



Registration of a Charge

Company name: **WAINHOMES (NORTH WEST) LIMITED**

Company number: **04978580**



X7L41Q5L

Received for Electronic Filing: **19/12/2018**

Details of Charge

Date of creation: **07/12/2018**

Charge code: **0497 8580 0032**

Persons entitled: **JOHN EDWARD BRAITHWAITE
MARY BRAITHWAITE
GLADMAN DEVELOPMENTS LIMITED**

Brief description: **THOSE PARTS OF THE FREEHOLD PROPERTY KNOWN AS LAND AT
ARTHURS LANE HAMBLETON REGISTERED AT THE LAND REGISTRY
UNDER TITLE NUMBER LAN174074 SHOWN TINTED BLUE ON THE PLAN
TO THE LEGAL CHARGE.**

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

Certified by:

NINA E. CHESWORTH



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4978580

Charge code: 0497 8580 0032

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th December 2018 and created by WAINHOMES (NORTH WEST) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th December 2018 .

Given at Companies House, Cardiff on 20th December 2018

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 December 2018

(1) WAINHOMES (NORTH WEST) LIMITED

(2) JOHN EDWARD BRAITHWAITE and MARY BRAITHWAITE and GLADMAN DEVELOPMENTS LIMITED

Legal Charge

Relating to freehold property known as land at Arthurs Lane Hambleton

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DATE:

7 December

2018

PARTIES:

- (1) **WAINHOMES (NORTH WEST) LIMITED** (registered number 4978580) whose registered office is at Kelburn Court Daten Park Birchwood WA3 6UT (the **Chargor**); and
- (2) **JOHN EDWARD BRAITHWAITE** and **MARY BRAITHWAITE** of 20 Arthurs Lane Hambleton Poulton-le-Fylde and **GLADMAN DEVELOPMENTS LIMITED** a company incorporated in England and Wales (company number 03341567) whose registered office is Gladman House Alexandria Way Congleton Business Park Congleton Cheshire CW12 1LB (**Chargee**).

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Legal Charge the following definitions will apply:

Business Day

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

Chargee's Solicitors

such solicitor or solicitors that the Chargee may nominate from time to time;

Chargor's Solicitors

such solicitor or solicitors that the Chargor may nominate from time to time;

Charged Assets

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

Charged Property

the part of the Property more particularly described in Schedule 1 less any parts which become the subject of a Release pursuant to clause 5.1, together with the rights over the Uncharged Property set out in Schedule 2;

Chargor's Deferred Purchase Price

the payment required pursuant to clause 12.1(b) of the Contract.

Contract

the agreement for the sale and purchase of the freehold interest in the Property dated 27 April 2018 and entered into between (1) John Edward Braithwaite and Mary Braithwaite (2) Wainhomes (North West) Limited and (3) Gladman Developments Limited (3)

Dispose or Disposal

any transfer or assent or a lease of the Property;

Deferred Consideration Date

the dates that the Chargor's Deferred Purchase Price is payable by the Chargor pursuant to the terms of the Contract;

Encumbrance

a mortgage, charge, pledge, lien agreement by way of security or other security interest securing any obligation of any person preferential right or trust arrangement or any other agreement or arrangement having a similar effect;

Event of Default

- (a) the Chargor fails to pay the Secured Liabilities by the Deferred Consideration Date (meaning either of the dates specified in the Contract);

- (b) any corporate action, legal proceeding or other procedure or step is taken in respect the Chargor in relation to:-
 - (i) the suspension of payments, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement or a scheme of arrangement of any of them);
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any of them;
 - (iii) the appointment of a liquidator, receiver, conservator, administrative receiver, administrator, compulsory manager or other similar officer in respect of any of them or any of their assets; or
 - (iv) enforcement of any security over any assets of any of them;
- (c) the Chargor
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is deemed to or is declared to be unable to pay its debts under applicable law;
 - (iii) suspends making payments on its debts generally;
 - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
 - (v) moratorium is declared in respect of any indebtedness of the Chargor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium;
- (d) the appointment of a Receiver;

Environment

all of the air, water and land, including (without limitation) the air within buildings and other natural or man-made structures above or below ground, ground and surface water, and surface and sub-surface soil

Environmental Law

all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the Environment that affect the Property

Environmental Licence

any authorisation required by an Environmental Law in respect of any of the Property

LPA 1925

the Law of Property Act 1925;

Media

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

Permitted Disposal

- (a) the Disposal dedication or adoption of any part of the Property or service within the Property and / or any rights over any part of the Property to or in favour of any statutory undertaking, utility company, local authority or similar body for the provision and adoption of services sewers or other infrastructure; and/or

- (b) the dedication/adoption and / or Disposal of any parts of the Property and / or the grant of rights or easements to the highway or other competent authority for roads, footpaths, cycleways (together with ancillary areas and rights) or other highway works in relation to the adoption of such roads, footpaths, cycleways (together with ancillary areas and rights) or other highway works including any agreement made under sections 38 or 278 of the Highways Act 1980; and / or
- (c) the Disposal of any part of the Property which is reasonably required to comply with the requirements of any Works Agreement; and/or
- (d) the Disposal of land intended for use as an electricity substation, transformer chamber, gas governor, pumping station or similar infrastructure; and/or
- (e) the grant of any easement required for the Chargor's residential development of the Property; and/or
- (f) the Disposal of any part of the Property which is required to be transferred to a registered provider as defined in the Housing and Regeneration Act 2008 or to any other affordable housing provider pursuant to any requirement relating to social or affordable housing referred to in any Planning Obligation; and/or
- (g) the Disposal of a single Unit on the Uncharged Property to a transferee or lessee (which expression shall include an investor);

