



Registration of a Charge

Company Name: **HILLS RESIDENTIAL CONSTRUCTION LTD**

Company Number: **03919214**



Received for filing in Electronic Format on the: **04/04/2023**

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Details of Charge

Date of creation: **31/03/2023**

Charge code: **0391 9214 0024**

Persons entitled: **FRANK DERRICK STRUTT AND JANET LANG STRUTT**

Brief description: **THE FREEHOLD PROPERTY DESCRIBED IN A TRANSFER DATED 31ST MARCH 2023 MADE BETWEEN (1) FRANK DERRICK STRUTT AND JANET LANG STRUTT AND (2) HILLS RESIDENTIAL CONSTRUCTION LTD.**

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: **DEVREAUX GRAVELL, PARTNER, BIRKETTS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3919214

Charge code: 0391 9214 0024

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st March 2023 and created by HILLS RESIDENTIAL CONSTRUCTION LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th April 2023 .

Given at Companies House, Cardiff on 8th April 2023

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



Companies House



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

Dated

31 March

2023

(1) HILLS RESIDENTIAL CONSTRUCTION LTD

and

(2) FRANK DERRICK STRUTT and JANET LANG STRUTT

**Legal Mortgage over land at the rear and at the east
of The Moors, Great Bentley, Colchester, Essex,
CO7 8PG**

BARKER GOTELEE
• SOLICITORS •

41 Barrack Square

Martlesham Heath

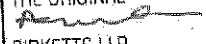
Ipswich

Suffolk

IP5 3RF

Ref: CSG/0095672-001

ADOLE DEAN
Solicitor

WE HEREBY CERTIFY THIS TO
BE A TRUE COPY OF
THE ORIGINAL

BIRKETTS LLP
BRIERLY PLACE
NEW LONDON ROAD
CHELMSFORD, ESSEX CM2 0AP

THIS DEED is dated

31 March

2023

BETWEEN

- (1) HILLS RESIDENTIAL CONSTRUCTION LTD incorporated in England and Wales with company number 03919214 whose registered office is at Bridge Mill House, Brook Street, Colchester, Essex, CO1 2UZ (the **Borrower**); and
- (2) FRANK DERRICK STRUTT and JANET LANG STRUTT of [REDACTED] (the **Lender**).

BACKGROUND

- (A) By a transfer of even date, the Lender has sold and the Borrower has bought the Property.
- (B) The purchase price of the Property is £832,030.00 (exclusive of VAT), of which the Borrower has paid a total of £500,000.00 on completion of the transfer.
- (C) This legal charge secures the payment by the Borrower to the Lender of the balance of the purchase price of the Property being £332,030.00 (exclusive of VAT), which is payable on the terms set out in this legal charge.

IT IS HEREBY AGREED

1. Definitions and Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Default Interest: 4% above the base rate of Barclays Bank PLC from time to time.

Exempt Disposal Shall mean a lease or transfer to a third party of:

- (i) the site of any sub-station, gas governor, pumping station, balancing pond or any other facility required by any company or organisation providing any utilities or services for the development of the Property;
- (ii) any land to any provider of affordable housing registered under the Housing and Regeneration Act 2008 for the provision of low cost or affordable housing on the Property;
- (iii) of land required to discharge any obligation imposed in any agreement under Section 106 of the Town and

Country Planning Act 1990 or section 38 or 278 of the Highways Act 1980 (as amended) or any other statutory modification or re-enactment thereof.

and shall include the grant of any easements required to serve any land disposed of in accordance with paragraphs (i) to (iii) above inclusive

Event of Default:	any event or circumstance listed in clause 11 of this agreement.
Final Sum:	£332,030.00
First Legal Charge:	a first legal charge dated 31 March 2023 made between (1) Hills Residential Construction Ltd and (2) Close Brothers Limited secured against the Property.
LPA 1925:	the Law of Property Act 1925.
Planning Permission:	outline/detailed consent number 21/02176/FUL or any variation of condition, non-material amendment or minor amendment or any subsequent planning permission.
Property:	the freehold land comprised in the Transfer.
Residential Unit:	a house, a flat or any other structure intended for residential use including any ancillary land and facilities for use in connection with that house, flat or other structure and which is fit for immediate occupation and use.
Secured Liabilities:	the sums due from the Borrower to the Lender set out in clause 2 of this legal charge.
Security:	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.
Transfer:	a Transfer dated 31 March 2023 made between (1) Frank Derrick Strutt and Janet Lang Strutt and (2) Hills Residential Construction Ltd.

Working Day any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday and "**Working Days**" shall be construed accordingly.

1.2 Interpretation

A reference in this agreement to a mortgage of, or over, the Property applies to:

- 1.2.1 all buildings and fixtures and fittings that are situated on, or form part of, the Property at any time;
- 1.2.2 the proceeds of sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property;
- 1.2.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of the Property and any monies paid or payable in respect of those covenants; and
- 1.2.4 all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

2. Secured Liabilities

2.1 The Borrower covenants to pay to the Lender the Final Sum on the earlier of the following dates:

2.1.1 when construction works under the Planning Permission result in a Residential Unit reaching damp course level; and

2.1.2 31 March 2025.

