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Co-operative and Community Benefit Societies Act 2014

Recording a Charge

Society:Optivo

Registration number:7561

The attached charge between the above society and:

Sage Housing Limited

was delivered to the FCA on 24 November 2021.

Instrument date:16 November 2021

Application Date: 24 November 2021

Date: **15 December 2021**



Registered as a Limited Company in England and Wales No. 1920623. Registered office as above.

We hereby certify this
to be a true copy of the original.
Devonshires
Devonshires Solicitors LLP
Date: 23.11.2021

Dated 16 November 2021

(1) Optivo

and

(2) Sage Housing Limited

LEGAL CHARGE

to secure obligations

Devonshires solicitors

30 Finsbury Circus
London EC2M 7DT
Tel: 020 7880 4337

THIS DEED is dated the 16 day of November 2021

BETWEEN

(1) **OPTIVO**, a registered society with registered number 7561 whose registered office is at 125 High Street, Croydon CR0 9XP (the "**Chargor**"); and

(2) **SAGE HOUSING LIMITED** a company limited by shares with company number 05489096 whose registered office is at 5th Floor, Orion House, St Martin's Lane, London, WC2H 9EA (the "**Chargee**").

BACKGROUND

(A) The Chargor has agreed to the develop the Property (as defined in Schedule 1) and sell the Property to the Chargee pursuant to a Sale and Development Agreement (as defined below).

(B) It is a condition of the Sale and Development Agreement that the Chargor enters into this Deed to provide security to the Chargee for the purposes and on the terms as described below.

(C) It is intended by the parties to this document that it will take effect as a deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing or registration;

Charged Assets means all the undertaking, property, rights and assets of the Chargor mortgaged, charged or assigned to the Chargee under this Deed, including any part thereof and any interest therein;

Discharge means a DS1 or DS3 (as appropriate) and a deed of release in the form required by the Chargor;

Event of Default means a breach or default of the Chargor's obligations under clause 8 this Deed;

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on the Property and includes all fixtures, fittings, plant, materials, machinery, equipment, installations and apparatus now and from time to time in or on the Property;

Infrastructure Agreements means any agreement under the Planning Acts or otherwise relating to the Property or any part of it and/or any agreement (including wayleaves) or deed with regard to the development of or the provision of access or services to the Property or any part of it;

Insurances means all contracts or policies of insurance relating to the Property in which the Chargor has an interest.

LPA means the Law of Property Act 1925;

Material Adverse Effect means a material adverse effect on:

(a) the business, assets or financial condition of the Chargor; and/or

(b) the value or enforceability of the Security held by the Chargee in respect of the Secured Liabilities;

Party means a party to this Deed and includes its successors in title, permitted assigns and permitted transferees, whether immediate or derivative, and **Parties** shall be construed accordingly;

Permitted Disposal means any one or more of the following as applicable:

(a) any disposal of any part or parts of the Property upon which electricity substation, gas governor or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements;

(b) the grant or entry into or release of any easement, wayleave, covenant, or other agreement or encumbrance over or affecting the Property which is reasonably required in connection with the development of the Property;

(c) any licence to carry out works in connection with the development which does not carry the right to occupy; and

(d) any disposal, the grant of easement or wayleave to a service provider or to the local authority or to the highway authority or other public bodies or at the direction of the same for the purpose of access improvement or services or pursuant to an obligation in an Infrastructure Agreement required in connection with the development

in each case provided that the relevant disposal does not adversely affect the use value or amenities of the residential units to be developed other than as anticipated in accordance with the Sale and Development Agreement.

