



Registration of a Charge

Company name: **CALA MANAGEMENT LIMITED**

Company number: **SC013655**

Received for Electronic Filing: **06/09/2019**



X8DE9UM3

Details of Charge

Date of creation: **30/08/2019**

Charge code: **SC01 3655 0483**

Persons entitled: **PETER JOHN FREDERICK STOVOLD
SUSAN CLAIRE STOVOLD
DANIEL CRAIG MARCUS
HIEDI SARAH MARCUS**

There are more than four persons entitled to the charge.

Brief description: **PARTS OF THE TITLES AS ARE SHOWN AND HATCHED RED ON THE
PLAN ATTACHED TO THE CHARGE. PARTS OF THE TITLES AS ARE
SHOWN AND HATCHED ORANGE ON THE PLAN ATTACHED TO THE
CHARGE. PARTS OF THE TITLES AS ARE SHOWN AND HATCHED
GREEN ON THE PLAN ATTACHED TO THE CHARGE.**

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: **GATELEY PLC**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13655

Charge code: SC01 3655 0483

The Registrar of Companies for Scotland hereby certifies that a charge dated 30th August 2019 and created by CALA MANAGEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th September 2019 .

Given at Companies House, Edinburgh on 9th September 2019

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Dated

30 August

2019

CALA MANAGEMENT LIMITED (1)

and

CALA GROUP LIMITED (2)

and

**PETER JOHN FREDERICK STOVOLD AND SUSAN CLAIRE STOVOLD,
DANIEL CRAIG MARCUS AND HIEDI SARAH MARCUS, AND
ASHILL LAND LIMITED (3)**

**CHARGE (OF PART) BY WAY OF LEGAL
MORTGAGE**

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30 August

Between

- (1) **CALA MANAGEMENT LIMITED** (Company Registration Number SC013655) whose registered office is at Adam House, 5 Mid New Cultins, Edinburgh, EH11 4DU (the "Borrower"),
- (2) **CALA GROUP LIMITED** (Company Registration Number SC013655) whose registered office is at Adam House, 5 Mid New Cultins Edinburgh EH11 4DU (the "Guarantor"); and
- (3) **PETER JOHN FREDERICK STOVOLD AND SUSAN CLAIRE STOVOLD** of [REDACTED] who are the registered proprietors of Property A, **DANIEL CRAIG MARCUS AND HIEDI SARAH MARCUS** of [REDACTED] who are the registered proprietors of Property B, and **ASHILL LAND LIMITED** (Company Registration Number 08680344) whose registered office is at Aissela, 46 High Street, Esher, Surrey KT10 9QY who is the registered proprietor of Property C and Property D (together the "Lender").

Whereas

- (A) Ashill Land Limited purchased part of title number SY431848 from Peter John Frederick Stovold and Susan Claire Stovold, and all of title numbers SY645920, SY645921, SY791474, SY645922 and SY645857 from Daniel Craig Marcus and Hiedi Sarah Marcus on 30 August 2019.
- (B) Ashill owned title numbers SY731455 and SY660110.
- (C) The Borrower purchased the Property (and the Borrower's Property) from Ashill Land Limited on 30 August 2019 by way of a sub sale with the benefit of the Planning Permission.
- (D) The Borrower has agreed to charge the Property as security to the Lender as set out in this Deed to secure the payment and discharge of the Deferred Consideration.
- (E) The land edged and hatched blue on the plan annexed is not subject to this legal charge.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Affordable Unit means Residential Units to be constructed at the Property pursuant to the Planning Permission which are designated affordable in accordance with planning agreement in force in respect of the Property from time to time pursuant to the Planning Permission.

