



**Registration of a Charge**

Company Name: **HIGGINS HOMES PLC**

Company Number: **00843093**



Received for filing in Electronic Format on the: **13/02/2023**

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**Details of Charge**

Date of creation: **07/02/2023**

Charge code: **0084 3093 0272**

Persons entitled: **CLOSE BROTHERS LIMITED**

Brief description: **THE DEVELOPMENT AGREEMENT DATED 15 APRIL 2021 MADE BETWEEN (1) HIGGINS HOMES PLC (2) HIGGINS GROUP PLC AND (3) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK**

**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: **GLOVERS SOLICITORS LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 843093

Charge code: 0084 3093 0272

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th February 2023 and created by HIGGINS HOMES PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th February 2023 .

Given at Companies House, Cardiff on 15th February 2023

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



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED

7 February

2023

(1) HIGGINS HOMES PLC

- and -

(2) CLOSE BROTHERS LIMITED

**CHARGE OVER BENEFIT OF  
AGREEMENT**

relating to  
a Development Agreement as is more  
particularly described in the Schedule to this  
agreement

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THIS CHARGE is made on

7 February

2023

**BETWEEN:**

- (1) **HIGGINS HOMES PLC** (company number 00843093) whose registered office is at One Langston Road, Loughton, Essex, IG10 3SD ("**Company**") and
- (2) **CLOSE BROTHERS LIMITED** of 10 Crown Place London EC2A 4FT ("**Lender**")

**1. DEFINITIONS**

"**Agreement**" means the agreement more particularly described in the schedule hereto;

"**Associated Company**" means a company which is a member of the same group of companies as the Lender;

"**Company's Obligations**" means all the liabilities to the Lender (or its Associated Companies) of the Company of any kind and in any currency (whether present or future actual or contingent and whether incurred alone or jointly with another) together with the Lender's charges and commission Interest and Expenses;

"**Deed**" means this charge as amended from time to time;

"**Expenses**" means all expenses (on a full indemnity basis) incurred by the Lender or any Receiver at any time in connection with the Property or the Company's Obligations or in taking or perfecting this Deed or in preserving defending or enforcing the security created by this Deed or in exercising any power under this Deed or otherwise with Interest from the date they are incurred;

"**Interest**" means Interest at the rate(s) charged to the Company by the Lender from time to time; and

"**Property**" means the Leasehold land being Cherry Garden School, Macks Road, London (SE16 3XU) registered at the Land Registry under title number TGL572539

**2. CHARGE**

- 2.1 The Company covenants to discharge on demand the Company's Obligations and as a continuing security for such discharge and with full title guarantee charges to the Lender by way of security assignment:

- 2.1.1 the benefit of the Company's entire interest in the Agreement;

- 2.1.2 all rights titles benefits and interests of the Company whatsoever present and future whether proprietary contractual or otherwise arising out of or connected with or relating to the Agreement including without limitation all claims for damages in respect of any breach thereof; and

- 2.1.3 all rights titles benefits and interest of the Company whatsoever present and future whether proprietary contractual or otherwise in all appointments contracts guarantees representations undertakings and warranties given or made by and any rights or remedies against any professional advisors now or at any time engaged in connection with the development of the Property pursuant to the Agreement and the manufacturers suppliers or installers of any plant machinery fixtures and fittings and other items comprised in the development of the Property pursuant to the Agreement and any other person now or from time to time under a duty to the Company (including for the avoidance of doubt any collateral warranties and the benefit of any performance bond or parent company guarantee) and all claims for damages in respect of any breach thereof.
- 2.2 The charge created by this Deed shall rank as a first charge and the Company will if requested deposit with the Lender the originals of the Agreement.
- 2.3 Notwithstanding the assignment of the Agreement to the Lender the Company shall be entitled to exercise all of the rights, powers, authorities and other benefits conferred on the Company by the Agreement but such entitlement shall (unless the Lender otherwise agrees in writing with the Company) automatically terminate forthwith upon this Charge becoming enforceable.
- 2.4 To the extent that any of the above matters including all rights thereunder are not now capable of being charged or assigned by way of security the Company hereby agrees with full title guarantee to charge and/or assign by way of security the same.
- 2.5 If the Company shall pay to the Lender the Company's Obligations the Lender at the request and cost of the Company will re-assign the Agreement and discharge this Charge.

