



Registration of a Charge

Company name: **KIER LIVING LIMITED**

Company number: **00775505**



X4D242CI

Received for Electronic Filing: **04/08/2015**

Details of Charge

Date of creation: **21/07/2015**

Charge code: **0077 5505 0042**

Persons entitled: **THE RICHBOROUGH ESTATES PARTNERSHIP LLP
JOHN ERNEST ATHERTON
JOYCE BRERETON**

Brief description: **THE PROPERTY KNOWN AS LAND AT GATEWAY AVENUE, BALDWINS
GATE, NEWCASTLE-UNDER-LYME, STAFFORDSHIRE, ST5 5PD BEING
ALL OF THE LAND REGISTERED AT THE LAND REGISTRY WITH
FREEHOLD TITLE ABSOLUTE UNDER TITLE NUMBER SF603952**

Contains fixed charge(s).

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:

RACHEL SEATON



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 775505

Charge code: 0077 5505 0042

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st July 2015 and created by KIER LIVING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th August 2015 .

Given at Companies House, Cardiff on 5th August 2015

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**

I hereby certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.



RACHEL BENTON
SOLICITOR
SHOOSMITHS LLP

◆ Gateley Plc

DATED

21 July

2015

- (1) KIER LIVING LIMITED
- (2) THE RICHBOROUGH ESTATES PARTNERSHIP
LLP, JOHN EARNEST ATHERTON and JOYCE
BRERETON

LEGAL CHARGE

over land to at Gateway Avenue, Baldwins Gate,
Newcastle-Under-Lyme, Staffordshire, ST5 5PD

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DATE:

21 July

2015

PARTIES:

- (1) **KEIR LIVING LIMITED** (Company Registration Number 00775505) of Tempsford Hall, Sandy, Bedfordshire SG19 2BD and whose address for correspondence is Kier Living Limited Tungsten Building Blythe Valley Business Park Solihull B90 8AU (hereinafter known as the "**Chargor**")
- (2) **THE RICHBOROUGH ESTATES PARTNERSHIP LLP** (Company Number OC375183) whose registered office is situate at Waterloo House, 20 Waterloo Street, Birmingham, B2 5TB and **JOHN ERNEST ATHERTON** of 1 Hawthorne Cottages, Madeley Road, Baldwin's Gate, Newcastle-under-Lyme ST5 5ES and **JOYCE BRERETON** of Bridge Farm, Knighton, Market Drayton, TF9 9HS (hereinafter together known as the "**Chargee**")

1. DEFINITIONS AND INTERPRETATION

1.1 In this Legal Charge the following definitions will apply:

Affordable Housing

has the meaning given to that term in Annex B of Planning Policy Statement 3 and any other guidance amending or replacing the same but including housing subject to restriction in respect of occupiers or tenure or carrying any subsidy for land or building cost or housing required to be transferred to or managed by a local authority registered social landlord society association charity or similar body or housing intended to be affordable by persons on low incomes;

Business Day

any day (other than a Saturday, Sunday or public holiday) during which clearing banks in the City of London are open for normal business;

Charged Assets

the Charged Property and any other assets from time to time charged by or pursuant to this Legal Charge (and references to the Charged Assets shall include any part of them);

Charged Property

the part of the Property shown edged red and blue on the attached Plan until payment of the Second Payment and thereafter excluding the area shown coloured red on the Plan less in respect of the Charged Property from time to time any parts which become the subject of a Release;

Chargor's Deferred Payment

a sum equal to the Second Payment and the Third Payment plus Interest in the Event of Default;

Chargee's Solicitors

such solicitor or solicitors that the Chargee (or any one of them) may nominate from time to time;

Chargor's Solicitors

such solicitor or solicitors that the Chargor (or any one of them) may nominate from time to time;

Contract

the contract for the sale of the Property dated 7 July 2015 made between The Richborough Estates Partnership LLP (1) the Chargor (2) and John Ernest Atherton, Joyce Brereton, Diana Mary Atherton, John Richard Atherton and Amanda Susan Atherton (3);

Development

the development of the Property in accordance with the Planning Permission and Section 106 Agreement;

Dispose or Disposal

- (a) any transfer or assent or a lease for a term in excess of 21 years;
- (b) any Disposition;

Disposition

has the meaning given to the term by Section 205(1) of the Law of Property Act 1925 (save that for the avoidance of doubt the term 'conveyance' given by Section 205(1) of the Law of Property Act 1925 shall include a transfer) and also includes any disposition as set out in Section 27 of the Land Registration Act 2002

