
)
)
)
)

.....
Authorised signatory

Signature of witness:

Name of witness:

Address of witness:
.....
.....

Charge Over Shares

Dated

10 February 2020

RST Harper Road Limited (1)
Galliard Homes Limited (2)
ABC International Bank plc (3)

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THIS DEED is made on

10 February 2020

BETWEEN:

- (1) **RST HARPER ROAD LIMITED**, a limited company incorporated in England and Wales (company number 11314927) ("**RST**");
 - (2) **GALLIARD HOMES LIMITED** a limited company incorporated in England and Wales (company number 02158998) ("**GHL**");
- each a "**Chargor**" and together the "**Chargors**"; and
- (3) **ABC INTERNATIONAL BANK PLC** registered in England and Wales (registered number 02564490) (the "**Bank**").

1 Interpretation

1.1 The following expressions shall have the following meanings:

"**Company**" means Acorn (Trinity Square) limited company incorporated in England and Wales (company number 08741447).

"**Delegate**" means any person appointed by the Bank pursuant to clause 10, and any person appointed as attorney of the Bank or Delegate.

"**Event of Default**" has the meaning given to that expression in the Facility Agreement.

"**Facility Agreement**" means the £7,800,000 facility agreement dated on or around the date of this Deed between the Company as borrower and the Original Lender listed in part 1 of schedule 1 to such facility agreement and ABC International Bank PLC as Arranger, Agent and Security Agent, as amended, varied, supplemented and/or restated from time to time;

"**Financial Collateral**" has 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*).

"**LPA 1925**" means the Law of Property Act 1925.

"**Material Adverse Effect**" has the meaning given to that expression in the Facility Agreement.

"**Obligor**" has the meaning given to that term in the Facility Agreement.

"**Related Rights**" means:

- (a) all moneys paid or payable in respect of the Shares (whether as income, capital or otherwise);
- (b) all shares, investments or other assets derived from the Shares; and
- (c) all rights derived from or incidental to the Shares.

"**Secured Assets**" means the undertaking and any property and assets of the Chargors subject to, or expressed to be subject to, any Security under this Deed.

"**Secured Liabilities**" means all monies and liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever)

now or at any time in the future due, owing or incurred by each of (a) the Obligor to the Bank pursuant to the Finance Documents or (b) Acorn (as obligor) to the Bank pursuant to the Trinity Finance Documents.

"Security Financial Collateral Arrangement" has the meaning given to the expression in the Financial Collateral Regulations.

"Security" means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

"Shares" means 200 ordinary shares of £1.00 each in the share capital of Company being 100 ordinary shares of £1.00 each in the share capital of Company held by RST ("**RST Shares**") and 100 ordinary shares of £1.00 each in the share capital of Company held by GHL ("**GHL Shares**"); and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 Construction

- (a) Capitalised terms defined in the Facility Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) Unless a contrary indication appears, a reference in this Deed to a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated.
- (c) References to statutes, statutory provisions and other legislations shall include all amendments, substitutions, modifications and re-enactments for the time being in force.
- (d) Clause headings are for reference only and are not to affect the interpretation of this Deed.
- (e) Reference in this Deed to clauses and schedules shall unless otherwise expressly specified be references to clauses and schedules of this Deed.
- (f) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (g) Any reference in this Deed to:
 - (i) **assets** includes present and future property, revenues and rights of every description;
 - (ii) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (iii) a **guarantee** includes any guarantee, indemnity, counter indemnity or other assurance in respect of the indebtedness of any person; and
 - (iv) a **person** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership

(whether or not having separate legal personality) or two or more of the foregoing and includes its successors.

1.3 Clawback

If the Bank considers that an amount paid by the Chargors in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the bankruptcy of the Chargors or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Perpetuity period

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).

1.5 Schedules

The schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the schedules.

2 Covenant to pay

2.1 The Chargors jointly and severally agree to pay or discharge on demand the Secured Liabilities when the same become due in accordance with the terms of the Finance Documents and the Trinity Finance Documents.

2.2 The recourse of the Bank to the Chargors in respect of their obligations under this Deed is limited to the Secured Assets and the proceeds thereof.

3 Grant of security

Each Chargor charges, with full title guarantee and as a continuing security for the Secured Liabilities, by way of fixed charge:

- (a) all the Shares owned by it or held by any nominee of trustee on its behalf; and
- (b) all Related Rights.