Plan

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

Planning Permission

means outline planning permission dated 13 February 2018 and granted under reference 16/00217/OULMAJ together with reserved matters approval dated 12 October 2018 and granted under reference 18/00395/RELMAJ or any substitution or variation thereof

Projections

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

Property

The freehold property known as land at Arthurs Lane Hambleton being part of the property registered at the Land Registry under title number LAN174074 shown more particularly edged red on the Plan.

Receiver

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

Related Rights

in relation to any asset (i) the proceeds of sale of any part of that asset, (ii) all rights under any licence agreement for sale or agreement for lease in respect of that asset, (iii) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset and (iv) any income, moneys and proceeds paid or payable in respect of that asset;

Release

a Land Registry form DS3 or form DS1 or such other form as shall be appropriate to release (when dated) the Charged Property or any interest in the Charged Property or any part of parts of the Charged Property from this Legal Charge together with a Land Registry form RX4 to the relevant part or parts of the Charged Property from the restriction which is noted at clause 4.2 below;

Secured Liabilities

the Chargor's obligation to pay all outstanding amounts of the Chargor's Deferred Purchase Price together with any interest due under the Contract and all reasonable and properly incurred costs, charges and expenses incurred by the Chargee in connection with the protection, preservation or enforcement of its rights;

Uncharged Property

The Property excluding the extent of the Charged Property at the relevant time

Unit

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

Utilities

water, foul and surface water drainage, gas, electricity, telecommunications and other services and supplies;

Works Agreement

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

- (a) an agreement in respect of and affecting the Property (whether or not also affecting other property) pursuant to the Local Government Miscellaneous Provisions) Act 1982 Section 33 and/or the Local Government Act 1972 Section 111 and/or the Highways Act 1980 Section(s) 38 and/or 278 and/or the Water Industry Act 1991 Section 104 or any provision to similar intent or an agreement with a water undertaker or a drainage undertaker (within the meaning of the Water Industry Act 1991) or the Environment Agency or an Internal Drainage Board (within the meaning of the Water Resources Act 1991 or the Land Drainage Act 1991) or other appropriate authority as to water supply or drainage of surface and/or foul water from the Property or an agreement with any competent authority or body relating to other services; and/or
- (b) a Planning Obligation (whether entered into by agreement or otherwise) in respect of and affecting the Property (whether or not also affecting other property) pursuant to Section 106 of the Town and County Planning Act 1990.

1.2 In this Legal Charge, a reference to:-

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

- 1.2.6 a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established; and
- 1.2.7 the Property or the Charged Property or the Uncharged Property includes any part or parts of them.
- 1.3 The schedules form part of this Legal Charge and have the same effect as if expressly set out in the body of this Legal Charge and shall be interpreted and construed as though they were set out in this Legal Charge.
- 1.4 The contents table and headings in this Legal Charge are for convenience only and do not affect the interpretation or construction of this Legal Charge.
- 1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 Where a party comprises more than one person, the obligations and liabilities of that party under this Legal Charge shall be joint and several obligations and liabilities of those persons.

2. COVENANT TO PAY

The Chargor covenants with the Chargee that it will pay or discharge on demand the Secured Liabilities when the same are due and payable in accordance with the terms of the Contract or if earlier upon the occurrence of an Event of Default

3. CHARGES

3.1 Fixed Charges

As a continuing security for the payment of the Secured Liabilities and the sums payable pursuant to clause 2, the Chargor hereby, with full title guarantee, charges, and agrees to charge:

- 3.1.1 by way of **legal mortgage**, the Charged Property together with all buildings and fixtures on the Charged Property at any time which belong to the Chargor, and all Related Rights;
- 3.1.2 by way of **fixed charge**, all rights, interest and claims in any policy of insurance relating to the Charged Assets in which the Chargor may from time to time have an interest;
- 3.1.3 by way of **fixed charge**, the benefit of all licences, consents and authorisations held in connection with the use of any Charged Assets, and the right to any compensation in respect of any of them.

4. RESTRICTIONS AND WORKS AGREEMENTS

- 4.1 The Chargor agrees with the Chargee that it will not, without the Chargee's prior written consent, Dispose or agree to Dispose of the Property except to the extent that such Disposal is a Permitted Disposal.
- 4.2 The Chargee and the Chargor hereby apply to the Chief Land Registrar (and the Chargor consents to such an application being made) in form RX1 to register the following standard form P. restriction against the title to the Charged Property:-

"RESTRICTION

No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 1 December 2018 in favour John Edward Braithwaite and Mary Braithwaite and Gladman Developments Limited referred to in the charges register (or their conveyancer).

