Companies House

MR01(ef)

Registration of a Charge

Company name: **HIGGINS HOMES PLC**

Company number: **00843093**

Received for Electronic Filing: **08/04/2020**

X92K2GNV

Details of Charge

Date of creation: **27/03/2020**

Charge code: **0084 3093 0258**

Persons entitled: **LONDON & CONTINENTAL RAILWAYS LIMITED**

Brief description: **THE REAL PROPERTY AS DEFINED IN THE CHARGE AND INCLUDING THE FREEHOLD LAND SHOWN EDGED RED ON THE PLAN ATTACHED TO THE CHARGE BEING PART OF THE LAND REGISTERED WITH TITLE NUMBER EGL557874 KNOWN AS PART OF PART OF ZONE 3, CHOBHAM FARM, LEYTON ROAD, STRATFORD, LONDON. SEE THE CHARGE FOR MORE DETAILS.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.

Certified by: **HERBERT SMITH FREEHILLS LLP**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 843093

Charge code: 0084 3093 0258

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th March 2020 and created by HIGGINS HOMES PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th April 2020 .

Given at Companies House, Cardiff on 9th April 2020

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

Companies House

REGISTRAR OF COMPANIES FOR ENGLAND AND WALES

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

HERBERT SMITH FREEHILLS

27 March 2020

HIGGINS HOMES PLC

as Chargor

\- and -

LONDON & CONTINENTAL RAILWAYS LIMITED

as Chargee

FIXED CHARGE

Herbert Smith Freehills LLP

TABLE OF CONTENTS

THIS CHARGE is made on 27 March 2020

BETWEEN:

(1) **HIGGINS HOMES PLC** whose registered office is at One Langston Road, Loughton, Essex IG10 3SD (Co. Regn. No. 00843093) (the **"Company"**); and

(2) **LONDON & CONTINENTAL RAILWAYS LIMITED** (a company registered in England and Wales with registration number 02966054) whose registered office is at 2nd Floor, 20 Cranbourn Street, London WC2H 7AA (the **"Chargee"**).

IT IS AGREED as follows:

1. DEFINITIONS, CONSTRUCTION AND THIRD PARTY RIGHTS

1.1 Definitions

Terms defined in the Agreement shall, unless otherwise defined in this Charge or unless a contrary intention appears, bear the same meaning when used in this Charge and the following terms shall have the following meanings:

1.1.1 **"Administrator"** means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the Company's affairs, business and property.

"Agreement" means a sale and purchase agreement relating to a freehold property known as part of Zone 3, Leyton Road, Chobham Farm, Stratford also known as land on the south east side of Temple Mill Lane, London dated 7 June 2019 and made between (1) the Company and (2) the Chargee as varied by a deed of variation dated 28 February 2020 and the Second Deed of Variation.

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

"Charged Assets" means the assets mortgaged, charged or assigned pursuant to Clause 3 (*Security*) from time to time.

"Enforcement Date" means the date which is:

(A) 10 Business Days after the date on which the Company fails to pay any of the Secured Liabilities on the due date for payment pursuant to clause 7.2 of the Agreement; and/or

(B) the date of breach by the Company of any of the obligations contained in Clause 5.1.1 *(Negative Pledge)*, Clause 5.1.2 (*Disposal and Management*) or Clause 6.2 hereof.

"Insurance Policies" means all present and future contracts or policies of insurance in which the Company has an interest or in which it may from time to time have an interest (whether solely, jointly, as loss payee or otherwise) relating to the Real Property (or any part thereof).

"Insurance Proceeds" means all monies from time to time payable to the Company under or pursuant to the Insurance Policies, including (without limitation) the refund of any premia other than in relation to loss of rent.

"LPA" means the Law of Property Act 1925.

"Planning Act" means the Town and Country Planning Act 1990 as amended from time to time.

"Real Property" means:

(A) all of the freehold property of the Company specified in Schedule 1 (*Property*) (being the "**Property**"); and

(B) any buildings, fixtures (including trade fixtures), fittings, fixed plant or machinery from time to time on or forming part of the property referred to in paragraph (A) above excluding any tenant's fixtures and fittings; and

(C) the Related Property Rights.

"Receiver" means any person appointed by the Chargee to be a receiver or receiver and manager or administrative receiver of any property subject to the security created by this Charge.

"Related Property Rights" means, in relation to the Real Property:

(A) the proceeds of sale and/or other realisation of that property or asset (or any part thereof or interest therein); and

(B) all Security, options, agreements, rights, easements, benefits, indemnities, guarantees, warranties or covenants for title in respect of such property or asset.