Borrower's Property means such parts of the Titles as are shown edged and hatched blue on the Plan together with any part of the Property subsequently released from this legal charge.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London

Contract means an agreement dated 1 August 2019 made between Ashill Land Limited (1) and the Borrower (2) for the sale and purchase of the Property

Deferred Consideration means the SANG Endowment, the First Deferred Payment and the Second Deferred Payment which are outstanding and owing from the Borrower to Ashill Land Limited under the Facility Agreement

Estate means the Property and the Borrower's Property

Estate Roads means the roads, footpaths and cycle ways as shall from time to time have been constructed on the Borrower's Property pursuant to the Planning Permission

Event of Default means any or circumstance specified in clause 11 whether or not declared

Exempt Land any part or parts of the Property which is the subject of:

- (a) any disposal of part of the Property to a competent authority pursuant to any planning obligations or Works Agreement;
- (b) the freehold transfer or grant of a long lease to a competent authority of any part of the Property upon which service media have been or are to be installed and the immediate curtilage thereto;
- (c) the disposal to any competent authority of any substation site, gas governor site, pumping station site, balancing pond or any other part of the Property required by such competent authority to service or drain the Property or any part or parts thereof;
- (d) the grant of any easement and/or the entering into of any covenant for or relating to access or service media for the benefit of the Estate whether or not also benefitting other land;
- (e) the freehold transfer or grant of a long lease of an Affordable Unit or land on which an Affordable Unit is to be constructed or is partially constructed at the time of the said disposal
- (f) any disposal pursuant to a Compulsory Purchase Order
- (g) in respect of any roads cycleways or footpaths within the Property any easement granted within any other Exempt Land or granted pursuant to a transfer or lease of any residential unit on the Borrower's Property

Facility Agreement means the Contract

First Deferred Payment means the part of the Deferred Consideration payable on the First Payment Date pursuant subject to the terms of the Facility Agreement

Finance Document means this Deed and the Facility Agreement

First Payment Date means 30 August 2020 or such earlier date as the Borrower may specify to the Lender with 7 days' notice

First Property means such parts of the Titles as are shown edged and hatched orange on the Plan

Insurance Policies means all policies of insurance present and future relating to the Property in which the Borrower has an interest (other than policies in respect of third party liability) together with all monies payable in respect of those policies

Lenders Solicitors means the BDP Pitmans LLP of The Anchorage 34 Bridge Street Reading RG1 2LU (Ref: Marcus McCluggage)

Party means a party to this Deed

Permitted Development means the development of the Estate (including the Property) permitted by the Planning Permission

Plan means the plan annexed hereto

Planning Permission means planning permission with reference number WA2018/1239 dated 19 February 2019 for the residential development of the Property as may be varied from time to time or any other Planning Permission implemented by the Borrower

Property means the SANG Endowment Property, the First Property and the Second Property

Receiver means any receiver, manager or administrative receiver appointed by the Lender in respect of the Borrower or any of the Secured Assets

SANG Endowment means the part of the Deferred Consideration payable on the SANG Endowment Payment Date pursuant to the terms of the Facility Agreement

SANG Endowment Property means such parts of the Titles as are shown edged and hatched red on the Plan

SANG Payment Date means the earlier of:

- (i) the completion of the SANG Works (as defined in the Facility Agreement); and
- (ii) 31 March 2020

Second Deferred Payment means the part of the Deferred Consideration payable on the Second Payment Date pursuant to the terms of the Facility Agreement

Second Payment Date means 30 August 2021 or such earlier date as the Borrower may specify to the Lender with 7 days' notice

Second Property means such parts of the Titles as are shown edged and hatched green on the Plan

Secured Assets means the assets and undertaking of the Borrower which are the subject of any Security created by, under or supplemental to, this Deed in favour of the Lender

Secured Obligations means the Deferred Consideration and all monies and liabilities now or after the date of this Deed due owing or incurred by the Borrower to the Lender in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Lender in respect of those monies or liabilities

Secured Property means the Property

Security Period means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Lender to the Borrower have been cancelled

Service Media means all drains, sewers, watercourses, gullies, channels, media, culverts, outflows, soakaways, cesspools, septic tanks, pipes, flues, cables, wires, conductors and other media for the supply or removal of sewage, water, electricity, telephones, telecommunications and all other services and utilities and all structures, machinery and equipment ancillary to those media (and such expression shall include any replacing renewing reconstructing relaying improving and upgrading thereof).

Services means foul water drainage, surface water drainage, water, gas, electricity, telephones, telecoms and all other services and utilities.

