

MR01

Particulars of a charge

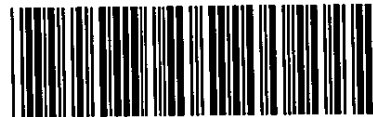
Laserform

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the form
Please go to www

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is for**
You may not use this form to
register a charge created or evidenced by
an instrument. Use form MR02



A23 22/12/2015 #356
COMPANIES HOUSE

please
gov.uk

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original**

1 Company details

Company number 0 9 8 6 7 5 2 4

Company name in full Miller Wates (Southwater) Limited

For official use



Filling in this form
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d1 d1 m1 m2 y2 y0 y1 y5

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Anthony Merrick Burrell

Name Louise Iona Burrell

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Land at Hogs Wood, Mill Straight, Southwater, Horsham registered at the Land Registry under Title Number WSX371230

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☐ Yes

☒ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge?

Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X 

X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge

**Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Daniel Leather

Company name Wragge Lawrence Graham & Co LLP

Address Two Snowhill

Post town Birmingham

County/Region West Midlands

Postcode B 4 6 W R

Country United Kingdom

DX DX 312501 Birmingham 86

Telephone 08709031000

**Certificate**

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

**Checklist**

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following.

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy

**Important information**

Please note that all information on this form will appear on the public record

**How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'

**Where to send**

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland.
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1

**Further information**

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9867524

Charge code: 0986 7524 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th December 2015 and created by MILLER WATES (SOUTHWATER) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd December 2015

Given at Companies House, Cardiff on 31st December 2015



Companies House



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

WE HEREBY CERTIFY THAT THIS IS A
TRUE COPY OF THE ORIGINAL
DATED THIS 14 DAY OF December 2015

Wragge Lawrence Graham
& Co LLP
BIRMINGHAM
CC/LEN

Dated 11 December 2015

LEGAL MORTGAGE

relating to

LAND AT HOGS WOOD, MILL STRAIGHT, SOUTHWATER,
HORSHAM

MILLER WATES (SOUTHWATER) LIMITED

and

ANTHONY MERRIK BURRELL and LOUISE IONA BURRELL

REF GMM/WA50691 000374

THIS DEED is dated

11 December

2015

BETWEEN:

- (1) **MILLER WATES (SOUTHWATER) LIMITED** (company registration number 09867524) whose registered office is Wates House, Station Approach, Leatherhead, Surrey KT22 7SW ('Buyer'), and
- (2) **ANTHONY MERRIK BURRELL** and **LOUISE IONA BURRELL** both of Lackenhurst, Lackenhurst Lane, Brooks Green, West Sussex, RH13 0JL ('Seller')

BACKGROUND:

- (A) By the Sale Agreement, the Buyer agreed to purchase the Property from the Seller
- (B) As part of the Sale Agreement the Seller agreed to allow the Buyer to defer part of the purchase price for the Property on terms provided in the Sale Agreement subject to the Buyer granting security for the deferred payment over the Property
- (C) This legal mortgage provides security which the Buyer has agreed to give the Seller for the sums remaining payable by the Buyer to the Seller under the terms of the Sale Agreement and this Deed

1 Definitions -

In this Deed the following definitions have the following meanings -

Affordable Housing Affordable housing as the phrase is used in the National Planning Policy Framework and any other guidance amending or replacing it and includes social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market and housing required under the terms of a Statutory Agreement to be sold at a discounted value and/or transferred to or to be managed by an Affordable Housing Provider

Affordable Housing Provider: a local authority, registered affordable housing provider, housing association, housing charity or similar body

Business Day Any day from Monday to Friday inclusive which is not 24 December, Christmas Day, Good Friday, a statutory bank holiday, a day between Christmas Day and New Year's Day (inclusive) or 2 January

Buyer's Solicitor: a solicitor appointed by the Buyer from time to time and notified to the Seller in writing

Development: the development of the Property

Event of Default the occurrence of any of the following events

- (a) any Instalment is not paid within 5 Business Days of the relevant Payment Date or any of the other Liabilities are not paid or discharged within 10 Business Days of when the same ought to be paid or discharged by the Buyer (whether on demand, at scheduled maturity, or by acceleration or otherwise, as the case may be),

- (b) the Buyer commits any material breach of any of the other covenants or any other provisions of this Deed which is incapable of remedy or which the Buyer has not remedied within a reasonable period of notice of breach,
- (c) if the Buyer without the prior consent in writing of the Seller ceases to carry on its business or any material part of it,
- (d) if the Buyer
 - (i) becomes unable to pay its debts as they fall due (and/or the value of the Buyer's assets is less than the amount of its liabilities, taking into account the Buyer's contingent and prospective liabilities which its auditors recommend be allowed for in its financial statements), or
 - (ii) commences negotiations with any class of its creditors with a view to the general readjustment or rescheduling of its indebtedness, or
 - (iii) makes a general arrangement for the benefit of, or a composition with, its creditors, or
- (e) the Buyer passes any resolution or a petition is presented or proceedings are commenced, or any action is taken by any person (in each case save for a Permitted Exception) for its winding-up, dissolution, administration or re-organisation (other than a solvent re-organisation) or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues or assets, or
- (f) save for a Permitted Exception, a distress, execution, attachment process is levied, or enforced on or sued against all or any part of the assets of the Buyer which remains undischarged for fourteen days, or
- (g) any event occurs in relation to the Buyer that is analogous to those set out in paragraphs (e) (f) or (g)

Expenses all interest and properly and reasonably incurred commission, fees, costs, charges, and expenses (including in each case any VAT and all disbursements) which the Seller or any Receiver may charge or incur in relation to the Buyer or this Deed or in relation to the Property or breach of any provision of, and the protection, realisation or enforcement of, this Deed in each case on a full indemnity basis

Instalment. the amounts due upon each of the Payment Dates and "**Instalments**" shall be construed accordingly

Interest Rate: four per cent above the base rate for the time being of Barclays Bank plc

Liabilities: the obligation to pay the Secured Consideration on the Payment Dates and to pay the Expenses and all other money, debts and liabilities which now are or at any time may be or become due, owing or incurred by the Buyer to the Seller under or in connection with this Deed together with interest payable at the Interest Rate on such sums in arrears

LPA: the Law of Property Act 1925

Market Unit: a single residential dwelling (together with the curtilage thereto) which does not comprise Affordable Housing and 'Market Units' shall be construed accordingly.

