



Registration of a Charge

Company Name: **MILLER HOMES LIMITED**

Company Number: **SC255429**



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Received for filing in Electronic Format on the: **06/12/2022**

Details of Charge

Date of creation: **25/11/2022**

Charge code: **SC25 5429 0407**

Persons entitled: **WILLIAM PHILIP VERNON FRANKLIN, SARA POULTON AND ROBIN DAVID WARNER SMITH AND PHILIP THOMAS DEACON SMITH.**

Brief description: **ALL OF THE PROPERTY AT ROOKS NEST FARM, STEVENAGE ACQUIRED PURSUANT TO THE CONTRACT BEING ALL OF THE LAND COMPRISED IN THE TRANSFERS OF EVEN DATE IN FAVOUR OF THE CHARGOR.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 255429

Charge code: SC25 5429 0407

The Registrar of Companies for Scotland hereby certifies that a charge dated 25th November 2022 and created by MILLER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th December 2022 .

Given at Companies House, Edinburgh on 6th December 2022

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**

25 November

DATED

2022

Miller Homes Limited & Bellway Homes Limited (1)

and

WPV Franklin S Poulton R D W Smith and P T D Smith (2)

LEGAL CHARGE

of Land at Rooks Nest Farm, Stevenage



www.teeslaw.com

Tees House 95 London Road Bishops Stortford, CM23 3GW DX50404 BISHOPS STORTFORD

Offices also at: Brentwood, Cambridge, Chelmsford, Royston and Saffron Walden

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THIS LEGAL CHARGE is dated

25 November

2022

PARTIES

- (1) **MILLER HOMES LIMITED** incorporated and registered in Scotland with company number SC255429 whose registered office is at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH and **BELLWAY HOMES LIMITED** incorporated and registered in England and Wales with company number 00670176 whose registered office is at Woolsington House, Woolsington, Newcastle Upon Tyne, England, NE13 8BF (the "**Chargor**"); and
- (2) **WILLIAM PHILIP VERNON FRANKLIN** of Lower Heath Farm Therfield Herts SG7 6SE **SARA POULTON** of Home Farm Aspenden Buntingford Herts. SG9 9PP (the "**First Agent**") and **ROBIN DAVID WARNER SMITH** and **PHILIP THOMAS DEACON SMITH** both care of HRJ Foreman Laws, 25 Bancroft, Hitchin, Hertfordshire SG5 1JW (the "**Second Agent**") (together "**the Security Agent**").

BACKGROUND

- (A) The Chargor has completed the purchase of the Development Site and has agreed with the Beneficiaries to provide security, in favour of the Security Agent, for the outstanding Instalments due under the Contract, by entering into this legal charge over the Charged Property.
- (B) The Security Agent has agreed to act as agent and trustee in respect of such security for and on behalf of the Beneficiaries.
- (C) The Chargor is the owner of the Property.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The definitions and rules of interpretation in this clause apply in this legal charge.

Beneficiaries: the Seller as defined in the Contract and their successors in title.

Charged Property: all the assets, property and undertaking for the time being charged by this legal charge from time to time including the Development Site. References to the Charged Property shall include references to any part of it.

Chargor's Solicitors: Gowling WLG (UK) LLP of Two Snowhill, Birmingham, B4 6WR (ref: 2728664/QDM/AXJ3) or such other solicitor(s) as the Chargor notifies to the Security Agent in writing for the purposes of this legal charge.

Contract: the Contract for the sale of the Development Site dated 29 July 2022 as varied by the three Supplemental Agreements dated 4 November 2022, 15

November 2022 and 15 November 2022 respectively and made between the Beneficiaries and the Chargor.

Costs: all costs, charges, expenses, taxes and liabilities of any kind, including (without limitation) costs and damages in connection with litigation, professional fees, disbursements and any irrecoverable VAT charged on Costs which the Security Agent or any Receiver or Delegate may charge or incur in relation to this legal charge, the Charged Property or breach of any provision of this legal charge by the Chargor.

Delegate: any person appointed by the Security Agent or any Receiver pursuant to clause 12 and any person appointed as attorney of the Security Agent, Receiver or Delegate.

Development Site: all of the property at Rooks Nest Farm, Stevenage acquired pursuant to the Contract being all of the land comprised in the transfers of even date in favour of the Chargor.

Dispose of: bears the meaning given to it under Section 205(1) Law of Property Act 1925 and **disposition** and **Disposal** shall be interpreted accordingly.

Dwelling: a house or bungalow (in each case detached, semi-detached or terraced), apartment or flat, any flat above garage(s), maisonette, cottage or other dwelling constructed or to be constructed on the Development Site together with its curtilage, any associated garage, parking space, car port and the like (whether separate from the main dwelling or not) and "**Dwellings**" shall be construed accordingly.

Encumbrance: any mortgage.

Event of Default: the occurrence of the events or circumstances listed in Schedule 5.

Exempt Disposal: any of the following:

- (i) the sale or a grant of a lease of any or all of the following:
 - a. any drainage system or pumping station;
 - b. any electricity substation;
 - c. any gas governor station;
 - d. any surface water drainage facility or system;
 - e. any land within the Charged Property which is required to be transferred under any Statutory Agreement or any Works Agreement;
 - f. any common parts, open space, amenity land or similar;
 - g. Dwellings comprising affordable housing or the land upon which such Dwellings are to be constructed to any affordable housing provider;

- h. any retail and/or commercial unit(s);
- (ii) without prejudice to the preceding paragraph, any disposition in respect of any part of the Charged Property to a Relevant Authority;
- (iii) the grant of estate rights or easements reasonably required by the Chargor over any part of the Charged Property for the benefit of any disponee of any other part or parts of the Property as part of the development of the Development Site;
- (iv) the grant of any wayleave;
- (v) the partition to either Chargor of the legal and beneficial interest (or if so required by the Chargor the partition to either Chargor of the beneficial interest only) in that part of the Charged Property that is to be the subject of any sale or any grant of a lease listed in (i) above immediately prior to or contemporaneously with the completion of the relevant sale or lease;
- (vi) any agreement to effect any of the matters listed in (i) to (v) above.