Titles means the following title numbers registered at HM Land Registry: SY431848, SY645920, SY645921, SY791474, SY645922, SY645857, SY731455, and SY660110

Transfer means a transfer of part of title number SY431848 dated *30th August* 2019 made between Frederick John Stovold and Susan Claire Stovold (1) and Ashill Land Limited (2)

Works Agreement means any agreement that is made under one or more of Sections 38 and/or 278 Highways Act 1980 and Section 104 Water Industry Act 1991 or under the Gas Act 1980 or the Water Act 1989 or any statutory provision with a similar purpose or any agreement or easement or wayleave with a local water authority, the Environment Agency, an Internal Drainage Board or other appropriate authority about water supply to and drainage of foul and surface water and effluent from the Property or any other agreement with a competent authority or body relating to other services for the benefit of or access to and from the Estate

1.2 Interpretation

(a) Unless a contrary indication appears, a reference in this Deed to:

- (i) the Lender, the Borrower, any Party or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) assets includes present and future properties, revenues and rights of every description (including any right to receive such revenues);
- (iii) 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 or restated (however fundamentally);
- (iv) guarantee means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in, or loan to, any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (v) 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;
 - (vi) a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust joint venture, consortium or partnership (whether or not having separate legal personality) of two or more of the foregoing or any other entity or body of any description;
 - (vii) a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
 - (viii) a provision of law is a reference to a provision, of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Agreement.
- (b) Clause and schedule headings are for ease of reference only.
 - (c) Any word importing the singular shall include the plural and vice versa.
 - (d) An Event of Default is continuing if it has not been remedied or waived.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

1.4 Incorporated terms

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 Covenant to pay

The Borrower covenants with the Lender to pay and discharge the Secured Obligations when they become due for payment and discharge.

3 Charging provisions

3.1 General

All Security created by the Borrower under clauses 3.2 to 3.4 (inclusive) is granted to the Lender, is a continuing security for the payment and discharge of the Secured Obligations, granted with full title guarantee and granted in respect of all the right, title and interest (if any), present and future, of the Borrower in and to the Property.

3.2 First legal mortgages

The Borrower charges by way of first legal mortgage the Property

3.3 Assignments

The Borrower assigns its rights, interests and all monies payable to it under the Insurance Policies. The Borrower shall remain liable to perform all its obligations under each Insurance Policy.

3.4 First fixed charges

The Borrower charges by first fixed charge:

- (a) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (b) the benefit of all other agreements, instruments and rights relating to its Secured Property; and
- (c) to the extent that any legal mortgage in clause 3.2 or any assignment in clause 3.3 is ineffective as a legal mortgage or assignment (as applicable), the assets referred to in that clause.

4 Continuing security and recourse

The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Borrower or any other person of the whole or any part of the Secured Obligations. The Security constituted by this Deed is in addition to any other security which the Lender may hold at any time for the Secured Obligations (or any of them) and may be enforced without first having recourse to any other rights of the Lender.

5 Negative pledge

The Borrower shall not create or permit to subsist any Security over any of the Secured Assets save for the 19 Aarons Hill Charge. Save as otherwise permitted by clause 6 the Borrower shall not sell, transfer or otherwise dispose of any of the Secured Assets on terms whereby they are or may be leased to or re-acquired by it or enter into any other preferential arrangement having a similar effect.

6 Restrictions on disposals

- 6.1 Save as otherwise permitted by clause 6.2 the Borrower shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