Permitted Security means:

(a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by the Chargor; or

(b) any Security permitted by the Chargee in writing; or

(c) any bonds or other forms of security that are required in order to secure any obligations in respect of any Infrastructure Agreement or any other similar agreement that is required by the appropriate authority in order to carry out development of the Property;

Planning Acts means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made (before or after this Deed) under those statutes and any other statute or regulation governing or controlling the use or development of land and buildings;

Property means the assets of the Chargor described in Schedule 1 (Property) together with all buildings, and any Fixtures on such property from time to time, the proceeds of sale of the whole or any part of such property and any other proceeds payable in respect of the asset and all rights, title and interests appurtenant to, necessary for or benefiting any such property;

Receiver means any one or more receivers and/or managers appointed by the Chargee pursuant to this Deed in respect of the Chargor or over all or any of the Charged Assets;

Release Date being the date on which the Secured Liabilities have been unconditionally and irrevocably paid, performed and/or discharged in full in relation to the Property or where relevant to a Section (as such term is defined within the Sale and Development Agreement) within the Property in accordance with the terms of the Sale and Development Agreement;

Rental Income means, if any, the aggregate of all amounts payable to, or for the benefit or account of, the Chargor in connection with the letting or permitted third party occupation or use of the whole or any part of a Property;

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Sale and Development Agreement means the Sale and Development Agreement and development dated 16 November 2021 and made between the Chargor and the Chargee (as the same may from time to time be amended, extended, novated, replaced, restated, supplemented or varied);

Secured Liabilities means

(a) all monies, liabilities, obligations, costs, expenses and damages now or after the date of this Deed due, owing or incurred by the Chargor to the Chargee pursuant to clauses 15.2.1, 15.3.1 -15.3.3, 15.4.1, 15.8.1, 15.9.1 - 15.9.2, 15.12 or 15.14.1 - 15.4.2 and paragraph 11 of Schedule 2 of the Sale and Development Agreement (as the same may from time to time be amended, extended, novated, replaced, restated, supplemented or varied) 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 Chargee; and

(b) all sums due under this Deed in whatsoever manner whether actual or contingent solely or jointly with any other person and whether as principal or surety together with all interest accruing thereon and all costs charges and expenses incurred in connection therewith;

Security means a mortgage, charge, pledge, lien, security assignment, right of set off, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

Security Period means the period from the date of this Deed and ending on the Release Date; and

Subsidiary means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.

1.2 Construction

1.2.1 Any reference in this Deed to:

(a) **assets** includes present and future property, revenues and rights of every description;

(b) **clauses and schedules** are references to clauses and schedules of this Deed;

(c) **this Deed** or any other agreement or instrument is a reference to this Deed or that other agreement or instrument as the same may have been, or may from time to time be, amended, novated, replaced, restated, supplemented or varied provided that, where the consent of the Chargee is required pursuant to the Sale and Development Agreement or otherwise to such amendment, novation, replacement, restatement, supplement or variation, such consent has been obtained;

(d) **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;

(e) a **guarantee** includes any guarantee, indemnity, counter indemnity or other assurance in respect of the indebtedness of any person;

(f) a **person** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing and includes its successors and (in the case of the Chargee only) its permitted assignees and transferees;

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

(h) a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination;

(i) a provision of law is a reference to that provision as amended or re-enacted;

(j) a reference to **Property** is to the whole or any part of that property; and

(k) a **charge** or **mortgage** of any freehold or leasehold property includes:

(i) all buildings, fixtures and fixed plant and machinery on that property;

(ii) the proceeds of sale of the whole or any part of that property; and

(iii) all rights appurtenant to or benefiting that property.

1.2.2 Clause and schedule headings are for ease of reference only.

1.2.3 An Event of Default is **continuing** if it has not been remedied to the satisfaction of the Chargee or waived by it in writing.

1.2.4 This Deed is intended to take effect as a deed notwithstanding that a Party may have executed it under hand only.

1.2.5 Any grant of rights with full title guarantee shall be deemed to contain all of the covenants and warranties implied in respect of any conveyance with full title guarantee pursuant to section 1(2) of the Law of Property (Miscellaneous Provisions) Act 1994.

1.2.6 Words importing the plural shall include the singular and vice versa.

1.3 Third party rights

1.3.1 Unless expressly provided to the contrary in this Deed, 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.

1.3.2 The consent of any person which is not a Party is not required to rescind or vary this Deed or any other agreement entered into under or in connection with it.

