



**Registration of a Charge**

Company name: **HILLTOP HOMES LIMITED**

Company number: **NI042910**



X5XQBGM

Received for Electronic Filing: **09/01/2017**

---

**Details of Charge**

Date of creation: **06/01/2017**

Charge code: **NI04 2910 0009**

Persons entitled: **ANTONIO GIORDANO  
VILLA SCALINI LIMITED  
HILLTOP DEVELOPMENTS (NI) LIMITED**

Brief description: **ALL OF THE FREEHOLD LAND COMPRISED IN THE FOLIO 11974,  
COUNTY DOWN. ALL OF THE FREEHOLD LAND COMPRISED IN THE  
FOLIO DN154682, COUNTY DOWN. ALL OF THE FREEHOLD LAND  
COMPRISED IN THE FOLIO DN170077, COUNTY DOWN.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or  
undertaking of the company).**

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SARAH SHARKEY**



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

Company number: NI42910

Charge code: NI04 2910 0009

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 6th January 2017 and created by HILLTOP HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th January 2017 .

Given at Companies House, Belfast on 9th January 2017

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**

EXECUTION VERSION

DATED 6th January 2017

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

(1) HILLTOP HOMES LIMITED

*H/Marky - Tughans 09/01/2017.*

In favour of

(2) ANTONINO GIORDANO

(3) VILLA SCALINI LIMITED

(4) HILLTOP DEVELOPMENTS (NI) LIMITED

**DEBENTURE**

LAND REGISTRY OF NORTHERN IRELAND

FOLIO: 11974, DN154682, DN170077

COUNTY: DOWN

REGISTERED OWNER: HILLTOP HOMES LIMITED

---

THIS DEED is dated 6<sup>th</sup> January 2017

**PARTIES**

- (1) **HILLTOP HOMES LIMITED** incorporated and registered in Northern Ireland with company number NI042910 whose registered office is at 37-41 University Road, Belfast BT7 1ND (the "Borrower").
- (2) **ANTONINO GIORDANO** of 192 Upper Malone Road, Belfast BT17 9JZ;
- (3) **VILLA SCALINI LIMITED** incorporated and registered in Northern Ireland with company number NI610473 whose registered office is at 39 University Road, Belfast, BT7 1ND; and
- (4) **HILLTOP DEVELOPMENTS (NI) LIMITED** incorporated and registered in Northern Ireland with company number NI628389 whose registered office is at 37-41 University Road, Belfast BT7 1ND,

(each a "Lender" and together the "Lenders").

**BACKGROUND**

- (A) The Lenders have agreed, pursuant to the Facility Agreements, to provide the Borrower with loan facilities on a secured basis.
- (B) Under this deed, the Borrower provides security to the Lenders for the loan facilities made available under the Facility Agreements.

**Agreed terms**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this deed:

"1881 Act" means the Conveyancing and Law of Property Act 1881;

"1911 Act" means the Conveyancing Act 1911;

"Administrator" means an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 5.8;

"Book Debts" means all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them;

"Business Day" means a day other than a Saturday, Sunday or public holiday in Northern Ireland when banks in Belfast are open for business;

**"Conveyancing Acts"** means either or both, as the context requires or permits, of the 1881 Act and the 1911 Act;

**"Delegate"** means any person appointed by the Lenders or any Receiver pursuant to clause 10 and any person appointed as attorney of the Lenders, Receiver or Delegate;

**"Equipment"** means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions;

**"Event of Default"** means the Borrower fails to pay or discharge, when due for payment and discharge, the Secured Liabilities;

**"Facility Agreements"** means any document or agreement whatsoever under which any Lender or Lenders agree to provide the Borrower with loan facilities secured by this deed;

**"Financial Collateral"** has the meaning given to that expression in the Financial Collateral Regulations;

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226);

**"Insurance Policy"** means each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment);

**"Intellectual Property"** means the Borrower's present and future intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**"Investments"** means all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any:

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise;

**"Properties"** all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the properties specified in Schedule 1), and **Property** means any of them;

**"Receiver"** means a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lenders under clause 8;

**"Secured Assets"** means all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them);

**"Secured Liabilities"** means all present and future monies, obligations and liabilities of the Borrower to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with any Facility Agreements or this deed (including, without limitation, those arising under clause 18.3.2), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities;

**"Security Financial Collateral Arrangement"** has the meaning given to that expression in the Financial Collateral Regulations.