Default Notice

a notice served in accordance with clause 10 upon the Chargor (following expiry of a period of 10 Business Days after notice has been served upon the Chargor requiring the Chargor to pay any unpaid sum without payment being made) and confirming the power under this Legal Charge which will be exercised if payment of the sum due together with the amount of any Interest due specified in the Default Notice is not paid within 10 Working Days of service of the Default Notice;

Encumbrance

a fixed or floating mortgage or charge;

Event of Default

- (a) the Chargor fails to pay the relevant Secured Liabilities in accordance with the terms of the Contract following service of a Default Notice; and/or
- (b) any of the following occurs:
 - (i) the winding-up, dissolution, administration or reorganisation (other than by way of voluntary arrangement or a scheme of arrangement of the Chargor; or
 - (ii) the appointment of a liquidator, receiver, conservator, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Chargor or any of its assets; and/or
- (c) the making of a request by the Chargee for the appointment of a Receiver;

Interest

Interest at the rate of 3% above the base lending rate from time to time of Barclays Bank plc which shall be included within the definition of Secured Liabilities should payment of the relevant amount of the Chargor's Deferred Payment not be made on the due date;

LPA

the Law of Property Act 1925;

Material

all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, calculations, data, databases, schedules, programmes, bills of quantities, budgets and any other materials provided in connection with the Works and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to the Works;

Media

all pipes, gutters, drains, sewers, wires, cables and related apparatus to carry Utilities;

Nominated Account

the client account of Gateley Plc Solicitors or the client account of such other Solicitors regulated by the Solicitors Regulation Authority (or its successor) as shall be notified in writing by the Chargee to the Chargor;

Permitted Disposal

- (a) the Disposal dedication or adoption of any part of the Property or Media or other service within the Property and/or any rights over any part of the Property to or in favour of any statutory undertaking, utility company, local authority or similar body for the provision and adoption of services sewers or other infrastructure; and/or
- (b) the dedication/adoption and/or Disposal of any parts of the Property and/or the grant of rights or easements to the highway or other competent authority for roads, footpaths, cycleways (together with ancillary areas and rights) or other highway works in relation to the adoption of such roads, footpaths, cycleways (together with ancillary areas and rights) or other highway works including any agreement made under sections 38 or 278 of the Highways Act 1980; and/or
- (c) the Disposal of any part of the Property which is required to comply with the requirements of any Works Agreement; and/or
- (d) the Disposal of any part of the Property as common parts, open space, amenity land or similar to the local authority, a management company or similar or the Disposal of land intended for use as an electricity substation, transformer chamber, gas governor, pumping station or similar infrastructure; and/or
- (e) the Disposal of Affordable Housing Unit(s) in relation to any ancillary area within the Charged Property required by the Planning Permission or any Section 106 Agreement for Affordable Housing Units and any ancillary areas;
- (f) the Disposal of the freehold reversion of any building or Unit on the Property which Unit has been the subject of a sale pursuant to a Release; and/or
- (g) the Disposal of any building or Unit on the Property in respect of which the Chargor has been given a Release; and/or
- (h) Subject to the payment of the Release Fee any Disposal to an associated company of the Chargor where the Disposal is of a Unit or part of a Unit which has been constructed or is in the course of construction where the Disposal is made only to facilitate the Disposal by way of the grant of a lease of another Unit for example (but not limited to) Disposal by way of the grant of a lease of a garage under a coach house or of a first floor maisonette over a ground floor maisonette; and/or
- (i) the grant of any easement;

Planning Permission

the planning permission dated 12 January 2015 granted on appeal reference APP/P3420/A/14/2218530 together with any reserved matters approval renewal substitution variation or replacement thereof or supplement or addition thereto;

Plan

the plan or plans attached to this Legal Charge at Appendix 1 and reference to a numbered plan shall be to the plan so numbered at Appendix 1;

Professional Team

the Architect, the Principal Designer, the Quantity Surveyor the Employer's Agent, the Structural Engineer and any other specialist advisors or sub-consultants that may be appointed for the time being in connection with the design or management of the Works on the Charged Property;

Projections

eaves, roofs, gutters, spouts, downpipes, chimneys, foundations and anything similar;

Property

the Property described in Schedule 1;

Receiver

any receiver, manager or receiver and manager appointed by the Chargee under this Legal Charge;

Release

a form DS3 or form DS1 or such other form as shall be appropriate to release (when dated) the Charged Property or any interest in the Charged Property or any part of parts of the Charged Property from this Legal Charge;

Release Fee

a sum per Unit in respect of which a Release has been requested pursuant to clause 6.2 calculated in accordance with the following formula:

$$X = A \times \left(\frac{B}{C} \right)$$

Where:

A is the balance of the Chargor's Deferred Payment which at the relevant time remains unpaid;

B is the number of Units comprised in the part of the Charged Property in respect of which a Release is sought by the Chargor; and

C is the total number of Units which at the relevant time remain subject to this Legal Charge;

Second Payment

£2,691,667.00 (two million six hundred and ninety one thousand six hundred and sixty seven thousand pounds);

Second Payment Date

the first Business Day six months after the date of this Legal Charge;

Section 106 Agreement

any agreement pursuant to Section 106 Agreement of the Town and Country Planning Act 1990 from time to time relating to any Planning Permission;

Secured Liabilities

the Chargor's obligation to pay all outstanding amounts of the Chargor's Deferred Payment together with Interest (if any);

Third Payment

£2,691,667.00 (two million six hundred and ninety one thousand six hundred and sixty seven thousand pounds);

Third Payment Date

the first Business Day 12 months after the date of this Legal Charge;

Uncharged Property

the Property excluding the extent of the Charged Land at the relevant time;

Unit

a single dwelling (or the intended site of a single dwelling) including any curtilage together with associated private driveways, garage or access (being a house, flat, maisonette, bungalow or other construction intended for residential use) erected or to be erected on some part of the Property;

Works

the residential development being undertaken on the Property;

Works Agreement

all or any of the following as the case may be:

- (a) an 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 and/or the Highways Act 1980 Section(s) 38 and/or 278 and/or the Water Industry Act 1991 Section 104 or any provision to similar intent or an agreement with a water undertaker or a drainage undertaker (within the meaning of the Water Industry Act 1991) 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 an agreement otherwise required to be entered into in connection with the Planning Permission; and/or
- (b) a planning obligation (whether entered into by agreement or otherwise) in respect of and affecting the Property (whether or not also affecting other property) pursuant to Section 106 of the Town and County Planning Act 1990 ; and/or
- (c) a Unilateral Undertaking dated 14 November 2014 referred to in the Planning Permission and any substitute planning obligation or variation of it from time to time.

1.2 In this Legal Charge, a reference to:

- 1.2.1 a clause or a schedule is, unless otherwise stated, a reference to a clause of, or a schedule to, this Legal Charge;
- 1.2.2 a paragraph is, unless otherwise stated, a reference to a paragraph of a schedule;
- 1.2.3 a statutory provision includes a reference to that statutory provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this Legal Charge;
- 1.2.4 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- 1.2.5 a party means a party to this Legal Charge and a reference to the "Chargor", the "Chargee" or a party includes its assignees and/or the successors in title to substantially the whole of its undertaking and, in the case of an individual, to his estate and personal representatives;
- 1.2.6 a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established; and
- 1.2.7 the Property or the Charged Property includes any part or parts of them.

1.3 The schedules form part of this Legal Charge and have the same effect as if expressly set out in the body of this Legal Charge and shall be interpreted and construed as though they were set out in this Legal Charge.

1.4 The contents table and headings in this Legal Charge are for convenience only and do not affect the interpretation or construction of this Legal Charge.

1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.

1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

- 1.7 Whenever a party is more than one person, all their obligations can be enforced against all jointly and against each individually.

2. COVENANT TO PAY

The Chargor covenants with the Chargee that it will pay or discharge the Secured Liabilities in accordance with the Contract on the Second Payment Date and the Third Payment Date and if not Interest shall accrue and shall fall to be payable on the amount due and payable but not paid from the date payment was due until the date payment is made and pay Interest on any amount which is not paid under this Deed from the date it is due until the date on which such amount is unconditionally and irrevocably paid and discharged in full

3. CHARGES

3.1 Fixed Charges

As a continuing security for the payment of the Secured Liabilities and the sums payable pursuant to clause 2, the Chargor hereby, with full title guarantee, charges, and agrees to charge by way of first legal mortgage, the Charged Assets together with all buildings and fixtures on the Charged Property at any time which belong to the Chargor.

3.2 Extent of Security

- 3.2.1 It is agreed that this Legal Charge is intended to be the sole security which is held by the Chargee over the Charged Property for the Secured Liabilities and the Chargee shall have no equitable charge or lien pursuant to the Contract.
- 3.2.2 Nothing in this Legal Charge shall prevent restrict or otherwise limit the Development of the Property by the Chargor in accordance with the Planning Permission and any related Section 106 Agreement and/or Works Agreement and disposals by way of Permitted Disposals.

4. COVENANTS BY CHARGOR

The Chargor covenants with the Chargee:

4.1 Incumbrances

Not to create nor permit any incumbrance or further mortgage or charge upon the Charged Property without the previous written consent of the Chargee.