4 Liability of the Chargors and Bank protections

4.1 Each Chargor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities;
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Bank may now or after the date of this Deed have from or against the Chargors or any other person in connection with the Secured Liabilities;
- (c) any act or omission by the Bank or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Chargors or any other person;
- (d) any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities including, without limitation, any change in the purpose of, any increase in or extension of the Secured Liabilities and any addition of new Secured Liabilities;

- (e) any grant of time, indulgence, waiver or concession to the Chargors or any other person;
- (f) any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Chargors or any other person;
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Chargors or any other person in connection with the Secured Liabilities;
- (h) any claim or enforcement of payment from the Chargors or any other person; or
- (i) any other act or omission which would not have discharged or affected the liability of the Chargors had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargors or otherwise reduce or extinguish its liability under this Deed.

4.2 Each Chargor waives any right it may have to require the Bank:

- (a) to take any action or obtain judgment in any court against it or any other person;
- (b) to make or file any claim in its or any other person's bankruptcy, liquidation, administration or insolvency; or
- (c) to make demand, enforce or seek to enforce any claim, right or remedy against it or any other person,

before taking steps to enforce any of its rights or remedies under this Deed.

5 Representations and warranties

Each Chargor makes the representations and warranties set out in this clause 5 to the Bank.

5.1

- (a) The Shares are fully paid and are not subject to any option to purchase or similar rights.
- (b) The Shares represent the whole of the issued share capital of the Company and no person has any option, warrant or other similar right to subscribe for any shares of the Company.
- (c) RST is the sole legal and beneficial owner of the RST Shares;
- (d) GHL is the sole legal and beneficial owner of the GHL Shares;
- (e) The constitutional documents of the Company do not:
 - (i) restrict or inhibit any transfer of the Shares on creation or enforcement of the security constituted by this Deed; or
 - (ii) contain any rights of pre-emption.

5.2 The Secured Assets are free from any Security other than the Security created by this Deed.

5.3 The Chargors have not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

- 5.4 There are no covenants, agreements, reservations, conditions, interests, rights or other matter whatsoever, which affects the Secured Assets or has, or is reasonably likely to have, a Material Adverse Effect.
- 5.5 There is no breach of any law or regulation which affects the Secured Assets or has, or is reasonably likely to have, a Material Adverse Effect.
- 5.6 No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the bankruptcy of the Chargors or otherwise.
- 5.7 This Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargors, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms.
- 5.8 The representations and warranties set out in clause 5 are made by each Chargor on the date of this Deed and the representations and warranties contained in clause 5.1 to clause 5.7 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

6 Covenants

- 6.1 The Chargors shall not, except as expressly allowed under the Facility Agreement or this Deed or with the prior written consent of the Bank:
- (a) create or permit to subsist or arise any Security (other than a lien arising by operation of law) on any of the Secured Assets other than under this Deed or otherwise in favour of the Bank; or
 - (b) sell, convey, assign or transfer any of the Secured Assets or any interest therein, or otherwise part with or dispose of any of the Secured Assets or assign or otherwise dispose of any monies payable to the Chargors in relation to any of the Secured Assets or agree to do any of the above (in each case whether by a single transaction or a series of transactions whether related or not).
- 6.2 The Chargors shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the Security held by the Bank, or diminish the value of any of the Secured Assets or the effectiveness of the Security created by this Deed.
- 6.3 The Chargors waive any present or future rights of set-off they may have in respect of the Secured Liabilities (including sums payable by the Chargors under this Deed).
- 6.4 The Chargors shall comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them.
- 6.5 The Chargors shall use their best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Bank may require from time to time.
- 6.6 The Chargors shall, promptly on becoming aware of any of the same, notify the Bank in writing of:
- (a) any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
 - (b) any breach of any covenant set out in this Deed.
- 6.7 The Chargors shall on the execution of this Deed (or in the case of paragraph (c) below, promptly following request), deliver to the Bank, or as the Bank may direct:

- (a) all share certificates and other documents of title or evidence of ownership of the Secured Assets;
- (b) all stock transfer forms relating to the Secured Assets duly completed and executed by or on behalf of the Chargors but with the name of the transferee, the consideration and the date left blank; and
- (c) any other documents (in each case duly completed and executed by or on behalf of the Chargors) that the Bank may request to enable it, or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain legal title to, or to perfect its Security in any of the Secured Assets,

so that the Bank may, at any time after the security constituted by this Deed has become enforceable and without notice to the Chargors, complete and present those stock transfer forms and other documents to the Company for registration.