"**Second Deed of Variation**" means a second deed of variation to the Agreement dated the date hereof and made between the Company and the Chargee.

"Secured Liabilities" means all monies and payments due, owing or incurred by the Company pursuant to clause 7.2 of the Agreement.

"Security" means any mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect.

"Security Period" means the period from the date of this Charge until the date on which the Chargee has determined that all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.

"VAT" means United Kingdom Value Added Tax together with all interest and penalties relating thereto.

1.1.2 Unless a contrary intention appears, words defined in the Companies Act 2006 have the same meanings in this Charge.

1.2 **Construction and Third Party Rights**

1.2.1 Unless a contrary indication appears, any reference in this Charge to:

(A) the singular includes the plural and vice versa;

(B) the **"Chargee"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(C) **"assets"** includes present and future properties, revenues and rights of every description;

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

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

(F) a Clause or a Schedule is a reference to a clause of or schedule to this Charge;

(G) this Charge shall be construed as references also to any separate or independent stipulation or agreement contained in it;

(H) another agreement (including the Agreement) shall be construed as a reference to such agreement as the same may have been modified, extended, amended, varied or supplemented or novated from time to time;

(I) references to any form of property or asset (including a Charged Asset) shall include a reference to all or any part of that property or asset);

(J) references to companies shall include any other body corporate, partnership, limited partnership and/or unit trust; and

(K) the word "**including**" is without limitation.

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

1.2.3 The words "**other**", "**or otherwise**" and "**whatsoever**" shall not be construed ejusdem generis or be construed as any limitation upon the generality of any preceding words or matters specifically referred to.

1.2.4 No term of this Charge is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Charge.

1.3 **Implied Covenants for Title**

The obligations of the Company under this Charge shall be in addition to the covenants for title deemed to be included in this Charge by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

1.4 **Effect as a Deed**

This Charge is intended to take effect as a deed notwithstanding that the Chargee may have executed it under hand only.

1.5 **Law of Property (Miscellaneous Provisions) Act 1989**

To the extent necessary for any agreement for the disposition of the Charged Assets in this Charge to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Agreement and of any side letters between the parties to this Charge are incorporated into this Charge.

2. COVENANTS TO PAY

2.1 **Covenant to Pay Secured Liabilities**

The Company covenants that it shall on demand pay to the Chargee or discharge, as the case may be, all the Secured Liabilities as and when the Secured Liabilities become due.

2.2 **Potential Invalidity**

Neither the covenant to pay in Clause 2.1 (*Covenant to Pay Secured Liabilities*) nor the obligation to pay interest pursuant to Clause 2.3 (*Interest*) nor the security created by this Charge shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant or security to be unlawful under any applicable law.

2.3 **Interest**

2.3.1 The Company hereby agrees to pay to the Chargee, in respect of any amount demanded from it in accordance with this Charge (to the extent that interest on such amount is not otherwise being paid pursuant to the Agreement) interest from first demand by the Chargee of the Company at the rate of interest payable or deemed to be payable by the Company in respect of the amount demanded as calculated and compounded in accordance with the Agreement with respect to such amount.

2.3.2 Such interest shall accrue due on a daily basis from the demand by the Chargee until actual payment by the Company (both before and after any further demand or judgment or the liquidation of the Company).

2.4 **Limited Recourse**

The Chargee agrees that, notwithstanding any other provisions of this Charge, the Company shall not be liable to the Chargee pursuant to this Charge in the event that the amounts received by the Chargee in respect of the Charged Assets following any enforcement of its rights and the obligations of the Company under this Charge are less than the Secured Liabilities.

3. SECURITY

3.1 **Creation of Fixed Security**

The Company charges to the Chargee by way of fixed charge (which so far as it relates to freehold property in England or Wales vested in the Company at the date of this Charge shall be by way of legal mortgage) with limited title guarantee (which title guarantee shall be qualified by reference to the period of time from the transfer of the Real Property to the Company) and as a continuing security for the payment and discharge of the Secured

Liabilities all of the Company's rights to and title and interest from time to time in any and each of the following:

3.1.1 the Real Property; and

3.1.2 (to the extent not effectively assigned under Clause 3.2 (*Assignments*)) the Insurance Policies and the Insurance Proceeds; and

3.1.3 all Related Property Rights.

3.2 **Assignments**

3.2.1 The Company assigns to the Chargee with full title guarantee as a continuing security for the payment and discharge of the Secured Liabilities all of the Company's rights to and title and interest from time to time in the Insurance Policies (subject to obtaining any necessary consent to such assignment from any third party) and the Insurance Proceeds and all Related Property Rights in respect of the above.