4.2 Insurance

- 4.2.1 To insure or procure that the buildings and works on the Charged Property (whether completed or in the course of construction) are kept insured in their full reinstatement value from time to time and any professional fees which may be incurred in or about repair, rebuilding or reinstatement) against loss or damage by such risks as are covered:
- (a) in respect of any buildings or works under construction: under a contractor's all risks insurance policy; or
 - (b) in respect of completed buildings and works: under a comprehensive insurance policy for buildings or works of a similar nature;
- and to pay the premiums as and when they become due and when requested to deliver to the Chargee a copy of the policy of insurance and the receipt for each premium.
- 4.2.2 If the Chargor fails to perform any of its obligations under this sub-clause the Chargee may effect such insurance on the Charged Property as the Chargee considers appropriate and the Chargor will on demand repay to the Chargee all payments made by it for that purpose together with Interest from the date when the Chargee incurred the same until repayment by the Chargor.
- 4.2.3 Any money received under any policy of insurance effected or maintained by the Chargor will at the option of the Chargee be applied either in making good the loss or damage in respect of which it was received or in or towards

discharge of the Secured Liabilities and if received by the Chargor will be held on trust for the Chargee for this purpose.

5. STATUTORY REQUIREMENTS

To comply with all Statutory Requirements for the time being in force applicable to the Charged Property.

6. RESTRICTIONS AND WORKS AGREEMENTS

6.1 The Chargor agrees with the Chargee that it will not, without the Chargee's prior written consent Dispose or agree to Dispose of any Charged Assets except to the extent that such Disposal is a Permitted Disposal Provided That:

6.1.1 the Chargee will not unreasonably withhold or delay consent to the creation of an Encumbrance over the Charged Property which is postponed to the Secured Liabilities;

6.1.2 the Chargee will not withhold or delay consent to creation of an Encumbrance in respect of any charge over the Charged Property required by the Homes and Communities Agency or its successor agency or other relevant authority (including any local authority) in connection with any grant funding or similar public or public agency backed funding provided in relation to the Development;

6.1.3 no consent shall be required to the inclusion of the Property including the Charged Property within the assets charged by any debenture and/or floating charge.

6.2 Not to dispose of any Charged Assets specified at paragraphs (e) (f) and (g) of the definition of a Permitted Disposal without paying the Release Fee but the Chargor shall be permitted to dispose of up to 12 Affordable Housing Units as a Permitted Disposal without paying the Release Fee

6.3 The Chargor consents to the Chargee applying to the Land Registry in form RX1 to register the following restriction against each of the titles specified in Schedule 1 or which is the subject of first registration of title:

"RESTRICTION

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 certificate signed by the proprietor for the time being of the charge dated [●] in favour of The Richborough Estates Partnership LLP, John Earnest Atherton and Joyce Brereton referred to in the charges register (or their conveyancer) or, by a certificate given by a conveyancer stating that the disposition is a Permitted Disposal as defined by the Charge dated [●] in favour of The Richborough Estates Partnership LLP, John Earnest Atherton and Joyce Brereton referred to in the charges register."

6.4 The Chargee shall within 15 Business Days (time being of the essence) of request consent to and join in any Works Agreement in a form approved by the Chargee (acting reasonably) in its capacity as chargee only and shall release from this Legal Charge such parts of the Charged Property as are required to procure the adoption dedication or transfer of any land required under the Works Agreement or for the provision of infrastructure on the Property and the Chargee and its successors in title shall indemnify and keep the Chargor and their estates and effects fully indemnified against all actions, proceedings, claims, demands, losses, costs, expenses, damages and liabilities whatsoever arising from the breach, non-observance or non-performance of the covenants, conditions and restrictions referred to in any such Works Agreement.

7. DISCHARGE

7.1 Within 10 Business Days after the payment of the Chargor's Deferred Payment the Chargee will give to the Chargor such form of Release as shall be appropriate to release the Charged Property as set out in clause 5.2 and the restriction created pursuant to Clause 4.2 (together with any relevant Land Registry form(s)).

7.2 The Chargor may at any time or times in advance of payment of the Chargor's Deferred Payment by not less than 10 Business Days' notice to the Chargee request the issue of Releases executed by the Chargee for such parts of the Charged Property as the Chargor may require, such request to be accompanied by the form of Release required to be executed and payment to the Chargee of the Release Fee by way of cleared funds. Each payment of a Release Fee shall be treated as part payment of the next instalment of the Chargor's Deferred Payment and reduce the amount due to the Chargee on the Deferred Payment Date.