Instalment: means Instalment 1 or Instalment 2 or Instalment 3 or Instalment 4 as the context so requires.

Instalment 1: the sum payable pursuant to clause 4.2.2 of the Contract.

Instalment 2: the sum payable pursuant to clause 4.2.3 of the Contract.

Instalment 3: the sum payable pursuant to clause 4.2.4 of the Contract.

Instalment 4: the sum payable pursuant to clause 4.2.5 of the Contract.

Insurance Policies: the insurance policies referred to in paragraph 3 of Part 2 of Schedule 2.

Landowners' Representative: Mike Shaw and Tom Fraser of Savills of Unex House, 132-134 Hills Road, Cambridge, CB2 8PA and Thomas Dunn of Simmons & Sons of 32 Bell Street, Henley-on-Thames, Oxfordshire, RG9 2BH or such other representative as is notified to the Chargor from time to time.

Landowners' Solicitors: Tees Law, Tees House, 95 London Road, Bishop's Stortford, Hertfordshire CM23 3GW Reference: Govan Bramley/ 171088-1 and HRJ Foreman Laws of 25 Bancroft Street Hitchin Herts SG5 1JW Ref Nicholas Davies 18811-2-1 or such other solicitor(s) as is notified to the Chargor from time to time.

LPA: the Law of Property Act 1925.

Material Adverse Effect: a material adverse effect on:

- (a) the ability of the Chargor to perform and observe its material obligations under this legal charge or the Contract; and

- (b) the validity or enforceability of, or the effectiveness or ranking of, the security granted or purported to be granted pursuant to this legal charge.

Net Developable Area: the Property other than land designated for:

- (a) any spine roads or collector roads (including roundabouts, footpaths and cycleways forming part of it) that lead to additional land which forms part of the Property;
- (b) land providing access to the Property.

Planning Permission: the permission dated 1 September 2022 granted by Stevenage Borough Council with reference 17/00862.

Property: the freehold property being the Development Site.

Receiver: a receiver and/or manager of any or all of the Charged Property.

Release Area Additional: all or any part of the Net Developable Area as shown on the agreed Release Plan Additional.

Release Fee Additional: the figure calculated and proposed by the Chargor for written agreement by the Security Agent as follows:

A x B

Where:

A = the acreage of Release Area Additional calculated to 2 decimal places; and

B = £1,550,000 per acre (and pro rata to 2 decimal places for part of an acre)

and for the avoidance of doubt where the Release Fee Additional is paid in accordance with clause 20.2 then the total Release Fee Additional shall be deducted from the Instalment 4 payable by the Chargor pursuant to this legal charge to avoid any double counting in relation to the Release Fee Additional.

Release Plan Additional: the plan or plans identifying the Release Area Additional proposed by the Chargor for written agreement by the Security Agent.

Relevant Authority: any authority, body or company (whether public or otherwise) responsible for transport and highways, education, health or other public services, drainage or planning matters or undertaking for the supply of water, gas, electricity, communications media or other services including without prejudice to the generality of the foregoing any highways authorities, any statutory undertaker, gas, water, electricity and telecommunications supplies, the Environment Agency and any other authority, body or company to whom the powers of such authority, body or company are delegated.

Section 106 Agreement: the Section 106 Agreement dated 1 September 2022 and made between William Philip Vernon Franklin and Letitia Pamela Campbell Glaister (1) Robin David Warner Smith Philip Thomas Deacon Smith and Richard Naylor Warner Smith (2) Bellway Homes Limited (3) Miller Homes Limited (4) Stevenage Borough Council (5) and Hertfordshire County Council (6).

Secured Liabilities: Instalment 1, Instalment 2, Instalment 3 and Instalment 4 together with all interest that is due and payable (including, without limitation, default interest) accruing in respect of such Instalments and any costs that are due and payable pursuant to clause 15.1.

Security Period: the period starting on the date of this legal charge and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

Services: heat, electricity, gas, water, foul and surface water drainage, energy, telecommunications, data and all other services and utilities.

Statutory Agreement: any agreement which is required by the local planning authority or other competent public authority, statutory undertaker or service supply company as a condition of or to facilitate the grant of a planning permission including (but not limited to) any agreement under section 106 of the Town and Country Planning Act 1990 or section 111 of the Local Government Act 1972 or any agreement of similar intent.

Specialist: a specialist appointed pursuant to clause 21.

Unsecured Area: the Development Site excluding the Charged Property from time to time.

Working Days: any day when banks in London are open for business other than a Saturday, or Sunday or public holiday in England and other days upon which the clearing banks to the City of London are not open for business.

Works Agreement: any agreement, obligation or undertaking existing at the date of this legal charge or to be made in relation to the Charged Property (including any subsequent variation thereof) pursuant to any one or more of the following:

- (a) Section 38 and/or section 278 Highways Act 1980;
- (b) Section 104 Water Industry Act 1991;
- (c) Section 33 Local Government (Miscellaneous Provisions) Act 1982;
- (d) any agreement with the local water authority or other Relevant Authority as to the water supply to or drainage of surface water and effluent or any agreement with any Relevant Authority relating to any of the Services; and

- (e) any other agreement with any Relevant Authority relating to the Charged Property or the Development Site or any part of them.

VAT: value added tax.

1.2 Interpretation

In this legal charge:

- 1.2.1 A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.2.2 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.2.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.2.4 A reference to a clause or Schedule is to a clause of, or Schedule to, this legal charge and references to paragraphs are to paragraphs of the relevant Schedule, unless the context otherwise requires.
- 1.2.5 A reference to **this legal charge** (or any provision of it) or any other document shall be construed as a reference to this legal charge, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties.
- 1.2.6 A reference to a **person** shall include a reference to an individual, firm, company, partnership, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.7 A reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly).
- 1.2.8 A reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description.
- 1.2.9 A reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution.
- 1.2.10 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.

