



Registration of a Charge

Company Name: **CALA MANAGEMENT LIMITED**

Company Number: **SC013655**



Received for filing in Electronic Format on the: **09/02/2022**

XAXHBRP7

Details of Charge

Date of creation: **03/02/2022**

Charge code: **SC01 3655 0515**

Persons entitled: **THE SECRETARY OF STATE FOR DEFENCE**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS EASTERN WOODS, KEY PHASE 1 WATERBEACH SHOWN EDGED RED ON THE PLAN ANNEXED TO THE INSTRUMENT.**

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: **GEORGIE BLEARS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13655

Charge code: SC01 3655 0515

The Registrar of Companies for Scotland hereby certifies that a charge dated 3rd February 2022 and created by CALA MANAGEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th February 2022 .

Given at Companies House, Edinburgh on 10th February 2022

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 3 February 2022

CALA MANAGEMENT LIMITED (1)

in favour of

THE SECRETARY OF STATE FOR (2)
DEFENCE

LEGAL AND EQUITABLE CHARGE

relating to
freehold property comprising
land known as Eastern Woods
Key Phase 1
Waterbeach

MILLS & REEVE

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THIS DEED OF LEGAL AND EQUITABLE CHARGE is made on 3 February 2022

BETWEEN:

- (1) **CALA MANAGEMENT LIMITED** (registered in Scotland number SC013655) whose registered office is at Adam House, 5 Mid New Cultins, Edinburgh EH11 4DU (the "Chargor");
- (2) **THE SECRETARY OF STATE FOR DEFENCE** (the "Chargee").

THIS DEED WITNESSES as follows:

1 Interpretation

1.1 Definitions

In this Deed, the following words and expressions shall have the following meanings:

"Business Day" means a day (other than statutory bank holidays, a Saturday or Sunday, any day which is a public holiday in Scotland or any day between 23rd December in one year and 3rd January in the next year (inclusive)) on which banks are open for general business in London;

"Charged Property" means the Property (or such part or parts of it as shall remain subject to the security created by this Deed from time to time);

"Conditional Agreement" means the agreement for the sale and purchase of the Property dated 28 May 2021 made between (1) the Chargee (2) Urban&Civic Waterbeach Limited (3) the Chargor and (4) CALA Group Limited;

"Contract Documents" means the contracts, agreements and other documents referred to in Schedule 3 as supplemented or acceded to, varied or novated from time to time and any other document designated as a Contract Document by agreement between the Chargor and the Chargee;

"Co-Obligor" means any person (other than the Chargor) who from time to time has any obligation to the Chargee in relation to the Secured Obligations;

"Deed of Deferred Consideration" means a deed for the payment of deferred consideration relating to the Property dated the same date as this Deed and made between (1) the Chargee (2) Urban&Civic Waterbeach Limited (3) the Chargor and (4) CALA Group Limited;

"Deed of Development Control" means a deed relating to the conduct of development at the Property and dated the same date as this Deed and made between (1) the Chargee (2) Urban&Civic Waterbeach Limited (3) the Chargor and (3) CALA Group Limited;

"Deed of Grant" means a deed granting easements and containing obligations for the provision of infrastructure works relating to the Property and dated the same date as this Deed and made between (1) the Chargee (2) Urban& Civic Waterbeach Limited (3) the Chargor and (4) CALA Group Limited;

"Deed of Priority" means a deed governing the order of priority in which this Deed and any other Permitted Security will rank and the respective rights which the Chargee and the Permitted Lender will each have in relation to the secured obligations owed to them by the Chargor to be entered into pursuant to clause 25;

"Documents" means drawings, design documents and other written or recorded material produced by or on behalf of the Chargor in connection with the Works (whether in existence or to be made) and all amendments and additions to them and any works, designs of the Chargor incorporated or referred to in them;

"Environmental Law" means all legislation, common law, regulation, directives, guidance notes, orders, notices, demands and other measures for the time being in force or imposed and relating to the protection or pollution of the environment or public health or welfare;

"Event of Default" has the meaning given to that term in the Deed of Deferred Consideration;

"Equitable Charge" means the equitable charge over the Property created in favour of the Chargee pursuant to this Deed;

"Homes England" means the non-departmental government body known as the Homes and Communities Agency (trading as Homes England) or any similar future authority (including any statutory successor) carrying on substantially the same funding, regulatory or supervisory functions;

"House Types" means the several types of houses of the Chargor and being part of the Works;

"Institutional Lender Covenant" has the same meaning as provided in the Deed of Deferred Consideration;

"LPA" means the Law of Property Act 1925;

"Permitted Disposal" has the same meaning as given to it in the Deed of Deferred Consideration and shall also include easements granted pursuant to clause 26;

"Permitted Lender" means a lender financing the development of the Property in accordance with the terms and provisions of the Deed of Deferred Consideration where:

- (a) the lending is being provided to the Chargor in the normal course of the lender's activities;
- (b) a significant part of the lender's activities consist of lending;

"Permitted Security" means a charge which is a Permitted Disposal for the purposes of the Deed of Deferred Consideration pursuant to paragraph (h) of the definition of Permitted Disposal in that document including without limitation the contemporaneous entry into a Deed of Priority;

"Plan" means the plan attached to this Deed at Annexure 1;

"Property" means the freehold property known as Eastern Woods, Key Phase 1 Waterbeach shown edged red on the Plan;

"Receiver" means any person appointed as a receiver by the Chargee pursuant to this Deed or otherwise;

"Reserved Rights" means the rights, easements and privileges set out in Schedule 5 for the benefit of the Charged Property;

"Retained Land" means any part of the Property which is no longer subject to the security created by this Deed following a release pursuant to clause 23 of this Deed and whose registered proprietor is the Chargor;

"Rights" means the rights, easements and privileges set out in Schedule 4 for the benefit of the Retained Land;

"Secured Obligations" means all monies, obligations and liabilities whatsoever which may now or at any time in the future be due, owing or incurred by the Chargor to the Chargee and whether present or future, actual or contingent in any manner whatsoever as principal or surety and whether alone or jointly with any other party or parties including interest, legal and other costs, charges and expenses under or in connection with the Contract Documents;

"Security Period" means the period from the date of this Deed to the date on which the Secured Obligations are irrevocably and unconditionally discharged in full;

"Statutory Agreement" means an agreement or agreements pursuant to section 38 and/or 278 Highways Act 1980 for the adoption of roads and an agreement or agreements pursuant to section 104 Water Industry Act 1991 section 30 Anglian Water Authority Act 1977 or the Environment Agency or an Internal Drainage Board (within the meaning of the Water Resources Act 1991 or the Land Drainage Act 1991) or other appropriate authority as to water supply or drainage of surface and/or foul water from the Property or an agreement with any competent authority or body relating to other services or such other statutory provisions as may be required by any relevant authority for the adoption of the foul and surface water sewers and/or any agreements, wayleaves or disposals to any utility company or statutory undertaker or similar body in relation to any other conduits or service media to be constructed to service (inter alia) the Property or any part thereof and any agreement or agreements pursuant to section 9 Open Spaces Act 1906 or section 120 Local Government Act 1977 or such other statutory provisions as may be utilised by any relevant authority for the adoption of any open space land management agreement in respect of and affecting the Property (whether or not also affecting other property) pursuant to the Local Government Miscellaneous Provisions) Act 1982 Section 33 and/or the Local Government Act 1972 Section 111;