- 6.2 Without prejudice to the generality of clause 6.1 the Lender agrees with the Borrower that as soon as reasonably practicable following a written request by the Borrower to release any Exempt Land from the security constituted by this Deed (and Legal Charge) including a release from the restriction referred to in clause 8.1 (in respect of the Exempt Land only).
- 6.3 The Lender will if so requested by and at the proper cost of the Borrower in order to facilitate the Permitted Development enter into any relevant Works Agreement (as mortgagee only) and return to the Borrower such Works Agreement and/or consent to entering into (as Lender) any relevant Works Agreement as soon as reasonably practicable following service of such Works Agreement.
- 6.4 Without prejudice to the foregoing on the SANG Payment Date and receipt by the Lender's Solicitors of the SANG Endowment the Lender shall release the SANG Endowment Property from this Charge and the Lender will procure that the Lender's Solicitors forthwith (and any event within 2 Working Days of receipt of the SANG Endowment) provide the Buyer's Solicitors with a duly completed Land Registry Form DS3 and RX4 in respect of the SANG Endowment Property and a Deed of Release in respect of the SANG Endowment Property
- 6.5 Without prejudice to the foregoing on the First Payment Date and receipt by the Lender's Solicitors of the First Deferred Payment the Lender shall release the First Property from this Charge and the Lender will procure that the Lender's Solicitors forthwith (and any event within 2 Working Days of receipt of the First Deferred Payment) provide the Buyer's Solicitors with a duly completed Land Registry Form DS3 and RX4 in respect of the First Property and a Deed of Release in respect of the First Property
- 6.6 Without prejudice to the foregoing on the Second Payment Date and receipt by the Lender's Solicitors of the Second Deferred Payment the Lender shall release the Second Property from this Charge and the Lender will procure that the Lender's Solicitors forthwith (and any event within 2 Working Days of receipt of the Second Deferred Payment) provide the Buyer's Solicitors with a duly completed Land Registry Form DS3 and RX4 in respect of the Second Property and a Deed of Release in respect of the Second Property
- 6.7 For the purpose of the obligations on the Lender arising pursuant to this clause 6 the Lender's Solicitors are irrevocably instructed and authorised to act on behalf of Lender to deal with all such matters and requests

7 Further assurance

- 7.1 The Borrower shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require) in favour of the Lender or its nominee(s) to create, perfect, protect and maintain the security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law and/or (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the security created by or under this Deed.
- 7.2 The Borrower shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Lender by or pursuant to this Deed.
- 7.3 Any document required to be executed by the Borrower under this clause 7 will be prepared at the cost of the Borrower.

8 Land Registry

- 8.1 In relation to the Property, the Borrower authorises and consents to an application being made on Form RX1 (or such other form as may be prescribed from time to time) to the Chief Land Registrar for registration of the following restriction against the relevant registered estate.

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charges not being a Charge registered before the date of this restriction is to be registered without a written consent signed by the proprietor the time being of the charge dated 20th August 2017 in favour of Peter John Frederick Stovold and Susan Claire Stovold, Daniel Craig Marcus and Hiedi Sarah Marcus, and Ashill Land Limited referred to in the Charges Register (or their conveyancer)".

9 Property Undertakings

9.1 Insurance

- (a) Following notice from the Lender that it is required, the Borrower shall effect, in a form and amount and with an insurance company or underwriters in each case acceptable to the Lender:
- (i) insurance of the Property on a comprehensive and full reinstatement basis, including accidental damage site clearance, professional fees, subsidence and value added tax;
 - (ii) insurance against acts of terrorism;
 - (iii) insurance against third party liability including property owners liability; and
 - (iv) such other insurance as the Lender considers a prudent company carrying on the same or substantially similar business as the Borrower would effect.
- (b) The Borrower shall promptly pay all premiums and do all other things necessary to keep all of the Insurance Policies in which it has an interest in full force and effect. The Borrower shall not do or permit to be done anything to render the insurance void or voidable.
- (c) The Borrower shall ensure that:
- (i) the Lender is named as co-insured on each Insurance Policy and (other than in respect of third party liability insurance) first loss payee;
 - (ii) each Insurance Policy shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Borrower, a waiver of all rights of subrogation and a provision to the effect that the insurance shall not be invalidated as against the Lender for non-payment of any premium due without the insurer first giving to the Lender not less than 30 days' written notice;
 - (iii) hold all monies received by virtue of any insurance policies on trust for the Lender and shall apply:

- (A) insurance proceeds received in respect of the Property, apply them in making good the loss or damage to the Property, or, if the Lender so directs, in or towards discharging the Secured Obligations;
 - (B) loss of rent insurance proceeds received in or towards discharging the Secured Obligations; and
 - (C) third party liability insurance in satisfaction of the third party claim for which such proceeds were claimed.
- (d) If the Borrower shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Lender on demand, the Lender may take out or renew such insurances in any sum which the Lender may think expedient and all monies expended and costs incurred by the Lender under this provision shall be for the account of the Borrower.
- (e) The Borrower shall use reasonable endeavours to procure that there is given to the Lender copies of the insurance in which the Borrower has an interest and such other information in connection with them as the Lender may reasonably require as soon as reasonably practicable. It will notify the Lender in writing of all renewals, material variations and cancellations of policies made or, to the knowledge of the Borrower, threatened or pending.