- 4.3 The Chargee shall, at the request and expense of the Chargor, within 20 Business Days of request consent to and join in any Works Agreement (but for the purpose only of giving its consent as mortgagee to the entering into of the agreement) and shall release from this Legal Charge such parts of the Charged Property as are reasonably required to procure the adoption dedication or transfer of any land required under the Works Agreement or for the provision of infrastructure on the Property or for the grant of planning permission for the development of the Property provided that the Chargee shall not be required to undertake any functions or obligations or incur any liability under any such Works Agreement and shall be a party thereto purely for the purpose of confirming its consent thereto as mortgagee and the Chargor and its successors in title shall indemnify and keep the Chargee indemnified against all actions, proceedings, claims, demands, losses, costs, expenses, damages and liabilities whatsoever arising from complying with a request of the Chargee pursuant to this clause 4.3;

5. **DISCHARGE**

- 5.1 Within 10 Business Days after receipt in cleared funds of the payment of the Chargor's Deferred Purchase Price pursuant to clause 12.1(b) of the Contract (together with any interest payable thereon pursuant to the terms of the Contract in the event of late payment of the Deferred Purchase Price) the Chargee will give to the Chargor a Release to release all the Charged Property and the restriction created pursuant to Clause 4.2
- 5.2 The Chargee agrees, at the cost of the Chargor (such costs to be reasonable and proper), to execute Releases for Permitted Disposals and agrees to deliver the same within 10 Business Days of receipt of request from the Chargor provided that promptly upon request all details as are necessary to allow the Chargee to establish that the request does relate to a Permitted Disposal (including copies of the relevant documents) are provided by the Chargor the Chargee.

6. **REPRESENTATIONS AND WARRANTIES**

The Chargor represents and warrants to the Chargee that:

6.1 **Incorporation**

It is a limited company or a limited liability partnership duly organised, validly existing and registered under the relevant laws of the jurisdiction in which it is incorporated and has the power and all necessary governmental and other consents, approvals, licences and authorities to own the Charged Assets and to enter into, perform and deliver this Legal Charge and the transactions contemplated by it.

6.2 **Authority**

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

6.3 **Obligations binding**

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

6.4 **No Conflict**

The entry into this Legal Charge and the performance of its obligations under this Legal Charge will not conflict with any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding upon it or any of its assets.

6.5 **Not liable to be set aside**

This Legal Charge creates the security which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation, bankruptcy or administration of the Chargor or otherwise;

7. ENFORCEMENT OF SECURITY

The security constituted by this Legal Charge shall become immediately enforceable on the occurrence of an Event of Default (whether or not such Event of Default is still continuing) and the power of sale and other powers conferred by section 101 of the LPA 1925, as varied or amended by this Legal Charge, shall be exercisable. After the security constituted by this Legal Charge has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the security constituted by this Legal Charge in such manner as it sees fit.

- 7.1 At any time after the security created under this Legal Charge becomes enforceable, the Chargee may, without notice to the Chargor and whether or not it has appointed a Receiver, exercise:
- 7.1.1 all or any of the powers, authorities and discretions conferred on mortgagees by the LPA 1925 (as varied or extended by this Legal Charge); and
 - 7.1.2 all or any of the powers conferred by this Legal Charge on it as a Receiver
- 7.2 Neither the Chargee nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Assets or be liable for any loss upon realisation or for any neglect, default or omission for which a mortgagee in possession might otherwise be liable.

8. POWERS OF THE CHARGE

- 8.1 The power of sale conferred on the Chargee and on any Receiver by this Legal Charge shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA 1925 and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Legal Charge.
- 8.2 Sections 93 and 103 of the LPA 1925 shall not apply to this Legal Charge.
- 8.3 At any time after the security created under this Legal Charge becomes enforceable, the Chargee may lease or make arrangements to lease, at a premium or otherwise, and accept surrenders of leases without any restriction and in particular without the need to comply with any restrictions imposed by sections 99 and 100 of the LPA 1925.
- 8.4 Any liberty or power which may be exercised or any determination which may be made hereunder by the Chargee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.
- 8.5 Each of the Chargee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Legal Charge (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Chargee or the Receiver itself or any subsequent delegation or revocation thereof.

9. APPOINTMENT OF RECEIVER

- 9.1 At any time after the occurrence of an Event of Default, (whether or not such Event of Default is still continuing or if requested to do so by the Chargor, the Chargee may (by deed or otherwise and acting through its authorised officer):
- 9.1.1 appoint one or more persons jointly or severally to be a Receiver of the whole or any part of the Charged Assets and/or of the income from any Charged Assets;
 - 9.1.2 remove (so far as it is lawfully able) any Receiver(s) so appointed; and
 - 9.1.3 appoint another person(s) as an additional or replacement Receiver(s).
- 9.2
- 9.2.1 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA 1925) does not apply to this Legal Charge.