7.3 The Chargor may request that the Chargee shall execute and deliver to the conveyancers acting for the Chargor on demand (to be held ready for delivery if required by the conveyancers acting for the Chargor subject to the conveyancers providing any undertaking reasonably required in respect of such delivery including if applicable an undertaking not to treat a Release as delivered until the required payment has been transferred to the Nominated Account) any documents and/or provide any written consents (including for the avoidance of doubt consent in accordance with or withdrawal of any restriction in the proprietorship register of the registered title if required by the Land Registry) in relation to any Permitted Disposal in its capacity only as mortgagee of the Charged Property and free of cost to the Chargor

7.4 The Chargee agrees to execute Releases for Permitted Disposals without charge and agrees to deliver the same within 10 Business Days of receipt of request from the Chargor provided that any such request shall include the form of Release required to be executed.

7.5 Any payment to the Chargee required in accordance with this Legal Charge shall be held to have been paid upon transfer to the Nominated Account and the Chargor shall have no obligation to make any other form of payment or separate payments to the persons constituting the Chargee.

8. REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Chargee that:

8.1 Incorporation

It is a limited company duly organised, validly existing and registered under the relevant laws of the jurisdiction in which it is incorporated and has the power and all necessary governmental and other consents, approvals, licences and authorities to own the Charged Assets.

8.2 Authority

It is empowered to enter into and perform its obligations contained in this Legal Charge and has taken all necessary action to authorise the execution, delivery and performance of this Legal Charge, to create the security to be constituted by this Legal Charge and to observe and perform its obligations under this Legal Charge.

8.3 Obligations binding

This Legal Charge as executed and delivered constitutes and will constitute its legal, valid and binding obligations.

9. ENFORCEMENT OF SECURITY

The security constituted by this Legal Charge shall become enforceable 1 Business Day following the occurrence of an Event of Default and the power of sale and other powers conferred by section 101 LPA, as varied or amended by this Legal Charge, shall be exercisable. After the security constituted by this Legal Charge has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the security constituted by this Legal Charge in such manner as it sees fit.

10. APPOINTMENT AND POWERS OF RECEIVER

10.1 At any time after the security constituted by this Legal Charge becomes enforceable or if so requested by the Chargor by written notice at any time, the Chargee may:

10.1.1 appoint any person (or persons) to be a Receiver of all or any part of the Charged Assets of the income from any Charged Assets; and/or

- 10.1.2 exercise in respect of all or any of the Charged Assets all or any of the powers and remedies given to mortgagees by the LPA, including the power to take possession of, receive the benefit of, or sell any of the Charged Assets;
- none of the restrictions imposed by the LPA in relation to the appointment of Receivers or as to the giving of notice or otherwise shall apply.
- 10.2 The Chargee may remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated for whatever reason.
- 10.3 **Powers Additional to Statutory Powers**
- 10.3.1 Any Receiver appointed by the Chargee under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clauses 10.4 to clause 10.22.
- 10.3.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- 10.3.3 Any exercise by a Receiver of any of the powers given by clause 10 may be on behalf of the Chargor, the directors of the Chargor or himself.
- 10.4 **Repair and Develop the Charged Property**
- A Receiver may undertake or complete any works of repair, alteration, building or development on the Charged Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.
- 10.5 **Grant or Accept Surrenders of Leases**
- A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Charged Property on any terms and subject to any conditions that he thinks fit.
- 10.6 **Employ Personnel and Advisers**
- A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.
- 10.7 **Make and Revoke VAT Options to Tax**
- A Receiver may exercise or revoke any VAT option to tax that he thinks fit.
- 10.8 **Charge for Remuneration**
- A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Chargee may prescribe or agree with him.
- 10.9 **Realise Charged Property**
- A Receiver may collect and get in the Charged Property or any part of it in respect of which he is appointed and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Charged Property with like rights.
- 10.10 **Manage or Reconstruct the Borrower's Business**
- A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor carried out at the Charged Property.
- 10.11 **Dispose of Charged Property**
- A Receiver may grant options and licences over all or any part of the Charged Property, grant any other interest or right over, sell, assign or lease (or concur in granting options and licences over all or any part of the Charged Property, granting any other interest or right

over, selling, assigning or leasing) all or any of the Charged Property in respect of which he is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions that he thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be disposed of by him.

10.12 Sever Fixtures and Fittings

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of the Chargor.

10.13 Give Valid Receipts

A Receiver may give valid receipts for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Property.

10.14 Make Settlements

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient.

10.15 Bring Proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Property that he thinks fit.

10.16 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 12, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed.