- 1.2.11 A reference to **determines** or **determined** means, unless the contrary is indicated, a determination at the discretion of the person making it.
- 1.2.12 Clause, Schedule and paragraph headings shall not affect the interpretation of this legal charge.
- 1.2.13 Each reference to the “Chargor” or to the “Security Agent” includes their respective successors in title, permitted assignees or permitted transferees.
- 1.2.14 Obligations on the Chargor are owed jointly and generally by the persons together comprising the Chargor.
- 1.2.15 An Event of Default is “continuing” if it has not been remedied or waived in writing.
- 1.2.16 First Released Area, Second Released Area, Third Released Area and Fourth Released Area shall have the respective meanings as defined in the Contract

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

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Contract and of any side letters between any parties in relation to the Contract are incorporated into this legal charge to the extent required for any purported disposition of the Charged Property to be a valid disposition.

1.4 **Third party rights**

A third party (being any person other than the Chargor, the Security Agent and its permitted successors and assigns, any Receiver and any Delegate) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this legal charge.

1.5 **Perpetuity period**

If the rule against perpetuities applies to any trust created by this legal charge, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.6 **Schedules**

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

2. COVENANT TO PAY

2.1 Payment of Secured Liabilities

The Chargor hereby covenants with the Security Agent that it will pay the Secured Liabilities when they become due and otherwise in accordance with the Contract and this legal charge.

2.2 Payment of interest

The Chargor shall pay interest on any amounts not paid upon the relevant due date under clause 2.1 from the due date until the day of payment (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate of 4% per annum above Barclays Bank Plc base rate for the time being in force calculated on a day to day basis. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand for payment being made.

3. GRANT OF SECURITY

3.1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Security Agent by way of first legal mortgage:

- 3.1.1 the Property together with the rights referred to and contained in the Contract;
- 3.1.2 all buildings and fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time and legally and beneficially owned by the Chargor; and
- 3.1.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of the Property,

PROVIDED THAT this legal charge shall not preclude the Chargor from entering into any Exempt Disposal and it is acknowledged and agreed that subject as referred to in this clause such works, easements, rights, transfers and demises and the terms of any such Statutory Agreement and/or Works Agreement and the performance of it shall be permitted by this legal charge.

4. PERFECTION OF SECURITY

4.1 Registration of legal charge at the Land Registry

The Chargor shall make an application to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 25 November 2022 in favour of William Philip Vernon Franklin, Sara Poulton, Robin David Warner Smith and Philip Thomas Deacon Smith referred to in the charges register or their conveyancer."

- 4.2 The Security Agent covenants with the Chargor that within 10 Working Days of being requested to do so in writing and being supplied with the Land Registry Form DS3 and/or RX4 or consent to the dealing as appropriate (or any other form replacing the same) to release from the security of this legal charge such part or portion of the Charged Property or the Unsecured Area (as the case may be) as is the subject of an Exempt Disposal to enable such Exempt Disposal to be registered.

5. LIABILITY OF THE CHARGOR

5.1 Liability not discharged

The Chargor's liability under this legal charge in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by any failure by the Security Agent or Beneficiaries (or any of them) to pursue any other remedy available to them in respect of the payment of the sums hereby secured or enforcement of the Chargor's obligations in this legal Charge or any delay or forbearance in doing so or any other act or omission, which but for this clause 5.1 might have discharged, or otherwise prejudiced or affected the liability of the Chargor.

5.2 Immediate recourse

The Chargor waives any right it may have to require the Security Agent to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this legal charge against the Chargor.

6. REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Security Agent in the terms set out in Schedule 1 on each day during the Security Period with reference to the facts and circumstances existing at the time of repetition.

7. COVENANTS

The Chargor covenants with the Security Agent in the terms set out in Schedule 2.

8. POWERS OF THE SECURITY AGENT

The Security Agent shall have the powers set out in Schedule 3.

9. ENFORCEMENT

9.1 When security becomes enforceable

The security constituted by this legal charge shall be immediately enforceable and the power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal charge) shall be immediately exercisable at any time after the occurrence of an Event of Default that is continuing.

9.2 When statutory powers arise

Section 103 of the LPA shall not apply to this legal charge and the statutory power of sale and other powers given by section 101 of the LPA (as varied or extended by this legal charge) shall, as between the Security Agent and a purchaser, arise on the execution of this legal charge and be exercisable at any time after such execution, but the Security Agent shall not exercise such power of sale until the security constituted by this legal charge has become enforceable under clause 9.1.

9.3 Enforcement of security

After the security constituted by this legal charge has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property.

9.4 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders are extended so as to authorise the Security Agent and any Receiver, at any time after the security constituted by this legal charge has become enforceable, whether in its own name or in that of the Chargor, to make any lease or agreement for lease, accept surrenders of leases or grant any option of the whole or any part of the Property with whatever rights relating to other parts of it, containing whatever covenants on the part of the Chargor, generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Security Agent or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA.

9.5 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

9.6 No liability as mortgagee in possession

Neither the Security Agent, any Receiver nor any Delegate shall be liable to the Chargor to account as mortgagee in possession in respect of all or any of the Charged Property, nor shall any of them be liable for any loss on realisation of, or for any

neglect or default of any nature in connection with, all or any of the Charged Property for which a mortgagee in possession might be liable as such.

9.7 Relinquishing possession

If the Security Agent, any Receiver or any Delegate enters into or takes possession of the Charged Property, it or he may at any time relinquish possession.

10. RECEIVERS

10.1 Appointment and removal of a Receiver

10.1.1 At any time after the security constituted by this legal charge has become enforceable or at the request of the Chargor, the Security Agent may, without further notice:

10.1.1.1 appoint under seal or in writing, any one or more person or persons to be a Receiver of all or any part of the Charged Property; and

10.1.1.2 (subject to section 45 of the Insolvency Act 1986) from time to time, under seal or in writing, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.

10.1.2 Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Security Agent specifies to the contrary).

10.2 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this legal charge shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986, the LPA or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA.

10.3 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this legal charge or by statute) shall be, and remain, exercisable by the Security Agent despite any prior appointment in respect of all or any part of the Charged Property.

10.4 Remuneration of a Receiver

The Security Agent may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA and the remuneration of the Receiver shall be a debt secured by this legal charge which shall be due and payable immediately upon its being paid by the Security Agent.