9.2 Occupational Leases

The Borrower shall not grant any lease, agreement for lease or any other new contractual licence or right to occupy any part of the Property nor consent to any lease, sub-lease or assignment of all or any of its interest in the Property save that this clause shall not prevent the Borrower permitting access to contractors sub-contractors and all other persons or entities for the purpose of facilitating the Permitted Development.

9.3 Planning and compulsory purchase

The Borrower shall:

- (a) comply with any conditions attached to any planning permission (and any agreement or undertaking under section 106 of the Town and Country Planning Act 1990 or section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or sections 38 or 278 of the Highways Act 1980 or any other similar act or acts) relating to or affecting the Property; and
- (b) not (save for any development permitted under the Town and Country Planning (General Permitted Development) Order 1995) without the consent of the Lender carry out any development (as defined in the Planning Acts) on or of the Property or make any material change in use of the Property save for the Planning Permission; and
- (c) not make an application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement or undertaking under section 106 of the Town and Country Planning Act 1990 or section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or sections 38 or 278 of the Highways Act 1980 or any other similar act or acts without the prior written consent of the Lender save for the Planning Permission; and



- PURCHASE 1
- PURCHASE 2
- PURCHASE 3
- SANG ENDOWMENT

Notes
All dimensions to be checked on site prior to the commencement of construction and any discrepancy should be reported to the Site Manager.
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A	11/07/19	SANG Endowment Area	LWK
Rev	Date	Description	Int.

Job title
OCKFORD
PARK
GODALMING

Drawing title
LAND
PURCHASE
PHASE
PLAN

Scale	Drawn
1:2000	LWK
Dwg No.	Date
LPP001	JULY-2019
	Rev.
	A

- (d) notify immediately on becoming aware that the Property or any part of the Property is to be compulsorily purchased or that the applicable governmental agency or authority has made or proposes to make an order for the compulsory purchase of the Property or any part of the Property.

9.4 Repair and access

The Borrower shall:

- (a) unless otherwise agreed in writing by the Lender, repair and keep in good and substantial repair and condition, any property, fixtures and any other machinery and equipment forming part of the Property and when necessary replace the same with items of similar quality and value;
- (b) permit the Lender and any person appointed by it, (at reasonable times and on reasonable notice) to enter on and inspect the state of the Property and any other machinery and equipment forming part of such Property;
- (c) promptly, after being required to do so by the Lender make good any want of repair in the Property and any other machinery and equipment forming part of the Property; and
- (d) unless otherwise agreed in writing by the Lender, not sever, unfix or remove any of the fixtures (except for the purpose and in the course of effecting necessary repairs to such fixtures or of replacing the same with new or improved models or substitutes) on such Property belonging to or in use by the Borrower.

SAVE THAT nothing in this clause shall prevent the Borrower from carrying out the Permitted Development.

9.5 Directions

- (a) Within 5 Business Days of receipt by it of any notice or order (**Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of any part of the Property, the Borrower shall give full particulars of the Direction to the Lender and, if so requested by the Lender, produce the Direction or a copy of it to the Lender.
- (b) The Borrower shall advise the Lender of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction.
- (c) The Borrower shall take all necessary steps to comply with the Direction.
- (d) The Borrower shall at the request of the Lender (but at the cost of the Borrower) make or join with the Lender in making such objections, representations against, appealing against or in respect of any proposal contained in the Direction as the Lender shall deem expedient in order to protect the interests of the Lender.

9.6 Outgoings

The Borrower shall punctually pay and indemnify the Lender and any Receiver against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of the Property or any part of it or payable by the owner or occupier of it.