10.17 Powers Under LPA

A Receiver may exercise all powers provided for in the LPA in the same way as if he had been duly appointed under the LPA and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

10.18 Borrow

A Receiver may, for any of the purposes authorised by this clause 9, raise money by borrowing from the Chargee (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on any terms that he thinks fit (including, if the Chargee consents, terms under which that Security ranks in priority to this deed).

10.19 Redeem Prior Security

A Receiver may redeem any prior Security and settle the accounts to which the Security relates. Any accounts so settled shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

10.20 Delegation

A Receiver may delegate his powers in accordance with this deed.

10.21 Absolute Beneficial Owner

A Receiver may, in relation to any of the Charged Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Charged Property or any part of the Charged Property.

10.22 Incidental Powers

A Receiver may do any other acts and things:

- 10.22.1 that he may consider desirable or necessary for realising any of the Charged Property;

- 10.22.2 that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- 10.22.3 that he lawfully may or can do as agent for the Chargor.

11. GRANT OF EASEMENTS AND ANCILLARY ISSUES

- 11.1 On any sale of the Charged Property or any part of it by the Chargee or a Receiver pursuant to the powers conferred by this Legal Charge, the Chargor will (at its own cost) on demand enter into such deed of easement as the Chargee requires to grant to the purchaser or other disponent the rights for the benefit of the Charged Property over the Uncharged Property set out in Schedule 2 and such other rights as may be reasonably required for the beneficial use and enjoyment of the Charged Property (including but not limited to use for residential development) and the Chargor will (at its own cost) on demand enter into such adoption agreements and/or deeds of easement as the Chargee or the relevant utilities supplier may require in respect of the utilities.
- 11.2 If the Chargor fails to execute any deed of easement or adoption agreement in accordance with its obligations in clause 10.1, the Chargor hereby irrevocably appoints the Chargee its attorney by way of security to execute the relevant deed.
- 11.3 On any sale of the Charged Property or any part of it by the Chargee or a Receiver pursuant to the powers conferred by this Legal Charge, the Chargor will (at its own cost) on demand procure the grant of collateral warranties in a form acceptable to the Chargee (acting reasonably) from each member of the Professional Team in favour of the Chargee or as the Chargee directs
- 11.4 On any sale of the Charged Property or any part of it by the Chargee or a Receiver pursuant to the powers conferred by this Legal Charge, the Chargor will (at its own cost) on demand procure the grant of an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any Material prepared by or on behalf of the relevant member of the Professional Team for any purpose relating to the Works. Such licence shall:
- 11.4.1 carry the right to grant sub-licences and shall be transferable to third parties without the consent of the Developer or the relevant member of the Professional Team; and
- 11.4.2 provide that the relevant member of the Professional Team has no liability for use of the Material for any purpose other than that for which it was prepared and/or provided.

12. PROTECTION OF THIRD PARTIES

No purchaser from or other person dealing with the Chargee or with any Receiver shall be obliged or concerned to enquire whether the right of the Chargee to appoint a Receiver or the right of the Chargee or any Receiver to exercise any of the powers conferred by this Legal Charge in relation to the Charged Assets or any part of the Charged Assets has arisen or become exercisable by the Chargee or by any such Receiver, nor be concerned with notice to the contrary, nor with the propriety of the exercise or purported exercise of any such powers and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.

13. COSTS AND INDEMNITY

13.1 Costs

The Chargor shall, within five Business Days of demand, pay to, or reimburse, the Chargee and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Chargee, any Receiver or any person appointed as attorney of the Chargee or Receiver (Attorney) in connection with:

- 13.1.1 this deed or the Charged Property;

13.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Chargee's, a Receiver's or an Attorney's rights under this deed; or

13.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with Interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding-up or administration of the Chargor).

13.2 Indemnity

13.2.1 The Chargor shall indemnify the Chargee, each Receiver and each Attorney, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Chargor in performing any of its obligations under this deed.

13.2.2 Any past or present employee or agent may enforce the terms of this clause 13.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

14. ASSIGNMENT AND TRANSFER

Save in respect of a change in any individual or legal person acting in the capacity of a security trustee the Chargee may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this Legal Charge or any of its rights under this Legal Charge or purport to do any of the same without the prior written consent of the Chargor.

15. THIRD PARTY RIGHTS

15.1 Subject to clause 13.2, a person who is not a party to this Legal Charge shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or rely upon a provision of this Legal Charge. No party to this Legal Charge may hold itself out as trustee of any rights under this Legal Charge for the benefit of any third party unless specifically provided for in this Legal Charge. This clause 15.1 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999.

15.2 Any person to whom the benefit of any provision of this Legal Charge is assigned in accordance with the terms of this Legal Charge is entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Legal Charge which confers (expressly or impliedly) any benefit on any such person.

