



**Registration of a Charge**

Company name: **BLOOR HOMES LIMITED**

Company number: **02162561**

Received for Electronic Filing: **18/12/2019**



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**Details of Charge**

Date of creation: **03/12/2019**

Charge code: **0216 2561 0148**

Persons entitled: **JOHN A WELLS LIMITED**

Brief description: **THE FREEHOLD LAND KNOWN AS THE LAND AT SHARP HILL,  
MELTON ROAD, EDWALTON, NOTTINGHAM SHOWN EDGED RED ON  
THE ATTACHED PLAN FORMING PART OF THE LAND CURRENTLY  
REGISTERED AT THE LAND REGISTRY WITH TITLE ABSOLUTE UNDER  
TITLE NUMBER NT58242**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**GATELEY PLC**



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

Company number: 2162561

Charge code: 0216 2561 0148

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd December 2019 and created by BLOOR HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th December 2019 .

Given at Companies House, Cardiff on 19th December 2019

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 03 DECEMBER 2019

- (1) BLOOR HOMES LIMITED
- (2) JOHN A WELLS LIMITED

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## LEGAL CHARGE

of land at Sharp Hill, Melton Road, Edwalton, Nottingham

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DATE

03 DECEMBER

2019

**PARTIES**

- (1) **BLOOR HOMES LIMITED** (Company Number 02162561) whose registered office is at Ashby Road, Measham, Swadlincote, Derbyshire DE12 7JP (**Chargor**); and
- (2) **JOHN A WELLS LIMITED** (Company Number 00701875) whose registered office is at Granary House, Melton Road, Edwalton, Nottingham NG12 4DR (**Chargee**).

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1** The following definitions apply in this Legal Charge:

**1925 Act**

the Law of Property Act 1925;

**Affordable Unit**

housing which is subject to any restriction which has the effect of any one or more of the following:

- a) limiting the prices at which land or housing units may be sold or let; or
- b) controlling buyers, occupiers or tenure; or
- c) carrying any subsidy for land or building cost; or
- d) requiring land or housing units to be transferred to or managed by a local authority, registered social landlord, registered provider, society, association, charity or similar body;

whether the requirement for it is imposed by or agreed with the Local Planning Authority in connection with the Planning Permission or any Planning Obligation entered into in connection with the grant of the Planning Permission (or as subsequently varied) and affordable housing shall include any other scheme, tenure or restriction which falls within this meaning or which is designated as or intended to be affordable from time to time by the government

**Charge Plan**

the plan annexed to this legal charge at Appendix 1 marked "Plan 1" showing the extent of the Charged Property subject to clause 13.1;

**Charged Property**

the land briefly described in Schedule 1 which forms part of the land transferred by the Chargee to the Chargor by the Transfer;

**Chargee's Solicitors**

Geldards LLP, Number One, Pride Place, Pride Park, Derby DE24 8QR (Ref: PJH/OL/90822.17) or such other solicitor as the Chargee may notify in writing to the Chargor;

**Chargor's Solicitors**

Gateley Plc of One Eleven, Edmund Street, Birmingham B3 2HJ (Ref: CLN/KAV1/058632.465) or such other solicitor as the Chargor may notify in writing to the Chargee;

**Default Notice**

written notice from the Chargee to the Chargor served pursuant to clause 8.2 specifying the event or circumstance described in Schedule 3 which has occurred;

**Default Notice Period**

a period of 10 Working Days from but not including the date of service by the Chargee of a Default Notice on the Chargor;

**Default Rate**

4% per annum above the base lending rate from time to time of Barclays Bank plc;

**Deferred Consideration**

the Principal Land Payment 1 and Principal Land Payment 2 as defined in the Sales Agreement being in total the sum of £6,000,000;

**Deferred Payment Date 1**

the date for payment of Principal Land Payment 1 pursuant to clause 15.2.1 of the Agreement specified at clause;

**Deferred Payment Date 2**

the date for payment of Principal Land Payment 2 pursuant to clause 15.2.2 of the Agreement specified at clause;

**Disposal**

the completion of a transfer of the freehold or the grant of a lease for a term exceeding 7 years of the relevant land and **Dispose** and "**Disposed of**" shall be construed accordingly;

**Dwelling**

a house, flat, maisonette, bungalow or other construction intended primarily for residential use;

**Events of Default**

the events or circumstances described in Schedule 3 and **Event of Default** shall be construed accordingly;

**Party**

any party to this legal charge and **Parties** shall be construed accordingly;

**Permitted Disposal**

the Disposal of the Charged Property or any part or parts of it:

- (a) to a Local Authority or other statutory body or a management company pursuant to a planning statutory or road obligation;
- (b) to a statutory body or service supply company of an electricity substation, gas governor, pumping station, water pumping station, balancing pond or other statutory services which have been or are to be constructed or installed on the Charged Property (including the grant of rights to such statutory body or service supply company);
- (c) to a bona fide management company managing any land to the extent only that the land so disposed of is required for such management;
- (d) by way of a charge to secure funding for the acquisition and/or development of the Charged Property Provided this legal charge has priority;
- (e) the Disposal of any part of the Charged Property which is required to comply with the requirements of any Works Agreement;
- (f) the Disposal of the freehold reversion of any building or Unit on the Charged Property which Unit has been the subject of a sale pursuant to a Release;

- (g) the grant of a legal and/or equitable charge over the Charged Property (Provided this legal charge has priority) or any part or parts of it;
- (h) a Disposal to a transferee or lessee of a Unit or Units pursuant to a Release;
- (i) the grant of any easement which would be expected to be granted in the usual course of residential development;
- (j) a Disposal to a registered provider as defined in the Housing and Regeneration Act 2008 or to any other affordable housing provider of an Affordable Unit ;
- (k) as a garage or garages erected or to be erected underneath an Unit or Units.

**Planning Act**

the Town and Country Planning Act 1990 and any Act for the time being in force amending ore replacing the same and all regulations and orders made under it and any other legislation relating to town and country planning in force from time to time including the Planning (Listed Buildings and Conservation Areas) Act 1990;

**Planning Agreement**

an agreement which is expressed to be made pursuant to any of section 106 of the Planning Act, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 111 of the Local Government Act 1972 and/or a Works Agreement;

**Receiver**

any one or more receivers and/or managers appointed by the Chargee pursuant to this legal charge in respect of the Chargor or over all or any part of the Charged Property;

**Release**

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

**Release Fee**

a sum per Unit in respect of which a Release has been requested pursuant to clause 13.4 calculated in accordance with the following formula:

$$X = A \times (B \div C)$$

Where:

**A** is the balance of the Deferred Consideration 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;

**Sales Agreement**

the agreement for the sale and purchase of the Charged Property and Uncharged Property dated [●] and entered into between (1) the Chargee and (2) the Chargor;

**Secured Obligations**

the Chargor's obligations to pay all unpaid parts of the Deferred Consideration together with any interest and costs;

**Security Date**

the day ten (10) Working Days following but not including the date of service of a Default Notice where the Event of Default specified in such Default Notice has not by then been



remedied or in the case of paragraphs 2, 3 and 4 of Schedule 3 resolved to the satisfaction of the Chargee acting reasonably;

**Service Media**

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

**Transfer**

the transfer dated ~~03 December 2019~~ made between (1) John A Wells Limited (2) Bloor Homes Limited;

**Uncharged Property**

all parts of the Charged Property in respect of which a Release has been provided