- 9.2.2 The Chargee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A to the Insolvency Act 1986.
- 9.2.3 The Chargee may not appoint an administrative receiver (as defined in section 29(2)) of the Insolvency Act 1986) over the Charged Assets if the Chargee is prohibited from doing so by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.
- 9.3 Each Receiver shall be:
 - 9.3.1 an agent of the Chargor. The Chargor shall be solely responsible for his acts, omissions, defaults, losses and liabilities and for the payment of his remuneration; and
 - 9.3.2 entitled to remuneration for his services at a rate to be fixed by the Chargee from time to time (without being limited to the maximum rate specified in section 109(6) of the LPA 1925).
- 10. **POWERS OF RECEIVER**
 - 10.1 Every Receiver shall have all the powers:
 - 10.1.1 conferred by the LPA 1925 on mortgagors and on mortgagees in possession and receivers appointed under that Act (but without the restrictions contained in Section 103 of that Act) except to the extent to which those powers are expressly or impliedly excluded by the terms of this legal charge. In the event of ambiguity or conflict the terms of this legal charge will prevail;
 - 10.1.2 set out in Schedule 1 to the Insolvency Act 1986; and
 - 10.1.3 conferred from time to time on receivers by statute.
 - 10.2 **Additional Powers**

In addition to the powers referred to in clause 10.1 a Receiver shall have the power, at the cost of the Chargor and either in his own name or in the name of the Chargor or (with the written approval of the Chargee) in the name of the Chargee:

 - 10.2.1 to take possession of, collect and get in all or any part of the Charged Assets;
 - 10.2.2 to carry on, manage or concur in carrying on and managing all or any part of the business of the Chargor in any manner he thinks fit;
 - 10.2.3 to borrow or raise money and secure the payment of any money in priority to the charges created by this Legal Charge for the purpose of exercising his powers and/or defraying any costs or expenses incurred by him in such exercise;
 - 10.2.4 to sell, let, lease or concur in selling, letting or leasing and to vary the terms or determine, surrender and to accept surrenders of leases or tenancies of or grant options or licences over all or any part of the Charged Assets in any manner and on such terms as he thinks fit. The consideration for any such transaction may consist of cash or of shares or securities or other obligations (and the amount of such consideration may be dependent on profit or turnover or be determined by a third party) and may be payable in a lump sum or in instalments;
 - 10.2.5 to sever any fixtures (including trade and tenants' fixtures) from the property of which they form part, without the consent of the Chargor;
 - 10.2.6 to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Charged Assets;
 - 10.2.7 to make and effect all repairs, renewals, improvements, and insurances, commence and/or complete any building operation and/or apply for and maintain any planning permission, building regulation approval or other authorisation in each case as he thinks fit;

- 10.2.8 to redeem any prior security in respect of all or any of the Charged Assets and to settle and pass the accounts of the holder of such prior security and any accounts so settled and passed will, in the absence of manifest error, be conclusive and binding on the Chargor. All moneys paid to the holder of such security in accordance with such accounts shall form part of the Secured Liabilities;
- 10.2.9 to promote the formation of subsidiaries of the Chargor for the purpose of purchasing, leasing, licensing or otherwise acquiring interests in all or any of the assets of the Chargor and to arrange for any such subsidiaries to trade or cease to trade on such terms as the Receiver thinks fit;
- 10.2.10 to take such proceedings and to settle, adjust, refer to arbitration, compromise and/or arrange any claim, account or demand which the Chargee or the Receiver may think fit;
- 10.2.11 to appoint managers, officers and agents at such salaries and for such periods as the Receiver may determine and to discharge any person appointed by the Chargor;
- 10.2.12 to exercise in relation to all or any part of the Charged Assets all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Charged Assets;
- 10.2.13 lend money or advance credit to any customer of the Chargor;
- 10.2.14 give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Charged Assets;
- 10.2.15 let any Charged Assets for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any Charged Assets on any terms which he thinks fit;
- 10.2.16 to do all other acts and things as may be considered by the Receiver to be incidental or conducive to the above or otherwise expedient for or incidental or conducive to the preservation, improvement or realisation of the Charged Assets.

11. APPLICATION OF MONEYS

- 11.1 All moneys received or recovered by the Chargee or any Receiver pursuant to this Legal Charge shall be applied in the following order:

- 11.1.1 first, in satisfaction of, or provision for, all costs, charges and expenses incurred by the Chargee or any Receiver and the payment of the remuneration of any Receiver;
- 11.1.2 second, in or towards satisfaction of the Secured Liabilities; and
- 11.1.3 third, any surplus shall be paid to the Chargor or any other person entitled thereto.

This clause is subject to the payment of any claims having priority over the security created under this Legal Charge. This clause does not prejudice the right of the Chargee to recover any shortfall from the Chargor.

- 11.2 If the Chargee reasonably considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Legal Charge and the security created under this Legal Charge shall continue and such amount shall not be considered to have been irrevocably paid.

12. CHARGOR'S COVENANTS

The Chargor covenants with the Chargee that during the continuance of the security created by this Legal Charge:

12.1 Preservation of Charged Property

The Chargor shall not do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by the Chargee or materially diminish the value of any part of the Charged Property or the effectiveness of the security created by this Legal Charge.

For the avoidance of any doubt the development of the Property in accordance with the Planning Permission shall not breach the provisions of this clause.

12.2 Enforcement of Rights

The Chargor shall use all reasonable endeavours to:

12.2.1 procure (to the extent required by good estate management) the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Chargor relating to the Property of the covenants and other obligations imposed on such counterparty; and

12.2.2 enforce any rights and institute, continue or defend any proceedings relating to the Property which the Chargee may require acting reasonably from time to time.