9.7 Covenants

The Borrower shall perform (and indemnify the Lender and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting the Property or any part of it.

9.8 Access

The Borrower shall permit the Lender and any person appointed by it, without the Lender becoming liable to account as mortgagee in possession, (at reasonable times and on reasonable notice and subject to the terms of any occupational leases) to enter on and inspect the state of the Property.

9.9 Remedy

If the Borrower fails to comply with any undertaking or obligation in this clause 9 (inclusive), the Lender shall be entitled (either itself, or through any agent, nominee or adviser) to take such steps and carry out such works as the Lender believes are necessary to remedy such failure. The Borrower shall reimburse the Lender on demand for all fees, costs and expenses incurred by the Lender for such steps or works. The exercise by the Lender of its remedies under this clause 9.9 shall not render the Lender liable to account as mortgagee in possession.

10 Security power of attorney

The Borrower, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Borrower is obliged to take under this Deed. The Borrower ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 9.

11 Events of Default

11.1 Non-payment

The Borrower does not pay, when due, the Secured Obligations.

11.2 Non-compliance

The Borrower does not comply with any of its covenants, or obligations or provision of this Deed or the obligation in the Finance Documents to pay the Secured Obligations express or implied.

11.3 Insolvency

- (a) The Borrower is unable or admits its inability to pay its debts as they fall due, suspends making payments of any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness. The value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities). A moratorium is declared in respect of any indebtedness of the Borrower.
- (b) A trustee in bankruptcy or similar officer is appointed in respect of the Borrower.

12 Enforcement of security

12.1 When security is enforceable

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

12.2 Acts of enforcement

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

- (a) enforce all or any part of the security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets; or
- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed).

12.3 Statutory powers - general

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

12.4 Contingencies

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

12.5 Mortgagee in possession - no liability

Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

12.6 Redemption of prior mortgages

At any time after the security created by or under this Deed has become enforceable, the Lender may, at the sole cost of the Borrower (payable to the Lender on demand) redeem any prior form of security over any Secured Asset and/or procure the transfer of that security to itself and/or settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Borrower.

13 Receiver

13.1 Appointment of Receiver

- (a) At any time after any security created by or under this Deed is enforceable, the Lender may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 12.2(c) (Acts of enforcement). At any time, if so requested in writing by the Borrower, without further notice, the Lender may appoint a Receiver to all or any part of the Secured Assets as if the Lender had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Borrower and the Borrower shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Lender be in any way responsible for any misconduct, negligence or default of the Receiver.

13.2 Removal

The Lender may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

13.3 Powers of Receiver

(a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 13.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver may, in the name of the Borrower do all other acts and things which he may consider expedient for realising any Secured Asset and exercise in relation to any Secured Asset all the powers, authorities and

things which he would be capable of exercising if he were its absolute beneficial owner.

(b) **Borrow money**

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

(c) **Carry on business**

A Receiver may carry on the business of the Borrower as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

(d) **Compromise**

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

(e) **Delegation**

A Receiver may delegate his powers in accordance with clause 14 (Delegation).

(f) **Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Borrower or for itself as Receiver, may appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper and discharge any such persons appointed by the Borrower.

(g) **Leases**

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

(h) **Legal actions**

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

(i) **Possession**

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

(j) **Protection of assets**

A Receiver may, in each case as he may think fit make and effect all repairs and insurances and do all other acts which the Borrower might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets commence and/or complete any building operations on the Secured Property or other Secured Asset and apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) Receipts

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

(l) Sale of assets

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Borrower.

(m) Subsidiaries

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Secured Asset.

(n) Deal with Secured Assets

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

(o) Security

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

(p) Land

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land. A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(q) Incidental matters

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Borrower for all the purposes set out in this clause 13.

13.4 Remuneration

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

14 Delegation

14.1 The Lender and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Lender and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Lender and Receiver (as appropriate) may think fit.