11. POWERS AND CAPACITY OF A RECEIVER

11.1 Powers of a Receiver

Any Receiver appointed by the Security Agent under this legal charge shall, in addition to the powers conferred on him by the LPA and the Insolvency Act 1986, have the powers set out in Schedule 4.

11.2 Scope of Receiver's powers

Any exercise of any of the powers of a Receiver by the Receiver may be on behalf of the Chargor, the directors of the Chargor or himself.

11.3 Receiver is agent of the Chargor

Any Receiver appointed by the Security Agent under this legal charge shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Agent.

12. DELEGATION

Each of the Security Agent and 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 legal charge (including the power of attorney granted under clause 16.1). Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Agent or any Receiver shall think fit. Neither the Security Agent nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

13. APPLICATION OF PROCEEDS

13.1 Order of application

All monies received by the Security Agent, a Receiver or a Delegate (other than sums received pursuant to any Insurance Policies which shall be applied by the Chargor in re-instatement of the applicable insured asset where the Chargor considers that practicable) pursuant to this legal charge after the security constituted by this legal charge has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA) be applied:

- 13.1.1 first in paying all costs, charges and expenses of, and incidental to, the appointment of any Receiver and the exercise of his powers and all outgoings paid by him;
- 13.1.2 second in paying the remuneration of any Receiver (as agreed between the Receiver and the Security Agent);

13.1.3 third in or towards discharge of the Secured Liabilities in such order and manner as the Security Agent determines; and

13.1.4 finally in paying any surplus to the Chargor or any other person entitled to it.

13.2 **Appropriation**

Neither the Security Agent, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA, 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.

13.3 **Suspense account**

All monies received by the Security Agent or a Receiver or a Delegate under this legal charge (other than sums received pursuant to any Insurance Policy which are not going to be applied in or towards discharge of the Secured Liabilities) may, at the discretion of the Security Agent, Receiver or Delegate, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Security Agent, Receiver or Delegate and the Chargor, and may be held in such account for so long as the Security Agent, Receiver or Delegate thinks fit.

14. **PROTECTION OF THIRD PARTIES**

14.1 **Protection of third parties**

No purchaser, mortgagee or other person dealing with the Security Agent or any Receiver or Delegate shall be concerned:

14.1.1 to enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power the Security Agent or a Receiver or Delegate is purporting to exercise has become exercisable; or

14.1.2 to see to the application of any money paid to the Security Agent or any Receiver or Delegate.

14.2 **Conclusive discharge to purchasers**

The receipt of the Security Agent 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 Charged Property or in making any acquisition in the exercise of their respective powers, the Security Agent, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

15. COSTS AND INDEMNITY

15.1 Costs

15.1.1 The Chargor shall pay to, or reimburse, the Security Agent and any Receiver, within five Working Days of demand, all Costs reasonably incurred by the Security Agent but on an indemnity basis where such costs result from an Event of Default, any Receiver or Delegate in relation to any breach by the Chargor of its obligations in this legal charge;

15.1.2 holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Security Agent's, Receiver's or Delegate's rights under this legal charge; and

15.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest from the day on which the relevant cost, charge, expense, tax or liability arose until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate and in the manner specified in this legal charge. In the case of any Costs, such interest shall accrue and be payable as from the date on which the relevant Costs arose, without the need for any demand for payment being made.

15.2 Indemnity

The Security Agent, any Receiver and any Delegate, and their respective employees and agents, shall be indemnified on an indemnity basis out of the Charged Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

15.2.1 the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this legal charge; or

15.2.2 any matter or thing done, or omitted to be done, in relation to the Charged Property under those powers; or

15.2.3 any default or delay by the Chargor in performing any of its obligations under this legal charge.

16. POWER OF ATTORNEY

16.1 Appointment of attorneys by the Chargor

By way of security, the Chargor irrevocably appoints the Security Agent, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which the Chargor is required to execute and do under this legal charge but has failed to execute or do.

16.2 Ratification of acts of attorneys by the Chargor

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in clause 16.1, provided that this power of attorney shall only be exercisable following the occurrence of an Event of Default that is continuing.

16.3 Appointment of attorneys by Security Agent

By way of security, the Security Agent irrevocably appoints the Chargor to be the attorney of the Security Agent and, in its name, on its behalf and as its act and deed, to execute and deliver any documents pursuant to clauses 4.2, 17 and/or 20.2 of this legal charge which the Security Agent is required to execute and do under this legal charge but has failed to execute or do following expiry of at least 10 Working Days' notice served the Chargor on the Security Agent.

16.4 Ratification of acts of attorneys by Security Agent

The Security Agent ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in clause 16.3.

17. PLANNING OBLIGATIONS & WORKS AGREEMENT

17.1 Notwithstanding the existence of this legal charge any of the following shall be permitted:

17.1.1 development of the Property in accordance with the terms of:

17.1.1.1 the Planning Permission; or

17.1.1.2 such other planning permission or permissions as may from time to time be obtained provided that such permission will not create any Material Adverse Effect;

17.1.2 entry into such Statutory Agreements with the local planning or highway authority relating to the development of the Property as are necessary to develop the Property in accordance with clause 17.1.1;

17.1.3 entry into such Works Agreements as may be reasonably required in connection with the development of the Development Site

and for the avoidance of doubt the dealings referred to in clauses 17.1.1 to 17.1.3 may include (without limitation) the creation of restrictive covenants binding the Property and the grant of easements binding the Property Provided Always that the Chargor may not enter into restrictive covenants which prevent the development of

the Property in accordance with the Planning Permission, nor which create any Material Adverse Effect.

17.2 The Security Agent will at the request and reasonable and proper cost of the Chargor promptly enter into any Statutory Agreements and/or (as appropriate) Works Agreements which are required to be entered into pursuant to clause 17.1 PROVIDED THAT:

17.2.1 the Security Agent has no obligations in the Statutory Agreement and/or (as appropriate) Works Agreement prior to it becoming a mortgagee in possession but enters into such agreements solely to give its consent to the Statutory Agreement and/or (as appropriate) Works Agreement;

17.2.2 the terms of the Statutory Agreement and/or (as appropriate) Works Agreement (other than any provision for payment of the costs of preparing and negotiating the Statutory Agreement and/or (as appropriate) Works Agreement or requiring the approval of the local planning authority or other competent public authority, statutory undertaker or service supply company to any matters prior to implementation) are expressed not to take effect until the relevant planning permission is implemented;

17.2.3 any such agreement will not have a Material Adverse Effect; and

17.2.4 the Chargor indemnifies the Security Agent against all reasonable expenses and liabilities incurred by the Security Agent arising out of any Statutory Agreement and/or (as appropriate) Works Agreement.