6.8

- (a) The Chargors shall immediately terminate all nominations they may have made in respect of any Secured Asset and, pending such termination, procure that any person so nominated:
 - (i) does not exercise any rights in respect of any Secured Asset without the prior written approval of the Bank; and
 - (ii) immediately upon receipt by it, forward to the Bank all communications or other information received by it in respect of any Secured Asset for which it has been so nominated.
- (b) The Chargors shall not at any time during the Security Period exercise the right to nominate any person other than the Bank to enjoy or exercise any right relating to any of the Secured Assets.

6.9 The Chargors shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association, other constitutional document or otherwise of the Company, for the transfer of the Secured Assets to the Bank or its nominee, or to a purchaser on enforcement of the Security constituted by this Deed;
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption and director's right of refusal to register a share transfer provisions) under the articles of association, other constitutional document or otherwise of the Company in any manner that the Bank may require in order to permit the transfer of the Secured Assets to the Bank or its nominee, or to a purchaser on enforcement of the Security constituted by this Deed; and
- (c) procure the amendment of the articles of association, other constitutional document or otherwise of the Company to remove any rights or potential rights of lien the Company may have now or in the future over the Secured assets.

6.10

- (a) Notwithstanding the Security created by this Deed, the Chargors shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any part of the Secured Assets.
- (b) If the Chargors fail to do so, the Bank may, at its discretion but without obligation, pay the calls, instalments or other payments on behalf of the Chargors.

- (c) The Chargors shall, immediately on request by the Bank, reimburse the Bank for any payment made by it under this clause 6.10.
- (d) The Chargors shall comply with, and shall remain liable to perform, all of the other conditions and obligations assumed by it in respect of all or any part of the Secured Assets.

6.11

- (a) The Chargors shall not take, or allow the taking of, any action on their behalf which may result in the rights attaching to, or conferred by, all or any of the Secured Assets being altered.
- (b) The Chargors shall not cause or permit:
 - (i) any of the Secured Assets to be consolidated, sub-divided or converted;
 - (ii) any other shares of the Company, which do not form part of the Secured Assets under this Deed, to be re-organised, exchanged or repaid; or
 - (iii) any further shares in the share capital of the Company to be issued without the prior written consent of the Bank.

6.12 The Chargors shall:

- (a) promptly following receipt, send to the Bank copies of any notice, circular, report, accounts and any other document received by it that relates to the Secured Assets; and
- (b) promptly notify the Bank in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargors' proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Bank's prior approval, implement those proposals at its own expense.

7 Voting rights and dividends

7.1 Voting rights and dividends - before enforcement

- (a) Before the occurrence of an Event of Default that is continuing, the Chargors may exercise all voting and other rights and powers in respect of the Secured Assets or, if any of the same are exercisable by the Bank or any of its nominees, direct in writing the exercise of those voting and other rights and powers provided that:
 - (i) it shall not do so in any way that would breach any provision of the Facility Agreement or this Deed or for any purpose inconsistent with the Facility Agreement or this Deed; and
 - (ii) the exercise of, or failure to exercise, those voting rights or other rights and powers would not, in the Bank's opinion, have an adverse effect on the value of any of the Secured Assets or otherwise prejudice the Bank's Security under this Deed.
- (b) Before the occurrence of an Event of Default that is continuing, the Chargors may retain and apply for their own use all dividends and other monies paid or payable in respect of the Secured Assets and, if any are paid or payable to the Bank or any of its nominees, the Bank will hold all those dividends and other monies received by it for the Chargors and will pay them to the Chargors promptly on request.

- (c) The Chargors shall indemnify the Bank against any loss or liability incurred by the Bank (or its nominee) as a consequence of the Bank (or its nominee) acting in respect of the Secured Assets at the direction of the Chargors.
- (d) The Bank shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Secured Assets which the Bank considers prejudicial to, or impairing the value of, the Security created by this Deed.