16. NOTICES

16.1 Any notice given pursuant to this Legal Charge ("notice") shall be made in writing and shall be treated as having been served if served in accordance with clause 16.2. Each notice may be delivered to the relevant party:

16.1.1 at its registered office; or

16.1.2 to the address set out after its name at the beginning of this Legal Charge (unless that party has by 10 Business Days' written notice to the other party or parties specified another address);

- 16.2 Service may be made on a party:
- 16.2.1 personally on any director or the company secretary;
 - 16.2.2 by leaving it at an address for service referred to in clause 14.1; or
 - 16.2.3 by sending it by prepaid first-class letter (or by airmail if to or from an address outside the United Kingdom) through the post to an address for service referred to in clause 14.1;
 - 16.2.4 Any Default Notice sent to the Chargor must be sent to the registered office of the Chargor and also to the address for correspondence of the Chargor at the beginning of this Legal Charge (or such other address as may be notified to the Chargee in accordance with this Legal Charge) clearly marked "For the urgent attention of the Commercial Director" and a copy sent to the Chargor's Solicitors.
- 16.3 Any notice shall be served or treated as served at the following times:
- 16.3.1 in the case of service personally or in accordance with clause 14.2.2, at the time of service; or
 - 16.3.2 in the case of service by post, at 9.00 a.m. on the second Business Day after it was posted or in the case of service to or from an address outside the United Kingdom, at 9.00 a.m. (local time at the place of destination) on the fourth Business Day after it was posted.
- 16.4 In proving service of a notice by post, it shall be sufficient to prove that such notice was correctly addressed, full postage paid and posted.
- 16.5 E-mail and fax are not valid forms of service under this Legal Charge.
17. **GENERAL**
- 17.1 No variation to this Legal Charge shall be effective unless made in writing and signed by or on behalf of all the parties to this Legal Charge. The Chargor and Chargee shall not be required to obtain the consent of any third party on whom a benefit is conferred under this Legal Charge to the termination or variation of this Legal Charge or to the waiver or settlement of any right or claim arising under it. A waiver given or consent granted by the Chargee under this Legal Charge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- 17.2 Each provision of this Legal Charge is severable and distinct from the others. If at any time any provision of this Legal Charge is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Legal Charge but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Legal Charge shall not be affected in any way.
- 17.3 If any provision of this Legal Charge is found to be illegal, invalid or unenforceable in accordance with clause 15.2 but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.
- 17.4 The failure or delay in exercising a right or remedy provided by this Legal Charge or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this Legal Charge or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.
- 17.5 The Chargee's rights and remedies contained in this Legal Charge are cumulative and not exclusive of any rights or remedies provided by law.
- 17.6 This Legal Charge may be executed in any number of counterparts each of which when executed and delivered shall be an original. All the counterparts together shall constitute one and the same document.
- 17.7 No lien will be created as a result of this Legal Charge over the Charged Property.

18. **GOVERNING LAW**

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

19. **JURISDICTION**

19.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Legal Charge (including a dispute relating to the existence, validity or termination of this Legal Charge or any non-contractual obligation arising out of or in connection with this Legal Charge) (a "**Dispute**").

19.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

IN WITNESS whereof the Chargor has duly executed this Legal Charge as a deed and it is delivered on the date first set out above.

SCHEDULE 1

Details of the Property

The property known as Land at Gateway Avenue, Baldwins Gate, Newcastle-under-Lyme, Staffordshire ST5 5PD being all of the land registered at the Land Registry with freehold title absolute under title number SF603952 and shown more particularly edged red on the Plan until payment of the Second Payment and thereafter being that part of the Property shown edged blue on the Plan.

SCHEDULE 2

Rights to be Granted

The following rights over the Uncharged Property in common with the Chargor and all others who have such or similar rights:

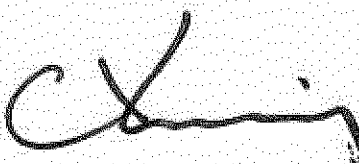
1. a pedestrian and vehicular right of way over the Uncharged Property at all times and for all purposes to gain access to and from the Charged Property and Stafford Road, provided that the Chargor (acting reasonably) may from time to time prescribe the route or routes over which the right is to be exercised.
2. to enter the Uncharged Property to make connections to the Media in the Uncharged Property and to install additional Media in the Uncharged Property.
3. to the supply of Utilities to and from the Charged Property by means of the Media in the Property.
4. to enter the Uncharged Property to build on, inspect, repair, maintain, renew and replace the Charged Property and the Media.
5. to keep and use Projections incidental to any building erected on the Charged Property which overhang or protrude beneath the Uncharged Property.
6. of support and protection afforded by the Uncharged Property for any building erected on the Charged Property.
7. All rights of entry are subject to the following conditions:
 - 7.1 entry can only be exercised so far as and to the extent that the purpose for which the right is exercised cannot reasonably be undertaken without such entry.
 - 7.2 entry shall not be exercised over the curtilage of any Units
 - 7.3 entry can only be exercised at reasonable times of the day after giving reasonable prior written notice (except in an emergency when no notice shall be required).
 - 7.4 entry can be exercised with and without workmen and appliances if necessary.
 - 7.5 anyone exercising a right of entry must do as little damage as possible and must make good or pay compensation for any damage that is done.
 - 7.6 the route of any additional Media to be laid shall first be agreed by the Chargor or (if different) the owner of the land through which it is to be laid (such agreement not to be unreasonably withheld or delayed).