2 Covenant to pay

2.1 Covenant

The Chargor covenants that it will pay to the Chargee or perform and discharge, as the case may be, all the Secured Liabilities when the Secured Liabilities become due for payment, performance or discharge whether by acceleration or otherwise.

3 Charges

3.1 Fixed charge

3.2 The Chargor with full title guarantee charges to the Chargee as a continuing security for the payment and discharge of the Secured Liabilities the following assets, both present and future:

3.2.1 by way of legal mortgage the Property;

3.2.2 by way of fixed charge:

(a) the benefit of all agreements relating to the Property to which it is or may become a party or otherwise entitled, including but not limited to any rents receivables, guarantee, indemnity and undertaking;

(b) all its rights, title and interest in the Insurances;

and

(c) the benefit of all Authorisations held in connection with the use of the Property or any business operated on or from the Property and the right

to recover and receive all compensation which may be payable to it in respect of such Authorisations or the Property.

3.3 Assignment

The Chargor with full title guarantee assigns to the Chargee absolutely as a continuing security for the payment and discharge of the Secured Liabilities all its rights, title and interest both present and future in and to:

3.3.1 the Rental Income,

3.3.2 all other rights and claims to which the Chargor is now or may hereafter become entitled in relation to any development, construction project, redevelopment, refurbishment, repair or improvement of or on the Property;

3.3.3 all the Chargor's other rights, title and interest under each occupational lease,

3.3.4 all claims, remedies or judgements payable to the Chargor relating to the Charged Assets; and

3.3.5 the benefit of all guarantees, warranties and representations given or made by and any rights or remedies against all or any of the valuers, professional advisers, contractors or sub-contractors or manufacturers, suppliers and installers of any Fixtures in each case in respect of the Charged Assets.

Provided that the Chargee shall not give any notice of assignment contained in this clause 3.3 to any person (other than any landlord of property in respect of which the Chargor is a tenant) unless and until an Event of Default has occurred and is continuing.

On the unconditional and irrevocable payment and discharge in full of the Secured Liabilities, the Chargee will, at the request and cost of the Chargor, reassign the Charged Assets referred to in this clause 3.3 to the Chargor or as it may direct.

4 Undertakings

4.1 Duration

The undertakings in this clause 4remain in force during the Security Period.

4.2 Negative Pledge

The Chargor shall not, now or in the future, create or permit to subsist any Security over any of the Charged Assets, other than Permitted Security.

4.3 Compliance with covenants

The Chargor will:

4.3.1 observe and perform all covenants, burdens, stipulations, requirements and obligations from time to time affecting the Charged Assets or the use, ownership, occupation, possession or other enjoyment of the Charged Assets whether imposed by statute, contract or otherwise where failure to do so has or is reasonably likely in the reasonable opinion of the Chargee to have a Material Adverse Effect;

4.3.2 do all acts necessary to preserve its rights, title and interest in and to the Charged Assets; and

4.3.3 not, without the written prior consent of the Chargee, such consent not to be unreasonably withheld or delayed, enter into any onerous or restrictive obligations affecting any of the Charged Assets.

4.4 Development and alterations

4.4.1 The Chargor will not, without the prior written consent of the Chargee, such consent not to be unreasonably withheld or delayed, make or permit others to make any application for planning permission in respect of the Property or make any structural or material alteration or addition to the Property or carry out or permit to be carried out any development on, or permit any change of use of (as each such expression is defined in the Planning Acts) the Property other than any of the obligations or rights permitted under Schedule 2 of the Sale and Development Agreement.

4.4.2 In the event that, during the Security Period, the Property is intended to be developed or is in the course of development (in each case with the consent of the Chargee which shall be deemed granted in respect of the development under Sale and Development Agreement), the Chargor shall:

(a) procure that such development conforms with all planning and by-law consents which shall together with the plans and specifications be produced to the Chargee promptly on the Chargee's written request; and

(b) comply with paragraph 6 of Schedule 2 of the Sale and Development Agreement.