7.2 Voting Rights and Dividends - following an Event of Default that is continuing

After an Event of Default that is continuing, the Bank may at its discretion (in the name of the Chargors and without any further consent or authority from the Chargors and irrespective of any direction given by the Chargors):

- (a) exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all voting rights and any other powers or rights in respect of the Secured Assets, and the Chargors shall comply, or procure compliance, with any directions the Bank may give, in its absolute discretion, in respect of the exercise of those voting and other rights and powers;
- (b) apply all dividends or other monies paid or payable in respect of the Secured Assets in accordance with clause 11 and, if any such dividends or other monies are received by or on behalf of the Chargors, the Chargors shall hold all such dividends and other monies on trust for the Bank and shall immediately pay them to the Bank or as it may direct;
- (c) complete all instruments of transfer held by it in relation to the Secured Assets in favour of itself or such other person as it may select and have the Secured Assets transferred into its name or the name of its nominee or, as applicable, into an account in its own name or the name of its nominee; and
- (d) in addition to any other power created under this Deed, exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Secured Assets.

8 Powers of the Bank

- 8.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargors of any of its obligations contained in this Deed.
- 8.2 The Chargors irrevocably authorise the Bank and its agents to do all things that are necessary or desirable for that purpose.
- 8.3 Any monies expended by the Bank in remedying a breach by the Chargors of their obligations contained in this Deed, shall be reimbursed by the Chargors to the Bank on demand and on a full indemnity basis, together with interest at the Default Rate from the date of payment by the Bank of such monies until such reimbursement by the Chargors, both before and after judgment.
- 8.4 The rights of the Bank under clause 8.1 to 8.4 are without prejudice to any other rights of the Bank under this Deed.
- 8.5 The Bank shall not, in respect of any of the Secured Assets, have any duty or incur any liability for:
 - (a) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Secured Assets or

the nature or sufficiency of any payment whether or not the Bank has or is deemed to have knowledge of such matters; or

- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Secured Assets.

- 8.6 The Bank may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not such person is jointly liable with the Chargors) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this Deed or to the liability of the Chargors for the Secured Liabilities.

9 Enforcement

- 9.1 This Deed will become immediately enforceable if an Event of Default occurs and is continuing.

- 9.2 After the occurrence of an Event of Default that is continuing, the Bank may, in its absolute discretion, enforce all or any part of its Security constituted by this Deed at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

- 9.3 Section 103 of the Law of Property Act 1925 (the "LPA") shall not apply and the statutory power of sale and all other powers under the LPA or any other statutory powers as varied or extended by this Deed shall be exercisable at any time after this Deed has become enforceable under clause 9.1.

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

9.5

- (a) To the extent that:

- (i) the Secured Assets constitute Financial Collateral; and
 - (ii) this Deed and the obligations of the Chargors under it constitute a Security Financial Collateral Arrangement,

the Bank shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment and discharge of the Secured Liabilities in any order that the Bank, in its absolute discretion, may from time to time determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause 9.5 shall be determined by any method that the Bank may select, including independent valuation.
- (c) The Chargors agree that the method of valuation provided for in this clause 9.5 is commercially reasonable for the purposes of the Financial Collateral Regulations.

- 9.6 At any time after the occurrence of an Event of Default, or after any powers conferred by any Security having priority to this Deed have become exercisable, the Bank may in its absolute discretion:

- (a) redeem any prior Security over all or any Secured Asset;
 - (b) procure the transfer of that prior Security to it; and
 - (c) settle and pass any accounts of the holder of any prior Security.

The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargors. All monies paid by the Bank to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Bank, be due from the Chargors to the Bank on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.

10 Delegation

- 10.1 The Bank may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under clause 14).
- 10.2 The Bank may delegate on any terms and conditions (including the power to sub-delegate) that it thinks fit.
- 10.3 The Bank shall not be in any way liable or responsible to the Chargors for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

11 Application of proceeds

- 11.1 Any moneys received by the Bank or any Delegate shall subject to the repayment of any claims having priority to the charges created by this Deed be applied in the following order but without prejudice to the right of the Bank to recover any shortfall from the Chargors:
- (a) in the payment of all costs charges and expenses of and incidental to the appointment of any Delegate and the exercise of all or any of his powers and of all outgoings paid by him;
 - (b) in the payment of any Delegate's remuneration;
 - (c) in or towards the satisfaction of the Secured Liabilities in such order as the Bank in its absolute discretion thinks fit;
 - (d) in payment of the surplus (if any) to the person or persons entitled to it.
- 11.2 All moneys received recovered or realised by the Bank under this Deed may be credited at the discretion of the Bank to any suspense or impersonal account and may be held in such account for so long as the Bank shall think fit pending its application from time to time in or towards the discharge of any of the Secured Liabilities.