**Unit**

a Dwelling or the intended site of a Dwelling) including ancillary curtilage, associated private driveway, garage and other associated areas;

**Utilities**

water, gas, electricity, surface and foul drainage, waste and telecommunications;

**VAT**

value added tax as referred to in the Value Added Tax Act 1994;

**Working Day**

excludes Saturdays, Sundays, statutory bank holidays and the period from 24 December to the immediately following 1 January inclusive;

**Works Agreement**

any agreement with supporting bonds (if required by the Regulatory Body) under:

- (l) section 38 or section 278 Highways Act 1980 or section 111 Local Government Act 1972 or similar agreement for the construction maintenance and adoption of roads and the connection of the same to the public highway or any other works to the public highway; and/or
- (m) section 98 and/or section 102 and/or section 104 and/or section 116 and/or section 185 Water Industry Act 1991 or similar agreement relating to the provision maintenance and adoption of Drainage Systems; and/or
- (n) any agreement with a Regulatory Body for the installation of Service Systems and for the provision and supply of Services including any deeds of easement required by a Regulatory Body; and/or
- (o) any other similar agreement with a Regulatory Body for the carrying out and/or diversion of works and the maintenance cleansing and adoption of the same;

and any deeds of easements or similar required in connection with any such agreement;

1.2 The following rules of interpretation apply in this Legal Charge:

- 1.2.1 references to the **Chargee** shall be construed so as to include its respective permitted successors in title, assigns and transferees;
- 1.2.2 references to the **Chargor** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.3 references to a person include a corporate or unincorporated body;
- 1.2.4 words importing one gender include any other gender and words importing the singular include the plural (and vice versa);

- 1.2.5 references to a statute (by name or otherwise) include any amendment, modification, consolidation, extension or re-enactment of, and any order, regulation, rule, scheme, direction, permission, plan, instrument or other subordinate legislation made under it for the time being in force;
- 1.2.6 unless stated otherwise, all consideration to be provided or performed under this Legal Charge is exclusive of VAT and, where a supply is made for VAT purposes, the recipient of the supply is to pay to the supplier any VAT chargeable on the supply at the same time as (and in addition to) providing or performing the consideration;
- 1.2.7 the clause headings do not affect interpretation;
- 1.2.8 unless otherwise indicated, references to clauses or Schedule are to clauses or Schedule of this Legal Charge;
- 1.2.9 references to any statute or statutory provision (by name or otherwise) include references to:
- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom; and
  - (b) any subsequent statutes directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute and also include any orders, regulations, instruments or other subordinate legislation made under that statute;
- 1.2.10 references to the Charged Property include any part of it;
- 1.2.11 the word **including** means **including, without limitation** and **include** shall be construed accordingly;
- 1.2.12 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Legal Charge is to be unaffected; and

## **2. COVENANT TO PAY**

### **2.1 Secured Obligations**

The Chargor covenants that it will discharge and pay to the Chargee the Deferred Consideration on the Deferred Payment Dates in accordance with the Sales Agreement.

### **2.2 Certain Liabilities**

The liabilities referred to in clause 2.1 shall, without limitation, include interest on the Deferred Consideration (or the relevant part) (both before and after judgement) from the due date for payment (or, if earlier, from the date of the Event of Default) to the date of payment in full at the Default Rate, and shall also include all legal and other costs, charges and expenses on a full and unqualified indemnity basis which may be reasonably and properly incurred by the Chargee in relation to enforcement of the Secured Obligations

## **3. CHARGE**

### **3.1 Fixed Charge**

The Chargor with full title guarantee as a continuing security for the payment and discharge of the Secured Obligations charges the Charged Property to the Chargee by way of legal mortgage.

### **3.2 No Lien**

The Chargee acknowledges that it has no lien over the Charged Property.

### **3.3 Restriction**

The Chargor consents to the Chargee applying to the Land Registry in form RX1 (or other replacement Land Registry form) to register the following restriction against the Charged Property:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ \* ] in favour of John A Wells Limited referred to in the charges registered or their conveyance" \* 03 December 2019*

#### **4. PLANNING AGREEMENTS AND WORKS AGREEMENTS**

4.1 The Chargee shall within ten (10) Working Days (time being of the essence) upon written request from the Chargor enclosing the documentation for execution and subject to payment of the Chargee's reasonable and pre-agreed legal costs incurred but otherwise free of charge:

4.1.1 consent to and join in any Planning Agreement and/or Works Agreement as Chargee under this Legal Charge;

4.1.2 release from this Legal Charge for no Release Fee such parts of the Charged Property as are required by the Chargor to procure the adoption, dedication or transfer of any land required under the Planning Agreements and/or Works Agreement; and

4.1.3 consent to the grant of easements, licences and wayleaves for the provision of infrastructure on the Charged Property whether or not serving other land;

and the Chargor shall indemnify and keep the Chargee and its estate and effects fully indemnified against cost claims expenses and other liabilities arising out of such Planning Agreements and/or Works Agreements.

4.2 The Chargee hereby irrevocably appoints the Chargor its attorney by way of security to execute any Planning Agreement, Works Agreement and/or other documents referred to in clause 4.1 where the Chargee fails to do so within the period prescribed.

#### **5. UNDERTAKINGS AND INSURANCE**

The Chargor covenants that during the continuance of this security it will comply with the undertakings and insurance obligations set out in Schedule 2.

#### **6. FURTHER ASSURANCE**

The Chargor covenants that it shall (if and when required by the Chargee) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges notices and instructions) as the Chargee shall from time to time reasonably require to perfect or protect the security intended to be created by this Legal Charge over the Charged Property or to facilitate the realisation of the security.

#### **7. CERTAIN POWERS OF THE CHARGE: ENFORCEMENT**

##### **7.1 Powers of enforcement**

At any time on or after the Security Date the Chargee may, without further notice, exercise:

7.1.1 all the powers conferred upon mortgagees by the 1925 Act as varied or extended by this legal charge; and

7.1.2 all the powers and discretions conferred by this legal charge on a Receiver either expressly or by reference.

##### **7.2 Power of Sale**

For the purposes only of section 101 of the 1925 Act, the Secured Obligations become due and the statutory power of sale and other powers of enforcement arise on the Security Date.

##### **7.3 Exercise of Power of Sale**

Section 103 of the 1925 Act does not apply to this Legal Charge and all moneys secured by this Legal Charge are immediately due on the date the security constituted by this Legal Charge becomes enforceable on the Security Date.

#### **7.4 Statutory Power of Leasing**

Following an Event of Default, the Chargee shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Chargee shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 of the 1925 Act.

### **8. ENFORCEMENT OF SECURITY**

8.1 Subject to clause 8.2, this Legal Charge will become enforceable on the Security Date whereupon the power of sale and other powers conferred by section 101 LPA, as varied or amended by this legal charge, shall be exercisable.

8.2 The Chargee may serve a Default Notice at any time after an Event of Default has occurred but prior to such event or circumstance having been remedied.

8.3 If at any time prior to the expiry of the Default Notice Period the event or circumstance referred to in a Default Notice having been remedied or ceases to be of effect the Default Notice shall be of no effect and this Legal Charge will take effect as if the Event of Default had not occurred.

### **9. APPOINTMENT AND POWERS OF RECEIVER**

#### **9.1 Appointment**

9.1.1 At any time after the security constituted by the Legal Charge becomes enforceable in accordance with clause 8.1 or otherwise if requested by the Chargor, the Chargee may by instrument in writing executed as a deed appoint any qualified person to be a Receiver of the Charged Property.