3.2.2 The Chargee agrees not to serve notices confirming Security under this Clause 3.2 on any counterparty to a Related Property Right prior to the date on which the Chargee is entitled to enforce the security created by this Charge pursuant to Clause 8.1.

3.2.3 Until the date upon which the Chargee is entitled to enforce the security created by this Charge pursuant to Clause 8.1, the Company shall be entitled to exercise all rights created by the Related Property Rights provided that:

(A) the Company shall keep the Chargee reasonably informed in writing on a regular basis of the exercise of any such rights; and

(B) in exercising such rights the Company shall not breach the provisions contained in Clauses 5 and 6 of this Charge or any of the provisions of the documents creating such Related Property Rights; and

(C) the Chargee (to the extent reasonably required by the Company as a result of the assignment in Clause 3.2.2 and at the cost of the Company) shall take all reasonable steps to assist the Company in enforcing or taking other action in respect of the Related Property Rights as shall be reasonably required by the Company.

4. FURTHER ASSURANCE

The Company must promptly upon request by the Chargee execute (in such form as the Chargee may reasonably require) such documents (including assignments, transfers, mortgages, charges, notices and instructions) in favour of the Chargee or its nominees and do all such assurances and things as the Chargee may reasonably require for:

4.1.1 perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Charge;

4.1.2 facilitating the realisation of all or any part of the Charged Assets; and

4.1.3 for exercising all powers, authorities and discretions conferred on the Chargee or any Receiver pursuant to this Charge or by law.

5. GENERAL UNDERTAKINGS WITH RESPECT TO CHARGED ASSETS

5.1 The Company undertakes to the Chargee with respect to the Charged Assets that:

5.1.1 **Negative Pledge**

it shall not, without the prior consent in writing of the Chargee, create or attempt to create or permit to subsist or arise any Security on, over or affecting the Charged Assets or any part of them;

5.1.2 **Disposals and Management**

it shall not dispose of the Charged Assets or any part of them or agree so to do, and for these purposes the term "dispose" shall include any form of disposal of any interest in the Charged Assets (or any part of them) including any conveyance, transfer, lease, assignment, sale, right to use or occupy, licence, parting with possession, surrender, declaration of trust or the creation of any other form of legal or equitable interest in or over any asset or any option in respect of any of the foregoing but shall not include the Company entering into any agreement for the sale of land or property to an affordable housing provider provided that the obligations in such an agreement are personal and non-assignable for the duration of the Security Period;

5.1.3 **Compliance with Laws**

it shall at all times comply with all material obligations imposed by laws and regulations failure to comply with which is reasonably likely to have a material adverse effect on the Charged Assets and will obtain and (where possible) take all reasonable steps to renew all consents, licences, approvals or authorisations of, exemptions by or registrations or declarations with, any governmental or other authority which are at any time required in respect of any of the Charged Assets;

5.1.4 **Consents and Other Necessary Action**

it shall take all such action as may be available to it for the purpose of creating, perfecting or maintaining the security created or intended to be created pursuant to this Charge including the obtaining of any necessary consent (in form and content satisfactory to the Chargee) to enable its assets to be mortgaged, charged or assigned pursuant to this Charge. Immediately upon obtaining any necessary consent the asset concerned shall become subject to the security created by this Charge. The Company shall promptly deliver a copy of each consent to the Chargee; and

5.1.5 **Inspections**

it shall permit representatives of the Chargee and its advisers on prior appointment to make inspections of the Real Property as the Chargee may require.

5.2 **Notices of Charge and/or Assignment**

The Company shall forthwith give notice of the assignments granted under this Charge to any insurer of the Real Property and use reasonable endeavours to procure that each such insurer acknowledges such notice to the Chargee.

6. PROPERTY UNDERTAKINGS

6.1 **Positive Undertakings**

The Company agrees that it shall:

6.1.1 comply with all material obligations imposed under any present or future statute, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent authority or planning permissions or other approvals, licences or consents relating to the same or its use or enjoyment in relation to the Real Property; and

6.1.2 in relation to the Real Property comply or procure compliance with all material covenants, stipulations and conditions relating to the same or its use or enjoyment;

6.1.3 manage the Real Property in accordance with the principles of good estate management;

6.1.4 if the Real Property requires rights of way over and/or rights to install, inspect, maintain, repair and/or replace service media and/or rights to the passage of services through service media or any other rights for the development of and use and enjoyment of the Real Property then upon enforcement of the security created by this Charge pursuant to Clause 8.1 the Company shall grant such rights as the Chargee may reasonably require in favour of the Real Property or the relevant part thereof.