Payment Date the relevant dates prescribed by the Sale Agreement for the payment of the Secured Consideration and "**Payment Dates**" shall be construed accordingly

Permitted Disposal. any of the following

- (a) the grant of rights and/or easements as would usually be granted in favour of the purchaser of any Market Unit,
- (b) the transfer of the freehold or the grant of an occupational lease of part or parts of the Property upon which an electricity sub-station, gas generation or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements on standard commercial terms;
- (c) disposals made pursuant to any Statutory Agreement and/or (as appropriate) any Works Agreement entered into in respect of the Development,
- (c) disposals comprising of the grant or rights or easements on the Property for the installation, running and upkeep of infrastructure and services as part of the Development, and/or
- (d) a disposal or contract to dispose of any land on which Affordable Housing is to be constructed on or of any Affordable Housing (and ancillary land) to an Affordable Housing Provider whether or not that Affordable Housing has been constructed

Permitted Exception: any petition (other than an administration order) or claim which is frivolous or vexatious or which is discharged or withdrawn within 20 Business Days of its presentation

Planning Permission: means a full planning permission (or outline planning permission together with approval of all reserved matters) in respect of the Development

Plot Plan: a single Land Registry compliant plan identifying an area not exceeding 0.06 hectare containing a single Market Unit to be constructed on the Property (together with the curtilage thereto) and "**Plot Plans**" shall be construed accordingly

Pre-Signed DS1: a properly completed Land Registry Form DS1 in respect of this Deed signed by the Seller (or in such other form as required by the Land Registry from time to time)

Pre-Signed DS3: a properly completed Land Registry Form DS3 in respect of this Deed each relating to a single Market Unit signed by the Seller (or in such other

form as required by the Land Registry from time to time) and "DS3s" shall be construed accordingly

Property. all of the land at Hogs Wood, Mill Straight, Southwater, Horsham being all of the land registered at the Land Registry under title number WSX371230 as at the date of this Deed and each and every part of it which is subject to the provisions of this Deed from time to time to include all buildings and fixtures and fittings that are situated on or form part of the Property at any time and the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property

Receiver: any one or more receivers and/or administrative receivers and/or managers appointed by the Seller under this Deed in respect of the Buyer or over all or any part of the Property and the word "Receivers" shall be construed accordingly

Sale Agreement the agreement dated 11 DECEMBER 2015 and made between the Seller (1) the Buyer (2) and (3) Wates Developments Limited under which the Buyer agreed to purchase the Property from the Seller



Secured Consideration: the sums payable to the Seller pursuant to clauses 3 2 2 and 3 2 3 of the Sale Agreement

Seller's Solicitor: Thomas Eggar, Belmont House, Station way, Crawley, West Sussex, RH10 1JA or such other solicitor appointed by the Seller from time to time and notified to the Buyer in writing

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

Works Agreement: Any agreement which is required by the local planning authority or other competent public authority, statutory undertaker or service supply company to facilitate the installation and/or adoption of Infrastructure including (but not limited to) any agreement under section 104 of the Water Industry Act 1991 or section 38 or section 278 of the Highways Act 1980 or section 111 of the Local Government Act 1972 or any agreement of similar intent

2 Charge

As security for payment and discharge of the Liabilities the Buyer charges with full title guarantee all its right title and interest in the Property by way of first legal mortgage and to any proceeds of any insurance in the Property by way of fixed legal charge

3 Payments by the Buyer

The Buyer covenants with the Seller

- 3 1 to satisfy and discharge the Liabilities when they fall due for payment in accordance with (and subject to) the terms of the Sale Agreement (or where such monies are due hereunder in accordance with the provisions of this Deed) and if any payment of any Instalment is not be made on the due Payment Date the whole of the Secured Consideration shall then become due and payable,
- 3 2 to pay interest on the amount of the Liabilities for the time being and from time to time outstanding from the date of the Liabilities falling due to the date of payment at the Interest Rate (before and after any demand made or judgment obtained) such interest to accrue from day to day **PROVIDED THAT** there shall be no double counting of interest under this Deed and the Sale Agreement, and
- 3 3 if payment falls due under this Deed on any day which is not a Business Day the due date for payment will be extended to the next Business Day and interest will be adjusted accordingly

4 Further Assurance

The Buyer shall from time to time and at all times promptly and at its own cost execute all such documents, assurances, consents and deeds and do such acts and things as the Seller may reasonably require for perfecting the security intended to be created by this Deed and for facilitating or effecting any dealings by the Seller or a Receiver under the powers of this Deed and shall from time to time and at all times after the security created by this Deed shall have become enforceable execute all such documents, assurances, consents and deeds and do such acts and things as the Seller may reasonably require for facilitating the realisation of the Property over which such security has become immediately enforceable and for the exercise by it of all the powers, authorities and discretions conferred by this Deed on the Seller or any Receiver appointed by it and in particular shall execute all transfers, conveyances, dispositions, assignments and assurances of the Property and shall give all notices, orders and directions which the Seller or any such Receiver may reasonably think expedient