"Subsidiary" means a subsidiary within the meaning of Section 1162 of the Companies Act 2006;

"Transfer" means the Transfer of the Property and dated the same date as this Deed and entered into between (1) the Chargee (2) the Chargor and (3) Urban&Civic Waterbeach Limited;

"VAT" means value added tax chargeable under the Value Added Tax Act 1994 or any tax charged in addition to or in substitution for it; and

"Works" means the development of the Property in accordance with the terms and provisions of the Deed of Development Control and any agreed variations thereto.

1.2 Interpretation

In this Deed:

- 1.2.1 **"disposal"** means any disposal, sale, transfer, lease, surrender, assignment, loan, parting with or sharing of control possession or occupation or diverting of rents or income relating to the Charged Property and any agreement, commitment or option in respect of the same and references to **"dispose"** shall be construed accordingly;
- 1.2.1 **"guarantee"** means any contract of guarantee, indemnity or surety or any other contract by which recourse is given to a person in relation to the performance of another person's obligations and whether as primary or secondary obligation or otherwise and howsoever described;
- 1.2.2 a reference to **"High Court"** means the High Court of Justice in England and Wales and a reference to the **"Insolvency Regulation"** means the Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast);
- 1.2.3 any reference to a **"person"** shall include a company, partnership or unincorporated association and where permitted by this Deed that person's successors in title and assigns;
- 1.2.4 a reference to **"receiver"** shall be construed as a reference to any receiver, receiver and manager, administrative receiver, administrator or a creditor taking possession of or exercising a power of sale of assets or property or any other similar or equivalent appointment or taking of possession or exercise of powers in any jurisdiction;
- 1.2.5 **"security"** shall be construed as a reference to any mortgage, pledge, hypothecation, title retention, lien, charge, or assignment by way of security or other arrangement howsoever described having the same or similar effect;
- 1.2.6 any reference to a statute, statutory provision or subordinate legislation (**"legislation"**) shall (except where the context otherwise requires) be construed as referring to such legislation as amended and in force from time to time and to any legislation that re-enacts or consolidates (with or without modification) any such legislation;
- 1.2.7 references to this Deed include its Schedules;
- 1.2.8 references to a clause or Schedule are (unless otherwise stated) to a clause of, or a Schedule to, this Deed;
- 1.2.9 references in a Schedule or part of a Schedule to a paragraph are (unless otherwise stated) to a paragraph of that Schedule or that part of the Schedule;
- 1.2.10 clause headings in this Deed do not affect its interpretation;

- 1.2.11 references to the singular shall include the plural and vice versa;
- 1.2.12 any term or phrase defined in the Companies Act 2006 or the Insolvency Act 1986 (as the same may be amended from time to time) shall bear the same meaning in this Deed;
- 1.2.13 unless otherwise defined in this Deed words and expressions defined in the Contract Documents shall bear the same meaning in this Deed;
- 1.2.14 a reference to "**this Deed**" or to a provisions of this Deed, or any other document are references to it as amended, varied, novated, supplemented, extended, restated or acceded to from time to time whether before the date of this Deed or otherwise; and
- 1.2.15 an Event of Default is "**continuing**" if it has not been waived or remedied to the satisfaction of the Chargee.

2 Covenant to pay

- 2.1 The Chargor covenants with the Chargee that it will (immediately the same becomes due and payable) pay and discharge the Secured Obligations on demand.

3 Security

- 3.1 The Chargor charges the Property with full title guarantee in favour of the Chargee and as security for the payment and discharge of the Secured Obligations by way of first legal mortgage.
- 3.2 To the extent not validly and/or effectively charged by way of legal mortgage pursuant to clause 3.1, the Chargor with full title guarantee charges the Property by way of equitable charge in favour of the Chargee and as security for the payment and discharge of the Secured Obligations.

4 Continuing security

- 4.1 The security constituted by this Deed shall operate as a continuing security and shall extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge of any of the Secured Obligations, or any other matter whatsoever.
- 4.2 In the event that the security constituted by this Deed ceases to be a continuing security then the Chargee may at that time open or be deemed to have opened a new account or accounts and to credit all or any money arising from the enforcement of the security constituted by this Deed or receivable hereunder to such new account(s) and such event(s) shall not operate to reduce the amount of the Secured Obligations nor shall the liability of the Chargor be reduced or affected by any subsequent transactions, receipts or payments.

5 Further assurance

- 5.1 The Chargor agrees that it shall promptly upon the request of the Chargee execute and deliver at its own cost and expense any deed or document and do any act or thing or take any action required by the Chargee in order to confirm or establish the validity and enforceability of or otherwise in connection with the creation, perfection,

enhancement or protection of the security intended to be created, conferred on the Chargee by or pursuant to this Deed (including without limitation) any further legal or other mortgages, charges or assignments, notices and any instruments, instructions, transfers, renunciations and/or proxies in favour of the Chargee or such other person as the Chargee may direct and any and all filings or registrations or notices or instructions or other steps required by the Chargee.

6 Preservation of rights

6.1 The security constituted by this Deed and the obligations of the Chargor contained herein and the rights and powers and remedies conferred on the Chargee by this Deed shall be in addition to and shall not be merged with nor in any way be prejudiced or affected by any security or guarantee or judgement or order right or recourse or other right whatsoever (whether contractual, legal or otherwise) now or at any time hereafter held by the Chargee or any other person nor by:

- 6.1.1 any time, waiver, indulgence, consent or concession which the Chargee may grant to or the terms of any composition or agreement that the Chargee may enter into with the Chargor or any Co-Obligor; or
- 6.1.2 any release or intermediate payment or discharge of the Secured Obligations; or
- 6.1.3 any amendment, novation, supplement, extension or replacement (however fundamental and whether more or less onerous) of the Secured Obligations; or
- 6.1.4 any legal limitation, disability, incapacity or lack of legal personality or power or authority on the part of the Chargor or any Co-Obligor; or
- 6.1.5 any unenforceability, illegality or invalidity of the Secured Obligations or any obligations owed by the Chargor or any Co-Obligor; or
- 6.1.6 any liquidation, winding up, dissolution, amalgamation, reconstruction, reorganisation, bankruptcy, administration or voluntary arrangement of the Chargor or any Co-Obligor or the appointment of any receiver or liquidator or trustee in bankruptcy in respect of the property or business or assets of the Chargor or any Co-Obligor (or the equivalent of such proceedings, appointments or matters in any jurisdiction) or the occurrence of any other circumstances affecting the liability of the Chargor or any Co-Obligor.