6.2 **Negative Undertaking**

In relation to the Real Property, the Company agrees that it shall not carry out any development (as defined in the Planning Acts) on or of the Real Property or structures of a permanent or long term nature pursuant to the Outline Planning Permission (as defined in the Agreement) or other planning permission in respect of the Real Property. The Company may carry out site investigation and survey works provided that such works are reinstated as soon as reasonably practicable after completion of such works. The Company may also carry out any other works as are first approved by the Chargee (in its absolute discretion).

6.3 **Registration**

The Company shall make an application to the Chief Land Registrar on Form RX1 for the registration of the following restriction in Form P against the registered title specified in Schedule 1 (*Property*):

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated 27 March 2020 in favour of London & Continental Railways Limited referred to in the charges register or their conveyancer."

6.4 **Remedy**

If the Company fails to comply with any undertaking or obligation contained in this Clause 6, the Chargee shall be entitled (either itself, or through any agent, nominee or advisor) to do such things as it reasonably believes are required to remedy such failure. The Company shall reimburse to the Chargee on demand all amounts expended by the Chargee in remedying such failure together with interest in accordance with Clause 2.3 (*Interest*) from the date of payment by the Chargee until reimbursed.

7. **INSURANCE UNDERTAKINGS**

7.1 **Insurance Obligations**

The Company shall at all times during the Security Period:

7.1.1 put in place and maintain such Insurance Policies as reasonably prudent persons carrying on the same class of business as the Company would put in place and maintain; and

7.1.2 at the request of the Chargee to produce a copy of the Insurance Policies effected under this Clause 7.1 (including any exclusions, limitations and excesses) and evidence of payment of the current premium; and

7.1.3 cause each Insurance Policy to contain an endorsement noting the interests of the Chargee in respect of all claims.

8. **RIGHTS OF THE CHARGEE**

8.1 **Enforcement**

At any time on or after the Enforcement Date, provided that the Chargee has served a notice on the Company in writing confirming the Enforcement Date has arisen and the Company has failed to remedy the breach within 10 Business Days of receipt of the notice, the security created pursuant to this Charge shall be immediately enforceable and the Chargee may in its absolute discretion and without notice to the Company or the prior authorisation of any court:

8.1.1 enforce all or any part of the security created by this Charge and take possession of or dispose of all or any of the Charged Assets in each case at such times and upon such terms as it sees fit; and

8.1.2 whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions:

(A) conferred from time to time on mortgagees by the LPA (as varied or extended by this Charge) or by law; and

(B) granted to a Receiver by this Charge or from time to time by law.

8.2 **Restrictions on Consolidation of Mortgages**

Section 93 of the LPA shall not apply to this Charge or to any sale made under it. The Chargee shall have the right to consolidate all or any of the security created by or pursuant to this Charge with any other security in existence at any time. Such power may be exercised by the Chargee at any time on or after the Enforcement Date. The Company hereby consents to the Chargee making an application to the Chief Land Registrar on Form CC for registration against the registered titles (if any) specified in Schedule 1 (*Property*) of the right to consolidate.

8.3 **Restrictions on Exercise of Power of Sale**

Section 103 of the LPA shall not apply to this Charge and the power of sale arising under the LPA shall arise on the date of this Charge (and the Secured Liabilities shall be deemed to have become due and payable for that purpose). The power of sale and other powers conferred by section 101 of the LPA as varied or extended by this Charge and those powers conferred (expressly or by reference) on a Receiver shall be immediately exercisable by the Chargee at any time on or after the Enforcement Date.

8.4 **Leasing Powers**

The restrictions contained in sections 99 to 100 of the LPA shall not apply to restrict the rights of the Chargee or any Receiver under this Charge. The statutory powers of leasing may be exercised by the Chargee upon and following the Enforcement Date and the Chargee and any Receiver may make any lease or agreement for lease and/or accept any surrenders of leases and/or grant options on such terms as it sees fit without the need to comply with the aforementioned restrictions.

8.5 **No Prior Notice Needed**

The powers of the Chargee set out in Clauses 8.2 (*Restrictions on Consolidation of Mortgages*) to 8.4 (*Leasing Powers*) may be exercised by the Chargee without prior notice to the Company.

9. EXONERATION

9.1 **Exoneration**

The Chargee shall not, nor shall any Receiver, by reason of it or the Receiver entering into possession of the Charged Assets, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Receiver duly appointed by the Chargee under this Charge shall for all purposes be deemed to be in the same position as a receiver duly appointed by a mortgagee under the LPA save to the extent that the provisions of that Act are varied by or are inconsistent with the provisions of this Charge when the provisions of this Charge shall prevail and every such Receiver and the Chargee shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the LPA.