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

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

#### **9.2 Receiver as agent**

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

#### **9.3 Powers of Receiver**

9.3.1 Any Receiver shall have all the powers conferred from time to time on receivers and administrative receivers by statute (in the case of powers conferred by the 1925 Act, without the restrictions contained in section 103 of the 1925 Act) and power on behalf and at the expense of the Chargor to do or omit to do anything which the Chargor could do or omit to do in relation to the Charged Property.

9.3.2 Without limitation to the powers referred to in clause 9.3.1 a Receiver shall have power to:

- (a) take possession of, collect and get in all or any of the Charged Property;
- (b) manage, develop, alter, improve or reconstruct the Charged Property;
- (c) enter into any Works Agreement in respect of the Charged Property including but not limited to the Uncharged Property;
- (d) buy, lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage;
- (e) acquire, renew, extend, grant, vary or otherwise deal with easements, rights, privileges and licences over or for the benefit of the Charged Property including but not limited to the Uncharged Property;
- (f) without the restrictions imposed by section 103 of the 1925 Act or the need to observe any of the provisions of sections 99 and 100 of the 1925 Act, sell by public auction or private contract, let, surrender or accept

surrenders, grant licences or otherwise dispose of or deal with the Property in such manner for such consideration and generally on such terms and conditions as he may think fit with full power to convey, let, surrender, accept surrenders or otherwise transfer or deal with the Charged Property in the name and on behalf of the Chargor or otherwise;

- (g) make and effect such repairs or renewals to the Charged Property as he may think fit and maintain, renew, take out or increase insurances;
- (h) appoint managers, agents, officers and employees for any of the purposes referred to in this clause 9.3 or to guard or protect the Charged Property at such salaries and commissions and for such periods and on such terms as he may determine;
- (i) without any further consent by or notice to the Chargor exercise for and on behalf of the Chargor all the powers and provisions conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to security of tenure or rents or agriculture in respect of the Charged Property but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- (j) institute, continue, enforce, defend, settle or discontinue any actions, suits or proceedings in relation to the Charged Property or submit to arbitration as he may think fit; and
- (k) sign any document, execute any deed and do all acts and things as may be considered by him to be incidental or conducive to any of the powers in this clause 9.3 or to the realisation of the security created by or pursuant to this legal charge and to use the name of the Chargor for all these purposes.

#### **9.4 Remuneration**

9.4.1 The Chargee may from time to time determine the remuneration of any Receiver and section 109(6) of the 1925 Act shall be varied accordingly.

9.4.2 A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

#### **10. APPLICATION OF PROCEEDS: PURCHASERS**

##### **10.1 Application of proceeds**

All moneys received by the Chargee or by any Receiver shall be applied, after the discharge of the remuneration and expenses of the Receiver and all liabilities having priority to the Secured Obligations, in or towards satisfaction of such of the Secured Obligations and in such order as the Chargee in its absolute discretion may from time to time determine.

##### **10.2 Protection of purchasers**

No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Chargee or any Receiver to exercise any of the powers conferred by this legal charge has arisen or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

##### **10.3 No liability as mortgagee in possession**

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

11. **INDEMNITIES: COSTS AND EXPENSES**

11.1 **Enforcement costs**

The Chargor hereby undertakes with the Chargee to pay on demand all reasonable and properly incurred costs, charges and expenses incurred by the Chargee or by any Receiver in or about the enforcement, preservation or attempted preservation of any of the security created by or pursuant to this Legal Charge or the Charged Property on a full indemnity basis.

11.2 **No liability as mortgagee in possession**

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

11.3 **Indemnity from Charged Property**

The Chargee and any Receiver, attorney, agent or other person appointed by the Chargee under this legal charge and the Chargee's officers and employees (each an **Indemnified Party**) shall be entitled to be indemnified out of the Charged Property in respect of all reasonable and properly incurred costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, delict or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of them (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

11.3.1 anything done or omitted in the exercise or purported exercise of the powers contained in this legal charge; or

11.3.2 any breach by the Chargor of any of its obligations under this legal charge

and the Chargor shall indemnify the Chargee and any Receivers against any such matters.

12. **GRANT OF EASEMENTS**

12.1 On any sale of the Charged Property or any part of it by the Chargee 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 disponee the rights that the Charged Property benefits from as set out in Schedule 1 and (to the extent the Chargor is able to grant the same) such other rights as may reasonably be required for the beneficial use and enjoyment of the Charged Property including for residential development.

12.2 The Chargor hereby irrevocably appoints the Chargee its attorney by way of security to execute any deed of easement referred to in clause 12.1 where the Chargor fails to do so within 10 Working Days of written request by the Chargee.

13. **RELEASE**

13.1 The Chargor and the Chargee will do all such acts and execute and complete all such documents as shall be reasonably necessary to affect the releases of those parts of the Charged Property which should be released in accordance with the Legal Charge and the imposition of the relevant Deferred Consideration over those parts which are to be within the Charged Property within 10 Working Days of the revised Charge Plan being provided to the Chargee.

13.2 Where the Chargor has paid the Principal Land Payment 1 and the Planning Condition (as defined in the Sales Agreement) is subsequently satisfied in respect of Principal Land (as defined in the Sales Agreement), the Chargee shall (at no cost to the Chargor) within 10 Working Days of request by the Chargor release this charge and accept a Deferred Security Charge (as defined in the Sales Agreement) in accordance with clause 18 of the Sales Agreement.

13.3 Prior to and as a condition for the payment of Principal Land Payment 2 the Chargee will (at no cost to the Chargor) give the Chargor such properly executed form of Release as shall

be appropriate to release the Charged Property from this Legal Charge and the restriction created pursuant to clause 3.2 together with any relevant Land Registry forms.

- 13.4 The Chargor may at any time or times whilst this Legal Charge remains in place by not less than ten Working 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 Deferred Consideration and reduce the amount due to the Chargee on the date for payment of the Deferred Consideration.
- 13.5 The Chargee agrees to execute Releases for Permitted Disposals and agrees to deliver the same within 10 Working Days of receipt of request from the Chargor provided that any such request shall include the form of Release required to be executed, subject to payment by the Chargor of the reasonable costs of the Chargee (which shall not exceed £150 plus VAT per Release) (save where the Chargee is in delay in respect of its obligations pursuant to clause 13.2 where it shall be at no cost to the Chargee).
- 13.6 If the Chargee fails to execute any Release or to complete any relevant Land Registry forms to remove the Restriction from the Proprietorship Register of the Charged Property in accordance with its obligations in clauses 13.1 to 13.4 the Chargee appoints the Chargor its attorney by way of security to execute where the Chargee fails to do so within the period prescribed.

#### 14. **MISCELLANEOUS**

##### 14.1 **Enforcement of Security**

The Chargee undertakes that it will not seek to enforce the security constituted by this legal charge without first having served on the Chargor a written notice in accordance with clause 8 specifying its intention to enforce and specifying the Event of Default, and during the period of five Working Days' immediately following service of any such notice the Chargee will not enforce its security.

##### 14.2 **Remedies Cumulative**

No failure or delay on the part of the Chargee to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

##### 14.3 **Unfettered discretion**

Any liability or power which may be exercised or any determination which may be made under this legal charge by the Chargee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

##### 14.4 **Substituted Security**

The Chargee shall release the Charged Property from this Legal Charge upon presentation to it by the Chargor of such substituted form of security as shall be acceptable to the Chargee at its absolute discretion together with the Chargees reasonable costs, associated therewith.