5 Land Registry

The Buyer agrees with the Seller forthwith to apply to enter the following standard form of restriction in the proprietorship register of the title to registered estate in the Property

"No disposition by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the holder of a Legal Charge dated [*being the date of this deed*] and made between Millier Wates (Southwater) Limited (1) and Anthony Merrick Burrell and Louise Iona Burrell (2) or a certificate from a conveyancer that the disposition either complies with clause 7 of that Legal Charge or that it a 'Permitted Disposal' (as defined by the aforementioned Legal Charge"

6 Buyer's Covenants

- 6 1 The Buyer shall at all times during the continuance of the security hereby constituted

- 6 1 1 pay all rates outgoings and other sums payable out of or in respect of its interest in the Property and observe and comply with any covenants stipulations and conditions,
- 6 1 2 not commit any waste which will injure or in any manner or by any means lessen the value of its interest in the Property save that nothing herein contained shall prohibit the development of the Property,
- 6 1 3 in relation to its interest in the Property or its use and enjoyment comply with all obligations under any present or future statute or regulation order or instrument or under any byelaws regulations or requirements or any competent authority or planning permissions or other approvals licences or consents to include in particular but without prejudice to the generality of the foregoing any planning permission and any Statutory Agreement and any Works Agreement,
- 6 1 4 keep the Seller fully indemnified in respect of any breach or non observance of the foregoing covenants contained in this clause and if a default shall at any time be made by the Buyer in the performance of such covenants the Seller shall be entitled (but not obliged) to perform the same at the Seller's expense and to pay all costs expenses and damages occasioned by such default which shall be added to and recoverable as part of the Liabilities and with power where necessary or expedient to enter upon the Property without thereby becoming liable to account as a mortgagee in possession or otherwise and shall give notice in writing to the Seller's Solicitors of any breach of alleged breach of any such covenants as soon as the Buyer shall become aware of the same and shall supply copies of all notices received by the Buyer in respect thereof,
- 6 1 5 permit the Seller and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice and subject to compliance with the reasonable site rules relating to health and safety notified by the Buyer to the Seller from time to time, and
- 6 1 6 to insure and keep insured all buildings and fixtures and fittings that are situated on or form part of the Property at any time against such risks, perils and contingencies that would be usually be insured against by reasonably prudent persons carrying on the same class of business as the Buyer such policy or policies to be with an insurance company or underwriters of repute and (if requested by the Seller) to supply a copy of such policy or policies to the Seller

7 Dealings with Charged Assets

The Buyer covenants with the Seller that (save in the case of a Permitted Disposal where the consent of the Seller shall not be required) it will not without the prior written consent of the Seller

- 7 1 create nor allow to be created any charge, mortgage, lien or pledge or encumbrance over the Property or any right or option on the Property nor agree to do or allow any such matter, or
- 7 2 sell, convey, transfer or otherwise dispose of the Property (nor confer any licence right or any interest in it), or
- 7 3 exercise or agree to exercise any of the powers of leasing and ancillary powers vested in or conferred on the Buyer in possession by common law or by sections 99 and 100 LPA, or
- 7 4 create or agree a tenancy of the Property nor part with or share possession or occupation or agree to do so

8 Powers of Enforcement Exercisable by the Seller

Sections 103 shall not apply to this Deed and the statutory powers of sale and appointing a Receiver under Sections 101 and 109 of the LPA (as varied and extended under this Deed) shall arise on the execution of this Deed by the Buyer and shall become immediately exercisable without the restrictions contained in the LPA on giving of notice or otherwise at any time after the occurrence of an Event of Default Upon the occurrence of an Event of Default the whole of the Liabilities will become payable including any element of the Secured Consideration even if the relevant payment date for that part of the Secured Consideration has not occurred under the Sale Agreement

9 Power to Appoint a Receiver

- 9 1 Either (i) at the request of the Buyer or (ii) at any time after the occurrence of an Event of Default, whilst an Event of Default is subsisting the Seller may in its discretion without further notice appoint in writing a Receiver or Receivers over all or any part of the Property with power (subject to the provisions of the Insolvency Act 1986) from time to time to remove any Receiver so appointed and appoint one or more Receivers in his place Where two or more persons are appointed as Receivers they shall have the power to act severally as well as jointly
- 9 2 The Seller may from time to time determine the remuneration of such Receiver
- 9 3 Every such Receiver shall be the agent of the Buyer for all purposes and the Buyer alone shall be responsible for the acts and defaults, loss or misconduct of the Receiver and for the remuneration costs charges and expenses of the Receiver and the Seller shall not incur any liability as a result of its making or consenting to his appointment as such Receiver