CHARGOR

EXECUTED as a Deed

by **KIER LIVING LIMITED**

acting by a Director in the presence of:

)
)
) 

Director

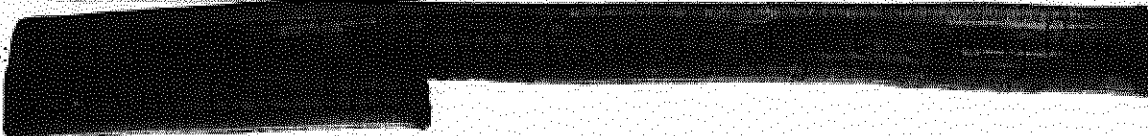
Witness Name:



Witness Signature



Witness Address:



CHARGE

EXECUTED as a Deed

By **THE RICHBOROUGH ESTATES**

PARTNERSHIP LLP acting by:

)
)
)

Partner

Partner

EXECUTED as a Deed

by **JOHN ERNEST ATHERTON**

in the presence of:

)
)
)

Witness Name:

Witness Signature

Witness Address:

CHARGOR

EXECUTED as a Deed)
by **KIER LIVING LIMITED**)
acting by a Director in the presence of:)

Director

Witness Name:

Witness Signature

Witness Address:

CHARGE

EXECUTED as a Deed)
By **THE RICHBOROUGH ESTATES**)
PARTNERSHIP LLP acting by:)



Partner



Partner

EXECUTED as a Deed)
by **JOHN ERNEST ATHERTON**)
in the presence of:)

Witness Name:

Witness Signature

Witness Address:

CHARGOR

EXECUTED as a Deed)

by **KIER LIVING LIMITED**)

acting by a Director in the presence of:)

.....
Director

.....
Witness Name:

Witness Signature

Witness Address:

CHARGE

EXECUTED as a Deed)

By **THE RICHBOROUGH ESTATES**)

PARTNERSHIP LLP acting by:)

.....
Partner

.....
Partner

EXECUTED as a Deed)

by **JOHN ERNEST ATHERTON**)

in the presence of:)

J E Atherton

Witness Name:

[REDACTED]

Witness Signature

[REDACTED]

Witness Address:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

EXECUTED as a Deed
by **JOYCE BRERETON**
in the presence of:

)
) *J Brereton*
)

Witness Name:

[REDACTED]

Witness Signature

[REDACTED]

Witness Address:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX 1

Plan

Kier House Types:

Affordable:		Total:		93 no. @ 102,527 ft ² / 9,524.8 m ²	
234	234	2 bed/semi	7 no. @	681 ft ² / 63.3 m ²	= 4,767 ft ² / 442.9 m ²
244	244	2 bed/semi	4 no. @	692 ft ² / 64.3 m ²	= 2,768 ft ² / 257.1 m ²
306	306	3 bed/detached	3 no. @	906 ft ² / 84.2 m ²	= 2,718 ft ² / 252.5 m ²
314	314	3 bed/semi	4 no. @	914 ft ² / 84.9 m ²	= 3,656 ft ² / 339.6 m ²
		Total:	18 no. @	13,909 ft² / 1,292.1 m²	

Private Sale Dwellings:	95 no. @	102,527 ft ²	/9524.8 m ²	(84%)
Affordable Dwellings:	18 no. @	13,909 ft ²	/1292.1 m ²	(16%)
Overall Total:	113 no. @	116,436 ft ²	/10816.9 m ²	

13.82c



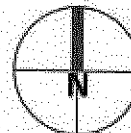
nicol thomas

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Client:	USA Group
Site:	Gateway Avenue, Salford Quays
Drawing title:	Site Layout Plan
Drawing Number: (Add number)	SB330 SK 01
Scale:	1:2500 @ A2
Date:	30.03.2018
Drawn by / checked by:	CAL