##### 14.5 **Assignment**

Neither the Chargor nor the Chargee may assign or transfer any of its obligations under this legal charge or enter into any transactions which would result in any of those obligations passing to another person and the Chargee cannot assign the benefit of this Charge to third parties.

##### 14.6 **Power of Attorney**

The Chargor irrevocably and by way of security appoints the Chargee its attorney (with full power to appoint substitutes and to delegate) in its name and on its behalf to execute any document or do any act or thing which the Chargor is obliged to execute or do whether under this deed.

15. **PROVISIONS SEVERABLE**

Each provision of this legal charge is severable and distinct from the others and, if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this legal charge shall not in any way be affected or impaired.

16. **NOTICES**

16.1 **Form of notices**

Any notice served under this legal charge is to be:

- 16.1.1 in writing;
- 16.1.2 signed by or on behalf of the Party giving it; and
- 16.1.3 delivered by hand, first-class post, pre-paid or recorded delivery at the address of the Party on whom it is served set out above or such other address which it may notify in writing to the other Party at any time.

16.2 **Time of receipt**

If a notice is received after 5.00 pm on a Working Day, or on a day which is not a Working Day, it is to be treated as having been received on the next Working Day.

16.3 **Deemed receipt**

Unless the time of actual receipt is proved, a notice served by the following means is to be treated as having been received:

- 16.3.1 if delivered by hand, at the time of delivery; or
- 16.3.2 if sent by post, on the second Working Day after posting.

17. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Each Party confirms that no term of this legal charge is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this legal charge.

18. **GOVERNING LAW AND JURISDICTION**

18.1 This legal charge and any dispute or claim arising out of or in connection with it (whether contractual or non-contractual in nature) shall be governed by the law of England and Wales.

18.2 Subject to any provision of this legal charge which expressly permits or requires some other means of dispute resolution to be used, each Party irrevocably submits to the non-exclusive jurisdiction of the courts of England and Wales in respect of any matter, dispute or claim arising out of or in connection with this legal charge (whether contractual or non-contractual in nature).

**THE PARTIES** have executed this legal charge as a deed and delivered it on the date first set out above



## **SCHEDULE 1**

### **The Charged Property**

The land at Sharp Hill, Melton Road, Edwalton, Nottingham shown edged red on the Plan annexed at Appendix 1 forming part of the land currently registered at the Land Registry with title absolute under Title Number NT58242

## **SCHEDULE 2**

### **Undertakings and insurance**

#### **Part 1**

##### **Undertakings**

**1. COMPLIANCE WITH COVENANTS ETC:**

Observe and perform all covenants affecting the Charged Property (whether imposed by agreement, statute or otherwise).

**2. PROPERTY OUTGOINGS:**

Punctually pay, or cause to be paid, all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement, statute or otherwise) now or at any time during the continuance of this security payable in respect of the Property or by the owner or occupier of it.

**3. POSSESSION OF PROPERTY:**

Not without the prior consent in writing of the Chargee to Dispose of the Charged Property or permit any person:

3.1 to be registered (jointly with the Chargor or otherwise) as proprietor under the Land Registration Acts of the Charged Property nor create or permit to arise any overriding interest affecting the same within the definition of those Acts; or

3.2 to become entitled to any right, easement, covenant, interest or other title encumbrance which might adversely affect the value or marketability of the Charged Property;

provided that it is agreed that these restrictions shall not apply to any Permitted Disposal, any Disposal out of the remainder of the Estate in the normal course of its development, and any agreement or deed referred to in clause 0 of this legal charge or the creation of any floating charges by the Chargor.

#### **Part 2**

##### **Insurance**

1. Keep the Charged Property insured on the Chargor's usual group insurance policy against loss or damage by such risks usually insured against by prudent businesses or which the Chargor reasonably requires to its full replacement or reinstatement value for the time being (excluding a commercially acceptable excess) together with all demolition and debris removal costs and all architects, surveyors, engineers and other professional fees for rebuilding the Charged Property (plus VAT where applicable) (the **Insurance**).

2. Punctually (or within any agreed credit period) pay all premiums for the Insurance.

### **SCHEDULE 3**

#### **Events of Default**

1. The failure by the Chargor to pay any of the Secured Obligations in accordance with clause 2.1 of this deed;
2. The appointment of an administrator in respect of the Chargor;
3. The appointment of a liquidator, trustee, manager or receiver, administrative receiver or similar officer of the Chargor or any part of the Charged Assets;
4. The making of a request by the Chargor for the appointment of a Receiver.

**SIGNED** as a deed by *R. Godd*  
and *D. Southall*  
as attorneys for BLOOR HOMES LIMITED

Attorney

Attorney

in the presence of:

Signature of Witness

Name in block capitals

Address

Amber Ratcliffe  
Trainee Accounts Assistant  
Bloor Homes Limited  
Ashby Road  
Measham  
Swadlincote  
Derbyshire DE12 7JP

Attorney

Attorney

in the presence of:

Signature of Witness

Name in block capitals

Address

Amber Ratcliffe  
Trainee Accounts Assistant  
Bloor Homes Limited  
Ashby Road  
Measham  
Swadlincote  
Derbyshire DE12 7JP

**EXECUTED** and **DELIVERED** as a DEED by  
**JOHN A WELLS LIMITED**

acting by a director

in the presence of:

.....  
Director

Witness Signature

Witness Name

Address

Occupation

**APPENDIX 1**  
**Plan**

Charged Property      edged red

THIS DOCUMENT IS THE PROPERTY OF BLOOR HOMES. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. ANY UNAUTHORIZED REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT IS PROHIBITED. BLOOR HOMES SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS DOCUMENT. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE AN OFFER OF ANY FINANCIAL PRODUCT OR SERVICE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED IN ANY MANNER THAT COULD BE DEEMED TO BE A VIOLATION OF ANY APPLICABLE LAW, REGULATION, OR STANDARD. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED IN ANY MANNER THAT COULD BE DEEMED TO BE A VIOLATION OF ANY APPLICABLE LAW, REGULATION, OR STANDARD. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED IN ANY MANNER THAT COULD BE DEEMED TO BE A VIOLATION OF ANY APPLICABLE LAW, REGULATION, OR STANDARD.

- Notes:**
- Alterative Property
  - Units within 300m radius of site
  - Units within 100m radius of site

Revised:		
A	Initial A, B and C added	24.05.19 ME
B	Change from site plan	21.10.19 DC