10 Powers, Rights and Duties of Receiver

- 10 1 The Receiver shall have and be entitled to exercise all powers conferred by the LPA and the Insolvency Act 1986 in the same way as if the Receiver had been duly appointed under such statutes and in particular by way of addition to but without limiting any general powers referred to above (and without prejudice to any of the Seller' powers referred to above) the Receiver shall have power in the name of the Buyer or otherwise to do the following things namely
- 10 1 1 to take possession of, collect and get in all or any part of the Property and for this purpose to make demands and take proceedings as he may think fit;
 - 10 1 2 to commence and/or complete any building operations on the Property and to apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licences in each case as he may in his absolute discretion think fit,
 - 10 1.3 to borrow moneys from the Seller or others on the security of the Property for the purpose of exercising any of his powers,
 - 10 1 4 to purchase or acquire any land and purchase, acquire and grant any interest in or right over the land or accept surrenders of leases or tenancies of the Property and to carry any such transactions into effect,
 - 10 1 5 without the restrictions of section 103 of the Law of Property Act 1925 or the need to observe any of the provisions of sections 99 and 100 of such act to sell, transfer, assign, lease or concur in selling, letting or leasing the Property or any part of it on such terms and conditions and for such consideration and payable at such time to time as he may in his absolute direction think fit including without limitation the power to dispose of any fixtures separately from the Property,
 - 10 1 6 to take, continue or defend proceedings or make any arrangement or compromise between the Buyer and any persons which he may think expedient,
 - 10 1 7 to make and effect all repairs and improvements to the Property,
 - 10 1 8 to effect such insurances of or in connection with the Property as he shall in his absolute discretion think fit,
 - 10 1 9 to purchase materials, tools, equipment, goods or supplies for the above purposes,
 - 10 1 10 without any further consent by or notice to the Buyer exercise on its behalf all powers and provisions conferred on a landlord or a tenant by the Landlord and Tenant Acts 1927 and 1954 or any other legislation from time to time in force relating to any tenancy or any matter relating to or arising out of any tenancy in respect of any part of the Property but without any obligation to exercise any

of such powers and without any liability in respect of powers so exercised or omitted to be exercised,

10 1 11 to appoint managers, officers, contractors and agents for the above purposes upon such terms concerning remuneration or otherwise as he may determine, or

10 1 12 to do all such other acts and things as may be considered to be incidental or conducive to any of the above matters or powers and which he lawfully may or can do

10 2 Any moneys received by the Receiver in the exercise of his powers under this Deed and under general law shall be (so far as the law permits) applied by him in the following order

10 2 1 in the payment of the costs, charges and expenses of and incidental to his appointment and the exercise of all or any of his powers,

10 2 2 in payment of his remuneration at such rates as may be agreed between him and the Seller,

10 2 3 in payment to the Seller in or towards satisfaction of the Liabilities, and

10 2 4 any balance shall be paid to the person or persons entitled to it

11 The Seller and Receiver Liable only for Actual Receipts and Indemnity

11 1 The Seller shall not nor shall any Receiver appointed by it or its agents be liable by reason of an entry into possession of the Property or any part of it to account as seller in possession or for anything except actual receipts or be liable for any loss on realisation or for any default or omission for which the Seller in possession might be liable

11 2 The Buyer hereby agrees to indemnify and hold harmless any Receiver from and against all actions claims expenses demands and liabilities whether arising out of contract or in tort or in any other way incurred or which may at any time be incurred by him or by any manager agent officer servant or workman for whose debt default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers under the provisions of this Deed or pursuant hereto

12 Delegation of power by the Seller

The Seller may on prior written notice to the Buyer at any time and from time to time delegate by power of attorney or in any other manner to any person or persons or fluctuating body of persons all or any of the powers authorities and discretions which are for the time being exercisable in respect of the Charged Property or any part hereof and any such delegation may be made on such terms and conditions and subject to such regulations as the Seller may think fit

13 Exclusion of liability

- 13 1 The Seller shall not in any circumstances by reason of the Seller taking possession of the Property or any part thereof or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever be liable to account to the Buyer for anything except the Seller's own actual receipts nor be liable to the Buyer for any loss or damage arising from any realisation of the Property or any part thereof or from any exercise or non exercise by her of any power authority or discretion conferred upon it in relation to the Property or any part thereof by or pursuant to this Deed or by the Law of Property Act 1925 unless such loss or damage shall be caused by the fraudulent actions of the Seller or any delegate of the Seller
- 13 2 All the provisions of clause 13 1 shall apply in relation to the liability of any Receiver and in respect of the liability of any such delegates as aforesaid in all respects as if every reference in clause 13 1 to the Seller were instead a reference to such Receiver or (as the case may be) to such delegate

14 Seller's general rights

- 14 1 The Seller's rights and powers arising out of any breach or non-performance of or non-compliance with any covenant agreement or condition herein contained or implied shall not be prejudiced by any delay in enforcing such rights and powers or time being given to the Buyer or any other act done or omitted by the Seller and which but for this sub-clause might have been deemed a waiver of such breach nor shall any single or partial exercise of any such right or power preclude any further exercise of the same or the exercise of any other right power or remedy available to it
- 14 2 The restrictions on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to this security

15 Payment of cost and certificate of sums due

- 15 1 All costs charges and expenses properly incurred hereunder by the Seller and all other monies properly paid by it in respect of the said costs charges and expenses or otherwise shall be payable by the Buyer and charged on the Property as part of the Liabilities
- 15 2 A written certificate by the Seller's Solicitors as to the Liabilities for the time being due or incurred to the Seller by the Buyer shall be conclusive evidence in any legal proceedings in the absence of any manifest error appearing on the face thereof

16 Release from the Charge

- 16 1 The Seller agrees to release the Property from this Deed forthwith on payment of all of the Secured Consideration and satisfaction of the Liabilities regardless of whether such payments are capable of being avoided or set aside (as distinct from where such payments have previously been avoided or set aside in which case (and only in such case and not further or otherwise) the provisions of clause 21 1 apply)