12 Protection of third parties

- 12.1 Any person dealing with a Delegate or the Bank shall not be concerned to enquire whether the Secured Liabilities have become payable or whether any power which he or it is purporting to exercise has become exercisable or whether any money is due under this Deed or as to the application of any money paid raised or borrowed or as to the propriety or regularity of any sale by or other dealing with such Delegate or the Bank.
- 12.2 The receipt of the Bank or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Bank and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.
- 12.3 All the protections for purchasers contained in Sections 104 and 107 of the LPA shall apply to any person purchasing from or dealing with a Delegate or the Bank.

13 Entry into possession

If the Bank or any Delegate shall enter into possession of the property charged by this Deed or any part of such property it or he may from time to time and at any time go out of such

possession. Neither the Bank nor any Delegate shall in any circumstances (either by reason of any entry into or taking of possession of any such property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargors for anything except its or his actual receipts or be liable to the Chargors for any loss or damage arising from any realisation of the property hereby charged by this Deed or from any act, default or omission in relation thereto.

14 Power of attorney

14.1 The Chargors irrevocably appoint the Bank, any Delegate and any person nominated by the Bank jointly and also severally to be the attorney of the Chargors with the power of substitution and in its name and otherwise on its behalf and as its act and deed to sign any documents and carry out any action which the Bank or any Delegate may require or deem proper for or in connection with the exercise of its rights under this Deed or which the Chargors are required to do under this Deed.

14.2 The Chargors agree to ratify and confirm anything any attorney appointed under this clause 14 properly does or purports to do in the exercise of any of the powers, granted or referred to in this Deed.

15 Currency indemnity

For the purpose of or pending the discharge of any of the Secured Liabilities the Bank may convert any moneys received recovered or realised by the Bank under this Deed (including the proceeds of any previous conversion) from their existing currency into such other currency as the Bank may think fit and any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange for such other currency against the existing currency. As a separate and independent obligation the Chargors agree to indemnify and hold harmless the Bank against any shortfall between any amount received or recovered by it in respect of any payment due under this Deed and converted in accordance with this clause 15 into the currency in which such amount was payable and the amount in such currency which was due and payable to the Bank under this Deed.

16 New accounts

If the Bank shall at any time receive actual or constructive notice of any charge or other interest affecting any part of the Secured Assets then the Bank may open a new account or accounts for the Chargors and, if the Bank does not do so, then the Bank shall be treated as if it had in fact done so at the time when it received or was deemed to receive notice and as from that time all payments made by the Chargors to the Bank shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Deed at the time when the Bank received or was deemed to have received such notice.

17 Further assurance

The Chargors shall at their own cost whenever requested by the Bank immediately execute and sign all documents and carry out any action which the Bank may reasonably require for the purpose of perfecting or more effectively providing security to the Bank for the payment and discharge of the Secured Liabilities or, after this Deed has become enforceable, to facilitate the realisation of the property and assets charged by this Deed or the exercise of any rights vested in the Bank or any Delegate.

18 Set-off

18.1 The Bank may at any time after this Deed has become enforceable and without notice to the Chargors combine or consolidate all or any of the Chargors' then existing accounts with and liabilities to the Bank and set-off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the

Chargors to the Bank on any other account or in any other respects. The Bank shall notify the Chargors that such a transfer has been made.

- 18.2 All payments made by the Chargors to the Bank under this Deed or any other agreement between the Chargors and the Bank shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

19 Indemnity

The Bank and every Delegate, attorney or other person appointed by the Bank under this Deed and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the property and assets charged by this Deed in respect of all liabilities and expenses properly incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers granted to them under this Deed and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the property charged by this Deed and the Bank and any such Delegate may retain and pay all sums in respect of the same out of the moneys received under the powers conferred by this Deed.

20 Assignment

- 20.1 This Deed is assignable or transferable by the Bank.
- 20.2 The Chargors may not transfer any of its obligations under this Deed.
- 20.3 The Bank may disclose to any person connected with the Bank and/or any person to whom it is proposing to transfer or assign or has transferred or assigned any of the Secured Liabilities or its rights under this Deed any information about the Chargors or any party connected or associated with it.