14.2 The Lender and any Receiver will not be liable or responsible to the Borrower or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

15 Application of monies

15.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed. All monies received by the Lender or any Receiver under this Deed and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Lender may determine. The Lender and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

16 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law. A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

17 Protection of third parties

- 17.1 No person (including a purchaser) dealing with the Lender or a Receiver or its or his agents has an obligation to enquire of the Lender, Receiver or others whether the Secured Obligations have become payable, whether any power purported to be exercised has become exercisable, whether any Secured Obligations or other monies remain outstanding, how any monies paid to the Lender or to the Receiver shall be applied, or the status, propriety or validity of the acts of the Receiver the Lender.
- 17.2 The receipt of the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.
- 17.3 In clauses 17.1 and 17.2 **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

18 Additional security

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

19 Settlements conditional

- 19.1 If the Lender (acting reasonably) believes that any amount paid by the Borrower or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 19.2 Any settlement, discharge or release between the Borrower and the Lender shall be conditional upon no security or payment to or for the Lender by the Borrower or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

20 Subsequent Security

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

21 Set-off

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

22 Notices

Any communication or notice under or in connection with this Deed shall be made in writing and shall be made by letter and shall be sufficiently served if it is served in any manner in

which a notice may be served on a mortgagor under section 196 of the Law of Property Act 1925 or if it is sent by ordinary prepaid post addressed to the Borrower at its last known address and a notice so served shall be deemed to have been served on the working day following that on which the letter containing such notice shall have been posted.

23 Invalidity

If at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect, neither the legality, validity or enforceability of the remaining provisions will in any way be affected or impaired.

24 Assignment

- (a) The Lender may assign or otherwise transfer all or any part of its rights under this Deed or any security created by or under it.
- (b) The Borrower may not or otherwise transfer all or any part of its rights under this Deed or any security created by or under it.

25 Releases

Upon the expiry of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to release and reassign to the Borrower its rights arising under this Deed the Secured Assets from the security created by and under this Deed, and return all documents or deeds of title delivered to it under this Deed.

26 Certificates and determinations

Any certificate or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

27 Borrower's Indemnity

- (a) The Borrower shall (within 3 Business Days of demand by the Lender) indemnify the Lender and every Receiver and Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
 - (i) the taking, holding, protection or enforcement of this Deed;
 - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Lender and each Receiver and Delegate by the Finance Documents or by law; and
 - (iii) any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in the Finance Documents.
- (b) The Borrower shall indemnify the Lender against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by the Lender arising (directly or indirectly) out of or in connection with:
 - (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law;

- (ii) any responsibility on the part of the Lender in respect of any clean-up, repair or other corrective action; or
 - (iii) the business or any real property of the Borrower.
- (c) The Lender may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

28 Exclusion of liability

28.1 No liability

- (a) The Lender will not be liable for any action taken by it (or any omission to take action) under or in connection with this Deed unless directly caused by its gross negligence or wilful misconduct.
- (b) Neither the Lender nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

28.2 Officers and agents

The Borrower may not take proceedings against any officer, employee or agent of the Lender in respect of any claim it might have against the Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed and any officer, employee or agent of the Lender may rely on this clause.

29 Fees, costs and expenses

29.1 Transaction expenses

The Borrower shall promptly on demand pay the Lender the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Deed and each other Finance Documents.

29.2 Amendment costs

If the Borrower requests an amendment, waiver or consent of this Deed or any other Finance Documents, the Borrower shall, within 3 Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) together with any associated VAT reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with the request or requirement.

29.3 Enforcement and preservation costs

The Borrower shall, within 3 Business Days of demand, pay to the Lender the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by the Lender in connection with the enforcement of or the preservation of any rights under any Finance Documents and proceedings instituted by or against the Lender as a consequence of taking or holding this Deed or enforcing these rights.

29.4 Interest on late payments

If the Borrower fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of 4% per annum above the Bank of England base rate applicable from time to time. Any interest accruing under this clause 29.4 shall be immediately payable by the Borrower on demand by the Lender.

29.5 Tacking and Consolidation

The Lender must perform its obligations under the Facility Agreement (including any obligation to make further advances). The restriction on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to the security created by this Deed.