### **3. OBLIGATIONS IN CONNECTION WITH THE AGREEMENT**

The Company hereby covenants with the Lender at all times during the continuance of this Deed:

- 3.1 to observe and perform and carry out each and every of the terms of the Agreement so far as they fall to be observed and performed by the Company and (without prejudice to the generality of the foregoing) will promptly:
- 3.1.1 provide all information, approvals, plans and specifications necessary under the terms of the Agreement; and
- 3.1.2 where called upon by the Lender in writing, take any action reasonably required by the Lender in order to safeguard the Agreement and the rights and other matters charged to the Lender hereunder.
- 3.2 to use reasonable endeavours to procure the due and punctual observance by any other party to the Agreement of their obligations thereunder;
- 3.3 to forthwith deliver to the Lender a true copy of any instruction invoice certificate valuation variation notice order direction permission or other material communication served by any party to the Agreement or by any competent authority relating directly or indirectly to the Agreement;
- 3.4 to forthwith notify the Lender of any actual or anticipated default or claims relating to the Agreement;

- 3.5 not to compromise or settle any claim relating to the Agreement without the prior written consent of the Lender;
- 3.6 not without the prior written consent of the Lender to waive or release any obligation under the Agreement or make or permit any material amendment or addition to or material variation of any terms or conditions of the Agreement or any plans specifications quantities or materials referred to therein;
- 3.7 to indemnify the Lender and any Receiver from and against all costs actions claims expenses demands and liabilities in connection with the Agreement whether arising out of contract or out of tort or in any other way incurred by the Lender or any Receiver or by any manager agent officer servant or workman or attorney for whose debt default or miscarriage the Lender or any Receiver may be answerable;
- 3.8 to obtain the consent of any third party (if required) to the assignment effected by this Deed; and
- 3.9 to provide the Lender with such information as it may reasonably request in relation to the Agreement.

#### **4. RESTRICTIONS**

The Company will not without the Lender's prior written consent:

- 4.1 create or permit to arise any mortgage charge lien or other security interest on the Property or the Agreement; and
- 4.2 assign, novate or otherwise dispose of the Agreement.

#### **5. POWERS OF THE LENDER**

- 5.1 Section 103 of the Law of Property Act 1925 shall not apply and the Lender may exercise its power of sale and other powers under that or any other Act or this Deed at any time after the date of this Deed.
- 5.2 The Lender may under the hand of any official or manager or by deed appoint or remove a Receiver or Receivers of the Property and the Agreement and may fix and pay the fees of a Receiver but any Receiver shall be deemed to be the agent of the Company and the Company shall be solely responsible for the Receiver's acts defaults and remuneration.
- 5.3 All or any of the powers conferred on a Receiver by clause 6 may be exercised by the Lender without first appointing a Receiver or notwithstanding any appointment.
- 5.4 The Lender will not be liable to account to the Company as mortgagee in possession for any money not actually received by the Lender.
- 5.5 Section 93(1) of the Law of Property Act 1925 shall not apply to this Deed.
- 5.6 In addition to any lien or right to which the Lender may be entitled by law the Lender may from time to time without notice and both before and after demand set-off the whole or any part of the Company's Obligations against any deposit or credit balance on any account of the Company with the Lender (whether or not that deposit or balance is due to the Company).

- 5.7 Despite any term to the contrary in relation to any deposit or credit balance on any account of the Company with the Lender that deposit or balance will not be capable of being assigned dealt with mortgaged or charged and will not be repayable to the Company before all the Company's Obligations have been discharged but the Lender may without prejudice to this Deed permit the Company to make withdrawals from time to time.

## **6. RECEIVERS**

- 6.1 Any Receiver appointed by the Lender shall (in addition to all powers conferred on him by law) have the following powers which in the case of Joint Receivers may be exercised jointly or severally:

- 6.1.1 to exercise the rights or powers conferred upon the Company by the Agreement;
- 6.1.2 to enforce the performance of the duties or obligations imposed upon the parties to the Agreement and to give and receive all notices in connection with the Agreement;
- 6.1.3 to perform vary or cancel all obligations of the Company under the Agreement and to vary extend assign sell rescind surrender discharge or otherwise dispose of or deal with the same in such manner for such consideration and generally on such terms and conditions as the Receiver may think fit without being liable for loss or damage;
- 6.1.4 to take continue or defend any proceedings and enter into any arrangement or compromise;
- 6.1.5 to do any other acts which the Receiver may consider to be incidental or conducive to any of his powers or to the realisation of the Property and the Agreement.