7 Reinstatement of Security

7.1 If any payment or discharge of security or any arrangement made in connection with the Secured Obligations is avoided or reduced for whatever reason (including without limitation under any laws relating to liquidation or administration or bankruptcy the liability of the Chargor and the security created by this Deed shall continue as if there had been no payment, discharge, avoidance or reduction or arrangement and the Chargee shall be entitled to recover the value or amount of the security or payment as if the payment discharge or reduction had not occurred.

8 Indemnities

- 8.1 The Chargor shall indemnify and keep indemnified (on a full indemnity basis) the Chargee and any receiver upon first demand in respect of all claims, costs, expenses and liability whatsoever from time to time incurred in relation to this Deed including (without limitation) all sums paid and expenses incurred by the Chargee in relation to:
- 8.1.1 all legal, professional and other fees, stamp duty land tax, registration fees and taxes and any interest, penalties, costs and expenses resulting from any failure to pay such taxes or fees incurred by the Chargee in connection with the preparation and execution of this Deed and any release, discharge or reconveyance of the Charged Property and the protection, performance, preservation and enforcement of any rights under or in connection with this Deed and the transactions contemplated by it together in each case with any applicable VAT; and
- 8.1.2 all legal, professional and other fees, costs, losses, actions, claims, expenses, demands or liabilities howsoever and whenever arising which may be incurred by, or made against the Chargee or any receiver or against any manager, agent, officer or employee of any of them at any time relating to or arising directly or indirectly out of or as a consequence of anything done or omitted to be done in the exercise or purported exercise of the powers contained in this Deed.

9 Application to the Land Registry

- 9.1 The Chargor and the Chargee hereby apply to the Land Registry to have a restriction noted against the title number(s) of the Property on the following terms:
- “No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the Charge dated [3 February 2022] in favour of The Secretary of State for Defence referred to in the charges register.”
- 9.2 The Chargor agrees to take such steps as the Chargee may require to ensure that the Equitable Charge is protected by way of a unilateral notice against the title to the Property including without limitation any filings or registrations or notices or instructions or other steps required by the Chargee.
- 9.3 The Chargor agrees that during the Security Period all title deeds in relation to the Property and all documents evidencing title to the Charged Property shall be held by the Chargee or at the sole option of the Chargee with any lawyer or firm of lawyers or any other person whose business includes the safe custody of documents and the Chargee shall not be responsible for any loss thereby incurred.

10 Undertakings

- 10.1 During the Security Period the Chargor shall:
- 10.1.1 observe and perform all of the undertakings and indemnities set out in Schedule 1;

- 10.1.2 not, without the prior written consent of the Chargee, create or permit to subsist any security over the whole or any part of the Charged Property other than the Permitted Security;
 - 10.1.3 not make any disposal of the whole or any part of the Charged Property other than a Permitted Disposal;
 - 10.1.4 not do or cause or permit to be done anything which may in the reasonable opinion of the Chargee, in any way depreciate, jeopardise or otherwise prejudice the value to the Chargee (whether monetary or otherwise) of the whole or any part of the Charged Property;
 - 10.1.5 insure and keep any buildings constructed on the Charged Property insured to their full reinstatement value with a reputable insurer to the extent from time to time required by the Chargee against such risks as shall be usual for companies carrying on a business similar to that of the Chargor;
 - 10.1.6 immediately give notice to the Chargee of any occurrence which may give rise to a claim under any insurance policy relating to the Charged Property and not without the prior written consent of the Chargee agree to settlement of any claim; and
 - 10.1.7 promptly pay all premiums and other moneys payable under the policies of insurance referred to in clause 10.1.5 and promptly upon request, produce to the Chargee a copy of each policy and evidence acceptable to the Chargee of the payment of such sums.
- 10.2 The Chargee may in the event that the Chargor fails to comply with clause 10.1.5 above at the cost of the Chargor effect or maintain or renew any insurance relating to any buildings constructed on the Charged Property so that they are insured to their full reinstatement value with a reputable insurer against such risks and to the extent usual for companies carrying on business similar to that of the Chargor.
- 10.3 All moneys received under any insurance whatsoever and whensoever relating to the Charged Property shall, as the Chargee so directs, be applied in repairing, replacing, restoring or rebuilding the property or assets damaged or destroyed or otherwise making good the loss or damage in or towards the discharge of the Secured Obligations. The Chargor shall hold any such insurance monies received by it on trust for the Chargee pending payment to or direction from the Chargee and the Chargor waives any right it may have to require that any such monies are applied in any other manner than the Chargee so directs.

11 Representations

The Chargor hereby represents and warrants to the Chargee that on the date hereof and on each day during the Security Period that:

- 11.1 it is the sole beneficial owner of the whole of the Charged Property free from other security and encumbrances save for any created pursuant to clause 26.2 or any arising as a result of the Permitted Security and will be the sole legal owner of the Charged Property once registration of its title to the same at the Land Registry has been completed;

- 11.2 it is duly incorporated and validly existing with the power and authority to own its assets and carry on its business as presently being conducted;
- 11.3 all actions and conditions required in order for the Chargor to lawfully enter into and perform the Chargor's obligations under this Deed as valid legally binding and enforceable obligations and for this Deed to be admissible in court have been taken, fulfilled and done;
- 11.4 the Chargor's entry into and performance of its obligations under this Deed will not contravene any existing applicable law or result in any breach or constitute a default under any of the terms of any agreement to which the Chargor is a party nor (if it is a body corporate), contravene or conflict with any provision of its memorandum or articles or statutes or other constitutional documents;
- 11.5 no litigation, arbitration or administrative proceedings are current or pending which could have a material adverse effect on the Chargor, the Chargor's assets or the performance of the Chargor's obligations under this Deed;
- 11.6 no proceedings or other steps have been taken and not discharged for the winding up or dissolution or bankruptcy or voluntary arrangement in relation to the Chargor or for the appointment of a receiver or liquidator or trustee in bankruptcy or similar appointment in relation to the Chargor or the Chargor's assets and;
- 11.7 its centre of main interest, including (without limitation) its place of registered office, is and remains situated within the jurisdiction of the High Court for the purposes of the opening of insolvency proceedings under the Insolvency Regulation and all other applicable law.

12 Interest

- 12.1 The Chargor agrees to pay interest to the Chargee on any sums which become due to the Chargee from the date of first demand (provided such sum has become properly due at the date demanded) until payment is made in full (as well after as before judgment or any liquidation or bankruptcy), at the rate of interest agreed to be payable in respect of the Secured Obligations which is interest at a yearly rate of four per cent (4%) above the base rate for the time being of Royal Bank of Scotland plc provided that nothing in this clause shall oblige the Chargor to pay interest on any amount or sum where interest is accruing on that amount or sum pursuant to the Contract Documents.