12.3 Repair and Maintenance

Subject to the right of the Chargor to carry out the development of the Property in accordance with the Planning Permission the Chargor shall keep any buildings and fixtures and fittings on the Charged Property in good and substantial repair and condition

12.4 Development Restrictions

The Chargor shall not, without the prior written consent of the Chargee develop the Property other than in accordance with the Planning Permission and any approval of reserved matters thereunder

12.5 Insurance

12.5.1 The Chargor shall insure and keep insured the Charged Property and all buildings and works thereon (whether completed or in course of construction) against:

- (a) loss or damage by fire or terrorist acts;
- (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Chargor and in respect of any buildings or works in course of construction against the risks normally insured under a contractor's all risks policy and in respect of completed buildings and works under a comprehensive insurance policy for buildings and works of a similar nature to those on the Charged Property

Any such insurance must be with a reputable insurance company or reputable underwriters for not less than the replacement value of the Charged Property (meaning in the case of any premises on the Charged Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for demolition and reinstatement).

12.5.2 The Chargor shall, if requested by the Chargee, produce to the Chargee reasonable written evidence that the insurance required by this paragraph is in force.

12.6 Insurance Premiums

The Chargor shall promptly pay all premiums in respect of each insurance policy and do all other things necessary to keep such policy in full force and effect.

12.7 No Invalidation Insurance

The Chargor shall not do or omit to do or permit to be done or omitted anything that may invalidate or otherwise prejudice the insurance policies.

12.8 Insurance Policies' Proceeds

All monies payable under any of the insurance policies at any time (whether or not the security constituted by this Legal Charge has become enforceable) shall:

- 12.8.1 where they are not paid directly to the Chargee by the insurers, be held by the Chargor as trustee of the same for the benefit of the Chargee (and the Chargor shall account for them to the Chargee); and
- 12.8.2 at the option of the Chargee, be applied in making good or recouping expenditure in respect of the loss or damage for which such monies are received or, after the security constituted by this Legal Charge has become enforceable and if the Chargee so directs, in or towards discharge or reduction of the Secured Liabilities.
- 12.9 Proprietary Rights**
- The Chargor shall procure that no person shall, except to the extent necessary to allow the Chargor to enter into any contract or agreement with a third party providing for a Permitted Disposal or otherwise with the prior written consent of the Chargee, become entitled to assert any proprietary or other like right or interest over the whole or any part of the Charged Property.
- 12.10 Leases**
- Save in respect of a Permitted Disposal not to exercise any of the powers conferred on the Chargor by Section 99 of the LPA 1925 or otherwise create any tenancy or lease or part with or share the possession or occupation of or confer upon any person a contractual licence, right or interest to occupy the Property or any part thereof.
- 12.11 Compliance with and Enforcement of Covenants**
- The Chargor shall:
- 12.11.1 observe and perform all covenants, stipulations and conditions to which the Charged Property, or the use of it, is or may be subject (covenants stipulations and conditions which are no longer enforceable or capable of taking effect excepted) and (if the Chargee so requires) produce to the Chargee evidence sufficient to satisfy the Chargee that those covenants, stipulations and conditions have been observed and performed; and
- 12.11.2 diligently enforce all covenants, stipulations and conditions benefiting the Charged Property and shall not (and shall not agree to) waive, release or vary any of the same.
- 12.12 Statutory Requirements**
- To comply with all statutory requirements for the time being in force applicable to the Property.
- 12.13 Notices or Claims relating to the Property**
- 12.13.1 The Chargor shall:
- (a) give full particulars to the Chargee of any material notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a Notice) that specifically applies to the Charged Property, or to the locality in which it is situated, as soon as is reasonably practicable after becoming aware of the relevant Notice; and
- (b) if the Chargee (acting reasonably) so requires, as soon as reasonably practicable, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Chargee in making, such objections or representations in respect of any such Notice as the Chargee may desire.
- 12.13.2 The Chargor shall give full particulars to the Chargee of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to the Property.

12.14 Payment of Outgoings

The Chargor shall pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed upon the Charged Property or on its occupier.

12.15 Environment

The Chargor shall in relation to the Property:

12.15.1 properly discharge all duties of care and responsibility placed upon it by Environmental Law and comply with the terms of any Environmental Licences;

12.15.2 observe and perform all material requirements of Environmental Law; and

12.15.3 apply for and obtain all Environmental Licences.

12.16 Inspection

The Chargor shall permit the Chargee and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice and at reasonable times subject to all health and safety instructions issued by the Chargor.

12.17 Access Roads and Media

In designing and constructing the access roads, footpaths, cycleways or other highway works and the Media upon the Property, the Chargor shall ensure that the same are designed and constructed so as to provide sufficient capacity to service the development of the Charged Property (including but not limited to the development authorised by the Planning Permission).

12.18 Power to Remedy

12.18.1 The Chargee shall be entitled (but shall not be obliged) to remedy a breach at any time by the Chargor of any of its obligations contained in this Legal Charge. The Chargor irrevocably authorises the Chargee and its agents to do all such things as are necessary or reasonable in the circumstances for that purpose. Any monies expended by the Chargee in remedying a breach by the Chargor of any of its obligations contained in this Legal Charge shall be reimbursed by the Chargor to the Chargee on a full indemnity basis.