- 16 2 Without prejudice to clause 16 1 if there is no Event of Default subsisting the Seller must at the request the Buyer and within ten (10) Business Days of the Buyer's direction to do so (or such longer period as may be reasonable in the circumstances) and subject to (i) the Buyer bearing any reasonable professional costs properly and reasonably incurred by the Seller and (ii) the provisions of clause 16 4
- 16 2 1 enter into, execute and otherwise consent to any Works Agreement and/or Statutory Agreement or a deed of grant or wayleave satisfactory to any relevant statutory undertaker or authority, and/or
- 16 2 2 release from the burden of the legal charge created by clause 2 of this Deed such parts of the Property in respect of which the Buyer is completing a Permitted Disposal
- 16 3 Pursuant to section 4 of the Powers of Attorney Act 1971 the Seller hereby irrevocably appoints the Buyer and any person nominated in writing by the Buyer jointly and severally as attorney of the Seller and in its name and on behalf of the Seller and as the act and deed of the Seller to execute seal and deliver and otherwise perfect any deed assurance agreement instrument or act which may be properly required in relation to the obligations on the Seller in clause 16 2 (but subject always to the provisions of clauses 16 2(i) and 16 2(ii) having been complied with by the Buyer) and the Seller agrees to ratify and confirm the proper actions of the Buyer by virtue of this power of attorney PROVIDED THAT this clause shall only apply if the Seller has failed to comply and discharge its obligations to enter into, execute and otherwise consent to the same and/or in respect of the relevant Permitted Disposal the Seller has not released from the burden of the legal charge created by clause 2 of this Deed such parts of the Property in respect of which the Buyer is completing that Permitted Disposal in each case within ten (10) Business Days following receipt of a written request from the Buyer to do so
- 16 4 the Buyer must indemnify the Seller against all associated claims costs charges expenses and liabilities arising from any obligations entered into pursuant to clause 16 2 and (if applicable) clause 16 3 and ensure that any such obligations on the part of the Seller will cease on the Seller ceasing to have an interest in the Property pursuant to this Deed
- 16 5 The Seller shall (subject to the Seller's Solicitor receiving the Buyer's Solicitor undertaking to hold the Pre-Signed DS3s and Pre-Signed DS1 and to only release those in accordance with Clause 16 6 and further undertaking to return the same to the Seller's solicitor immediately on receiving valid notice of an Event of Default) deliver the Pre-Signed DS3s and Pre-Signed DS1 to the Buyer's Solicitor simultaneously on the completion of this Deed
- 16 6 The Seller and the Buyer irrevocably instruct the Buyer's Solicitor to
- 16 6 1 at any time following the date of this Deed to date up to twenty nine (29) of the Pre-Signed DS3s and attach a single Plot Plan to each of the same (which Pre-Signed DS3s cannot for the avoidance of doubt when taken together exceed more than 25 2% of the total number Market Units to be constructed on the

Property in accordance with the Development) before delivering each of those Pre-Signed DS3s to the Land Registry so as to effect the release of the those part(s) of the Property from the burden of this Deed provided that each of the Pre-Signed DS3s may only be dated on the date of completion of the sale of each of the Market Units to which the Pre-Signed DS3 relates and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of each signed and dated Pre-Signed DS3 within five (5) Business Days of the completion of each sale,

- 16 6 2 at any time following the payment of the sum due to the Seller in accordance with clause 3 2 2 of the Sale Agreement to date up to a further twenty nine (29) of the Pre-Signed DS3s and attach a single Plot Plan to each of the same (which Pre-Signed DS3s together with the Pre-Signed DS3s referred to in clause 16 6 1 cannot for the avoidance of doubt when taken together exceed more than 50 4% of the total number Market Units to be constructed on the Property in accordance with the Development) before delivering each of those Pre-Signed DS3s to the Land Registry so as to effect the release of the those part(s) of the Property from the burden of this Deed provided that each of the Pre-Signed DS3s may only be dated on the date of completion of the sale of each of the Market Units to which the Pre-Signed DS3 relates and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of each signed and dated Pre-Signed DS3 within five (5) Business Days of the completion of each sale, and
- 16 6 3 to at any time following the payment of the sum due to the Seller in accordance with clause 3 2 3 of the Sale Agreement and so as to effect the release of the balance of the Property from the burden of this Deed date the Pre-Signed DS1 and deliver it to the Land Registry and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of such signed and dated Pre-Signed DS1 within five (5) Business Days of delivery to the Land Registry

PROVIDED THAT unless there is an Event of Default subsisting the Seller shall promptly complete such other documentation (if any) as may be required by the Land Registry and/or assist the Buyer and/or the Buyer's Solicitor to ensure that the charge created by clause 2 of this Deed is released in accordance with this Clause 16 6 (in each case at the request and reasonable cost of the Buyer and subject to the Buyer paying the reasonable legal costs of the Seller in this regard)

- 16 7 At any time following the grant of Planning Permission the Buyer may direct in writing that the Seller (at the expense and reasonable cost of the Buyer and subject to the Buyer paying the reasonable legal costs of the Seller in this regard) re-sign the Pre-Signed DS3s with individual Plot Plans attached and (subject to the Seller's Solicitor receiving an undertaking from the Buyer's Solicitor to simultaneously return to the Seller's Solicitor the previously signed Pre-Signed DS3s which the re-signed DS3s will replace) deliver those to the Buyer's Solicitor on the date which is ten (10) Business Days following the Buyer's direction to the Seller in accordance with this

Clause 16.7 whereupon they will be held by the Buyer's Solicitor in accordance with the undertaking referred to in Clause 16.5

17 Protection of Third Parties

No person dealing with the Seller or any Receiver shall be concerned to enquire whether the security created by this Deed has become enforceable or whether any power exercised or purported to be exercised under this Deed has become exercisable or whether any money remains due on the security created by this Deed or to see to the application of any money paid to the Seller or to any such Receiver and such dealing shall be deemed to be within the powers conferred by this Deed and the remedy of the Buyer for any irregularity in the exercise of such powers shall be in damages only

18 Rights of the Seller

18.1 At any time after this Deed becomes enforceable all powers of the Receiver may be exercised by the Seller whether as attorney of the Buyer or otherwise