4.5 Access

Upon reasonable prior notice and subject to such person complying with the reasonable requirements of the Chargor, the Chargor will permit any person appointed by the Chargee, without the Chargee becoming liable to account as mortgagee in possession, to enter on and inspect the state of the Property.

4.6 Information

The Chargor will produce to the Chargee such documents or information relating to the Property as the Chargee may from time to time reasonably request and as soon as practicable deliver to the Chargee a copy of any notice or proceedings served by any person on the Chargor concerning the Property or alleging any breach of its obligations relating to the Property save for any proceedings that are frivolous or vexatious in nature.

4.7 Planning Acts

The Chargor will:

4.7.1 not do or knowingly omit or knowingly permit to be done or omitted any act, matter or thing in, on or in respect of the Property required to be done or omitted by the Planning Acts or which shall contravene the provisions of the Planning Acts; and

4.7.2 indemnify the Chargee on demand against all actions, proceedings, costs, expenses, claims and demands whatsoever suffered by the Chargee in respect of any such act, matter or thing so contravening the provisions of clause 4.7.1

4.8 Compliance with law

The Chargor will at all times acquire and maintain all Authorisations required by its ownership, use or occupation of the Property or for the conduct of any business operated on or from the Property or the ownership and use of the Charged Assets and will comply with all terms and conditions relating to such Authorisations and with all other applicable laws and will not do or permit any act or omission whereby any such Authorisations would be liable to be varied or revoked.

4.9 Jeopardy

The Chargor will not do, or cause or permit to be done, anything within its control which may depreciate, jeopardise or otherwise prejudice the value of the Property without the prior written consent of the Chargee.

4.10 Land Registration

The Chargor will not, without the prior written consent of the Chargee, such consent not to be unreasonably withheld or delayed:

4.10.1 permit any person to be registered as proprietor at the Land Registry of the Property;

4.10.2 create or knowingly permit to arise or subsist any overriding interest affecting the Property; or

4.10.3 permit any person to become entitled to any proprietary right or interest which might reasonably be expected adversely to affect the value of the Property or any other Charged Asset.

4.11 Restrictions on dealing with Charged Assets

The Chargor will not without the prior written consent of the Chargee, such consent not to be unreasonably withheld or delayed, (whether by a single transaction or a series of related or unrelated transactions and whether at the same time or over a period of time) sell, transfer, lease or otherwise dispose of any of the Charged Assets or agree to do so save for a Permitted Disposal.

5 Representations and warranties

5.1 Duration and to whom made

The representations and warranties made by the Chargor in this clause 5 will remain in force for (and will be deemed repeated on each day falling during) during the Security Period and are given to the Chargee.

5.2 Matters represented

Except as disclosed in writing to the Chargee on or prior to the date of this Deed or on or prior to the date the Property becomes subject to a fixed charge hereunder the Chargor is the legal and beneficial owner of the Property

6 Further assurance

6.1 The Chargor shall whenever reasonably requested by the Chargee promptly execute and sign all such deeds and documents and do all such things as the Chargee may

reasonably require at the Chargor's cost over the Charged Assets for the purpose of perfecting or more effectively providing security to the Chargee for the payment and discharge of the monies obligations and liabilities secured by this Deed.

6.2 The Chargor shall use reasonable endeavours to procure that each notice of assignment made pursuant to clause 3.3 of this Deed is acknowledged by the party to whom it is addressed as soon as reasonably practicable after the date when it is delivered.

7 Enforcement and powers of the Chargee

7.1 Powers on enforcement

7.1.1 The Secured Liabilities shall be deemed to have become due, and all rights of enforcement conferred on the Chargee by the LPA, as varied and extended by this Deed, shall be deemed to have arisen, immediately after the execution of this Deed.

7.1.2 The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

7.1.3 At any time after an Event of Default has occurred and is continuing, or if requested by the Chargor, the Chargee may, without further notice and whether or not a Receiver shall have been appointed, exercise all the powers conferred on mortgagees by the LPA, as varied or extended by this Deed, and all the powers and discretions conferred by this Deed on a Receiver either expressly or by reference.

7.2 Statutory power of leasing

The Chargee shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Chargee shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 of the LPA.