2.2 The Final Sum may be paid in a single payment or in instalments of any amount prior to the date that the Final Sum falls due without penalty in which case the provisions of clause 9 apply.

2.3 The Borrower covenants to pay to the Lender the Default Interest on all or part of the Final Sum from the date that it falls due to the date of repayment.

3. Grant of Security

3.1 As a continuing security for the payment and discharge of the Secured Liabilities and all other amounts secured by this agreement, the Borrower charges the Property, with full title guarantee, to the Lender by way of second legal mortgage.

3.2 The Lender acknowledges that the First Legal Charge will rank in priority to this Legal Mortgage and has simultaneously with this Legal Mortgage entered into a deed of priority with the holder of the First Legal Charge.

4. Restriction on Title

4.1 The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against their 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 [31 March 2023] in favour of Frank Derrick Strutt and Janet Lang Strutt referred to in the charges register or their conveyancer."

5. Representations

5.1 The Borrower represents and warrants to the Lender on each day until the Secured Liabilities has been unconditionally and irrevocably paid in full that:

- 5.1.1 the Borrower is the sole legal and beneficial owner of the Property and has good and marketable title to the Property;
- 5.1.2 the Property is free from any Security other than the Security created by this agreement and the First Legal Charge;
- 5.1.3 the Borrower has not received or acknowledged notice of any adverse claim by any person in respect of the Property or any interest in it;
- 5.1.4 there are no covenants, agreements, reservations, conditions, interests, rights or other matters that materially adversely affect the Property;
- 5.1.5 there is no breach of any law or regulation that materially adversely affects the Property;

5.1.6 no facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use;

5.1.7 nothing has arisen, has been created or is subsisting, that would be an overriding interest in the Property; and

5.1.8 no Security expressed to be created under this agreement is liable to be avoided, or otherwise set aside, on the insolvency of the Borrower or otherwise.

6. Covenants

6.1 Negative Pledge and Disposal Restrictions

The Borrower will not at any time during the continuance of the security created by this Legal Mortgage (other than by Exempt Disposal), except with the prior written consent of the Lender:

6.1.1 create or permit any Security on, or in relation to, the Property other than the Security created by this agreement and the First Legal Charge;

6.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner all or any part of, or any interest in, the Property; or

6.1.3 create or grant any interest in the Property in favour of a third party.

6.2 Preservation of Property

The Borrower will 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 Lender or materially diminish the value of the Property or the effectiveness of the Security created by this agreement save where permitted by this Legal Mortgage and provided always that the development of the Property in accordance with the Planning Permission shall not be a breach of this clause.

6.3 Works

The Borrower shall ensure that the design, construction and development of the Residential Units is undertaken in a proper and workmanlike manner, using materials of good quality which are fit for their respective purposes, and in accordance with:

6.3.1 the Planning Permission required for the said works, any environmental consent and any other authorisation under any other statute, by law or regulation of any

competent authority that is reasonably necessary to enable the construction of the Residential Units to be lawfully commenced, carried out or completed; and

6.3.2 all relevant Codes of Practice and British Standard Specifications

6.4 Insurance

6.4.1 the Borrower shall:

6.4.1.1 Insure the Property for public liability during the continuance of this Legal Mortgage

6.4.1.2 insure and keep insured any buildings constructed on the Property against such risks perils and contingencies that would be insured against by reasonably prudent persons carrying on the same business as the Borrower

6.5 Leases and Licences Affecting the Property

The Borrower will not, (save in the case of an Exempt Disposal), without the prior written consent of the Lender (which must not be unreasonably withheld or delayed):

6.5.1 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 1925; or

6.5.2 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 or equitable estate or interest in the whole or any part of the Property.

6.6 Payment of Outgoings

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

7. Enforcement of Security

7.1 When Security Becomes Enforceable

The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this agreement) will, as between the Lender and a buyer from the Lender,

arise on and be exercisable at any time after the execution of this agreement, but the Lender will not exercise the power of sale or other powers until an Event of Default occurs, at which time they will become immediately exercisable.

7.2 When Statutory Powers Arise

Section 103 of the LPA 1925 (restricting the power of sale) does not apply to the Security created by this agreement.

8. Costs

- 8.1 The Borrower will pay to, or reimburse, the Lender on demand, on a full indemnity basis, all costs and liabilities incurred by the Lender, in relation to suing for, or recovering, the amounts secured by this Agreement.

9. Consents and Release

- 9.1 The Lender shall release the Property from the charge created by this Legal Mortgage within 5 Working Days of receipt of the Secured Liabilities from the Borrower

- 9.2 The Lender shall within 5 Working Days of receipt of the Secured Liabilities from the Borrower provide the Borrower with signed forms DS1 and RX4 or such other equivalent forms to enable the Borrower to remove the restriction referred to in clause 4 of this Legal Mortgage from the Land Registry title to the Property as well as reference to this Legal Charge and shall use reasonable endeavours to provide assistance to the Borrower in relation to any Land Registry requisitions that may be made in relation to the removal of the restriction and the legal charge.