12.18.2 In remedying any breach in accordance with this clause the Chargee, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Chargee may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

13. NEGATIVE PLEDGE

The Chargor covenants with the Chargee that, during the continuance of the security created by this Legal Charge, it shall not without the prior written consent of the Chargee:

13.1 create or permit to subsist any Encumbrance upon any of the Charged Assets save for any Encumbrance which constitutes as Permitted Disposal; or

13.2 dispose of, whether by a single transaction or a number of transactions and whether related or not, the whole or any part of the Charged Assets except by way of a Permitted Disposal.

14. POWER OF ATTORNEY

14.1 The Chargor irrevocably appoints the Chargee, each person to whom the Chargee shall from time to time have delegated the exercise of the power of attorney conferred by this clause and any Receiver jointly and severally to be its attorney and in its name and on its behalf to execute, deliver and perfect all documents and to do all things which the attorney may consider to be required or desirable for:

- 14.1.1 carrying out any obligation imposed on the Chargor by this Legal Charge which the Charger has failed to do (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Assets); and
 - 14.1.2 enabling the Chargee and any Receiver to exercise any of the powers conferred on them by or pursuant to this Legal Charge or by law.
- 14.2 The Chargor ratifies and confirms, and agrees to ratify and confirm, all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers pursuant to clause 13.1.
- 15. **RESERVATION OF SECURITY**
- 15.1 The security created under this Legal Charge will be a continuing security for the ultimate balance of the Secured Liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities.
- 15.2 The obligations of the Chargor under this Legal Charge will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Legal Charge (whether or not known to it or the Chargee). This includes:
 - 15.2.1 any time or waiver granted to, or composition with, any person;
 - 15.2.2 any release or any person under the terms of any composition or arrangement;
 - 15.2.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of, any person;
 - 15.2.4 any non-presentation, non-observance of any formality or other requirements in respect of any instrument or any failure to realise the full value of any security;
 - 15.2.5 any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
 - 15.2.6 any amendment of any document or security;
 - 15.2.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any document or security or the failure by any person to enter into or be bound by any document or security; or
 - 15.2.8 any insolvency or similar proceedings.
- 15.3 The Chargor waives any rights it may have of first requiring the Chargee (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up, bankruptcy or liquidation proceedings relative to any other person before claiming from the Chargor under this Legal Charge.
- 15.4 **Appropriations**

Until all amounts which may be or become payable by the Chargor to the Chargee have been irrevocably paid in full, the Chargee (or any trustee or agent on its behalf) may without affecting the liability of the Chargor under this Legal Charge:

 - 15.4.1 refrain from applying or enforcing any other monies, security or rights held or received by the Chargee (or any trustee or agent on its behalf) against those accounts; or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
 - 15.4.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Legal Charge.

16. FURTHER ASSURANCE

16.1 The Chargor shall, at its own expense, promptly take whatever action the Chargee may require for (acting reasonably and properly in relation to clause 16.1.1 and acting only where there is an Event of Default in relation to clauses 16.1.2 and 16.1.3):

16.1.1 creating, perfecting or protecting the security intended to be created by this Legal Charge;

16.1.2 facilitating the realisation of any of the Charged Assets; or

16.1.3 the exercise of any right, power of discretion exercisable by the Chargee or any Receiver (or any delegates or sub-delegates) in respect of any of the Charged Assets

Including the execution of any security or other document (in such form as the Chargee may reasonably require) the giving of any notice and the making of any registration which the Chargee may think expedient

17. GRANT OF EASEMENTS

17.1.1 On any sale of the Charged Property or any part of it by the Chargee or a Receiver pursuant to the powers conferred by this Legal Charge, the Chargor will (at its own cost) on demand enter into such deed of easement as the Chargee requires to grant to the purchaser or other donee the rights for the benefit of the Charged Property over the Uncharged Property set out in Schedule 2 and such other rights as may reasonably be required for the beneficial use, development and enjoyment of the Charged Property (including but not limited to use for residential development) and the Chargor will (at the cost of the Chargor (such costs to be reasonable and proper)) on demand enter into such Works Agreements, adoption agreements and/or deeds of easement as the Chargee or the relevant utilities supplier may require in respect of the Utilities and access roads and footpaths..

17.1.2 Following the occurrence of an Event of Default the Chargor shall allow the Chargee or a Receiver to exercise the rights over the Uncharged Property set out in Schedule 2 and such other rights as may reasonably be required for the beneficial use, development and enjoyment of the Charged Property/including but not limited to use for residential development.

17.2 If the Chargor fails to execute any Works Agreements, deed of easement or adoption agreement in accordance with its obligation in clause 17.1, the Chargor hereby irrevocably appoints the Chargee its attorney by way of security to execute the relevant deed.

17.3 On or prior to a Disposal of the Uncharged Property or any part or parts thereof that is not a Permitted Disposal the Chargor will (at its own cost) procure that the donee enters in to a deed of covenant with the Chargee in a form and substance satisfactory to the Chargee (acting reasonably and properly) to grant the rights referred to in clause 17.1 above over the Uncharged Property or part or parts thereof in the event that the Chargee or a Receiver requires the grant of the same.