13 Amounts payable

- 13.1 All payments by the Chargor under this Deed shall be made:
 - 13.1.1 without set off, retention, counterclaim (except as permitted by the Contract Documents); and
 - 13.1.2 free and clear of withholding or deduction of any taxes except to the extent that the Chargor is required by law to make such withholding or deduction in which case the Chargor shall pay such amount as will result in the receipt by the Chargee of the sums that would have been receivable by it in the absence of such withholding or deduction in respect of the Secured Obligations under this Deed.

- 13.2 The obligations of the Chargor to make payments under this Deed are in the currency of the Secured Obligations and shall not be discharged or satisfied by the receipt by the Chargee of any monies expressed or converted into any other currency and to the extent there is any shortfall between amounts due under this Deed in one currency and receipt by the Chargee in another currency then the Chargee shall be entitled to recover the amount of any shortfall from the Chargor and to sell any currency received for the currency due and the Chargor shall indemnify the Chargee against the full cost incurred in relation to such sale. The Chargee shall not have any liability to the Chargor in respect of any loss arising from any fluctuation in exchange rates after such sale.
- 13.3 The Chargee may (but is not obliged to) set off any obligation in respect of the Secured Obligations which is due and payable by the Chargor against any obligation (contingent or otherwise) owed by the Chargee to the Chargor and apply any money held for the account of the Chargor in such order as it shall deem in its absolute discretion appropriate.
- 13.4 Any amount due from the Chargor under the terms of this Deed but unpaid, including without limitation any interest, may, at the sole option of the Chargee, be added to the Secured Obligations and compounded in accordance with the usual practice of the Chargee.

14 Enforcement of Security

- 14.1 Upon the occurrence of an Event of Default all of the Secured Obligations shall immediately become due and payable and the Chargee may, on notice in writing to the Chargor, enforce all or any part of the security constituted by this Deed at such times, in the manner and on such terms as it thinks fit including (without limitation) the appointment of a receiver to all or any part of the Charged Property.
- 14.2 Section 103 of the LPA shall not apply to this Deed and the power of sale under Section 101 of the LPA and all other powers conferred on the Chargee and on any Receiver by this Deed shall operate as a variation and extension of the statutory powers of sale and other powers under the LPA and such powers shall arise (and the Secured Obligations shall be deemed due and payable for these purposes) on the execution of this Deed.
- 14.3 The restrictions contained in Section 93 of the LPA shall not apply to this Deed but the Chargee shall have the same right to consolidate this Deed and the money covenanted to be paid with any other security.
- 14.4 The statutory powers of leasing may be exercised by the Chargee at any time after the occurrence of an Event of Default which is continuing and the Chargee and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with any restrictions imposed by Sections 99 or 100 of the LPA.
- 14.5 The protection given to purchasers and persons dealing with a receiver in the LPA will apply to purchasers and any other persons dealing with the Chargee or any Receiver and no purchaser or other person dealing with the Chargee or any Receiver will be bound to see or inquire whether the right of the Chargee or any Receiver to exercise any of its or his powers has arisen or become exercisable nor be concerned with any propriety or regularity on the part of the Chargee or any Receiver in such exercise or dealings or whether any amount remains secured by this Deed.

- 14.6 The powers conferred by this Deed on the Chargee are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the LPA, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Deed the terms of this Deed will prevail.

15 Development by the Chargee or any Receiver

- 15.1 The Chargor shall deliver to the Chargee all of the Documents within 5 Business Days of the preparation of any Document (but for the avoidance of doubt the same are not available for use by the Chargee until an Event of Default has occurred).
- 15.2 Upon enforcement of the security created by this Deed, the Chargor hereby confirms that the Chargee or any Receiver may carry out and/or complete the Works using the Chargor's House Types or grant any such licence or right to any such other person to use such House Types but for the avoidance of doubt neither the Chargor nor any Receiver shall make use of, or license any other party to make use of, the Chargor's House Types for any other purpose whatsoever including without limitation in respect of any other land apart from the Charged Property.
- 15.3 The Chargor hereby grants an irrevocable, royalty-free, non-exclusive licence for all reasonable purposes to the Chargee or any Receiver to use and reproduce all Documents for all purposes relating to the Works including (without limitation) the construction, completion, reconstruction, modification, repair, reinstatement, development, maintenance, use, letting, sale, promotion and advertisement of the Works, such licence carrying the right to grant sub-licences and to be transferable without the prior consent of the Chargor PROVIDED THAT the Chargor shall not be liable for any such use by the Chargee (or any assignee or sub-licensee) for any purposes other than that for which the same were provided by the Chargor and makes no representation or warranty as to the accuracy or otherwise of any Documents.

16 Receivers

- 16.1 At any time after having been requested to do so by the Chargor or after the occurrence of an Event of Default or this Deed having become enforceable the Chargee may in writing by deed or otherwise and without prior notice to the Chargor appoint one or more persons to be a receiver of the whole or any part of the Charged Property and the Chargee may, from time to time, in similar manner, remove a receiver or receivers and appoint another or others in substitution thereof.
- 16.2 Each person appointed to be a receiver pursuant to this Deed will be:
- 16.2.1 entitled to act independently or jointly with any other person appointed as a receiver except to the extent that the Chargee may specify to the contrary in the appointment;
 - 16.2.2 for all purposes deemed to be the agent of the Chargor who shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and at no time shall a receiver act as agent for the Chargee; and
 - 16.2.3 entitled to remuneration at a rate to be fixed by the Chargee from time to time (without being limited to any maximum rate).

- 16.3 The powers of appointment of a receiver shall be in addition to all statutory and other powers of appointment of the Chargee under the LPA (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Chargee in respect of any part of the Charged Property.
- 16.4 Any Receiver shall have and be entitled to exercise, in relation to the Charged Property all rights and powers as the Chargee shall see fit as though the Chargee was absolute owner of the Charged Property, including (without limitation) the rights and powers set out in Schedule 2.
- 16.5 The receipt of the Chargee or any Receiver shall be conclusive discharge to any purchaser and, in making any disposal of any of the Charged Property the Chargee or any Receiver may do so for such consideration, in such manner and on such terms as the Chargee or any receiver thinks fit.
- 16.6 Neither the Chargee nor any Receiver nor any officer, employee or agent of the Chargee or any Receiver shall be deemed to be or in any way liable to account as mortgagee in possession in respect of all or any Charged Property or be liable in any way to the Chargor or any other person for the manner of exercise or non exercise of any powers or rights of the Chargee or any Receiver or for any act or default or omission of any nature.
- 16.7 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Chargee or any Receiver may be exercised or made in the Chargee's or any Receiver's absolute and unfettered discretion without any obligation to give reasons.