9.2 **Indemnity**

The Chargee and every Receiver, attorney, delegate, manager, agent or other person appointed by the Chargee hereunder shall be entitled to be indemnified out of the Charged Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Charge and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets or any part of them. The Chargee and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Charge.

10. APPOINTMENT OF RECEIVER

10.1 Appointment

At any time on or after the Enforcement Date the Chargee may, without prior notice to the Company, in writing (under seal, by deed or otherwise under hand) appoint a Receiver in respect of the Charged Assets or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his stead.

10.2 More than one Receiver

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

10.3 Receiver as agent

A Receiver shall be the agent of the Company which shall be solely responsible for his acts or defaults and for his remuneration. No Receiver shall at any time act as agent of the Chargee.

10.4 Receiver's Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be determined by the Chargee from time to time (and without being limited to any maximum rate specified by any statute or statutory instrument).

11. RECEIVER'S POWERS

11.1 Powers

A Receiver shall have (and be entitled to exercise) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Charge):

11.1.1 all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);

11.1.2 all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;

11.1.3 all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Company itself could do or omit to do; and

11.1.4 the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Charge or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Company; the collection and/or realisation of Charged Assets in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Company (whether under hand, or by way of deed or by utilisation of the Company seal of the Company).

11.2 **Powers may be Restricted**

The powers granted to a Receiver pursuant to this Charge may be restricted by the instrument (signed by the Chargee) appointing him but they shall not be restricted by any winding-up or dissolution of the Company.

12. PROTECTION OF PURCHASERS

12.1 **Absence of Enquiry**

No person or persons dealing with the Chargee or any Receiver shall be concerned to enquire whether any event has happened upon which any of the powers in this Charge are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Charge. All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the LPA shall apply to any person purchasing from or dealing with the Chargee or any such Receiver.

12.2 **Receipt: Conclusive Discharge**

The receipt of the Chargee or any Receiver shall be a conclusive discharge to any purchaser of the Charged Assets.

13. POWER OF ATTORNEY AND DELEGATION

13.1 **Power of Attorney: General**

The Company hereby irrevocably and by way of security appoints the Chargee and any Receiver severally to be its attorney in its name and on its behalf and as its act and deed:

13.1.1 to execute and deliver any deeds, documents or instruments which the Chargee or such Receiver may require for perfecting the title of the Chargee to the Charged Assets;

13.1.2 to execute and deliver any deeds, documents or instruments which the Chargee or such Receiver may require for vesting the same in the Chargee, its nominee or any purchaser;

13.1.3 to sign, execute, seal and deliver and otherwise perfect the security created by this Charge or any further security document which the Company is required to enter into pursuant to this Charge;

13.1.4 to execute and deliver any deeds, documents or instruments which the Chargee or such Receiver may require to the grant of rights pursuant to Clause 6.1.3;

13.1.5 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Chargee or any Receiver under this Charge or which the Company is required to do pursuant to this Charge or which may be deemed expedient by the Chargee or a Receiver in connection with any preservation, disposition, realisation or getting in by the

Chargee or such Receiver of the Charged Assets or in connection with any other exercise of any other power under this Charge;

provided always that the exercise of the power of attorney pursuant to Clauses 13.1.1, 13.1.2, 13.1.4 and 13.1.5 shall only be permitted after the Charge has become enforceable pursuant to Clause 8.1.

13.2 **Power of Attorney: Ratification**

The Company ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this Clause 13 (*Power of Attorney and Delegation*) does or purports to do in exercise of the powers granted by this Clause.

13.3 **Power of Attorney: General Delegation**

The Chargee and any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Charge (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

14. APPLICATION OF MONIES RECEIVED UNDER THIS CHARGE

Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Charge and to any applicable statutory requirement as to (i) the payment of preferential debts or (ii) the payment of unsecured creditors in accordance with section 176A Insolvency Act 1986, be applied for the following purposes and in the following order of priority:

14.1.1 in satisfaction of all costs, charges and expenses and payments (including payments made in accordance with paragraphs (i), (ii) and (iii) of section 109(8) of the LPA) made or incurred by the Chargee or the Receiver and of remuneration to the Receiver in such order as the Chargee shall in its absolute discretion decide;

14.1.2 in or towards satisfaction of the Secured Liabilities which shall be applied in such order as the Chargee shall in its absolute discretion decide; and

14.1.3 the surplus, if any, shall be paid to the Company or other person or persons entitled to it,

save that the Chargee may credit any monies received under this Charge to a suspense account for so long and in such manner as the Chargee may from time to time determine and the Chargee may retain the same for such period as he considers appropriate.