18. PROTECTION OF THIRD PARTIES

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

19. ASSIGNMENT AND TRANSFER

19.1 Save for any interest created from time to time by the Chargor pursuant to a Permitted Disposal the Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner

with this Legal Charge or any of its rights under this Legal Charge or purport to do any of the same without the prior written consent of the Chargee.

- 19.2 The Chargee may freely assign or transfer its rights and/or its obligations pursuant to this Legal Charge

20. NON-CONTRAVENTION

The Chargor certifies and warrants that this Legal Charge not contravene any of the provisions of the memorandum or articles of association or other documents governing or comprising the constitution or incorporation of any company comprised in the Chargor and that no consent of any third party is required to enter into this Legal Charge (including without limitation the giving of a first legal charge over the Property)

21. THIRD PARTY RIGHTS

- 21.1 Subject to clause 21.2, a person who is not a party to this Legal Charge shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or rely upon a provision of this Legal Charge. No party to this Legal Charge may hold itself out as trustee of any rights under this Legal Charge for the benefit of any third party unless specifically provided for in this Legal Charge. This clause 21.1 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999.

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

22. NOTICES

- 22.1 Any notice given pursuant to this Legal Charge ("**notice**") shall be made in writing and shall be treated as having been served if served in accordance with clause 14.2. Each notice may be delivered to the relevant party:

22.1.1 at its registered office; or

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

- 22.2 Service may be made on a party:

22.2.1 personally on any director or the company secretary;

22.2.2 by leaving it at an address for service referred to in clause 22.1; or

22.2.3 by sending it by prepaid first-class letter (or by airmail if to or from an address outside the United Kingdom) through the post to an address for service referred to in clause 22.1.

- 22.3 Any notice shall be served or treated as served at the following times:

22.3.1 in the case of service personally or in accordance with clause 22.2.2, at the time of service; or

22.3.2 in the case of service by post, at 9.00 a.m. on the second Business Day after it was posted or in the case of service to or from an address outside the United Kingdom, at 9.00 a.m. (local time at the place of destination) on the fourth Business Day after it was posted.

- 22.4 In proving service of a notice by post, it shall be sufficient to prove that such notice was correctly addressed, full postage paid and posted.

- 22.5 E-mail and fax are not valid forms of service under this Legal Charge.

23. EXPENSES

23.1 The Chargor shall, from time to time on demand of the Chargee, pay or reimburse the Chargee on a full indemnity basis for all reasonable property costs and expenses (including legal fees) together with any VAT or similar taxes thereon incurred by it in connection with:

23.1.1 anything done by the Chargee or at the request of the Chargee pursuant to this Legal Charge (such costs to be reasonable); and

23.1.2 the enforcement of this Legal Charge

Provided that the Chargor shall at no time be liable to pay or be responsible for any costs associated with the production of forms DS1 and/or RX4 (or any other relevant document(s)) by the Chargee pursuant to clause 5.1 of this Legal Charge.

23.2 The Chargor shall indemnify the Chargee, its agents, attorneys and any Receiver against any action, proceeding, claim loss liability and costs which it may sustain in the exercise (or purposed exercise) of any rights, powers, or discretions vested in them by this Legal Charge (or by law).

24. VAT

All sums payable under this Deed are exclusive of VAT. Accordingly the Chargor will in addition pay any VAT chargeable or payable in respect of the Secured Liabilities or otherwise pursuant to this legal charge on receipt of a valid VAT invoice.

25. GENERAL

25.1 No variation to this Legal Charge shall be effective unless made in writing and signed by or on behalf of all the parties to this Legal Charge. The Chargor and Chargee shall not be required to obtain the consent of any third party on whom a benefit is conferred under this Legal Charge to the termination or variation of this Legal Charge or to the waiver or settlement of any right or claim arising under it. A waiver given or consent granted by the Chargee under this Legal Charge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

25.2 Each provision of this Legal Charge is severable and distinct from the others. If at any time any provision of this Legal Charge is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Legal Charge but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Legal Charge shall not be affected in any way.

25.3 If any provision of this Legal Charge is found to be illegal, invalid or unenforceable in accordance with clause 25.2 but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.

25.4 The failure or delay in exercising a right or remedy provided by this Legal Charge or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this Legal Charge or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

25.5 The Chargee's rights and remedies contained in this Legal Charge are cumulative and not exclusive of any rights or remedies provided by law.

25.6 This Legal Charge may be executed in any number of counterparts each of which when executed and delivered shall be an original. All the counterparts together shall constitute one and the same document.