- 6.2 A Receiver shall apply all money he receives first in repayment of all money borrowed by him and his expenses and liabilities and in payment of his fees and secondly towards satisfaction of the Company's Obligations in such order as the Lender decides.

## **7. POWER OF ATTORNEY**

The Company by way of security irrevocably appoints the Lender and any Receiver severally to be the Attorney of the Company (with full power of substitution and delegation) in the Company's name and on the Company's behalf and as the Company's act and deed to sign or execute all deeds instruments and documents or take continue or defend any proceedings which may be required by the Lender or any Receiver pursuant to this Deed or the exercise of any of their powers.

## **8. APPROPRIATION**

- 8.1 Subject to clause 8.2 the Lender may appropriate all payments received for the account of the Company in reduction of any part of the Company's Obligations as the Lender decides.
- 8.2 The Lender may open a new account or accounts upon the Lender receiving actual or constructive notice of any charge or interest affecting the Property or the Agreement. Whether or not the Lender opens any such account no payment received by the Lender after receiving such notice shall (if followed by any payment out of or debit to the relevant

account) be appropriated towards or have the effect of discharging any part of the Company's Obligations outstanding at the time of receiving such notice.

**9. PRESERVATION OF OTHER SECURITY AND RIGHTS AND FURTHER ASSURANCE**

9.1 This Deed is in addition to any other security present or future held by the Lender for the Company's Obligations and shall not merge with or prejudice such other security or any contractual or legal rights of the Lender.

9.2 Section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not apply to this Deed.

9.3 The Company will at the Company's own cost at the Lender's request execute any deed or document and take any action required by the Lender to perfect this security or further to secure the Company's Obligations on the Property and the Agreement.

9.4 Notwithstanding anything contained in this Deed:

9.4.1 the Company shall remain liable to any party to the Agreement to perform its obligations thereunder;

9.4.2 the exercise by the Lender or its Receiver of any rights contained in this Deed shall not release the Company from any of its obligations under the Agreement;

9.4.3 neither the Lender nor its Receiver shall be under any obligation under the Agreement to any party thereto by reason of this Deed or anything done or omitted to be done pursuant to this Deed; and

9.4.4 neither the Lender nor its Receiver shall be obliged to perform any obligation of the Company under the Agreement, make any payment thereunder, nor enforce any of their provisions.

**10. MEMORANDUM AND ARTICLES OF ASSOCIATION**

The Company certifies that this Deed does not contravene the Company's Memorandum and Articles of Association.

**11. NOTICES**

11.1 Any notice or demand by the Lender may be sent by post or fax or delivered to the Company at the Company's address last known to the Lender or may be served personally on any director or the secretary of the Company.

11.2 A notice or demand by the Lender by post shall be deemed served on the day after posting.

11.3 A notice or demand by the Lender by fax shall be deemed served at the time of sending.

**12. GOVERNING LAW**

This Deed shall be governed by and construed in accordance with English law.

**13. INTERPRETATION**

- 13.1 The expressions "Company" and "Lender" where the context admits include their respective successors in title and assigns.
- 13.2 If two or more companies are included in the expression "Company" then the use in this Deed of the word "Company" shall be deemed to refer to such companies both together and separately and the Company's Obligations shall be their joint and several obligations and each of them shall be primarily liable by way of indemnity for the liabilities to the Lender of the other or others of them.
- 13.3 References to the "Property" and the "Agreement" include any part of it or them and the "Property" includes all covenants and rights affecting or concerning the same. The "Property" also includes any share from time to time held by the Company in any landlord or management company of the Property.
- 13.4 References to an Act of Parliament include any statutory re-enactment or replacement of it.
- 13.5 Interest will be calculated both before and after demand or judgement on a daily basis and compounded according to agreement or in the absence of agreement monthly on such days as the Lender may select.
- 13.6 Each of the provisions of this Deed shall be severable and distinct from one another and if one or more of such provisions is invalid or unenforceable the remaining provisions shall not in any way be affected.

**IN WITNESS** of which this Deed has been duly signed and delivered on the date entered on page 1.

## **SCHEDULE 1: THE AGREEMENT**

The Development Agreement dated 15 April 2021 made between (1) the Company (2) Higgins Group PLC and (3) the Mayor and Burgesses of the London Borough of Southwark

Executed as deed by **HIGGINS**  
**HOMES PLC** acting by a director  
and the secretary or by two directors:



Director



Director/Secretary