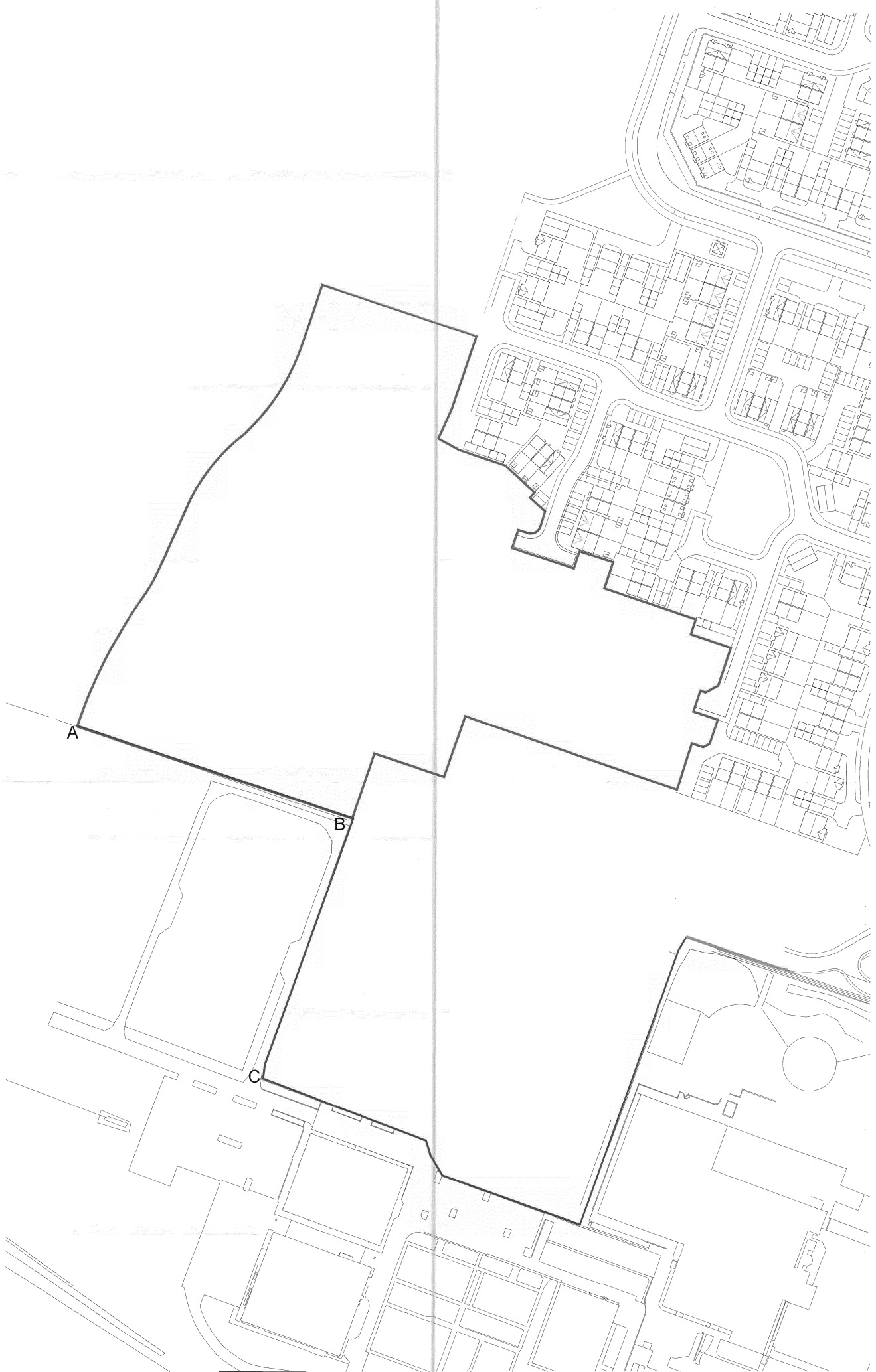
**Edwalton**  
Phase 2

**Contract Plan 2**

DATE: May 19  
SCALE: 1:500 @ A0  
DRAWN: DC  
CHECKED:

**BLOOR HOMES**

Drawing No: M1140-LE-5125



**Edwalton**

DATED

3 October

2019

(1) BLOOR HOMES LIMITED

(2) JOHN A WELLS LIMITED

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LEGAL CHARGE

of land at Sharp Hill, Melton Road, Edwalton, Nottingham

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DATE

3 December

2019

**PARTIES**

- (1) **BLOOR HOMES LIMITED** (Company Number 02162561) whose registered office is at Ashby Road, Measham, Swadlincote, Derbyshire DE12 7JP (**Chargor**); and
- (2) **JOHN A WELLS LIMITED** (Company Number 00701875) whose registered office is at Granary House, Melton Road, Edwalton, Nottingham NG12 4DR (**Chargee**).

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

**1.1** The following definitions apply in this Legal Charge:

**1925 Act**

the Law of Property Act 1925;

**Affordable Unit**

housing which is subject to any restriction which has the effect of any one or more of the following:

- a) limiting the prices at which land or housing units may be sold or let; or
- b) controlling buyers, occupiers or tenure; or
- c) carrying any subsidy for land or building cost; or
- d) requiring land or housing units to be transferred to or managed by a local authority, registered social landlord, registered provider, society, association, charity or similar body;

whether the requirement for it is imposed by or agreed with the Local Planning Authority in connection with the Planning Permission or any Planning Obligation entered into in connection with the grant of the Planning Permission (or as subsequently varied) and affordable housing shall include any other scheme, tenure or restriction which falls within this meaning or which is designated as or intended to be affordable from time to time by the government

**Charge Plan**

the plan annexed to this legal charge at Appendix 1 marked "Plan 1" showing the extent of the Charged Property subject to clause 13.1;

**Charged Property**

the land briefly described in Schedule 1 which forms part of the land transferred by the Chargee to the Chargor by the Transfer;

**Chargee's Solicitors**

Geldards LLP, Number One, Pride Place, Pride Park, Derby DE24 8QR (Ref: PJH/OL/90822.17) or such other solicitor as the Chargee may notify in writing to the Chargor;

**Chargor's Solicitors**

Gateley Plc of One Eleven, Edmund Street, Birmingham B3 2HJ (Ref: CLN/KAV1/058632.465) or such other solicitor as the Chargor may notify in writing to the Chargee;

**Default Notice**

written notice from the Chargee to the Chargor served pursuant to clause 8.2 specifying the event or circumstance described in Schedule 3 which has occurred;

**Default Notice Period**

a period of 10 Working Days from but not including the date of service by the Chargee of a Default Notice on the Chargor;

**Default Rate**

4% per annum above the base lending rate from time to time of Barclays Bank plc;

**Deferred Consideration**

the Principal Land Payment 1 and Principal Land Payment 2 as defined in the Sales Agreement being in total the sum of £6,000,000;

**Deferred Payment Date 1**

the date for payment of Principal Land Payment 1 pursuant to clause 15.2.1 of the Agreement specified at clause;

**Deferred Payment Date 2**

the date for payment of Principal Land Payment 2 pursuant to clause 15.2.2 of the Agreement specified at clause;

**Disposal**

the completion of a transfer of the freehold or the grant of a lease for a term exceeding 7 years of the relevant land and **Dispose** and "**Disposed of**" shall be construed accordingly;

**Dwelling**

a house, flat, maisonette, bungalow or other construction intended primarily for residential use;

**Events of Default**

the events or circumstances described in Schedule 3 and **Event of Default** shall be construed accordingly;

**Party**

any party to this legal charge and **Parties** shall be construed accordingly;

**Permitted Disposal**

the Disposal of the Charged Property or any part or parts of it:

- (a) to a Local Authority or other statutory body or a management company pursuant to a planning statutory or road obligation;
- (b) to a statutory body or service supply company of an electricity substation, gas governor, pumping station, water pumping station, balancing pond or other statutory services which have been or are to be constructed or installed on the Charged Property (including the grant of rights to such statutory body or service supply company);
- (c) to a bona fide management company managing any land to the extent only that the land so disposed of is required for such management;
- (d) by way of a charge to secure funding for the acquisition and/or development of the Charged Property Provided this legal charge has priority;
- (e) the Disposal of any part of the Charged Property which is required to comply with the requirements of any Works Agreement;
- (f) the Disposal of the freehold reversion of any building or Unit on the Charged Property which Unit has been the subject of a sale pursuant to a Release;

- (g) the grant of a legal and/or equitable charge over the Charged Property (Provided this legal charge has priority) or any part or parts of it;
- (h) a Disposal to a transferee or lessee of a Unit or Units pursuant to a Release;
- (i) the grant of any easement which would be expected to be granted in the usual course of residential development;
- (j) a Disposal to a registered provider as defined in the Housing and Regeneration Act 2008 or to any other affordable housing provider of an Affordable Unit ;
- (k) as a garage or garages erected or to be erected underneath an Unit or Units.