17 Appropriations and application of proceeds

- 17.1 The Chargee may apply or refrain from applying any money or property received by it in or towards payment or discharge of any liability in respect of the Secured Obligations in such order or manner as it sees fit or determines and hold any money received by it in an interest bearing suspense account or on account of the Chargor's liabilities under this Deed.
- 17.2 If the Chargee (or any receiver) enforces the security constituted by this Deed at a time when no amount in respect of the Secured Obligations is due and payable, or when the amount due and payable is not ascertained, the Chargee (or any receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspension account. The Chargee may withdraw amounts standing to the credit of such suspense account for application in or towards discharge of the Secured Obligations.

18 Immediate recourse

- 18.1 The Chargee shall not be obliged to proceed first against, or enforce any rights or security or claim payment from any person before claiming any benefit under this Deed and the Chargor hereby waives any contrary right it may have whether arising under law or otherwise.

19 Assignment and Delegation

- 19.1 The Chargee may (without notice to or the prior consent of the Chargor) assign or transfer all or any of its rights or powers under this Deed to any person whether in connection with an assignment or transfer or the grant of participation in respect of the

Secured Obligations or otherwise and may disclose to any potential assignee, transferee or participant such confidential information about the Chargor and this Deed as it shall deem appropriate.

- 19.2 No Chargor may assign or transfer any of its rights or obligations under this Deed.
- 19.3 The Chargee and any Receiver may from time to time employ professional advisors and delegate by power of attorney or otherwise to any person any of the powers and discretions of the Chargee or any Receiver whether arising by statute, the provisions of this Deed or otherwise upon such terms and for such periods of time as it may think fit (disclosing such confidential information about the Chargor or this Deed as the Chargee or any Receiver sees fit) and may at any time determine any such employment or delegation. At no time will either the Chargee or any Receiver be liable to the Chargor for any loss or damage arising from any act, default, omission or misconduct of any person.

20 Miscellaneous

- 20.1 If any term or provision of this Deed shall be determined to be or becomes invalid, illegal or unenforceable all other terms and provisions of this Deed shall nevertheless be valid, legal and enforceable to the fullest extent permitted by law.
- 20.2 No failure or delay on the part of the Chargee to exercise any right, remedy or power under this Deed or in respect of the Secured Obligations shall operate as a waiver nor shall any partial or defective exercise preclude or impair any other further exercise of that or any other right, remedy or power.
- 20.3 No failure by the Chargee to give any notice which it is required to give in respect of the Chargor or any Co-Obligor shall affect or impair the liability of the Chargor to the Chargee under this Deed.
- 20.4 The powers which this Deed confers on the Chargee are cumulative, without prejudice to its powers under general law, and may be exercised as often as the Chargee thinks appropriate.
- 20.5 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 20.6 This Deed may be executed in two or more counterparts each of which shall constitute an original but which, when taken together, shall constitute one agreement.
- 20.7 Any certificate signed as correct by the Chargee, showing the amount due under this Deed and any determination by the Chargee under this Deed shall be binding and conclusive on and against the Chargor in the absence of manifest error.
- 20.8 All notices or other communications required in connection with this Deed shall be in writing and may be delivered by hand or sent by post to the address and for the attention of the relevant party as follows (or at such other address or marked for the attention of such other person as last notified in writing to the other parties):
- 20.8.1 to the Chargee at: Defence infrastructure Organisation, F/F Bazalgette Pavilion (Mailpoint 1), RAF Wyton, Huntingdon, Cambridgeshire PE28 2EA

marked for the attention of: James Ryley

20.8.2 to the Chargor at:

Adam House, 5 Mid New Cultins, Edinburgh ED11 4DU, marked for the attention of the Company Secretary; and

CALA Homes (North Home Counties) Ltd, 1 Falcon Gate, Shire Park, Welwyn Garden City, AL7 1TW (marked for the attention of the Managing Director).

and a copy of any notice served shall also be sent to the intended recipient's solicitors (quoting their reference) being (or such other solicitors as last notified in writing to the other party):

20.8.3 (in the case of the Chargee) Property Law Team, MOD Legal Advisers, Government Legal Department, Ministry of Defence, Poplar 2b, #2216, Abbey Wood, Bristol BS34 8JH (Ref: Alison Hinch);

20.8.4 (in the case of the Chargor) Wedlake Bell LLP of 71 Queen Victoria Street, London EC4V 4AY (ref: KL/024873/0888)

and failure to send such a copy shall invalidate service of the notice.

20.9 Every notice, demand or other communication served in accordance with clause 20.8 shall be deemed to have been received on the second business day after posting or at the time of by hand delivery or facsimile transmission if effected during normal business hours and if outside normal business hours at the start of the next succeeding business day. Giving or delivering a notice or a document to a party's solicitor has the same effect as giving it to that party.

20.10 At any time after an Event of Default has occurred or this Deed has become enforceable the Chargee may redeem or take a transfer of any security ranking in priority to the security constituted by this Deed. The Chargee may agree the accounts of the holder of any such prior security which agreement shall be binding and conclusive on the Chargor. Any amount paid in connection with such transfer shall be payable on demand by the Chargor to the Chargee.

21 Power of attorney

21.1 As further security for the performance of the Chargor's obligations under this Deed, the Chargor hereby irrevocably appoints each of the Chargee (whether or not a receiver has been appointed) and also (as a separate appointment) any receiver jointly and severally to be its attorney with full power of delegation in its name and on its behalf:

21.1.1 to sign, execute, seal, complete and deliver any document, deed, agreement, instruments or act which the Chargee or any receiver may require for perfecting the title of the Chargee to the Charged Property or for vesting the same in the Chargee, its nominees or any purchaser or generally for the purposes set out in this Deed;

21.1.2 to sign, execute, seal, complete and deliver any further deed or document required pursuant to clause 5.1; and

- 21.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Chargee or a receiver under this Deed or which may be deemed expedient by the Chargee or a receiver in connection with any disposal of the Charged Property, realisation or getting in of the Charged Property or any part of it or in connection with any other exercise of any power under this Deed.

22 Governing law and jurisdiction

- 22.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- 22.2 The Chargor hereby irrevocably:
- 22.2.1 agrees for the benefit of the Chargee that the High Court shall have exclusive jurisdiction in relation to any claim or dispute concerning this Deed and/or any non-contractual obligation arising out of or in connection with this Deed and in relation to the enforcement of any judgement relating to any such claim or dispute;
- 22.2.2 waives any right that it may have to object to an action being brought in the High Court or to claim *Forum Non Conveniens* or that the action had otherwise been brought in an inconvenient forum or that the High Court does not have jurisdiction.
- 22.3 The submission by the Chargor to the jurisdiction of the High Court provided above shall not give rise to any limit on the Chargee's right to bring legal proceedings in any court having competent jurisdiction or in any court which the Chargee believes to have competent jurisdiction at the time legal proceedings are issued. Legal proceedings brought by the Chargee in one or more jurisdictions shall not preclude any legal proceedings by the Chargee in any other jurisdiction or jurisdictions.
- 22.4 The Chargor undertakes to the Chargee that until all the obligations of the Chargor to the Chargee are irrevocably paid and discharged in full the Chargor will ensure that its centre of main interest, including (without limitation) its place of registered office, is and remains situated within the jurisdiction of the High Court for the purposes of the opening of insolvency proceedings under the Insolvency Regulation and all other applicable law.