18. **ASSIGNMENT AND TRANSFER**

18.1 **Assignment by the Security Agent**

At any time without the consent of the Chargor the Security Agent may assign or transfer the whole (but not part) of the Security Agent's rights and/or obligations under this legal charge to any person replacing the Security Agent as nominee on behalf of the Beneficiaries subject to such assignee or transferee confirming (by deed) that they will comply with the Security Agent's obligations under this legal charge. The Security Agent may disclose such information about the Chargor, the Charged Property and this legal charge as the Security Agent considers appropriate to any actual or proposed assignee or transferee subject to the prior written approval of the Chargor (such consent not to be unreasonably or withheld).

18.2 **Assignment by the Chargor**

The Chargor may not assign any of its rights or transfer any of its obligations under this legal charge or enter into any transaction which would result in any of those rights or obligations passing to another person.

19. **FURTHER PROVISIONS**

19.1 Irrevocable authority to Security Agent and Receiver

The Security Agent may exercise all of the powers and remedies pursuant to this legal charge and may distribute the sale proceeds from any sale of the Charged Property firstly in order to discharge the Secured Liabilities and thereafter to account to the Chargor for the balance of such sale proceeds in accordance with the Security Agent's duty of care.

19.2 Independent security

This legal charge shall be in addition to, and independent of, every other security or guarantee which the Security Agent may hold for any of the Secured Liabilities at any time.

19.3 Continuing security

This legal charge shall remain in full force and effect as a continuing security for the Secured Liabilities pending its final release pursuant to clause 20.2.

19.4 Rights cumulative

The rights and powers of the Security Agent conferred by this legal charge are cumulative, may be exercised as often as the Security Agent considers appropriate, and are in addition to its rights and powers under the general law.

19.5 Subsequent Challenge of Payment to Release this legal charge

In the event that the Security Agent releases all or part of the Property from this legal charge following a payment by the Chargor, and the Security Agent is subsequently ordered to refund all or part of such payment pursuant to any proceedings taken under Section 239 of the Insolvency Act 1986 (or any equivalent action arising from the insolvency of either or both of the persons together comprising the Chargor), the Security Agent may recover the value or amount of any sum so repaid from the Chargor which shall remain under an obligation to pay such amount notwithstanding the discharge of this legal charge.

19.6 Waivers

Any waiver or variation of any right by the Security Agent (whether arising under this legal charge or under the general law) shall only be effective if it is in writing and signed by the Security Agent and applies only in the circumstances for which it was given, and shall not prevent the Security Agent from subsequently relying on the relevant provision.

19.7 Further exercise of rights

No act or course of conduct or negotiation by or on behalf of the Security Agent shall, in any way, preclude the Security Agent from exercising any right or power under this legal charge or constitute a suspension or variation of any such right or power.

19.8 Delay

No delay or failure to exercise any right or power under this legal charge shall operate as a waiver.

19.9 Single or partial exercise

No single or partial exercise of any right under this legal charge shall prevent any other or further exercise of that or any other right.

19.10 Partial invalidity

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this legal charge under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

19.11 Counterparts

This legal charge may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

20. RELEASE OF LAND**20.1 Release on payment of Instalments**

20.1.1 The Security Agent will subject to the subsequent provisions of this clause release:

20.1.1.1 the First Released Area from this legal mortgage following payment of Instalment 1 and any other monies then due;

20.1.1.2 the Second Released Area from this legal mortgage following payment of Instalment 2 and any other monies then due;

20.1.1.3 the Third Released Area from this legal mortgage following payment of Instalment 3 and any other monies then due

20.1.2 The Chargor and the Security Agent are to seek to agree any variation (if any) of the boundaries of the land to be released from this legal mortgage but only prior to its release resulting from any relevant reserved matters application or approval in accordance with the following principles:

20.1.2.1 The land remaining comprised in this legal mortgage following the payment of any Instalments (no value being

allocated to any affordable housing and/or land required to be transferred pursuant to any Statutory Agreement) should have a value at the time of the release that is at least equal to 120% of the Secured Liability following payment of those Instalments and the variation must not have an Adverse Charged Property Effect;

- 20.1.2.2 In assessing that value regard is to be had to the Security Agent's need to ensure that any land remaining secured can be accessed and serviced and disposed of independently so far as possible of the Unsecured Area;
- 20.1.2.3 the provisions of the relevant reserved matters application or approval;
- 20.1.2.4 The process to agree or determine the amount of land to be released (and if applicable the payment to be made for any additional release) is to be in accordance with the remaining provisions of this clause 20.
- 20.1.2.5 The Chargor will pay the Security Agent's professional fees and non-recoverable VAT
- 20.1.3 Not more than four months before the date of any Instalment the Chargor may by notice to the Landowners' Representative (accompanied by the information specified in Clause 20.1.4) request the Security Agent to agree any variation to the identity of the land that may be released from this legal mortgage upon payment of the next following Instalment.
- 20.1.4 The information specified in this Clause 20 and required by it is:
 - 20.1.4.1 A plan identifying the area then remaining within this legal mortgage; and
 - 20.1.4.2 A plan identifying the area or areas for which the Chargor seeks release (and of the area or areas of area which it intends to remain within this legal mortgage); and
- 20.1.5 The Chargor shall promptly supply such additional information as the Landowners' Representative shall reasonably request.
- 20.1.6 Within 10 Working Days after service of the documents and information specified in Clause 20.1.3 and 20.1.4 the Landowners' Representative shall give notice to the Chargor that the Security Agent agrees with the Chargor's valuation and/or the Chargor's identification of the land of which release has been requested or (if they do not so agree) the grounds upon which the Security Agent disagrees.