**Planning Act**

the Town and Country Planning Act 1990 and any Act for the time being in force amending or replacing the same and all regulations and orders made under it and any other legislation relating to town and country planning in force from time to time including the Planning (Listed Buildings and Conservation Areas) Act 1990;

**Planning Agreement**

an agreement which is expressed to be made pursuant to any of section 106 of the Planning Act, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 111 of the Local Government Act 1972 and/or a Works Agreement;

**Receiver**

any one or more receivers and/or managers appointed by the Chargee pursuant to this legal charge in respect of the Chargor or over all or any part of the Charged Property;

**Release**

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

**Release Fee**

a sum per Unit in respect of which a Release has been requested pursuant to clause 13.4 calculated in accordance with the following formula:

$$X = A \times (B \div C)$$

Where:

**A** is the balance of the Deferred Consideration 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;

**Sales Agreement**

the agreement for the sale and purchase of the Charged Property and Uncharged Property dated [•] and entered into between (1) the Chargee and (2) the Chargor,

**Secured Obligations**

the Chargor's obligations to pay all unpaid parts of the Deferred Consideration together with any interest and costs;

**Security Date**

the day ten (10) Working Days following but not including the date of service of a Default Notice where the Event of Default specified in such Default Notice has not by then been

remedied or in the case of paragraphs 2, 3 and 4 of Schedule 3 resolved to the satisfaction of the Chargee acting reasonably;

**Service Media**

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

**Transfer**

the transfer dated 3 December 2019 made between (1) John A Wells Limited (2) Bloor Homes Limited;

**Uncharged Property**

all parts of the Charged Property in respect of which a Release has been provided

**Unit**

a Dwelling or the intended site of a Dwelling) including ancillary curtilage, associated private driveway, garage and other associated areas;

**Utilities**

water, gas, electricity, surface and foul drainage, waste and telecommunications;

**VAT**

value added tax as referred to in the Value Added Tax Act 1994;

**Working Day**

excludes Saturdays, Sundays, statutory bank holidays and the period from 24 December to the immediately following 1 January inclusive;

**Works Agreement**

any agreement with supporting bonds (if required by the Regulatory Body) under:

- (l) section 38 or section 278 Highways Act 1980 or section 111 Local Government Act 1972 or similar agreement for the construction maintenance and adoption of roads and the connection of the same to the public highway or any other works to the public highway; and/or
- (m) section 98 and/or section 102 and/or section 104 and/or section 116 and/or section 185 Water Industry Act 1991 or similar agreement relating to the provision maintenance and adoption of Drainage Systems; and/or
- (n) any agreement with a Regulatory Body for the installation of Service Systems and for the provision and supply of Services including any deeds of easement required by a Regulatory Body; and/or
- (o) any other similar agreement with a Regulatory Body for the carrying out and/or diversion of works and the maintenance cleansing and adoption of the same;

and any deeds of easements or similar required in connection with any such agreement;

**1.2 The following rules of interpretation apply in this Legal Charge:**

- 1.2.1 references to the **Chargee** shall be construed so as to include its respective permitted successors in title, assigns and transferees;
- 1.2.2 references to the **Chargor** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.3 references to a person include a corporate or unincorporated body;
- 1.2.4 words importing one gender include any other gender and words importing the singular include the plural (and vice versa);

- 1.2.5 references to a statute (by name or otherwise) include any amendment, modification, consolidation, extension or re-enactment of, and any order, regulation, rule, scheme, direction, permission, plan, instrument or other subordinate legislation made under it for the time being in force;
- 1.2.6 unless stated otherwise, all consideration to be provided or performed under this Legal Charge is exclusive of VAT and, where a supply is made for VAT purposes, the recipient of the supply is to pay to the supplier any VAT chargeable on the supply at the same time as (and in addition to) providing or performing the consideration;
- 1.2.7 the clause headings do not affect interpretation;
- 1.2.8 unless otherwise indicated, references to clauses or Schedule are to clauses or Schedule of this Legal Charge;
- 1.2.9 references to any statute or statutory provision (by name or otherwise) include references to:
- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom; and
  - (b) any subsequent statutes directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute and also include any orders, regulations, instruments or other subordinate legislation made under that statute;
- 1.2.10 references to the Charged Property include any part of it;
- 1.2.11 the word **including** means **including, without limitation** and **include** shall be construed accordingly;
- 1.2.12 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Legal Charge is to be unaffected; and

## **2. COVENANT TO PAY**

### **2.1 Secured Obligations**

The Chargor covenants that it will discharge and pay to the Chargee the Deferred Consideration on the Deferred Payment Dates in accordance with the Sales Agreement.

### **2.2 Certain Liabilities**

The liabilities referred to in clause 2.1 shall, without limitation, include interest on the Deferred Consideration (or the relevant part) (both before and after judgement) from the due date for payment (or, if earlier, from the date of the Event of Default) to the date of payment in full at the Default Rate, and shall also include all legal and other costs, charges and expenses on a full and unqualified indemnity basis which may be reasonably and properly incurred by the Chargee in relation to enforcement of the Secured Obligations

## **3. CHARGE**

### **3.1 Fixed Charge**

The Chargor with full title guarantee as a continuing security for the payment and discharge of the Secured Obligations charges the Charged Property to the Chargee by way of legal mortgage.

### **3.2 No Lien**

The Chargee acknowledges that it has no lien over the Charged Property.

### **3.3 Restriction**

The Chargor consents to the Chargee applying to the Land Registry in form RX1 (or other replacement Land Registry form) to register the following restriction against the Charged Property:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ 3 December 2019 ] in favour of John A Wells Limited referred to in the charges registered or their conveyance"*

4. **PLANNING AGREEMENTS AND WORKS AGREEMENTS**

4.1 The Chargee shall within ten (10) Working Days (time being of the essence) upon written request from the Chargor enclosing the documentation for execution and subject to payment of the Chargee's reasonable and pre-agreed legal costs incurred but otherwise free of charge:

4.1.1 consent to and join in any Planning Agreement and/or Works Agreement as Chargee under this Legal Charge;

4.1.2 release from this Legal Charge for no Release Fee such parts of the Charged Property as are required by the Chargor to procure the adoption, dedication or transfer of any land required under the Planning Agreements and/or Works Agreement; and

4.1.3 consent to the grant of easements, licences and wayleaves for the provision of infrastructure on the Charged Property whether or not serving other land;

and the Chargor shall indemnify and keep the Chargee and its estate and effects fully indemnified against cost claims expenses and other liabilities arising out of such Planning Agreements and/or Works Agreements.

4.2 The Chargee hereby irrevocably appoints the Chargor its attorney by way of security to execute any Planning Agreement, Works Agreement and/or other documents referred to in clause 4.1 where the Chargee fails to do so within the period prescribed.

5. **UNDERTAKINGS AND INSURANCE**

The Chargor covenants that during the continuance of this security it will comply with the undertakings and insurance obligations set out in Schedule 2.