23 Releases and Consents

- 23.1 Provided that there is no continuing Event of Default, the Chargee covenants with the Chargor to release the security created by this Deed at the time and in the manner provided for in the Deed of Deferred Consideration and that in so far as the Property has not been released pursuant to the terms of the Deed of Deferred Consideration within 20 Business Days after the satisfaction of the Secured Obligations (in their entirety) to give the Chargor a properly executed Land Registry Form DS1 (or any other form replacing the same) to release the Property from the security of this Deed and (if required) the restriction created pursuant to clause 9.1 (together with any relevant Land Registry form(s)).

- 23.2 Provided that there is no continuing Event of Default and upon written request by the Chargor during the Security Period the Chargee will at the cost of the Chargor consent to and if required join in as mortgagee any Statutory Agreement that is properly required in connection with the development of the Property by the construction of residential dwellings provided it does not impose any liability upon the Chargee unless and until it takes possession of the Property or any part of it pursuant to this Deed and provided further that the Statutory Agreement expressly provides that the Chargee shall not be liable for any breach of any of the obligations or other provisions of the Statutory Agreement after it shall have parted with its interest as mortgagee in the Property or the part to which the relevant obligation or provision in the Statutory Agreement relates by the release of the Property or any part of it from the security created by this Deed.

24 Third party rights

- 24.1 The parties hereby agree and acknowledge that for the purposes of the Contracts (Rights of Third Parties) Act 1999 they intend the Homes England to have the right to enforce the terms of this Deed against the Chargor, and further, the parties agreed that they will not vary or amend the terms of this Deed without the consent of the Homes England.
- 24.2 Save as provided in clause 24.1 above, the parties do not intend that any term of this Deed will be enforceable as a result of the Contracts (Rights of Third Parties) Act 1999.

25 Deed of Priority

- 25.1 Prior to granting or entering into any Permitted Security the Chargor shall provide to the Chargee a draft Deed of Priority which shall:

25.1.1 provide for this Deed to rank in priority to the Permitted Security in all respects and otherwise in accordance with the terms of this Deed and as the Chargee shall require (acting reasonably provided that it shall always be reasonable for the Chargee to require provisions or amendments which are required by Homes England); and

25.1.2 otherwise be in such form as the Chargee shall approve (such approval in the case of the Chargee not to be unreasonably withheld or delayed, provided always that it shall not be unreasonable for the Chargee to withhold approval where the Deed of Priority is not acceptable to Homes England);

and (subject to receipt of a cost undertaking from the Chargor's solicitors to cover the Chargee's and Homes England's proper costs in connection with such Deed of Priority) the Chargee will promptly on written request consider and (subject to approval by the Chargee and Homes England) enter into such Deed of Priority.

26 Disposals of the Charged Property and the Retained Land after the occurrence of a Enforcement Event

- 26.1 The Chargor and the Chargee acknowledge that following the enforcement of any security created by this Deed and to the extent that there is any Retained Land the Chargor (and all those authorised by them) will require certain rights over the Charged Property for the benefit of the Retained Land and in order to enable the Retained Land

to be developed and used and the Chargee shall (subject to receipt of a cost undertaking from the Chargor's solicitors to cover the Chargee's proper costs in connection with the following actions), notwithstanding the occurrence of any Event of Default or any disposal of the Charged Property or any part thereof, upon the enforcement of any security created by this Deed:

- 26.1.1 permit the continuous and uninterrupted exercise of (and if required by the Chargor promptly enter into a formal deed of grant in respect of) the Rights for the benefit of the Retained Land and the Chargor and its successors in title; and
 - 26.1.2 on any subsequent disposal of the Charged Property (or any part of it) procure:
 - (i) the formal grant of the Rights for the benefit of the Retained Land and the Chargor and its successors in title; and
 - (ii) such covenants from the disponent by deed directly with the Chargor or its successors in title as shall be reasonably required in order to enable the Retained Land to be developed and used (including covenants as to payments to be made as set out in Schedule 4).
- 26.2 The Chargor and the Chargee acknowledge that following the enforcement of any security created by this Deed and to the extent that there is any Retained Land the Chargee (and all those authorised by them) will require certain rights over the Retained Land for the benefit of the Charged Property and in order to enable such parts of the Charged Property in respect of which the security created by this Deed still exists or has been enforced to be developed and used and the Chargor shall notwithstanding the occurrence of any Event of Default or any disposal of the Retained Land or any part thereof, upon the enforcement of any security created by this Deed:
- 26.2.1 permit the continuous and uninterrupted exercise of (and if required by the Chargee promptly enter into a formal deed of grant in respect of) the Reserved Rights for the benefit of such parts of the Charged Property and the Chargee and any person deriving title through the Chargee; and
 - 26.2.2 on any subsequent disposal procure:
 - (i) the formal grant of the Reserved Rights for the benefit of such parts of the Charged Property and the Chargee and any person deriving title through the Chargee; and
 - (ii) covenants from the disponent by deed (in a form approved by the Chargee such approval not to be unreasonably withheld or delayed) directly with the Chargee or any person deriving title through the Chargee (including covenants as to payments to be made as set out in Schedule 5).

Schedule 1

Property undertakings and indemnities

- 1 The Chargor shall:
 - 1.1 repair and keep in good and substantial repair and condition to the satisfaction of the Chargee all buildings, erections and structures on or in the Charged Property, the Chargee acknowledging that the Chargor is carrying out the residential development of the Charged Property;
 - 1.2 not at any time without the prior written consent of the Chargee sever or remove any of the fixtures forming part of the Charged Property or any of the plant or machinery (other than stock in trade or work in progress) on or in the Charged Property (except for the purpose of any necessary repairs or replacement of it or for the purpose of carrying out the Works).
 - 1.3 not do or cause or permit to be done anything which may in the reasonable opinion of the Chargee in any way depreciate, jeopardise or otherwise impair the value of the whole or any part of the Charged Property or the realisation;
 - 1.4 except to the extent that such obligations are to be observed and performed by the Chargee pursuant to the Conditional Agreement comply with and observe and perform (a) all covenants and conditions affecting the Charged Property, (b) all applicable requirements of all statutes, planning legislation, regulations and bye-laws relating to the Charged Property, (c) any conditions attaching to any planning permissions relating to or affecting the Property and (d) any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Charged Property;
 - 1.5 obtain and maintain in full force and effect all Environmental Law authorisations and procure compliance with all Environmental Law matters affecting the Charged Property;
 - 1.6 inform the Chargee immediately of any claim or breach in respect of Environmental Law affecting the Charged Property (whether actual, alleged or threatened) or any investigation or requirement or order made in relation to any such claim or breach and forthwith take all steps necessary to remedy any infringement of any Environmental Law affecting the Charged Property;
- 2 The Chargor shall indemnify and keep indemnified (on a full indemnity basis) the Chargee in respect of all claims, costs, expenses and liability whatsoever from time to time incurred by the Chargee:
 - 2.1 under any covenant, agreement or obligation affecting the Property, whether contained in or imposed by any lease, tenancy or licence or otherwise;
 - 2.2 under any legislation concerning or affecting Environmental Law, Landlord and Tenant or Town and Country Planning in respect of any act, matter or thing done, omitted or suffered to be done by or on behalf of the Chargor or under any requirement or regulation of any competent authority including without limitation fines, penalties, judgments and awards, financial responsibility for