26. GOVERNING LAW

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

27. JURISDICTION

- 27.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Legal Charge (including a dispute relating to the existence, validity or termination of this Legal Charge or any non-contractual obligation arising out of or in connection with this Legal Charge) (a "**Dispute**").
- 27.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

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

SCHEDULE 1

Details of the Charged Property

Those part of the Property shown tinted blue on the Plan together with the benefit of the rights referred to at Schedule 2 over the Uncharged Property in common with the Chargor and all others who have such or similar rights

SCHEDULE 2

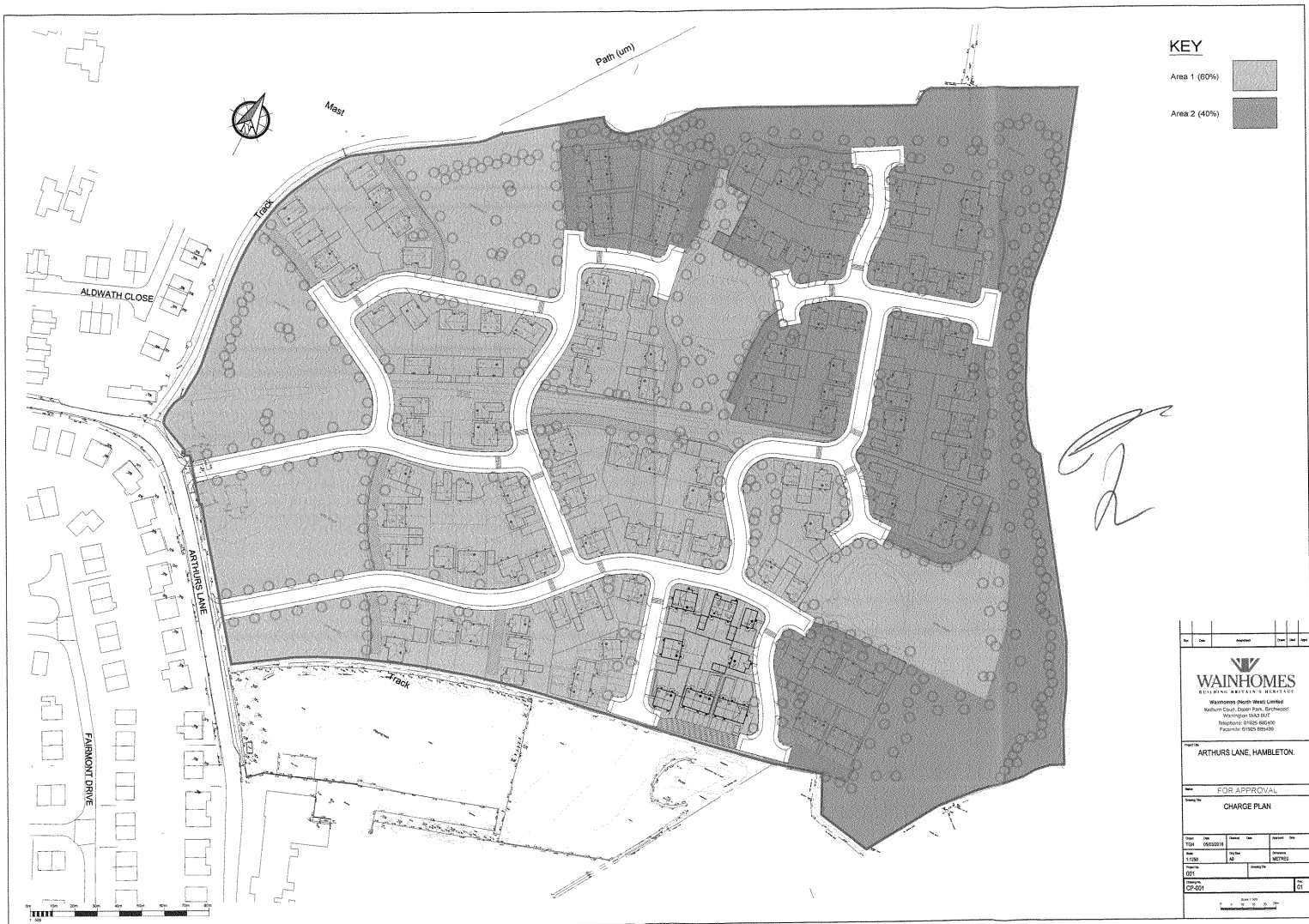
Rights to be Granted

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

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

ANNEX 1

Plans



KEY

Area 1 (60%)



Area 2 (40%)



WAINHOMES
BUILDING BRITAIN'S HERITAGE

Wainhomes (North West) Limited
Millennium Court, Chapel Park, Birmingham B47 9JG
Telephone: 0121 665 6600
Facsimile: 0121 665 6609

Project Name: ARTHURS LANE, HAMBLETON

For: FOR APPROVAL

Drawing No: CHARGE PLAN

Date	Rev	By	Check	Date
11/09	01	01		

Scale	Unit	Notes
1:100	METRES	

Sheet: 001 of 01

CP-001

EXECUTED and DELIVERED as a DEED by
WAINHOMES (NORTH WEST) LTD acting by Two
Directors or by One Director and the Company
Secretary:

.....
Director

 Peter Barlow

.....
Director/Secretary

 Louise Donaldson

Signed as a deed by:

JOHN EDWARD BRAITHWAITE

Signature.....

in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS)

Address

Signed as a deed by:

MARY BRAITHWAITE

Signature.....

in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS)

Address

**EXECUTED and DELIVERED as a DEED by
GLADMAN DEVELOPMENTS LIMITED** acting by a
director in the presence of:

.....
Director

in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS)

Address