6. **FURTHER ASSURANCE**

The Chargor covenants that it shall (if and when required by the Chargee) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges notices and instructions) as the Chargee shall from time to time reasonably require to perfect or protect the security intended to be created by this Legal Charge over the Charged Property or to facilitate the realisation of the security.

7. **CERTAIN POWERS OF THE CHARGE: ENFORCEMENT**

7.1 **Powers of enforcement**

At any time on or after the Security Date the Chargee may, without further notice, exercise:

7.1.1 all the powers conferred upon mortgagees by the 1925 Act as varied or extended by this legal charge; and

7.1.2 all the powers and discretions conferred by this legal charge on a Receiver either expressly or by reference.

7.2 **Power of Sale**

For the purposes only of section 101 of the 1925 Act, the Secured Obligations become due and the statutory power of sale and other powers of enforcement arise on the Security Date.

7.3 **Exercise of Power of Sale**

Section 103 of the 1925 Act does not apply to this Legal Charge and all moneys secured by this Legal Charge are immediately due on the date the security constituted by this Legal Charge becomes enforceable on the Security Date.

#### **7.4 Statutory Power of Leasing**

Following an Event of Default, the Chargee shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Chargee shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 of the 1925 Act.

#### **8. ENFORCEMENT OF SECURITY**

8.1 Subject to clause 8.2, this Legal Charge will become enforceable on the Security Date whereupon the power of sale and other powers conferred by section 101 LPA, as varied or amended by this legal charge, shall be exercisable.

8.2 The Chargee may serve a Default Notice at any time after an Event of Default has occurred but prior to such event or circumstance having been remedied.

8.3 If at any time prior to the expiry of the Default Notice Period the event or circumstance referred to in a Default Notice having been remedied or ceases to be of effect the Default Notice shall be of no effect and this Legal Charge will take effect as if the Event of Default had not occurred.

#### **9. APPOINTMENT AND POWERS OF RECEIVER**

##### **9.1 Appointment**

9.1.1 At any time after the security constituted by the Legal Charge becomes enforceable in accordance with clause 8.1 or otherwise if requested by the Chargor, the Chargee may by instrument in writing executed as a deed appoint any qualified person to be a Receiver of the Charged Property.

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

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

##### **9.2 Receiver as agent**

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

##### **9.3 Powers of Receiver**

9.3.1 Any Receiver shall have all the powers conferred from time to time on receivers and administrative receivers by statute (in the case of powers conferred by the 1925 Act, without the restrictions contained in section 103 of the 1925 Act) and power on behalf and at the expense of the Chargor to do or omit to do anything which the Chargor could do or omit to do in relation to the Charged Property.

9.3.2 Without limitation to the powers referred to in clause 9.3.1 a Receiver shall have power to:

- (a) take possession of, collect and get in all or any of the Charged Property;
- (b) manage, develop, alter, improve or reconstruct the Charged Property;
- (c) enter into any Works Agreement in respect of the Charged Property including but not limited to the Uncharged Property;
- (d) buy, lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage;
- (e) acquire, renew, extend, grant, vary or otherwise deal with easements, rights, privileges and licences over or for the benefit of the Charged Property including but not limited to the Uncharged Property;
- (f) without the restrictions imposed by section 103 of the 1925 Act or the need to observe any of the provisions of sections 99 and 100 of the 1925 Act, sell by public auction or private contract, let, surrender or accept

surrenders, grant licences or otherwise dispose of or deal with the Property in such manner for such consideration and generally on such terms and conditions as he may think fit with full power to convey, let, surrender, accept surrenders or otherwise transfer or deal with the Charged Property in the name and on behalf of the Chargor or otherwise;

- (g) make and effect such repairs or renewals to the Charged Property as he may think fit and maintain, renew, take out or increase insurances;
- (h) appoint managers, agents, officers and employees for any of the purposes referred to in this clause 9.3 or to guard or protect the Charged Property at such salaries and commissions and for such periods and on such terms as he may determine;
- (i) without any further consent by or notice to the Chargor exercise for and on behalf of the Chargor all the powers and provisions conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to security of tenure or rents or agriculture in respect of the Charged Property but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- (j) institute, continue, enforce, defend, settle or discontinue any actions, suits or proceedings in relation to the Charged Property or submit to arbitration as he may think fit; and
- (k) sign any document, execute any deed and do all acts and things as may be considered by him to be incidental or conducive to any of the powers in this clause 9.3 or to the realisation of the security created by or pursuant to this legal charge and to use the name of the Chargor for all these purposes.

#### **9.4 Remuneration**

9.4.1 The Chargee may from time to time determine the remuneration of any Receiver and section 109(6) of the 1925 Act shall be varied accordingly.

9.4.2 A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

### **10. APPLICATION OF PROCEEDS: PURCHASERS**

#### **10.1 Application of proceeds**

All moneys received by the Chargee or by any Receiver shall be applied, after the discharge of the remuneration and expenses of the Receiver and all liabilities having priority to the Secured Obligations, in or towards satisfaction of such of the Secured Obligations and in such order as the Chargee in its absolute discretion may from time to time determine.

#### **10.2 Protection of purchasers**

No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Chargee or any Receiver to exercise any of the powers conferred by this legal charge has arisen or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

#### **10.3 No liability as mortgagee in possession**

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



**11. INDEMNITIES: COSTS AND EXPENSES**

**11.1 Enforcement costs**

The Chargor hereby undertakes with the Chargee to pay on demand all reasonable and properly incurred costs, charges and expenses incurred by the Chargee or by any Receiver in or about the enforcement, preservation or attempted preservation of any of the security created by or pursuant to this Legal Charge or the Charged Property on a full indemnity basis.

**11.2 No liability as mortgagee in possession**

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

**11.3 Indemnity from Charged Property**

The Chargee and any Receiver, attorney, agent or other person appointed by the Chargee under this legal charge and the Chargee's officers and employees (each an **Indemnified Party**) shall be entitled to be indemnified out of the Charged Property in respect of all reasonable and properly incurred costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, delict or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of them (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

11.3.1 anything done or omitted in the exercise or purported exercise of the powers contained in this legal charge; or

11.3.2 any breach by the Chargor of any of its obligations under this legal charge

and the Chargor shall indemnify the Chargee and any Receivers against any such matters.

**12. GRANT OF EASEMENTS**

12.1 On any sale of the Charged Property or any part of it by the Chargee 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 disponee the rights that the Charged Property benefits from as set out in Schedule 1 and (to the extent the Chargor is able to grant the same) such other rights as may reasonably be required for the beneficial use and enjoyment of the Charged Property including for residential development.

12.2 The Chargor hereby irrevocably appoints the Chargee its attorney by way of security to execute any deed of easement referred to in clause 12.1 where the Chargor fails to do so within 10 Working Days of written request by the Chargee.

**13. RELEASE**

13.1 The Chargor and the Chargee will do all such acts and execute and complete all such documents as shall be reasonably necessary to affect the releases of those parts of the Charged Property which should be released in accordance with the Legal Charge and the imposition of the relevant Deferred Consideration over those parts which are to be within the Charged Property within 10 Working Days of the revised Charge Plan being provided to the Chargee.