18.2 The Buyer hereby and by way of security irrevocably appoints the Seller and any Receiver or Receivers appointed hereunder its attorney with full power to appoint substitutes and to subdelegate with regard to the whole or any part of the Property in its name and on its behalf to execute any document or do any act or thing which the Buyer is obliged to execute or do under this Deed

19 Remedies Cumulative

19.1 The rights, powers and remedies provided by this Deed are cumulative and are not, nor are they to be construed as being, exclusive of any rights powers or remedies provided by law or otherwise

19.2 No failure on the part of the Seller to exercise or delay on its part in exercising any of its respective rights, powers and remedies provided by this Deed or by law (collectively the "Rights") shall operate as a waiver of the Rights nor shall any single or partial waiver of any of the Rights preclude any further or other exercise of that one of the Rights concerned or the exercise of any other of the Rights

19.3 All costs, charges and expenses properly incurred by the Seller in connection with this Deed or the Liabilities shall be reimbursed by the Buyer to the Seller on demand on a full indemnity basis and until so reimbursed shall carry interest at the Interest Rate from the date of payment to the date of reimbursement and be secured on the Property

19.4 The Seller and every Receiver, attorney or other person appointed by the Seller under this Deed and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the Property for all liabilities and expenses properly incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Deed and against all actions,

proceedings, losses, costs, claims and demands for any matter or thing done or omitted in any way connected to the Property and the Seller and any such Receiver may retain and pay all sums for such matters out of the monies received under the powers conferred by this Deed

- 19 5 The restriction on the right of consolidating mortgage securities contained in Section 93 LPA shall not apply to this Deed

20 Notices

- 20 1 Any communication to be made under or in connection with this Deed shall be made in writing
- 20 2 The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Deed is as set out at the beginning of this Deed (in each case marked for the attention of the Managing Director) or any substitute address, or department or officer as either party may notify to the other by not less than 5 Business Days' notice
- 20 3
- 20 3 1 Any such communication will be deemed to be given as follows
- 20 3 2 if personally delivered, at the time of delivery,
- 20.3 3 if by letter, at noon on the second Business Day following the day such letter was posted (or in the case of airmail, seven days after the envelope containing the same was delivered into the custody of the postal authorities), and
- 20 3 4 in proving service, it shall be sufficient to prove that personal delivery was made or that such letter was properly stamped first class, addressed and delivered to the postal authorities

21 Clawback and Liability

- 21 1 Subject to clause 16 1, if an amount paid by the Buyer in respect of the Liabilities is avoided or otherwise set aside on the occurrence of any of the events in paragraphs (d) to (g) (inclusive) of an Event of Default or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed
- 21 2 The Buyer's liability under this Deed in respect of any of the Liabilities shall not be discharged, prejudiced or affected by.
- 21 2 1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Seller that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,

- 21 2 2 the Seller renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
- 21 2 3 any other act or omission that, but for this clause 22 2, might have discharged, or otherwise prejudiced or affected, the liability of the Buyer

22 Third Party Rights

The parties do not intend that a person who is not a party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed

23 Counterpart

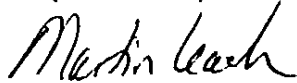
This Deed may be executed and delivered in any number of counterparts each of which is an original and which together have the same effect as if each party had signed the same document

24 Law and Jurisdiction

This Deed shall be governed and construed in accordance with the provisions of the Laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales

Executed as a deed on the date appearing at the beginning of the Deed

EXECUTED as a deed by
Miller Wates (Southwater) Limited
Acting by



Director



Director / Secretary

EXECUTED as a deed by **Anthony Merrik Burrell**

in the presence of,

Witness Signature

Witness Name

Witness Address

Witness Occupation

EXECUTED as a deed by **Louise Iona Burrell**

in the presence of,

Witness Signature

Witness Name

Witness Address

Witness Occupation

WE HEREBY CERTIFY THAT THIS IS A
TRUE COPY OF THE ORIGINAL
DATED THIS 15 DAY OF December 2015

Wragge Lawrence Graham & Co LLP

WRAGGE LAWRENCE GRAHAM & Co LLP
BIRMINGHAM

Dated 11 December 2015

LEGAL MORTGAGE

relating to

LAND AT HOGS WOOD, MILL STRAIGHT, SOUTHWATER,
HORSHAM

MILLER WATES (SOUTHWATER) LIMITED

and

ANTHONY MERRIK BURRELL and LOUISE IONA BURRELL

REF GMMWWA50691 000374

THIS DEED is dated

11 December

2015

BETWEEN:

- (1) **MILLER WATES (SOUTHWATER) LIMITED** (company registration number 09867524) whose registered office is Wates House, Station Approach, Leatherhead, Surrey KT22 7SW ('Buyer'), and
- (2) **ANTHONY MERRIK BURRELL and LOUISE IONA BURRELL** both of Lackenhurst, Lackenhurst Lane, Brooks Green, West Sussex, RH13 0JL ('Seller')

BACKGROUND:

- (A) By the Sale Agreement, the Buyer agreed to purchase the Property from the Seller
- (B) As part of the Sale Agreement the Seller agreed to allow the Buyer to defer part of the purchase price for the Property on terms provided in the Sale Agreement subject to the Buyer granting security for the deferred payment over the Property
- (C) This legal mortgage provides security which the Buyer has agreed to give the Seller for the sums remaining payable by the Buyer to the Seller under the terms of the Sale Agreement and this Deed

1 Definitions -

In this Deed the following definitions have the following meanings -

Affordable Housing Affordable housing as the phrase is used in the National Planning Policy Framework and any other guidance amending or replacing it and includes social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market and housing required under the terms of a Statutory Agreement to be sold at a discounted value and/or transferred to or to be managed by an Affordable Housing Provider