30 Rights

In the event that the Lender or any Receiver enters into possession of the Property or the relevant part of the Property or any part thereof as mortgagee in possession there shall be granted to the Lender or Receiver and their successors in title the owners and occupiers for the time being of the Property and their agents and contractors and all persons authorised therein fee simple:

- 30.1 A right of way at all times and for all purposes with or without vehicles to and from the Property to and from the adopted highway over the Estate Roads and until the Estate Roads have been constructed over such unbuilt parts of the Estate as form the route of the intended Estate Roads or as reasonably necessary.
- 30.2 The right to enter such parts of the Estate upon giving reasonable prior notice (except in emergency) with or without workmen agents surveyors plant machinery equipment and materials for the purposes of:
 - (a) constructing enlarging or increasing the capacity of and thereafter using any Service Media on the Estate and connecting to and thereafter using any Service Media on the Estate and inspecting cleansing maintaining repairing replacing renewing reconstructing relaying improving and upgrading any Service Media on the Estate; and
 - (b) constructing maintaining and repairing the Estate Roads in accordance with the Planning Permission should the Borrower not have done so so as to provide access to and from the Property to and from the adopted highway.

PROVIDED THAT any damage occasioned by the exercise of such right shall be made good to the reasonable satisfaction of the Borrower.

- 30.3 The right to the passage and transmission of Services through the Service Media on the Estate.

31 Guarantee

- 31.1 The Guarantor guarantees to the Lender performance by the Borrower (here meaning Cala Management Limited only) of all its obligations contained in this Legal Charge in terms of all sums due from time to time arising pursuant to this Legal Charge and for so long as such sums remain due and where such obligation or provision remains to be performed or observed the Guarantor shall pay to the Lender on demand (where such sum has fallen due) any such sum and make good to the Lender all loss damage cost and expense arising or

incurred by the Lender in connection with the Borrower's failure to pay such sum (which has become due) or to perform and observe such obligation or provision.

- 31.2 This guarantee at clause 31.1 above is a continuing guarantee and shall remain in full force and effect so long as any sums remains due by the Borrower to the Lender arising pursuant to the Legal Charge or any obligations of the Borrower to the Lender arising pursuant to this Legal Charge have yet to be fully performed and satisfied.
- 31.3 The Guarantor confirms it has all requisite power to enter into and perform the obligations on its part arising pursuant to this clause 31.
- 31.4 The Guarantor's obligations and liabilities under this Legal Charge are subject to the following:
- (a) The Guarantor's obligations and liabilities are no greater than and shall subsist for no longer than the Borrower's obligations and liabilities under this Legal Charge.
 - (b) The Lender shall (at the reasonable request and reasonable cost of the Guarantor) as soon as reasonably practicable after the expiration of this Legal Charge enter into a deed to discharge and release the Guarantor from this guarantee under this Legal Charge.
 - (c) The Lender must provide no less than two weeks' notice of its intention to claim in respect of any default by the Borrower specifying reasonable details of alleged breaches.
 - (d) Without prejudice to the Guarantor's primary obligation, the Guarantor's obligations shall be capable of delegation to any group company of the Guarantor.

32 Counterparts

This Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

33 Governing Law

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

This Deed has been entered into as a deed on the date given at the beginning of this Deed.

SIGNATORIES TO THE DEED

Executed as a deed by
CALA MANAGEMENT LIMITED
acting by a director
in the presence of

Signature of witness

Name

JESSICA MCGOWAN

Address

Executed as a deed by
CALA GROUP LIMITED
acting by a director
in the presence of

Signature of witness

Name

JESSICA MCGOWAN

Address

Executed as a deed by
PETER JOHN FREDERICK STOVOLD

Signature of witness

Name

Address

Executed as a deed by
SUSAN CLAIRE STOVOLD

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Signature of witness

Name

Address

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Executed as a deed by
DANIEL CRAIG MARCUS

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Signature of witness

Name

Address

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Executed as a deed by
HIEDI SARAH MARCUS

)
)
)

.....

.....
Signature of witness

Name

Address

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Executed as a deed by
ASHILL LAND LIMITED
acting by a director
in the presence of

)
)
)

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Signature of witness

Name

Address

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