**"Security"** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect; and

**"Security Period"** means the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

## 1.2 Interpretation

In this deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- 1.2.2 a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to writing or written includes fax but not email;

- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- 1.2.14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been [remedied or] waived;
- 1.2.17 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- 1.2.18 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### 1.3 Clawback

If the Lenders considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### 1.4 Nature of security over real property

A reference in this deed to a charge or mortgage of or over any Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;



1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants; and

1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

## **1.5 Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years.

## **1.6 Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

## **2. COVENANT TO PAY**

The Borrower shall, on demand, pay to the Lenders and discharge the Secured Liabilities when they become due.

## **3. GRANT OF SECURITY**

### **3.1 Fixed mortgage and charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner,

3.1.1 GRANTS and DEMISES so much of the Property described in Schedule 1 as is unregistered land TO HOLD (i) as to so much thereof as is freehold unto the Lenders for the term of 10,000 years from the date hereof and (ii) as to so much thereof as is leasehold unto the Lenders for the residue or residues of the term or respective terms of years for which the same are held less the last 3 days of such term or of each of such terms;

3.1.2 as registered owner or the person entitled to become registered as owner CHARGES BY WAY OF FIRST FIXED CHARGE so much of the Property described in Schedule 1 as is registered or as is required to be registered in the Land Registry by virtue of the statutes in that behalf or otherwise and assents to the registration of the charge hereby created as a burden affecting such Property,

3.1.3 CHARGES BY WAY OF FIRST FIXED CHARGE all Property to the extent that such Property is not already subject to Security granted and created pursuant to Clause 3.1.1 or Clause 3.1.2 above.

### **3.2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner charges to the Lenders by way of first fixed charge:

3.2.1 all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;

- 3.2.2 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
- 3.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.4 all its present and future goodwill;
- 3.2.5 all its uncalled capital;
- 3.2.6 all the Equipment;
- 3.2.7 all the Intellectual Property;
- 3.2.8 all the Book Debts;
- 3.2.9 all the Investments;
- 3.2.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.11 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3.

### **3.3 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner assigns to the Lenders absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy.

### **3.4 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner charges to the Lenders, by way of first floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

### **3.5 Qualifying floating charge**

Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 applies to the floating charge created by clause 3.4.

## **4. COVENANTS**

### **4.1 Negative pledge and disposal restrictions**

The Borrower shall not at any time, except with the prior written consent of the Lenders:

- 4.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Security expressly permitted by the Facility Agreements;
- 4.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- 4.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

#### **4.2 Preservation of Secured Assets**

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lenders, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

### **5. POWERS OF THE LENDERS**

#### **5.1 Power to remedy**

- 5.1.1 The Lenders shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- 5.1.2 The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- 5.1.3 Any monies expended by the Lenders in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lenders on a full indemnity basis and shall carry interest in accordance with the Facility Agreements or as otherwise specified by a Lender.

#### **5.2 Exercise of rights**

- 5.2.1 The rights of the Lenders under clause 5.1 are without prejudice to any other rights of the Lenders under this deed.
- 5.2.2 The exercise of any rights of the Lenders under this deed shall not make the Lenders liable to account as a mortgagee in possession.

#### **5.3 Power to dispose of chattels**

- 5.3.1 At any time after the security constituted by this deed has become enforceable, the Lenders or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Property.
- 5.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 5.3.1, the Borrower shall indemnify the Lenders and any Receiver against any liability arising from any disposal made under clause 5.3.1.

#### **5.4 Lenders have Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lenders in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

#### **5.5 Conversion of currency**

- 5.5.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lenders may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 5.5) from their existing currencies of denomination into any other currencies of denomination that a Lender may think fit.
- 5.5.2 Any such conversion shall be effected at the then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 5.5.3 Each reference in this clause 5.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **5.6 New accounts**

- 5.6.1 If the Lenders receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lenders may open a new account for the Borrower in the Lenders' books. Without prejudice to the Lenders' right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 5.6.2 If the Lenders do not open a new account immediately on receipt of the notice, or deemed notice, under clause 5.6.1, then, unless a Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lenders shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lenders.

#### **5.7 Indulgence**

The Lenders may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

#### **5.8 Appointment of an Administrator**

- 5.8.1 The Lenders may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 15 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989 if the security constituted by this deed becomes enforceable.