7.3 Contingencies

7.3.1 If the Chargee enforces the security constituted by this Deed at a time when no amount in respect of the Secured Liabilities is due and payable, the Chargee (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

7.3.2 The Chargee may (subject to the payment of any claims having priority to this security) withdraw amounts standing to the credit of such account for application as follows:

(a) paying all costs, charges and expenses incurred and payments made by the Chargee (or the Receiver) in the course of such enforcement;

(b) paying remuneration to the Receiver as and when the same becomes due and payable; and

(c) paying amounts due and payable in respect of the Secured Liabilities as and when the same become due and payable.

7.4 Redemption of prior Security

If an Event of Default is continuing or if requested by the Chargor, the Chargee may:

7.4.1 redeem any prior Security against any Charged Asset; and/or

7.4.2 procure the transfer of that Security to itself; and/or

7.4.3 settle and pass the accounts of the prior mortgagee, chargee or encumbrancer and any accounts settled and passed will be conclusive and binding on the Chargor.

The Chargor shall pay on demand all principal moneys, interest, costs, charges and expenses in connection with such redemption and/or transfer.

7.5 Power of sale and right of consolidation

Sections 93 and 103 of the LPA do not apply to the security constituted by this Deed.

8 Events of Default

An Event of Default in this Deed shall be the events or circumstances set out in:

a. clauses 8.1 to 8.2 (inclusive) and/or the occurrence of the events; and

b. clauses

i. 15.5.1 to 15.5.3 (inclusive) of the Sale and Development Agreement (subject always to the proviso after clause 15.5, and clauses 15.6 and 15.7), and

ii. 15.11 and 15.13.

8.1 The Chargor fails to comply with any provision of this Deed and (if the Chargee considers, acting reasonably, that the default is capable of remedy) such default is not remedied within 14 days of the earlier of or such other reasonable period agreed with the Chargee:

8.1.1 the Chargee notifying the Chargor of the default and the remedy required; and

8.1.2 the Chargor becoming aware of the default.

8.2 Any representation, warranty or statement made, repeated or deemed made by the Chargor in, or pursuant to, clause 5 of this Deed is (or proves to have been) incomplete, untrue, incorrect or misleading when made, repeated or deemed made.

9 Appointment and powers of Receiver

9.1 Appointment

9.1.1 At any time while an Event of Default is continuing, or if requested by the Chargor, the Chargee may by instrument in writing executed as a deed or under the hand of any duly authorised officer appoint a Receiver of the Charged Assets or any part thereof.

9.1.2 Where more than one Receiver is appointed, each joint Receiver shall have power to act severally and independently of any other joint Receivers, except to the extent that the Chargee may specify to the contrary in the appointment.

9.1.3 The Chargee may (subject to clause 45 of the Insolvency Act 1986) remove any Receiver so appointed and appoint another in his place.

9.2 Receiver as agent

A Receiver shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration.

9.3 Powers of Receiver

A Receiver shall have all the powers conferred from time to time on receivers by statute and power on behalf and at the expense of the Chargor to do, or omit to do, anything which the Chargor could do, or omit to do, in relation to the Charged Assets or any part thereof including:

9.3.1 take possession of, collect and get in, and give a good discharge for, all or any of the Charged Assets; and/or

9.3.2 carry on, manage, develop, reconstruct, amalgamate or diversify the business of the Chargor or any part thereof as it relates to the Charged Assets; and/or

9.3.3 lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage; and/or

9.3.4 raise or borrow any money from or incur any other liability to the Chargee or others on such terms, with or without security, as he may think fit and so that any such security may be or include a charge on the whole or any part of the Charged Assets ranking in priority to this security or otherwise; and/or

9.3.5 sell, let, surrender or accept surrenders, grant licences or otherwise dispose of or deal with all or any of the Charged Assets for such consideration and generally on such terms and conditions as he may think fit. The consideration for such sale, lease or disposition may be for cash, debentures or other obligations, shares, stock, securities or other valuable consideration and be payable immediately or by instalments spread over such period as he shall think fit and so that any consideration received or receivable shall immediately be and become charged with the payment of all the Secured Liabilities; and/or