Affordable Housing Provider: a local authority, registered affordable housing provider, housing association, housing charity or similar body

Business Day Any day from Monday to Friday inclusive which is not 24 December, Christmas Day, Good Friday, a statutory bank holiday, a day between Christmas Day and New Year's Day (inclusive) or 2 January

Buyer's Solicitor: a solicitor appointed by the Buyer from time to time and notified to the Seller in writing

Development: the development of the Property

Event of Default the occurrence of any of the following events

- (a) any Instalment is not paid within 5 Business Days of the relevant Payment Date or any of the other Liabilities are not paid or discharged within 10 Business Days of when the same ought to be paid or discharged by the Buyer (whether on demand, at scheduled maturity, or by acceleration or otherwise, as the case may be),

- (b) the Buyer commits any material breach of any of the other covenants or any other provisions of this Deed which is incapable of remedy or which the Buyer has not remedied within a reasonable period of notice of breach,
- (c) if the Buyer without the prior consent in writing of the Seller ceases to carry on its business or any material part of it,
- (d) if the Buyer
 - (i) becomes unable to pay its debts as they fall due (and/or the value of the Buyer's assets is less than the amount of its liabilities, taking into account the Buyer's contingent and prospective liabilities which its auditors recommend be allowed for in its financial statements), or
 - (ii) commences negotiations with any class of its creditors with a view to the general readjustment or rescheduling of its indebtedness, or
 - (iii) makes a general arrangement for the benefit of, or a composition with, its creditors, or
- (e) the Buyer passes any resolution or a petition is presented or proceedings are commenced, or any action is taken by any person (in each case save for a Permitted Exception) for its winding-up, dissolution, administration or re-organisation (other than a solvent re-organisation) or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues or assets, or
- (f) save for a Permitted Exception, a distress, execution, attachment process is levied, or enforced on or sued against all or any part of the assets of the Buyer which remains undischarged for fourteen days, or
- (g) any event occurs in relation to the Buyer that is analogous to those set out in paragraphs (e) (f) or (g)

Expenses all interest and properly and reasonably incurred commission, fees, costs, charges, and expenses (including in each case any VAT and all disbursements) which the Seller or any Receiver may charge or incur in relation to the Buyer or this Deed or in relation to the Property or breach of any provision of, and the protection, realisation or enforcement of, this Deed in each case on a full indemnity basis

Instalment: the amounts due upon each of the Payment Dates and "Instalments" shall be construed accordingly

Interest Rate: four per cent above the base rate for the time being of Barclays Bank plc

Liabilities the obligation to pay the Secured Consideration on the Payment Dates and to pay the Expenses and all other money, debts and liabilities which now are or at any time may be or become due, owing or incurred by the Buyer to the Seller under or in connection with this Deed together with interest payable at the Interest Rate on such sums in arrears

LPA: the Law of Property Act 1925

Market Unit a single residential dwelling (together with the curtilage thereto) which does not comprise Affordable Housing and 'Market Units' shall be construed accordingly

Payment Date the relevant dates prescribed by the Sale Agreement for the payment of the Secured Consideration and "**Payment Dates**" shall be construed accordingly

Permitted Disposal: any of the following

- (a) the grant of rights and/or easements as would usually be granted in favour of the purchaser of any Market Unit,
- (b) the transfer of the freehold or the grant of an occupational lease of part or parts of the Property upon which an electricity sub-station, gas generation or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements on standard commercial terms,
- (c) disposals made pursuant to any Statutory Agreement and/or (as appropriate) any Works Agreement entered into in respect of the Development,
- (c) disposals comprising of the grant or rights or easements on the Property for the installation, running and upkeep of infrastructure and services as part of the Development, and/or
- (d) a disposal or contract to dispose of any land on which Affordable Housing is to be constructed on or of any Affordable Housing (and ancillary land) to an Affordable Housing Provider whether or not that Affordable Housing has been constructed

Permitted Exception: any petition (other than an administration order) or claim which is frivolous or vexatious or which is discharged or withdrawn within 20 Business Days of its presentation

Planning Permission: means a full planning permission (or outline planning permission together with approval of all reserved matters) in respect of the Development

Plot Plan: a single Land Registry compliant plan identifying an area not exceeding 0.06 hectare containing a single Market Unit to be constructed on the Property (together with the curtilage thereto) and "**Plot Plans**" shall be construed accordingly

Pre-Signed DS1: a properly completed Land Registry Form DS1 in respect of this Deed signed by the Seller (or in such other form as required by the Land Registry from time to time)

Pre-Signed DS3: a properly completed Land Registry Form DS3 in respect of this Deed each relating to a single Market Unit signed by the Seller (or in such other

form as required by the Land Registry from time to time) and "DS3s" shall be construed accordingly

Property: all of the land at Hogs Wood, Mill Straight, Southwater, Horsham being all of the land registered at the Land Registry under title number WSX371230 as at the date of this Deed and each and every part of it which is subject to the provisions of this Deed from time to time to include all buildings and fixtures and fittings that are situated on or form part of the Property at any time and the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property

Receiver: any one or more receivers and/or administrative receivers and/or managers appointed by the Seller under this Deed in respect of the Buyer or over all or any part of the Property and the word "Receivers" shall be construed accordingly

Sale Agreement the agreement dated [11 December] 2015 and made between the Seller (1) the Buyer (2) and (3) Wates Developments Limited under which the Buyer agreed to purchase the Property from the Seller

Secured Consideration: the sums payable to the Seller pursuant to clauses 3 2 2 and 3 2 3 of the Sale Agreement