5.8.2 Any appointment under this clause 5.8 shall:

5.8.2.1 be in writing signed by a duly authorised signatory of the Lenders; and

5.8.2.2 take effect, in accordance with paragraph 20 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989.

5.8.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 5.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

## **6. WHEN SECURITY BECOMES ENFORCEABLE**

### **6.1 Security becomes enforceable on Event of Default**

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

### **6.2 Discretion**

After the security constituted by this deed has become enforceable, the Lenders may, in their absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms that they think fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

## **7. ENFORCEMENT OF SECURITY**

### **7.1 Enforcement powers**

7.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

7.1.2 The power of sale and other powers conferred by section 19 of the 1881 Act and section 4 of the 1911 Act (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 6.1.

7.1.3 Section 20 of the 1881 Act does not apply to the security constituted by this deed.

### **7.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the Conveyancing Acts and by any other statute are extended so as to authorise the Lenders and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

7.2.1 grant a lease or agreement to lease;

7.2.2 accept surrenders of leases; or

7.2.3 grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lenders or Receiver thinks fit without the need to comply with any of the restrictions imposed by Section 18 of the 1881 Act and Section 3 of the 1911 Act.

### **7.3 Access on enforcement**

7.3.1 At any time after the Lenders have demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreements, the Borrower will allow the Lenders or their Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lenders or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

7.3.2 At all times, the Borrower must use its best endeavours to allow the Lenders or their Receiver access to any premises for the purpose of clause 7.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### **7.4 Prior Security**

7.4.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lenders may:

7.4.1.1 redeem that or any other prior Security;

7.4.1.2 procure the transfer of that Security to it; and

7.4.1.3 settle and pass any account of the holder of any prior Security.

7.4.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by a Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Facility Agreements (or otherwise as specified by the relevant Lender) and be secured as part of the Secured Liabilities.

### **7.5 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Lenders, any Receiver or Delegate shall be concerned to enquire:

7.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

7.5.2 whether any power the Lenders, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or

7.5.3 how any money paid to the Lenders, any Receiver or any Delegate is to be applied.

## **7.6 Privileges**

Each Receiver and each Lender is entitled to all the rights, powers, privileges and immunities conferred by the Conveyancing Acts on mortgagees and receivers.

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

Neither the Lenders, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

## **7.8 Conclusive discharge to purchasers**

The receipt of a Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lenders, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

## **7.9 Right of appropriation**

### **7.9.1 To the extent that:**

7.9.1.1 the Secured Assets constitute Financial Collateral; and

7.9.1.2 this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lenders shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lenders may, in its absolute discretion, determine.

### **7.9.2 The value of any Secured Assets appropriated in accordance with this clause shall be:**

7.9.2.1 in the case of cash, the amount standing to the credit of each of the Borrower's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and

7.9.2.2 in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lenders may select (including independent valuation).

### **7.9.3 The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.**

## **8. RECEIVER**

### **8.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lenders may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

### **8.2 Removal**

The Lenders may, without further notice (subject to section 52 of the Insolvency (Northern Ireland) Order 1989 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **8.3 Remuneration**

The Lenders may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 24 of the 1881 Act, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

### **8.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of a Lender under the Insolvency (Northern Ireland) Order 1989, the Conveyancing Acts or otherwise, and shall be exercisable without the restrictions contained in sections 20 and 24 of the 1881 Act or otherwise.

### **8.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lenders despite any prior appointment in respect of all or any part of the Secured Assets.

### **8.6 Agent of the Borrower**

Any Receiver appointed by a Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lenders.

## **9. POWERS OF RECEIVER**

### **9.1 General**

9.1.1 Any Receiver appointed by a Lender under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 9.2 to clause 9.23.

9.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers



conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

- 9.1.3 Any exercise by a Receiver of any of the powers given by clause 9 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 9.16) or itself.

## **9.2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

## **9.3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that it thinks fit.

## **9.4 Employ personnel and advisers**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

## **9.5 Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as it thinks fit.

## **9.6 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lenders may prescribe or agree with it.

## **9.7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

## **9.8 Manage or reconstruct the Borrower's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

## **9.9 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may

be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**9.10 Sever fixtures and fittings**

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

**9.11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

**9.12 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**9.13 Make settlements**

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

**9.14 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**9.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.

**9.16 Make calls on Borrower members**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

**9.17 Insure**

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

**9.18 Powers under the Conveyancing Acts**

A Receiver may exercise all powers provided for in the Conveyancing Acts in the same way as if it had been duly appointed under the Conveyancing Acts, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency (Northern Ireland) Order 1989.