20.1.7 If no such notice is received by the Chargor within the 10 Working Day period referred to in Clause 20.1.5, or if after a further period of 10 Working Days after service of the notice by the Landowners' Representative on behalf of the Security Agent, the Chargor and the Security Agent are unable to reach an agreement identifying the area or areas of land to be released then either party may require the identity of the land to be released and/or the valuation of the land to remain in legal mortgage to be referred for determination by the Specialist pursuant to the provisions of this clause and in accordance with Clause 21.

20.2 **Release Area Additional**

In consideration of the payment of the Release Fee Additional and the Security Agent's professional fees and non-recoverable VAT the Security Agent shall execute Form DS3(s) and any necessary RX4s supplied to them and return the same to the Chargor within five Working Days of receipt to the intent that the continuing security granted by this legal charge shall be of the whole Charged Property excluding the Release Area.

20.3 **Release on discharge of Secured Liabilities**

The Security Agent shall release this legal charge immediately upon receipt by the Security Agent (or the Landowners' Solicitors) of Instalment 4 and all other Secured Liabilities (if any) and shall subject to receiving an engrossment of the same from the Chargor or the Chargor's Solicitors procure that the Landowners' Solicitors are holding a duly executed Land Registry Form DS1 (or such other form as may have superseded it and so that all references in this legal charge to Form DS1 shall be deemed to include any form as may have superseded it) and any necessary RX4 which will fully release the Charged Property from this legal charge.

21. **DETERMINATION BY THE SPECIALIST**

- 21.1 Any matter which this legal charge provides should be referred to the Specialist for determination shall be determined in accordance with the subsequent provisions of this clause.
- 21.2 The Specialist shall be a member or fellow of The Royal Institution of Chartered Surveyors with at least ten years' post qualification experience in development land for housing and associated development in the south east of England who shall be agreed between the parties or in default of agreement appointed at the request of either party by the president or next available senior officer of The Royal Institution of Chartered Surveyors. The Specialist shall act as an expert and not as an arbitrator.
- 21.3 The Specialist shall be instructed that on his appointment he/she shall forthwith notify all parties in writing of the same.

- 21.4 The parties as the case may be may make written representations within 10 Working Days of the Specialist notifying the parties of his appointment and will copy the written representation to the other party.
- 21.5 The parties as the case may be are to have a further 10 Working Days to make written comments on each other's representations and will copy the written comments to the other party.
- 21.6 The Specialist shall be instructed to be at liberty to call for such written evidence from the parties and to seek such legal or other expert advice as he or she may reasonably require.
- 21.7 The Specialist shall be instructed not to take oral representations from the parties without giving all parties the opportunity to be present and to give evidence and to cross examine each other.
- 21.8 The Specialist shall be instructed to have regard to all representations and evidence before him or her when making his or her decision, which is to be in writing, and is to be required to give reasons for his or her decision.
- 21.9 The Specialist shall be instructed to use all reasonable endeavours to publish his or her decision as an expert and not as an arbitrator within twenty-five Working Days of his or her appointment.
- 21.10 The Specialist shall be instructed to act impartially and in good faith and the decision of the Specialist shall be final and binding on the parties (save in the case of fraud or manifest error).
- 21.11 Responsibility for the costs of referring a dispute to a Specialist under this Clause 21, including costs connected with the appointment of the Specialist and legal and other professional costs of the Security Agent or the Chargor relating to it, will be decided by the Specialist. If no such decision is made the Security Agent and the Chargor shall bear an equal proportion of the costs, and any costs awarded against the Security Agent shall not form part of the Costs hereby secured.
- 21.12 This Clause 21 does not apply to disputes as to matters of law or interpretation of this legal charge or to other disputes which are not expressly stated to be referable to the Specialist all of which will be subject to the jurisdiction of the courts.
- 21.13 If the Specialist shall not have issued his or her determination within two months of his or her appointment or shall die or become unwilling to act or incapable of acting, the Security Agent and the Chargor may by agreement (such agreement not to be unreasonably withheld or delayed) on the application of Security Agent or the Chargor, discharge the Specialist and appoint another in his or her place.

22. NOTICES

22.1 Service

Each notice or other communication required to be given under, or in connection with, this legal charge shall be:

22.1.1 in writing, delivered personally or sent by pre-paid first-class letter or recorded delivery letter; and

22.1.2 sent:

22.1.2.1 to the Chargor at its address stated above, with a copy to the Chargor's Solicitors;

22.1.2.2 to the Security Agent at their addresses stated above, with copies to the Landowners' Solicitors, and the Landowners' Representative

or to such other substitute address as is notified in writing by one party to the others from time to time.

22.2 Receipt

Any notice or other communication given shall be deemed to have been received:

22.2.1 if given by hand, at the time of actual delivery; and

22.2.2 if posted, on the second Working Day after the day it was sent by pre-paid first-class post.

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

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

23. GOVERNING LAW AND JURISDICTION

23.1 Governing law

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

23.2 Jurisdiction

The parties to this legal charge irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or

claim that arises out of or in connection with this legal charge or its subject matter or formation (including non-contractual disputes or claims).

23.3 Other service

The Chargor irrevocably consents to any process in any proceedings under clause 23.2 being served on it in accordance with the provisions of this legal charge relating to service of notices. Nothing contained in this legal charge shall affect the right to serve process in any other manner permitted by law.

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

REPRESENTATIONS AND WARRANTIES

1. OWNERSHIP OF CHARGED PROPERTY

The Chargor is the legal owner of the Charged Property.

2. NO ENCUMBRANCES

The Charged Property is free from Encumbrances other than the Encumbrances created by this legal charge.

3. ADVERSE CLAIMS

The Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Property or any interest in it.

4. NO BREACH OF LAWS

There is no breach of any law or regulation which materially adversely affects the Charged Property.

5. AVOIDANCE OF SECURITY

No Encumbrance expressed to be created under this legal charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

6. NO PROHIBITIONS OR BREACHES

The entry into of this legal charge by the Chargor does not and will not constitute a breach of any policy, agreement, document or instrument binding on the Chargor or its assets.

7. NO EVENT OF DEFAULT

No Event of Default has occurred or is continuing or might reasonably be expected to result from the execution of this legal charge or from effect being given to its provisions.