clean-up activities, contributions, legal, consultancy, engineers and experts fees, costs and expenses;

- 2.3 in any actual or attempted enforcement, exercise or protection of any of the rights, powers, provisions and covenants contained in this Deed.

Schedule 2

Powers of receivers

- 1 All the powers to do or abstain from doing anything which the Chargor could do or abstain from doing in relation to the Charged Property including, without limitation the powers conferred by section 109 LPA and Schedule 1 to the Insolvency Act 1986 and with all the powers of an absolute beneficial owner and in particular a receiver may:
 - 1.1 carry on, manage or concur in carrying on managing the whole or any part of the business of the Chargor at the Charged Property as he may in his discretion think fit;
 - 1.2 manage, insure, repair, decorate, maintain, alter, improve, renew or add to the Charged Property or concur in so doing as he may in his discretion think fit;
 - 1.3 commence or complete any building operations on the Charged Property as he may in his discretion think fit;
 - 1.4 apply for and maintain any planning permissions, building regulations, approvals and any other permissions, consents or licences as he may in his discretion think fit;
 - 1.5 in each case in such manner and generally on such terms as he may in his discretion think fit, (exercising any such power by effecting such transaction in the name of or on behalf of the Chargor or otherwise):
 - 1.5.1 let, hire or lease (with or without premium) and accept surrenders of leases or tenancies or concur in so doing;
 - 1.5.2 grant rights, options or easements over and otherwise deal with or dispose of, and exercise all rights, powers and discretions incidental to, the ownership of the Charged Property;
 - 1.5.3 exchange or concur in exchanging the Charged Property; and
 - 1.5.4 sell, exchange, convert into money and realise the Charged Property or concur in so doing whether by public auction or private contract or otherwise and generally in such manner and on such terms as he may in his discretion think fit for any valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he may in his discretion think fit;
 - 1.6 for the purpose of exercising any of the powers, authorities or discretions conferred on him by or pursuant to this Deed or of defraying any costs which are incurred in the exercise of such powers, authorities or discretions or for any other purpose, raise and borrow money or incur any other liability either unsecured or secured on the Charged Property, either in priority to the security constituted by this Deed or otherwise, and generally on such terms as he may in his discretion think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of any money so raised or borrowed;

- 1.7 make, or require the directors of the Chargor to make, such calls upon the shareholders of the Chargor in respect of any uncalled capital of the Chargor as the Chargee may in his discretion require and enforce payment of any call so made by action (in the name of the Chargee or a Receiver may in his discretion think fit) or otherwise;
- 1.8 settle or compromise any claim by, adjust any account with, refer to arbitration any dispute and deal with any question or demand relating in any way to the Charged Property, as he may in his discretion think fit;
- 1.9 bring, prosecute, enforce, defend and abandon all such action, suits and proceedings in relation to the Charged Property as he may in his discretion think fit;
- 1.10 promote the formation of any Subsidiary of the Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring an interest in the Charged Property;
- 1.11 arrange for the purchase, lease, licence or acquisition or an interest in the Charged Property by any such Subsidiary for any valuable consideration or a sum calculated by reference to profits, turnover, royalties, licence fees or otherwise, whether or not secured on the undertaking or assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or at any time or any number of times by instalments spread over such period, as a receiver may in his discretion think fit;
- 1.12 arrange for such Subsidiary to trade or cease to trade as the receiver may in his discretion think fit;
- 1.13 appoint and discharge any manager, officer, agent, professional advisor, employee and any other person, upon such terms as he may in his discretion think fit;
- 1.14 give valid receipts for all monies and execute all assurances and things which he may in his discretion think proper or desirable for selling, leasing, converting, realising or otherwise dealing with the Charged Property;
- 1.15 conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other action, whether required under Environmental Law or by the Chargee or otherwise and comply with all lawful orders and directives of all authorities regarding Environmental Law; and
- 1.16 do all such other acts and things as a receiver may in his discretion consider to be incidental or conducive to any of the matters or powers set out in this Deed or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property.

Schedule 3

Contract Documents

1. Conditional Agreement;
2. Deed of Deferred Consideration;
3. Deed of Development Control;
4. Deed of Grant;
5. Transfer; and
6. This Deed

Schedule 4

Rights

- 1 The right of free passage and running of all services including but not limited to water, soil, gas, electricity and telecommunications through all Conduits serving the Retained Land which now or in the future pass through over or under the Charged Property and the right to enter onto the unbuilt parts of the Charged Property upon giving reasonable prior written notice (save in the case of emergency) with all necessary workmen materials and apparatus for the purpose of connecting, enlarging, relocating, inspecting, maintaining, cleaning, reinstating, renewing and repairing any such Conduits;
- 2 The right of access with or without vehicles over the estate roads and footpaths (or the intended route thereof) on the Charged Property as reasonably required to access the Retained Land to and from the adopted highway;
- 3 The right of support and protection for the Retained Land from the parts of the Charged Property adjoining or neighbouring the Retained Land as existing at the date hereof;

PROVIDED THAT the Chargor shall ensure that the persons exercising the rights set out in paragraphs 1 to 3 (inclusive) above shall:-

- (a) restrict such access to those parts of the Charged Property as shall not form the site of any buildings or their curtilage (save where the prior written approval of the owner and occupier of any buildings and/or the curtilage thereof shall have been obtained);
- (b) not adversely affect any building on the Charged Property or the use and enjoyment of it or its curtilage (save where the prior written approval of the owner and occupier of any buildings and/or the curtilage thereof shall have been obtained);
- (c) obtain the prior written approval of the Chargee to the routes of and specification for any such connections to be constructed in on over or under the Charged Property (including for the avoidance of doubt any headwalls to surface water drainage outfalls) (such approval not to be unreasonably withheld or delayed and the Chargee shall use all reasonable endeavours to provide such approval, if it is to be given, within 15 Business Days of a request for approval);
- (d) not carry out any such works in such a manner as shall materially interfere with or interrupt access to the Charged Property or any part of it or the use of Conduits benefiting the same;
- (e) carry out all works in a good and workmanlike manner in accordance with the approval previously granted by the Chargee and the requirements of all Relevant Authorities;
- (f) cause as little physical damage to the Charged Property as reasonably practicable in the exercise of such rights;
- (g) promptly make good any damage caused to the Charged Property and indemnify the Chargee in respect of any liability or loss arising as a result of any breach; and