#### **9.19 Borrow**

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

#### **9.20 Redeem prior Security**

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

#### **9.21 Delegation**

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

#### **9.22 Absolute beneficial owner**

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

#### **9.23 Incidental powers**

A Receiver may do any other acts and things that it:

9.23.1 may consider desirable or necessary for realising any of the Secured Assets;

9.23.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

9.23.3 lawfully may or can do as agent for the Borrower.

### **10. DELEGATION**

#### **10.1 Delegation**

The Lenders or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 14.1).

#### **10.2 Terms**

The Lenders and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **10.3 Liability**

Neither the Lenders nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **11. APPLICATION OF PROCEEDS**

### **11.1 Order of application of proceeds**

All monies received by the Lenders, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the Conveyancing Acts) be applied in the following order of priority:

11.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lenders (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;

11.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lenders determines; and

11.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

### **11.2 Appropriation**

Neither the Lenders, any Receiver nor any Delegate shall be bound (whether by virtue of section 24(8) of the 1881 Act, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

### **11.3 Suspense account**

All monies received by the Lenders, a Receiver or a Delegate under this deed:

11.3.1 may, at the discretion of the Lenders, Receiver or Delegate, be credited to any suspense or securities realised account;

11.3.2 shall bear interest, if any, at the rate agreed in writing between the Lenders and the Borrower; and

11.3.3 may be held in that account for so long as the Lenders, Receiver or Delegate thinks fit.

## **12. INDEMNITY**

### **12.1 Indemnity**

The Borrower shall indemnify the Lenders, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and

all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- 12.1.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- 12.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- 12.1.3 any default or delay by the Borrower in performing any of its obligations under this deed.

### **13. FURTHER ASSURANCE**

#### **13.1 Further assurance**

The Borrower shall, at its own expense, take whatever action the Lenders or any Receiver may reasonably require for:

- 13.1.1 creating, perfecting or protecting the security intended to be created by this deed;
- 13.1.2 facilitating the realisation of any Secured Asset; or
- 13.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lenders or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lenders or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lenders or to their nominee) and the giving of any notice, order or direction and the making of any registration.

### **14. POWER OF ATTORNEY**

#### **14.1 Appointment of attorneys**

By way of security, the Borrower irrevocably appoints the Lenders, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- 14.1.1 the Borrower is required to execute and do under this deed; or
- 14.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lenders, any Receiver or any Delegate.

#### **14.2 Ratification of acts of attorneys**

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 14.1.

## **15. RELEASE**

Subject to clause 18.3, on the expiry of the Security Period (but not otherwise), the Lenders shall, at the request and cost of the Borrower, take whatever action is necessary to:

- 15.1 release the Secured Assets from the security constituted by this deed; and
- 15.2 reassign the Secured Assets to the Borrower.

## **16. ASSIGNMENT AND TRANSFER**

### **16.1 Assignment by Lenders**

At any time, without the consent of the Borrower, the Lenders may assign or transfer any or all of their rights and obligations under this deed.

### **16.2 Assignment by Borrower**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

## **17. THIRD PARTY RIGHTS**

### **17.1 Third party rights**

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

## **18. FURTHER PROVISIONS**

### **18.1 Independent security**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lenders may hold for any of the Secured Liabilities at any time. No prior security held by the Lenders over the whole or any part of the Secured Assets shall merge in the security created by this deed.

### **18.2 Continuing security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lenders discharge this deed in writing.

### **18.3 Discharge conditional**

Any release, discharge or settlement between the Borrower and the Lenders shall be deemed conditional on no payment or security received by the Lenders in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- 18.3.1 the Lenders or their nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any

part of the Secured Assets, for any period that the Lenders deems necessary to provide the Lenders with security against any such avoidance, reduction or order for refund; and

- 18.3.2 the Lenders may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

#### **18.4 Certificates**

A certificate or determination by a Lender as to any amount for the time being due to it from the Borrower under this deed and the Facility Agreements shall be, in the absence of any manifest error, conclusive evidence of the amount due.

#### **18.5 Consolidation**

The restriction on the right of consolidation contained in section 17 of the 1881 Act shall not apply to this deed.