9.3.6 promote the formation of companies with a view to the same becoming a Subsidiary of the Chargor and purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Charged 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 Charged Assets on such terms and conditions as he may think fit; and/or

9.3.7 make any arrangement or compromise in respect of, or enter into, or cancel, any contracts comprised in, the Charged Assets which he shall think expedient; and/or

9.3.8 make and effect such repairs, renewals and improvements to the Charged Assets or any part thereof as he may think fit and maintain, renew, take out or increase insurances; and/or

9.3.9 appoint and discharge managers, agents, officers and employees for any of the purposes referred to in this clause 9.3; and/or

9.3.10 institute, continue, enforce, defend, settle or discontinue any actions, suits or proceedings in relation to the Charged Assets or any part thereof or submit to arbitration as he may think fit; and/or

9.3.11 delegate his powers in accordance with clause 12 (Delegation); and/or

9.3.12 sign any document, execute any deed and do all such other acts and things as may be considered by him to be incidental or conducive to any of the matters or powers referred to in this clause 9.3 or to the realisation of the Security created by or pursuant to this Deed and to use the name of the Chargor for all the purposes referred to in this clause 9.3.

9.4 Remuneration

The Chargee may from time to time determine the remuneration of any Receiver and section 109(6) of the LPA shall be varied accordingly.

10 Application of proceeds

All moneys received by the Chargee or by any Receiver shall be applied, after the discharge of the remuneration and expenses of the Receiver and all liabilities having priority to the Secured Liabilities, in or towards satisfaction of such of the Secured Liabilities and in such order as the Chargee in its absolute discretion may from time to time conclusively determine, except that the Chargee may credit the same to a suspense account for so long and in such manner as the Chargee may from time to time determine and the Receiver may retain the same for such period as he and the Chargee consider expedient.

11 Protection of third parties

No purchaser or other person dealing with the Chargee or a Receiver shall be bound or concerned to enquire whether any power exercised or purported to be exercised under this Deed has become exercisable or whether any money is due on the security of this Deed or as to the propriety or regularity of any sale by, or other dealing with, the Chargee or such Receiver or be concerned with notice to the contrary. Any such sale or dealing shall be deemed to be within the powers conferred by this Deed and to be valid and effectual accordingly.

12 Delegation

The Chargee and any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed. Any such delegation may be made on the terms (including power to sub-delegate) and subject to any regulations which the Chargee or such Receiver (as the case may be) may think fit. Neither the Chargee nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

13 Indemnities

13.1 All costs charges and expenses properly and reasonably incurred by the Chargee in relation to this Deed or the monies and liabilities hereby secured shall be reimbursed by the Chargor to the Chargee promptly on demand.

13.2 The Chargee and every Receiver attorney or other person appointed by the Chargee under this Deed and their respective employees shall be entitled to be indemnified on a full

indemnity basis out of the Charged Assets in respect of all liabilities and expenses properly and reasonably incurred by any of them directly or indirectly as a result of the exercise or purported exercise of any of the powers authorities or discretions vested in them under this Deed and against all actions proceedings losses costs claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets and the Chargee and any such Receiver may retain and pay all sums in respect of the same out of the monies received under the powers conferred by this Deed.

14 Power of attorney

14.1 The Chargor irrevocable appoints the Chargee any Receiver and any person nominated by the Chargee jointly and also severally to be the attorney of the Chargor with the power of substitution and in its name and otherwise on its behalf and as its act and deed to sign or execute all deeds, instruments and documents which the Chargee or any Receiver may require or deem proper for any of the purposes of or which the Chargor ought to do in connection with the Property under this Deed. The Chargor agrees to ratify and confirm anything such attorney shall lawfully and properly do **provided that** such appointment shall lapse automatically upon the discharge of this Deed.

14.2 The Chargor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney pursuant to this clause 14 (Power of attorney) shall properly do, or purport to do, in the exercise of his powers under this clause 14 (Power of attorney).