- 9.3 Pending such release:-

9.3.1 The Lender consents as mortgagee to any agreements relating to the construction and adoption of any roads or other highway works, wayleaves, easements or other agreements relating to the development of the Property or to the provision of services for such development and if requested by the Borrower the Lender shall produce written confirmation of such consent and shall execute any such document within 15 Working Days of the Borrower's written request and the Borrower shall be responsible for the Lender's reasonable legal costs in entering into such documentation.

9.3.2 The Lender shall at the request of the Borrower execute and deliver any release or consent to lease required to enable the Borrower to complete any Exempt

Disposals and the certificate or consent required under the terms of the Restriction set out in clause 4 within 15 Working Days of the Borrower's written request PROVIDED THAT

9.3.2.1 the Lender shall not be obliged to provide such consent unless and until they have seen the documentation the subject of the Exempt Disposal and are satisfied (acting reasonably) that such documentation is effecting an Exempt Disposal; and

9.3.2.2 the Borrower shall be responsible for the Lender's reasonable legal fees in approving and signing any documentation required in connection with their obligations in this clause 9.3.2.

9.3.3 Should the Lender fail to comply with the obligations contained within clause 9.1, 9.2 and 9.3 of this Legal Mortgage the Borrower may serve notice on the Lender requesting that they comply with clauses 9.1, 9.2 and 9.3 and if the Lender fails to comply with such clauses within 20 Working Days of such request the Lender irrevocably appoints the Borrower by way of security to be the attorney of the Lender with full power to appoint substitute and to delegate for the Lender in its name and on its behalf and as its act and deed or otherwise to execute deliver and otherwise perfect any document or perform any act that may be required to release the security held over the Property.

10. Assignment and Transfer

Neither the Lender nor the Borrower may assign or transfer any of their rights and obligations under this agreement.

11. Events of Default

Each of the events set out in this clause is an Event of Default.

11.1 Non-payment

The Borrower fails to pay any sum payable by it under this agreement within 10 Working Days of when due, unless its failure to pay is caused solely either by:

11.1.1 an administrative error or technical problem and payment is made within seven days of its due date; or

- 11.1.2 an event (not caused by, and outside the control of, either party) that materially disrupts the systems that enable payments to be made or that otherwise prevents the Borrower from complying with their obligations under this agreement.

11.2 Non-compliance

The Borrower fails (other than by a failure to pay) to comply with any clause of this agreement and, if the Lender acting reasonably considers that the default is capable of remedy, the default is not remedied within 28 days of the earlier of:

- 11.2.1 the Lender notifying the Borrower of the default and the remedy required; and
11.2.2 the Borrower becoming aware of the default.

11.3 Insolvency

Either:

- 11.3.1 the Borrower suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
11.3.2 the Borrower commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purposes of the scheme for a solvent amalgamation of the Borrower with one or more other companies or the solvent reconstruction of the Borrower;
11.3.3 a resolution is passed, or an order is made, for or in connection with the winding up of the Borrower other than for the sole purpose of the scheme for a solvent amalgamation of the Borrower with one or more other companies or the solvent reconstruction of the Borrower;
11.3.4 an Order is made by the Court, for the appointment of an administrator, or if an administrator is appointed, over the Borrower;
11.3.5 the holder of a qualifying floating charge over the assets of the Borrower has appointed an administrative receiver;
11.3.6 an incumbrancer takes possession of or a receiver or an administrative receiver is appointed over the assets of the Borrower;

11.3.7 any event occurs, or proceeding is taken, with respect to the Borrower in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause;

11.3.8 the Borrower suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

11.3.9 the Borrower is struck off from the Register of Companies; or

11.3.10 the Borrower otherwise ceases to exist.

12. No Lien or Charge

12.1 It is agreed and declared that except for the legal charge in this Legal Mortgage no lien or charge shall arise in respect of the indebtedness hereby secured.

13. Notices

13.1 Any notice or other communication given under this agreement must be in writing and must be delivered by hand or sent by first class post or other next working day delivery service.

13.2 Any notice or other communication to be given under this agreement must be given to the relevant party at the relevant address stated at the start of this agreement or as otherwise specified by the relevant party in writing to the other party.

13.3 Any notice or other communication given under this agreement will be deemed to have been received: if delivered by hand, at the time it is left at the relevant address; or if sent by first class post or other next working day delivery service, on the second working day after sending.

14. Governing Law

This agreement 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 will be governed by and construed in accordance with the law of England and Wales.

15. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

This agreement has been entered into as a deed on the date stated at the beginning of it.

Executed as a deed by HILLS RESIDENTIAL
CONSTRUCTION LTD acting by [STEPHEN WILLIAMS]
a director, in the presence/of:

Signature of Witness ..

Name.. MATT ROLLINGS

Address..

Occupation..

Signed as a deed by FRANK DERRICK STRUTT
in the presence of:

Signature of Witness

Name.....

Address.....

.....

Occupation.....

Signed as a deed by JANET LANG STRUTT
in the presence of:

Signature of Witness

Name.....

Address.....

.....

Occupation.....