#### **18.6 Small company moratorium**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency (Northern Ireland) Order 1989 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- 18.6.1 an event under this deed which causes any floating charge created by this deed to crystallise;
- 18.6.2 an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower; or
- 18.6.3 a ground under this deed for the appointment of a Receiver.

### **19. NOTICES**

#### **19.1 Delivery**

Each notice or other communication required to be given to a party under or in connection with this deed shall be:

- 19.1.1 in writing;
- 19.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and
- 19.1.3 sent to:

19.1.3.1 the Borrower at: 37-41 University Road, Belfast BT7 1ND

Fax:

Attention: ANTONINO GIORDANO

19.1.3.2 the Lenders at: 192 Upper Malone Road, Belfast BT17 9JZ

Fax:

Attention: ANTONINO GIORDANO

or to any other address or fax number as is notified in writing by one party to the other from time to time.

## **19.2 Receipt by Borrower**

Any notice or other communication that the Lenders give to the Borrower shall be deemed to have been received:

19.2.1 if delivered by hand, at the time it is left at the relevant address;

19.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and

19.2.3 if sent by fax, when received in legible form.

A notice or other communication given as described in clause 19.2.1 or clause 19.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

## **19.3 Receipt by Lenders**

Any notice or other communication given to the Lenders shall be deemed to have been received only on actual receipt.

## **19.4 Service of proceedings**

This clause 19 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **19.5 No notice by email**

A notice or other communication given under or in connection with this deed is not valid if sent by email.

## **20. GOVERNING LAW AND JURISDICTION**

### **20.1 Governing law**

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Northern Ireland.

### **20.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of Northern Ireland shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Lenders to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in



any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**SCHEDULE 1**

**PROPERTY**

**PART 1**

**REGISTERED PROPERTY**

All of the freehold land comprised in the folio 11974, County Down.

All of the freehold land comprised in the folio DN154682, County Down.

All of the freehold land comprised in the folio DN170077, County Down.

**PART 2**

**UNREGISTERED PROPERTY**



THE BORROWER

EXECUTED as a DEED by

HILLTOP HOMES LIMITED

acting by TONY CIORDANO

(a director) in the presence of:

[REDACTED]

Director

Witness 1:

[REDACTED]

Name:

COLLETTE WATSON

Occupation:

ACCOUNTS ADMINISTRATOR

Address:

1 MARGUERITE DRIVE

NEWCASTLE CO. DOWN BT33 0SN

Witness 2:

[REDACTED]

Name:

DARIO CIORDANO

Occupation:

GENERAL MANAGER

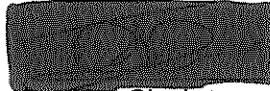
Address:

192 JAPER MALONE RD

BELFAST BT17 9JZ

THE LENDERS

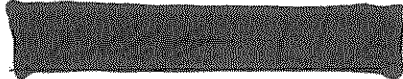
SIGNED BY  
ANTONINO GIORDANO



Antonino Giordano

in the presence of:

Witness 1:



Name:

Collette Watson

Occupation:

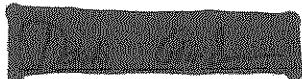
Accounts Administrator

Address:

1 Marguerite Drive

Newcastle Co. DOOD BT330SN

Witness 2:



Name:

DARIO GIORDANO

Occupation:

GENERAL MANAGER

Address:

192 UPPER MALONE RD

BELFAST BT17 9JZ

EXECUTED as a DEED by

VILLA SCALINI LIMITED

acting by DARIO GIORDANO

(a director) in the presence of:

  
Director

Witness 1:

Name:

Collette Watson

Occupation:

Accounts Administrator

Address:

1 Marguerite Drive

Newcastle Co. Down BT33 0SN

Witness 2:

Name:

DARIO GIORDANO

Occupation:

GENERAL MANAGER

Address:

192 JIPPER HALL RD

BT17 9JZ BELFAST

EXECUTED as a DEED by  
HILLTOP DEVELOPMENTS (NI) LIMITED  
acting by TONY GIORDANO  
(a director) in the presence of:

[REDACTED]  
Director

Witness 1: [REDACTED]

Name:

Collette Watson

Occupation:

Accounts Administrator

Address:

1 Margaret Drive

Newcastle Co. Down BT330SN

Witness 2: [REDACTED]

Name:

DARIO GIORDANO

Occupation:

GENERAL MANAGER

Address:

192 UPPER MALONE RD

BELFAST BT17 9J2