15 Miscellaneous

15.1 Continuing security

This Deed and the obligations of the Chargor under this Deed shall:

15.1.1 secure the ultimate balance of the Secured Liabilities and shall be a continuing Security notwithstanding any settlement of account or other matter whatsoever;

15.1.2 be in addition to, and not prejudice or affect, any present or future collateral instrument, Security, right or remedy held by or available to the Chargee; and

15.1.3 not merge with, or be in any way prejudiced or affected by the existence of, any such collateral instrument, Security, right or remedy.

15.2 Settlements conditional

Any settlement or discharge between the Chargee and the Chargor shall be conditional on no Security granted to, or disposition or payment to, the Chargee (whether by the Chargor or otherwise) being avoided or reduced as a result of insolvency or any similar event and the Chargee shall be entitled to recover the value or amount of any such Security or payment from the Chargor and to enforce this Deed as if such settlement on discharge had not occurred.

15.3 Land Registry

In respect of any property, the title to which is or is to be registered at the Land Registry, the Chargor consents to an application being made to the Chief Land Registrar for registration of a restriction on the register of each property (and any unregistered properties subject to compulsory first registration at the date of this Deed) in 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 16 November 2021 in favour of Sage Housing Limited referred to in the charges register or their conveyancer"

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15.4 No responsibility for loss

Neither the Chargee nor any Receiver shall be responsible for any loss occasioned by the timing of the exercise of its powers under this Deed.

15.5 No liability as mortgagee in possession

Neither the Chargee nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Assets or be liable for any loss on realisation or for any neglect or default of any nature whatsoever for which a mortgagee in possession may be liable.

15.6 Other Security

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

16 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction will in any way be affected or impaired.

17 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Chargee, any right or remedy available to it under this Deed or otherwise in respect of the Secured Liabilities shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise of or exercise of any other right or remedy. The rights and remedies provided in this Deed and in any other agreement providing for or entered into in connection with the Secured Liabilities are cumulative and not exclusive of any rights or remedies provided by law.

18 Notices

Any demand or notice under this Deed shall be in writing signed by any manager or officer of the Chargee and may be served personally on any committee member or the secretary of the Chargor or may be sent by post or may be delivered to the registered office of the Chargor or its last known place of business. If such demand or notice is sent by post it shall be deemed to have been received on the day following the day on which it

was posted and shall be effective notwithstanding that it was not in fact delivered or was returned undelivered.

19 Calculations and certificates

19.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Chargee are prima facie evidence of the matters to which they relate.

19.2 Certificates and determinations

Any certification or determination by the Chargee under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

19.3 No set-off by the Chargor

All payments to be made by the Chargor under this Deed shall, subject to the terms of the Sale and Development Agreement, be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

20 Set-off

The Chargee may set off any matured obligation due from the Chargor against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purposes of the set-off.

21 Assignment

21.1 The Chargee may at any time assign or otherwise transfer all or any part of its rights and obligations under this Deed or any Security created by or under it.

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

22 Permitted Disposals

The Chargee covenants with the Chargor that whenever reasonably requested by the Chargor the Chargee will within 10 Business Days of the date of the Chargor's request execute and deliver to the Chargor an appropriate consent and/or where necessary a release (being an executed Land Registry Form DS3 and/or RX4 or such other form or method which may be required from time to time pursuant to the appropriate Land Registry Rules then applying) in respect of any Permitted Disposal.

23 Release

At the end of the Security Period, the Chargee shall, at the request and cost of the Chargor, execute and deliver to the Chargor a Discharge and take whatever action is necessary to release the Property from the security constituted by this Deed and make all necessary applications to the Land Registry, Companies House and/or the Financial Conduct Authority for the removal of the Legal Charge from the Property and/or to record the satisfaction, removal or discharge of the Legal Charge from the Property as appropriate.

24 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

25 Charity

The Property is held by (or on trust for) the Chargor, an exempt charity.