SCHEDULE 2

COVENANTS

Part 1 General covenants

1. NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS

1.1 The Chargor shall not at any time, except with the prior written consent of the Security Agent (such consent not to be unreasonably withheld or delayed in the case only of a matter within paragraphs 1.1.1 and 1.1.2 below), during the Security Period:

1.1.1 create, purport to create or permit to subsist any Encumbrance on, or in relation to, the Charged Property other than this legal charge;

1.1.2 create or grant (or purport to create or grant) any interest in the Charged Property in favour of a third party;

1.1.3 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 Charged Property,

except in any case where permitted to do so by the terms of this legal charge (including, for the avoidance of doubt, by way of Exempt Disposal) and PROVIDED THAT this shall not prevent the Chargor from contracting to sell, or contracting to grant any lease of any Dwelling or Dwellings but for the avoidance of doubt not to complete such transactions.

2. 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 Security Agent or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this legal charge.

3. ENFORCEMENT OF RIGHTS

The Chargor shall use its reasonable and commercially sensible endeavours to:

3.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Chargor and forming part of the Charged Property of the covenants and other obligations imposed on such counterparty; and

3.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property which the Security Agent may reasonably require from time to time.

4. **COMPLIANCE WITH LAWS**

The Chargor shall comply with all laws and regulations for the time being in force relating to or affecting the Charged Property and shall obtain and promptly renew from time to time and comply with the terms of all authorisations which may be necessary to enable it to preserve, maintain or renew the Charged Property.

5. **NOTICE OF BREACHES**

The Chargor shall, promptly on becoming aware of any of the same, give the Security Agent notice in writing of any breach of:

- 5.1 any representation or warranty set out in Schedule 1; and
- 5.2 any covenant set out in this Schedule 2.

6. **FURTHER ASSURANCE**

The Chargor, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Security Agent may reasonably require) in favour of the Security Agent as the Security Agent, in its absolute discretion, requires from time to time over all or any part of the Charged Property and give all notices, orders and directions which the Security Agent may require, in its absolute discretion, for perfecting, protecting or facilitating the realisation of its security over the Charged Property.

7. **CHARGOR'S WAIVER OF SET-OFF**

The Chargor waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Chargor under this legal charge).

Part 2 Property covenants

1. **PLANNING**

The Chargor will observe and perform all conditions, stipulations and restrictions in any Statutory Agreement relating to the Charged Property.

2. **INSURANCE**

- 2.1 To the extent that the assets comprised in the Charged Property would commonly be insured by reasonably prudent persons carrying on the same class of business as the Chargor the Chargor shall insure and keep insured the Charged Property against:

- 2.1.1 loss or damage by fire or terrorist acts;
- 2.1.2 other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Chargor.

- 2.2 The Chargor shall, if requested by the Security Agent, produce to the Security Agent the evidence of any such insurance required by paragraph 2.1 of this Part 2 of Schedule 2.

3. INSURANCE PREMIUMS

The Chargor:

- 3.1 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; and
- 3.2 shall (if the Security Agent so requires) produce to the Security Agent the receipts for all premiums and other payments necessary for effecting and keeping up the Insurance Policies.

4. NO INVALIDATION OF INSURANCE

The Chargor shall not do or omit to do or permit to be done or omitted any thing that may invalidate or otherwise prejudice the Insurance Policies.

5. LEASES AND LICENCES AFFECTING THE PROPERTY

Otherwise than as permitted in accordance with the terms of this legal charge, the Chargor shall not, without the prior written consent of the Security Agent (which shall not be unreasonably withheld as long as the proposed action would not have a Material Adverse Effect):

- 5.1 grant, or agree to grant, any licence or tenancy affecting the whole or any part of the Property, or exercise the statutory powers of leasing (or agreeing to lease) or of accepting (or agreeing to accept) surrenders under sections 99 or 100 of the LPA; or
- 5.2 in any other way dispose of (or agree to dispose of), accept the surrender of (or agree to accept the surrender of), surrender (or agree to surrender) or create any legal estate or interest in the whole or any part of the Property;
- 5.3 let any person into occupation of or share occupation of the whole or any part of the Property; or
- 5.4 grant any consent or licence under any lease or licence affecting the Property,

PROVIDED THAT any licence to contractors to develop the Property and any legal interest deriving from an Exempt Disposal will not amount to a breach of this obligation.

6. NO RESTRICTIVE OBLIGATIONS

Otherwise than as permitted in accordance with the terms of this legal charge, the Chargor shall not, without the prior written consent of the Security Agent, enter into any onerous or restrictive obligations affecting the whole or any part of the Property

or create or permit to arise any overriding interest, easement or right whatsoever in or over the whole or any part of the Property.

7. PROPRIETARY RIGHTS

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of the Charged Property, without the prior written consent of the Security Agent.

8. 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.

9. INSPECTION

The Chargor shall permit the Security Agent and any Receiver and any person appointed by either of them to enter on and inspect the Property at all reasonable times on reasonable prior notice subject to the Security Agent observing any reasonable conditions imposed in the interest of health and safety.

10. COMPLIANCE WITH STATUTES

The Chargor will observe and comply with the terms of all authorisations, consents, approvals, resolution, licence, exemption, filing notification or registration relating to the Charged Property and will not do or allow or omit to be done any act, matter or thing whereby any provisions of or regulations under the Planning Act or any other statute having application to the Charged Property may be infringed.

11. STATUTORY AGREEMENTS & DISPOSALS

The Chargor will enter into such Statutory Agreements with the local planning authority and/or highway authority relating to the development of the Development Site as are reasonably necessary to develop the Development Site substantially in accordance with the Planning Permission.