15. AVOIDANCE OF PAYMENTS

15.1 No amount paid, repaid or credited to the Chargee shall be deemed to have been irrevocably paid if the Chargee considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.

15.2 If any amount paid, repaid or credited to the Chargee is avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between the Chargee and the Company shall be deemed not to have occurred and the Chargee shall be entitled to enforce this Charge subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

16. AMOUNTS PAYABLE

16.1 No Deduction

All payments to be made by the Company under this Charge shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Company is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to the Chargee under this Charge or, if any such withholding or deduction is made in respect of any recovery under this Charge, the Company shall pay such additional amount so as to ensure that the net amount received by the Chargee shall equal the full amount due to it under the provisions of this Charge had no such withholding or deduction been made. If the Chargee receives a credit for or a refund of any tax or similar benefit by reason of any such deduction or withholding it shall reimburse to the Company such part of such additional amounts as leaves the Chargee in no better or worse position than if the Company had not been required to make any withholding or deduction.

17. POWER OF SEVERANCE

In the exercise of the powers conferred by this Charge, the Chargee or any Receiver may sever and sell plant, machinery or other fixtures separately from the property to which they may be annexed and the Chargee or any Receiver may apportion any rent or other amount without the consent of the Company.

18. RELEASE OF CHARGE AND CONSENT

18.1 At the end of the Security Period, the Chargee agrees to release this Charge and shall execute and do all such deeds, acts and things as are necessary to release and/or reassign the Charged Assets from the security created by this Charge.

18.2 At the end of the Security Period, the Company shall be released from its covenants in Clauses 5 and 6 in respect of part of the Charged Assets.

18.3 If the Chargee fails to comply with its obligations in Clauses 18.1 and 18.2 and following service of not less than 5 Business Days' notice requiring the Chargee to comply with such obligations the Chargee fails so to comply (and in no other circumstances) the Chargee hereby irrevocably and by way of security appoints the Company to be its attorney in its name and on its behalf and as its act and deed to sign, execute and deliver any deeds, agreement, documents or instruments and to do all acts and things which the Company may reasonably and in accordance with the provisions of Clause 18.1 require for releasing and/or re-assigning the Charged Assets.

18.4 The Chargee ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in Clause 18.3 does or purports to do in exercise of the powers granted by Clause 18.3.

18.5 The Chargee shall (at the reasonable and proper cost of the Company) provide such reasonable assistance as is reasonably required by the Company in removing this Charge from the Land Registry title of the Charged Assets following any release under this clause and assist the Company with any requisitions ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in Clause 18.4 does or purports to do in exercise of the powers granted by Clauses 18.1 and 18.3.

19. MISCELLANEOUS

19.1 **The Company**

This Charge is binding on the successors and assigns of the Company.

19.2 **Assignment and Transfer**

19.2.1 The Company may not assign any rights it has under this Charge.

19.2.2 The Chargee may assign and transfer all or any part of its rights and obligations under this Charge to a transferee of its rights under the Agreement without the consent of the Company provided always that the Chargee shall procure that any party to which the rights and obligations are assigned covenant direct with the Company to comply with the provisions of Clause 5 of the Second Deed of Variation,

19.3 **Disclosure of Information**

The Chargee may disclose the Charge to:

19.3.1 any of its professional advisors who need to be aware of the Charge for the purpose of performing the service provided;

19.3.2 any person to (or through) whom the Chargee assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Charge;

19.3.3 a Receiver, prospective Receiver or an Administrator; or

19.3.4 any person to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

if, in relation to Clauses 19.3.2 above, the person to whom the information is to be given has entered into a confidentiality undertaking.

19.4 Remedies and Waivers Cumulative

No failure to exercise, nor delay in exercising, on the part of the Chargee, any right or remedy under this Charge shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided in this Charge are cumulative and not exclusive of any rights or remedies provided by law.

19.5 Partial Invalidity

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

19.6 Property

This Charge is and will remain the property of the Chargee.

19.7 Continuing Security

This Charge shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

19.8 Additional Security

This Charge shall be in addition to and not be affected by any other security or guarantee now or hereafter held by the Chargee for all or any part of the Secured Liabilities nor shall any such other security or guarantee of liability to the Chargee of or by any person not a party to this Charge be in any way impaired or discharged by this Charge nor shall this Charge in any way impair or discharge such other security or guarantee.