26 Governing law

This Deed shall be governed by, and construed in accordance with, English law and all claims and disputes between the Parties arising out of or in connection with this Deed (whether or not contractual in nature) shall be determined in accordance with English law.

If in any court either Party argues that a court other than the courts of England and Wales has jurisdiction to determine a dispute or difference between the Parties arising out of or in connection with this Deed that issue shall be determined in accordance with English law and each Party irrevocably and unconditionally waives any right it might otherwise have to rely upon the law of the forum or any other law.

This Deed has been entered into at the date stated at the beginning of this Deed.

SCHEDULE 1 Property

Address	Leasehold/Freehold	Title Documents	Title Number
Land on the west side of Park Road, Hellingly, Hailsham	Freehold	All documents referred to on the official copy of register of title for title number ESX197808	ESX197808

Signatories

Chargor

Signed as a deed by affixing the common seal)
of)
Optivo)
in the presence of:)
)
) Authorised signatory

Authorised signatory

Chargee

Signed as a deed by affixing the common seal)
of)
Sage Housing Limited)
in the presence of:)
) Authorised signatory

Authorised signatory

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of)
Sage Housing Limited)
in the presence of:)
)
) Authorised signatory

Authorised signatory



Recording a charge

Section 1 – About this form

Use this form to record a charge under the Co-operative and Community Benefit Societies Act 2014 (including credit unions); or Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (excluding credit unions).

Part 5 of the Co-operative and Community Benefit Societies Act 2014 enables charges over the assets of a society to be recorded with us. For English and Welsh societies, fixed or floating charges can be recorded. For Scottish societies, only floating charges can be registered. Section 29 of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 enables charges (fixed or floating) over the assets of a society to be recorded with us.

Use this form to record a charge. If you complete the form correctly and send it to us in time with a copy of the charge, we will record the charge as appropriate and send you a formal notification.

Send this application form and the instrument to us within 21 days (including the date of signing) of the date the charge document was signed.

We have the discretion to extend the 21 day deadline where it has been missed by reason of inadvertence or other sufficient cause. Further information is provided in this form.

For information about our approach to charges under the Co-operative and Community Benefit Societies Act 2014 please see our guidance at http://www.fca.org.uk/static/documents/fg15-12.pdf

Please note that this form, including any details provided on the form, will be made available to the public through the Mutuals Public Register: https://mutuals.fca.org.uk.

Section 2 – About this application

2.1 What is the name and register number of your society?

Society name	Optivo
Register number	7561

2.2 Who can we contact about this application?

Name	Michelle Pascua
Role	**Trainee Solicitor**
Email address	**Michelle.Pascua@devonshires.co.uk**
Phone number	**020 7065 1815**

Section 3 – About the charge

3.1 Which of the following are you asking us to do?

Record a charge (not available for societies in Scotland) ☒

Register a floating charge (Scottish societies only) ☐

3.2 Who are the parties to the charge?

Name	Optivo
Name	Sage Housing Limited
Name	
Name	

3.3 What date was the charge executed?

1	6	1	1	2	0	2	1

3.4 Please confirm you have attached a certified copy of the charge:

Certified copy of the charge attached ☒

3.5 Has the application been submitted within the 21 day limit?

Yes ☒

No ☐ Please provide reasons below

To decide if we can extend the registration period we need to know the reasons for the late application. Your answer should explain why the application was submitted late. Please ensure you provide sufficient information for us to

determine whether the application is late by reason of inadvertence or some other sufficient cause.

Section 4 – Declaration

Please ensure this form is signed by one of the following:

- The secretary of the society or credit union; or
- A solicitor acting on behalf of the society or credit union; or
- A person interested in the charge on behalf of the society or credit union.

Name	**Alice Overton**
My signature below confirms that the information in this form is accurate to the best of my knowledge	
Signature 	
Position	**Partner**
Date	**24/11/2021**

Section 5 – Submitting this form

Please submit a signed, scanned version of your application by email to: mutual.societies@fca.org.uk

Or please submit by post to:

Mutual Societies
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

This form is available on the **Mutuals Society Portal**:
https://societyportal.fca.org.uk

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