13.2 Where the Chargor has paid the Principal Land Payment 1 and the Planning Condition (as defined in the Sales Agreement) is subsequently satisfied in respect of Principal Land (as defined in the Sales Agreement), the Chargee shall (at no cost to the Chargor) within 10 Working Days of request by the Chargor release this charge and accept a Deferred Security Charge (as defined in the Sales Agreement) in accordance with clause 18 of the Sales Agreement.

13.3 Prior to and as a condition for the payment of Principal Land Payment 2 the Chargee will (at no cost to the Chargor) give the Chargor such properly executed form of Release as shall

be appropriate to release the Charged Property from this Legal Charge and the restriction created pursuant to clause 3.2 together with any relevant Land Registry forms.

- 13.4 The Chargor may at any time or times whilst this Legal Charge remains in place by not less than ten Working 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 Deferred Consideration and reduce the amount due to the Chargee on the date for payment of the Deferred Consideration.
- 13.5 The Chargee agrees to execute Releases for Permitted Disposals and agrees to deliver the same within 10 Working Days of receipt of request from the Chargor provided that any such request shall include the form of Release required to be executed, subject to payment by the Chargor of the reasonable costs of the Chargee (which shall not exceed £150 plus VAT per Release) (save where the Chargee is in delay in respect of its obligations pursuant to clause 13.2 where it shall be at no cost to the Chargee).
- 13.6 If the Chargee fails to execute any Release or to complete any relevant Land Registry forms to remove the Restriction from the Proprietorship Register of the Charged Property in accordance with its obligations in clauses 13.1 to 13.4 the Chargee appoints the Chargor its attorney by way of security to execute where the Chargee fails to do so within the period prescribed.

#### **14. MISCELLANEOUS**

##### **14.1 Enforcement of Security**

The Chargee undertakes that it will not seek to enforce the security constituted by this legal charge without first having served on the Chargor a written notice in accordance with clause 8 specifying its intention to enforce and specifying the Event of Default, and during the period of five Working Days' immediately following service of any such notice the Chargee will not enforce its security.

##### **14.2 Remedies Cumulative**

No failure or delay on the part of the Chargee to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

##### **14.3 Unfettered discretion**

Any liability or power which may be exercised or any determination which may be made under this legal charge by the Chargee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

##### **14.4 Substituted Security**

The Chargee shall release the Charged Property from this Legal Charge upon presentation to it by the Chargor of such substituted form of security as shall be acceptable to the Chargee at its absolute discretion together with the Chargee's reasonable costs, associated therewith.

##### **14.5 Assignment**

Neither the Chargor nor the Chargee may assign or transfer any of its obligations under this legal charge or enter into any transactions which would result in any of those obligations passing to another person and the Chargee cannot assign the benefit of this Charge to third parties.

##### **14.6 Power of Attorney**

The Chargor irrevocably and by way of security appoints the Chargee its attorney (with full power to appoint substitutes and to delegate) in its name and on its behalf to execute any document or do any act or thing which the Chargor is obliged to execute or do whether under this deed.

15. **PROVISIONS SEVERABLE**

Each provision of this legal charge is severable and distinct from the others and, if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this legal charge shall not in any way be affected or impaired.

16. **NOTICES**

16.1 **Form of notices**

Any notice served under this legal charge is to be:

- 16.1.1 in writing;
- 16.1.2 signed by or on behalf of the Party giving it; and
- 16.1.3 delivered by hand, first-class post, pre-paid or recorded delivery at the address of the Party on whom it is served set out above or such other address which it may notify in writing to the other Party at any time.

16.2 **Time of receipt**

If a notice is received after 5.00 pm on a Working Day, or on a day which is not a Working Day, it is to be treated as having been received on the next Working Day.

16.3 **Deemed receipt**

Unless the time of actual receipt is proved, a notice served by the following means is to be treated as having been received:

- 16.3.1 if delivered by hand, at the time of delivery; or
- 16.3.2 if sent by post, on the second Working Day after posting.

17. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Each Party confirms that no term of this legal charge is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this legal charge.

18. **GOVERNING LAW AND JURISDICTION**

18.1 This legal charge and any dispute or claim arising out of or in connection with it (whether contractual or non-contractual in nature) shall be governed by the law of England and Wales.

18.2 Subject to any provision of this legal charge which expressly permits or requires some other means of dispute resolution to be used, each Party irrevocably submits to the non-exclusive jurisdiction of the courts of England and Wales in respect of any matter, dispute or claim arising out of or in connection with this legal charge (whether contractual or non-contractual in nature).

**THE PARTIES** have executed this legal charge as a deed and delivered it on the date first set out above

## **SCHEDULE 1**

### **The Charged Property**

The land at Sharp Hill, Melton Road, Edwalton, Nottingham shown edged red on the Plan annexed at Appendix 1 forming part of the land currently registered at the Land Registry with title absolute under Title Number NT58242

## SCHEDULE 2

### Undertakings and insurance

#### Part 1

##### Undertakings

1. **COMPLIANCE WITH COVENANTS ETC:**

Observe and perform all covenants affecting the Charged Property (whether imposed by agreement, statute or otherwise).

2. **PROPERTY OUTGOINGS:**

Punctually pay, or cause to be paid, all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement, statute or otherwise) now or at any time during the continuance of this security payable in respect of the Property or by the owner or occupier of it.

3. **POSSESSION OF PROPERTY:**

Not without the prior consent in writing of the Chargee to Dispose of the Charged Property or permit any person:

3.1 to be registered (jointly with the Chargor or otherwise) as proprietor under the Land Registration Acts of the Charged Property nor create or permit to arise any overriding interest affecting the same within the definition of those Acts; or

3.2 to become entitled to any right, easement, covenant, interest or other title encumbrance which might adversely affect the value or marketability of the Charged Property;

provided that it is agreed that these restrictions shall not apply to any Permitted Disposal, any Disposal out of the remainder of the Estate in the normal course of its development, and any agreement or deed referred to in clause 0 of this legal charge or the creation of any floating charges by the Chargor.

#### Part 2

##### Insurance

1. Keep the Charged Property insured on the Chargor's usual group insurance policy against loss or damage by such risks usually insured against by prudent businesses or which the Chargor reasonably requires to its full replacement or reinstatement value for the time being (excluding a commercially acceptable excess) together with all demolition and debris removal costs and all architects, surveyors, engineers and other professional fees for rebuilding the Charged Property (plus VAT where applicable) (the **Insurance**).

2. Punctually (or within any agreed credit period) pay all premiums for the Insurance.

### **SCHEDULE 3**

#### **Events of Default**

1. The failure by the Chargor to pay any of the Secured Obligations in accordance with clause 2.1 of this deed;
2. The appointment of an administrator in respect of the Chargor;
3. The appointment of a liquidator, trustee, manager or receiver, administrative receiver or similar officer of the Chargor or any part of the Charged Assets;
4. The making of a request by the Chargor for the appointment of a Receiver.

SIGNED as a deed by

and

as attorneys for BLOOR HOMES LIMITED

Attorney

.....

Attorney

in the presence of:

Signature of Witness

Name in block capitals

Address

Attorney

.....

Attorney

in the presence of:

Signature of Witness

Name in block capitals

Address

EXECUTED and DELIVERED as a DEED by

JOHN A WELLS LIMITED

acting by a director

in the presence of:

Director: 

Witness Signature 

Witness Name

GRACE CASTELLO

Address

Occupation:

SOLICITOR

Geidards LLP

Number One Pride Place

Pride Park, Derby DE24 8QR

Tel: (01332) 331631 Fax: (01332) 294205

APPENDIX 1  
Plan

Charged Property      edged red