19.9 Variation of Security

This Charge shall not in any way be affected or prejudiced by the Chargee at any time dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any security or guarantee referred to in Clause 19.8 (*Additional Security*) or any rights which the Chargee may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

19.10 Enforcement of Other Security

The Chargee shall not be obliged to enforce any other Security it may hold for the Secured Liabilities before enforcing any of its rights under this Charge.

19.11 Redemption of Prior Incumbrances

The Chargee may redeem or take a transfer of any prior Security over the Charged Assets and may agree the accounts of prior incumbrances. An agreed account shall be conclusive and binding on the Company. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Company to the Chargee and until such payment shall form part of the Secured Liabilities.

19.12 **Stamp Taxes**

The Company covenants to pay to the Chargee within 10 Business Days of demand a sum equal to any liability which the Chargee incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the enforcement of this Charge (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

19.13 **Costs and Expenses**

The Company covenants to pay to the Chargee or any Receiver appointed by the Chargee under this Charge within 10 Business Days of demand all costs and expenses (including legal fees) incurred by the Chargee or that Receiver (together with any applicable irrecoverable VAT) in connection with the exercise, preservation and/or enforcement of the security created by or contemplated by this Charge.

19.14 **Representations and Warranties**

The Company represents and warrants in favour of the Chargee that:

19.14.1 it is a company duly formed and validly existing under the laws of its jurisdiction of formation;

19.14.2 it has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of this Charge;

19.14.3 this Charge constitutes its legal, binding, valid and enforceable obligation;

19.14.4 the entry into and performance by it of, and the transactions contemplated by, this Charge do not and will not conflict with:

(A) any law or regulation or judicial or official order applicable to it; or

(B) its constitutional documents; or

(C) any material agreement or document which is binding upon it or any of its assets or result in the creation of (or a requirement for the creation of) any Security over any Charged Asset;

19.14.5 there are no mortgages, charges, legal or equitable, specific or floating or debentures, rent charges, liens (whether for costs or to an unpaid seller or otherwise), annuities or trusts (whether for securing money or otherwise) affecting the Property or the proceeds of its sale;

19.14.6 the Company is in possession of, owns, uses and occupies the Property free from any lease, covenant, restriction, stipulation, easement, licence, underlease, tenancy, right, limitation, option, right to pre-emption, customary or public right, wayleave, local land charge, mining or mineral right, franchise, manorial right, exception or reservation or other right or interest in or over land or any other unregistered interest not referred to above which overrides any registrable dispositon under Schedules 3 and 12, to and Section 90(5) of, the Land Registration Act 2002 except the matters:

a) contained or referred to in the entries or records made in the property and charges registers of the Property's title number (EGL557874) maintained by the Land Registry as at 10 September 2018; and

b) the documents and matters referred to in Schedule 2 of the Agreement and the Transfer (as defined in the Agreement);

19.14.7 the Company by its use or occupation of the Property has not contravened any requirement or restriction having the force of law and the Company has complied with all covenants, conditions, restrictions, limitations and other matters binding on it in relation to the Property.

The representations and warranties set out in this Clause are made on the date of this Charge and are deemed to be repeated each day prior to the expiry of the Security Period by reference to the facts and circumstances then existing.

20. NOTICES

20.1 Communications in writing

Any communication to be made under or in connection with this Charge shall be made in writing and, unless otherwise stated, may be made by post.

20.2 Addresses

The address of each party to this Charge for any communication or document to be made or delivered under or in connection with this Charge is that identified in the particulars or any substitute address as the Company may notify to the Chargee by not less than five Business Days' notice.

20.3 Delivery

Any communication or document made or delivered by one person to another under or in connection with the Charge will only be effective if by way of letter, when it has been left at the relevant address or two Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

20.4 English language

20.4.1 Any notice given under or in connection with this Charge must be in English.

20.4.2 All other documents provided under or in connection with this Charge must be:

(A) in English; or

(B) if not in English, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

21. COUNTERPARTS

This Charge 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 the Charge.

22. LAW

This Charge and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

23. ENFORCEMENT

23.1 Jurisdiction of English courts

23.1.1 The courts of England have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Charge or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a **"Dispute"**).

23.1.2 The parties to this Charge agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Company will not:

(A) argue to the contrary; or

(B) initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than England.

IN WITNESS whereof this Charge has been duly executed and delivered as a deed on the date first above written.