12. DEVELOPMENT SITE

12.1 The Chargor will procure that the development of the Development Site is carried out and completed:

12.1.1 in a good and substantial and workmanlike manner according to good building practice generally accepted at the date of carrying out the same;

12.1.2 in accordance with all relevant codes of practice and regulations;

12.1.3 using good quality materials;

12.1.4 according to the standards of good design and construction practice;

- 12.1.5 in compliance with the Planning Permission, the Section 106 Agreement, all requisite consents and all statutes from time to time in force which affect the development of the Property;
- 12.1.6 without using any materials generally known to be, or classed as, deleterious in the context of their use;
- 12.1.7 in accordance with all Statutory Agreements, all statutory requirements and the requirements of any statutory undertaker which has jurisdiction with regard to the development of the Development Site or with whose systems they are or will be connected; and

so as to ensure that the Property can be developed without any additional cost resulting from the failure by the Chargor to comply with the obligations contained in this Schedule Provided that the Chargor shall immediately be released from all liability under this paragraph 12 upon payment of Instalment 4 and all other Secured Liabilities (if any) as referred to in clause 20.2

13. ENFORCEMENT

The Chargor shall following enforcement of the security created by this legal charge grant any appropriate and reasonable rights or easements in favour of the Charged Property over the Unsecured Area as may be reasonably required by the Security Agent to allow the development of the Property in accordance with the Planning Permission and the Security Agent shall do the same in respect of any reasonable rights or easements in favour of the Unsecured Area.

SCHEDULE 3

POWERS OF THE SECURITY AGENT

1. POWER TO REMEDY

- 1.1 The Security Agent 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 Security Agent and its agents to do all such things as are necessary or desirable for that purpose. Any monies expended by the Security Agent 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 Security Agent and shall carry interest in accordance with clause 15.1.
- 1.2 In remedying any breach in accordance with paragraph 1.1 of this Schedule 3, the Security Agent, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Security Agent may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

2. EXERCISE OF RIGHTS

The rights of the Security Agent under paragraph 3 of this Schedule 3 are without prejudice to any other rights of the Security Agent under this legal charge. The exercise of those rights shall not make the Security Agent liable to account as a mortgagee in possession.

3. SECURITY AGENT HAS RECEIVER'S POWERS

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

4. INDULGENCE

The Security Agent may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person that is not party to this legal charge (whether or not such person is jointly liable with the Chargor) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this legal charge or to the liability of the Chargor for the Secured Liabilities.

SCHEDULE 4

POWERS OF A RECEIVER

1. POWER TO REPAIR AND DEVELOP THE PROPERTY

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property 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.

2. POWER TO GRANT OR ACCEPT SURRENDERS OF LEASES

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

3. POWER TO EMPLOY PERSONNEL AND ADVISERS

A Receiver may, for the purposes of this Schedule 4, provide services and employ, or engage, such managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on such salaries, for such periods and on such other terms as he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

4. POWER TO MAKE AND REVOKE VAT OPTIONS TO TAX

A Receiver may exercise or revoke any VAT option to tax as he thinks fit.

5. POWER TO CHARGE FOR REMUNERATION

A Receiver may charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Security Agent may prescribe or agree with him.

6. POWER TO REALISE CHARGED PROPERTY

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

7. POWER TO MANAGE OR RECONSTRUCT THE CHARGOR'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 Chargor carried out at the Property.

8. POWER TO DISPOSE OF CHARGED PROPERTY

A Receiver may grant options and licences over all or any part of the Charged Property, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases of, all or any of the Charged Property in respect of which he is appointed for such consideration and, in such manner (including, without limitation, by public auction or private sale) and generally on such terms and conditions as he thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be disposed of by him.

9. POWER TO SEVER FIXTURES AND FITTINGS

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

10. POWER TO GIVE VALID RECEIPTS

A Receiver may give valid receipts for all monies and execute all assurances and things which may be proper or desirable for realising any of the Charged Property.

11. POWER TO MAKE SETTLEMENTS

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person as he thinks fit.

12. POWER TO BRING PROCEEDINGS

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

13. POWER TO INSURE

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 15.2, 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 Chargor under this legal charge.

14. POWERS UNDER LPA

A Receiver may exercise all powers provided for in the LPA in the same way as if he had been duly appointed under that act and exercise all powers provided for an administrative receiver in Schedule 1 of the Insolvency Act 1986.

15. POWER TO BORROW

A Receiver may, for any of the purposes authorised by this Schedule 4, raise money by borrowing from the Security Agent (or from any other person) on the security of all or any of the Charged Property in respect of which he is appointed on such terms as he thinks fit (including, if the Security Agent consents, terms under which such security ranks in priority to this legal charge).

16. POWER TO REDEEM PRIOR ENCUMBRANCES

A Receiver may redeem any prior Encumbrance and settle and pass the accounts to which the Encumbrance relates. Any accounts so settled and passed shall be conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

17. POWER OF ABSOLUTE OWNER

A Receiver may do all such acts and things as an absolute owner could do in the ownership and management of the Charged Property or any part of it.

18. INCIDENTAL POWERS

A Receiver may do all such other acts and things as he may consider incidental or conducive to any of the matters or powers in this Schedule 4, or which he lawfully may or can do as agent for the Chargor.

SCHEDULE 5

EVENTS OF DEFAULT

An Event of Default is where the Chargor does not pay the Secured Liabilities within three Working Days from when they fall due.

SIGNED as a **DEED** by
MILLER HOMES LIMITED
acting by a Director
in the presence of

Director _____

.....
Signature of witness
Joyce Morrison
.....
Printed name of witness

.....
.....
.....
Address of witness

I confirm I was physically present when JULIE JACKSON signed
this document.

SIGNED as a **DEED** by
BELLWAY HOMES LIMITED
acting by a Director and its Secretary (or two Directors)

Director _____

Director/Secretary _____

EXECUTED as a **DEED** by
WILLIAM PHILIP VERNON FRANKLIN
in the presence of:

.....
Signature of witness

.....
Printed name of witness

.....
.....
.....
Address of witness

EXECUTED as a **DEED** by
SARA POULTON
in the presence of:

.....
Signature of witness

.....
Printed name of witness

.....
.....
.....
Address of witness

EXECUTED as a **DEED** by
ROBIN DAVID WARNER SMITH
in the presence of:

.....
Signature of witness

.....
Printed name of witness

.....
.....
.....
Address of witness

EXECUTED as a **DEED** by
PHILIP THOMAS DEACON SMITH
in the presence of:

.....
Signature of witness

.....
Printed name of witness

.....
.....
.....
Address of witness