- (h) comply with any reasonable requirements of the Chargee.

and PROVIDED FURTHER THAT:

- (i) the Chargee shall have the right on reasonable prior written notice to divert relay renew replace protect or otherwise vary or alter the position or construction of any existing or future Conduits serving the Retained Land provided that the occupiers of the Retained Land who enjoy the use of the same shall at all times continue to enjoy the use of uninterrupted services and that the Conduits provided following such diversion renewal replacement protection variation or alteration shall be no less commodious than and of at least as good a standard as the Conduits now or at that time serving the Retained Land and subject also to the Chargee causing as little damage as reasonably practicable and promptly making good any damage which it does cause; and
- (j) the Chargor shall pay within 10 Business Days of written demand a fair and reasonable (according to user) contribution to the cost (if any) reasonably incurred or to be incurred by the owner for the time being of the Charged Property in maintaining, repairing renewing (and where appropriate, lighting) any Conduits/roads/common parts of the development on the Charged Property serving or benefitting the Retained Land and located within the Charged Property.

Schedule 5

Reserved Rights

- 1 The right of free passage and running of all services including but not limited to water, soil, gas, electricity and telecommunications through all Conduits serving the Charged Property which now or in the future pass through over or under the Retained Land and the right to enter onto the unbuilt parts of the Retained Land upon reasonable prior written notice (save in the case of emergency) with all necessary workmen materials and apparatus for the purpose of constructing connecting, enlarging, relocating, inspecting, maintaining, cleaning, reinstating, renewing and repairing any such Conduits;
- 2 Pending adoption of the same full and free right and liberty to go pass and repass at all times and for all purposes with or without vehicles and on foot over and along the roads and footpaths on the Retained Land to the extent reasonably required for the purposes of access to and egress from the Charged Property and a full and free right to the passage of services to and from the Charged Property through any Conduits constructed or laid under such roads on the Retained Land and serving the Charged Property;
- 3 The right to enter upon the Retained Land (with or without workmen vehicles plant equipment and machinery) and to carry out works as reasonably required in order to implement a Planning Permission insofar as it relates to works to be carried out on the Charged Property and/or works which accord with the Planning Permission and if not carried out would prevent commencement of works on or occupation of the Charged Property or any part thereof or building constructed thereon and/or to comply with any Planning Agreement;
- 4 The right of support and protection for the Charged Property from the parts of the Retained Land adjoining or neighbouring the Charged Property as existing at the date hereof;

PROVIDED THAT the Chargee shall ensure that the persons exercising the rights set out in paragraphs 1 to 4 (inclusive) above shall:-

- (a) except in emergency before commencing such work give not less than 14 days' written notice of their intention to carry out such work to the Chargor;
- (b) restrict such access to those parts of the Retained Land as shall not form the site of any buildings or their curtilage (save where the prior written approval of the owner and occupier of any buildings and/or the curtilage thereof shall have been obtained);
- (c) not adversely affect any building on the Retained Land or the use and enjoyment of it or its curtilage (save where the prior written approval of the owner and occupier of any buildings and/or the curtilage thereof shall have been obtained);
- (d) obtain the prior written approval of the Chargor to the routes of and specification for any such connections or new Conduits to be constructed in on over or under the Retained Land (including for the avoidance of doubt any headwalls to surface water drainage outfalls) (such approval not to be unreasonably withheld or delayed and the

Chargor shall use all reasonable endeavours to provide such approval, if it is to be given, within 15 Business Days of a request for approval);

- (e) not carry out any such works in such a manner as shall materially interfere with or interrupt access to the Retained Land or any part of it or the use of Conduits benefiting the same;
- (f) carry out all works in a good and workmanlike manner in accordance with the approval previously granted by the Chargor and the requirements of all Relevant Authorities;
- (g) cause as little physical damage to the Retained Land as reasonably practicable in the exercise of such rights;
- (h) promptly make good any damage caused to the Retained Land and indemnify the Chargor in respect of any liability or loss arising as a result of any breach; and
- (i) comply with any reasonable requirements of the Chargor.

and PROVIDED FURTHER THAT:

- (j) the Chargor shall have the right on reasonable prior written notice to divert relay renew replace protect or otherwise vary or alter the position or construction of any existing or future Conduits serving the Charged Property provided that the occupiers of the Charged Property who enjoy the use of the same shall at all times continue to enjoy the use of uninterrupted services and that the Conduits provided following such diversion renewal replacement protection variation or alteration shall be no less commodious than and of at least as good a standard as the Conduits now or at that time serving the Charged Property and subject also to the Chargor causing as little damage as reasonably practicable and promptly making good any damage which it does cause; and
- (k) the Chargee shall pay within 10 Business Days of written demand a fair and reasonable (according to user) contribution to the cost (if any) reasonably incurred or to be incurred by the owner for the time being of the Retained Land in maintaining, repairing renewing (and where appropriate, lighting) any Conduits/roads/common parts of the development on the Retained Land serving or benefitting the Charged Property and located within the Retained Land.

IN WITNESS WHEREOF the Corporate Seal of the Secretary of State for Defence has been hereunto affixed and this Deed has been executed as deed by the Chargor and is intended to be and is hereby delivered on the date first above written

Signed as a deed by **CALA HOMES (NORTH)**
HOME COUNTIES) LIMITED as attorney for)
CALA MANAGEMENT LIMITED acting by
two directors:

[Redacted]

Director's name

[Redacted]

Director's signature

[Redacted]

Director's/Secretary's name

[Redacted]

Director's/Secretary's signature

The Corporate Seal of the **SECRETARY OF**
STATE FOR DEFENCE hereunto affixed is
authenticated by

.....

Authorised by the Secretary of State for

Defence

Annexure 1

Plan



☐ Postal Parcel Boundary

Urban & Civic plc
Urban & Civic
45 New Road Street
London
W1B 1BJ
Email: info@urbanandcivic.com
Tel: 020 7409 6000

Chartered Surveyors
The Lark
100-104
Kings Road
London W8 5AP
Registration
Cannock
WCH 20 97
Tel: 01489 212760 Fax: 01489 480628
Email: info@urbanandcivic.com
Registered in England and Wales no. 0200157

Key Phase 1 - P2.1 Transfer Boundary

ASC
Associated Surveying Consultants
13.11.2020
1:1000 @ A3
RCS
David Dilling

ASC.20.637A

MILLS & REEVE

T: 0844 561 0011

www.mills-reeve.com

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