SCHEDULE 1

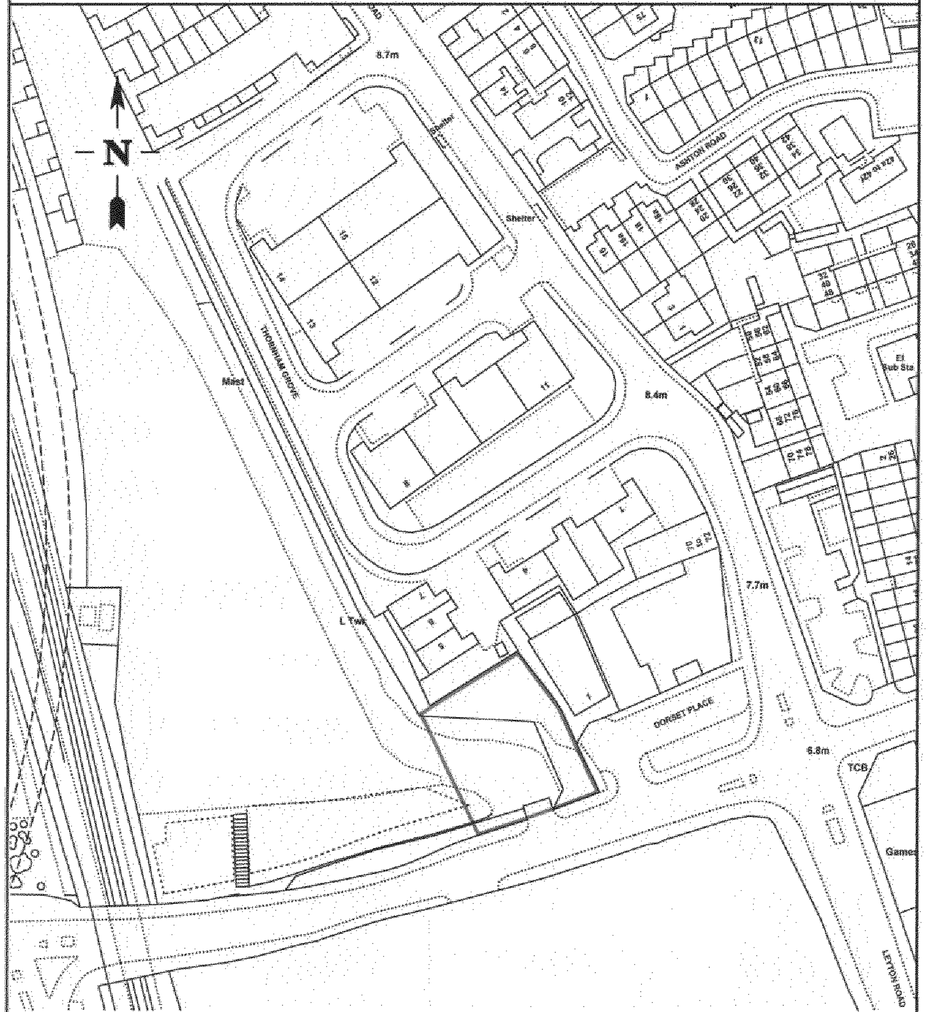
PROPERTY

The freehold land shown edged red on the Plan attached hereto being part of the land registered with Title Number EGL557874 known as part of Part of Zone 3, Chobham Farm, Leyton Road, Stratford, London.

LCR PROPERTY

DRAFT

LONDON BOROUGH OF NEWHAM



OS Grid Ref:	TQ 38617 85026
Plan No:	Chobham Farm North_Zone 3
Scale:	1:1250 [@A4]
Date:	02-July-2018

LCR Land at Zone 3, Chobham Farm North, west of Leyton Road, Newham, London, E15 1DT.

LCR - 1375.7 m^2

Title No: EGL557874

Produced by London & Continental Railways Limited

LCR

Scale

0 50 **100 metres**

EXECUTED AS A DEED by **HIGGINS HOMES PLC**	)))	[redacted]
acting by a director in the presence of:	))	Director [redacted]

Signature of witness

[redacted]

Name of witness
(in BLOCK CAPITALS)
ALEXANDER GOLIS
....

Address of witness

[redacted]

....

cks
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EXECUTED AS A DEED by **LONDON & CONTINENTAL RAILWAYS LIMITED**	))	.... Director
acting by two of its directors/a director and its secretary	))	.... Director/Secretary

EXECUTED AS A DEED by **HIGGINS HOMES PLC**	))) …………………………………	
acting by a director in the presence of:	))	Director
Signature of witness …………………………		
Name of witness (in BLOCK CAPITALS) …………………………		
Address of witness ………………………… ………………………… ………………………… …………………………		
HSF LLP. **EXECUTED AS A DEED** by **LONDON & CONTINENTAL RAILWAYS LIMITED**	)) [redacted] …………	
	Director [redacted]	
acting by two of its directors/a director and its secretary	)) … Director/Secretary	