21 Costs and expenses

- 21.1 The Chargors shall on demand by the Bank and on a full indemnity basis pay to the Bank the amount of all costs and expenses (including legal costs) together with VAT which the Bank reasonably incurs under or in connection with this Deed including in particular but without limitation all costs and expenses reasonably incurred in connection with the preservation or enforcement of the Bank's rights under this Deed.
- 21.2 If the Chargors do not pay on demand any costs and expenses referred to in clause 21.1 such sums still carry interest from the date of demand until they are paid in full.

22 Communications

- 22.1 Any demand or notice under this Deed shall be in writing signed by an officer or agent of the Bank and (without prejudice to any other effective means of serving it) may be served on the Chargors personally or by post and either by delivering it to the Chargors or any officer of the Chargors at any place or by despatching it addressed to the Chargors at the address stated in this document (or such other address as may from time to time be notified by the Chargors to the Bank for this purpose) or the Chargors' current registered office or the place of business or address last known to the Bank.
- 22.2 Any such demand or notice delivered personally shall be deemed to have been received immediately upon delivery.
- 22.3 Any such demand or notice sent by post shall be deemed to have been received at the opening of business in the intended places of receipt on the day following the day on which it was posted, even if returned undelivered.

23 Miscellaneous

- 23.1 No delay or omission on the part of the Bank in exercising any right or remedy under this Deed shall impair that right or remedy or operate as or be taken to be a waiver of it; nor shall any single, partial or defective exercise of any such right or remedy preclude any other or further exercise under this Deed of that or any other right or remedy.
- 23.2 The Bank's rights under this Deed are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Bank deems expedient.
- 23.3 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.
- 23.4 Any waiver by the Bank of any terms of this Deed or any consent or approval given by the Bank under it shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 23.5 If at any time any one or more of the provisions of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction neither the legality, validity and enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 23.6 Where any provision of this Deed provides for the payment of interest shall be calculated at the rate applicable to the Secured Liabilities (or, if there is more than one such rate, at the higher(est) of such rates) or, in the absence of any such rate, at 3% per annum above the base rate of the Bank of England from time to time in force.
- 23.7 No assurance, security or payment which may be avoided or adjusted under any enactment relating to bankruptcy or under the Insolvency Act 1986 or similar legislation binding on the Chargors in a jurisdiction other than England and Wales and no release, settlement or discharge given or made by the Bank on the faith of any such assurance, security or payment shall prejudice or affect the right of the Bank to recover from the Chargors (including the right to recover any moneys which it may have been compelled by due process of law to refund under the provisions of the Insolvency Act 1986 and any cost payable by it or otherwise incurred in connection with such process) or to enforce the security created by or in connection with this Deed to the full extent of all moneys and liabilities secured by this Deed.

24 Law and jurisdiction

- 24.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and Wales.
- 24.2 The Chargors irrevocably agree for the exclusive benefit of the Bank that the courts of England and Wales shall have jurisdiction to hear and determine any suit action or proceeding, and to settle any dispute, which may arise out of or in connection with this Deed and for such purposes irrevocably submits to the jurisdiction of such courts.

25 Release

At the end of the Security Period, the Bank must, at the request and cost of the Chargors, take whatever action is necessary to release the Secured Assets from this Deed.

THIS DEED has been executed as a deed on the date stated at the beginning of this document.

EXECUTION PAGE

The Chargors

EXECUTED as a DEED by
RST HARPER ROAD
LIMITED
acting by:

)
)
)
)

.....

Director

In the presence of:

Name:

Signature:

Address:

Occupation:

EXECUTED as a DEED by
GALLIARD HOMES LIMITED
acting by:

)
)
)

.....

Director

In the presence of:

Name:

Signature:

Address:


Occupation:

The Bank


Keith Leach
Head of UK Real Estate

EXECUTED as a deed by

as authorised signatory for **ABC**
INTERNATIONAL BANK PLC
in its capacity as Security Agent
in the presence of:


Authorised signatory Faisal Alshowaikh
Head of Wholesale Banking EU
& Group Head of Real Estate Fin

Signature of witness:

Name of witness: TIM MANLEY

Address of witness:

ARAB BANKING CORPORATION HOUSE
1-S MODRATIE
LONDON
EC 2R 6AB