Seller's Solicitor: Thomas Eggar, Belmont House, Station way, Crawley, West Sussex, RH10 1JA or such other solicitor appointed by the Seller from time to time and notified to the Buyer in writing

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

Works Agreement. Any agreement which is required by the local planning authority or other competent public authority, statutory undertaker or service supply company to facilitate the installation and/or adoption of Infrastructure including (but not limited to) any agreement under section 104 of the Water Industry Act 1991 or section 38 or section 278 of the Highways Act 1980 or section 111 of the Local Government Act 1972 or any agreement of similar intent

2 **Charge**

As security for payment and discharge of the Liabilities the Buyer charges with full title guarantee all its right title and interest in the Property by way of first legal mortgage and to any proceeds of any insurance in the Property by way of fixed legal charge

3 **Payments by the Buyer**

The Buyer covenants with the Seller

- 3 1 to satisfy and discharge the Liabilities when they fall due for payment in accordance with (and subject to) the terms of the Sale Agreement (or where such monies are due hereunder in accordance with the provisions of this Deed) and if any payment of any Instalment is not be made on the due Payment Date the whole of the Secured Consideration shall then become due and payable,
- 3 2 to pay interest on the amount of the Liabilities for the time being and from time to time outstanding from the date of the Liabilities falling due to the date of payment at the Interest Rate (before and after any demand made or judgment obtained) such interest to accrue from day to day **PROVIDED THAT** there shall be no double counting of interest under this Deed and the Sale Agreement, and
- 3 3 if payment falls due under this Deed on any day which is not a Business Day the due date for payment will be extended to the next Business Day and interest will be adjusted accordingly

4 Further Assurance

The Buyer shall from time to time and at all times promptly and at its own cost execute all such documents, assurances, consents and deeds and do such acts and things as the Seller may reasonably require for perfecting the security intended to be created by this Deed and for facilitating or effecting any dealings by the Seller or a Receiver under the powers of this Deed and shall from time to time and at all times after the security created by this Deed shall have become enforceable execute all such documents, assurances, consents and deeds and do such acts and things as the Seller may reasonably require for facilitating the realisation of the Property over which such security has become immediately enforceable and for the exercise by it of all the powers, authorities and discretions conferred by this Deed on the Seller or any Receiver appointed by it and in particular shall execute all transfers, conveyances, dispositions, assignments and assurances of the Property and shall give all notices, orders and directions which the Seller or any such Receiver may reasonably think expedient

5 Land Registry

The Buyer agrees with the Seller forthwith to apply to enter the following standard form of restriction in the proprietorship register of the title to registered estate in the Property

"No disposition by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the holder of a Legal Charge dated [*being the date of this deed*] and made between Miller Wates (Southwater) Limited (1) and Anthony Mernick Burrell and Louise Iona Burrell (2) or a certificate from a conveyancer that the disposition either complies with clause 7 of that Legal Charge or that it a 'Permitted Disposal' (as defined by the aforementioned Legal Charge"

6 Buyer's Covenants

- 6 1 The Buyer shall at all times during the continuance of the security hereby constituted

- 6 1 1 pay all rates outgoings and other sums payable out of or in respect of its interest in the Property and observe and comply with any covenants stipulations and conditions,
- 6 1 2 not commit any waste which will injure or in any manner or by any means lessen the value of its interest in the Property save that nothing herein contained shall prohibit the development of the Property,
- 6 1 3 in relation to its interest in the Property or its use and enjoyment comply with all obligations under any present or future statute or regulation order or instrument or under any byelaws regulations or requirements or any competent authority or planning permissions or other approvals licences or consents to include in particular but without prejudice to the generality of the foregoing any planning permission and any Statutory Agreement and any Works Agreement,
- 6 1 4 keep the Seller fully indemnified in respect of any breach or non observance of the foregoing covenants contained in this clause and if a default shall at any time be made by the Buyer in the performance of such covenants the Seller shall be entitled (but not obliged) to perform the same at the Seller's expense and to pay all costs expenses and damages occasioned by such default which shall be added to and recoverable as part of the Liabilities and with power where necessary or expedient to enter upon the Property without thereby becoming liable to account as a mortgagee in possession or otherwise and shall give notice in writing to the Seller's Solicitors of any breach of alleged breach of any such covenants as soon as the Buyer shall become aware of the same and shall supply copies of all notices received by the Buyer in respect thereof,
- 6 1 5 permit the Seller and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice and subject to compliance with the reasonable site rules relating to health and safety notified by the Buyer to the Seller from time to time, and
- 6 1 6 to insure and keep insured all buildings and fixtures and fittings that are situated on or form part of the Property at any time against such risks, perils and contingencies that would be usually be insured against by reasonably prudent persons carrying on the same class of business as the Buyer such policy or policies to be with an insurance company or underwriters of repute and (if requested by the Seller) to supply a copy of such policy or policies to the Seller

7 Dealings with Charged Assets

The Buyer covenants with the Seller that (save in the case of a Permitted Disposal where the consent of the Seller shall not be required) it will not without the prior written consent of the Seller

- 7 1 create nor allow to be created any charge, mortgage, lien or pledge or encumbrance over the Property or any right or option on the Property nor agree to do or allow any such matter, or
- 7 2 sell, convey, transfer or otherwise dispose of the Property (nor confer any licence right or any interest in it), or
- 7 3 exercise or agree to exercise any of the powers of leasing and ancillary powers vested in or conferred on the Buyer in possession by common law or by sections 99 and 100 LPA, or
- 7 4 create or agree a tenancy of the Property nor part with or share possession or occupation or agree to do so

8 Powers of Enforcement Exercisable by the Seller

Sections 103 shall not apply to this Deed and the statutory powers of sale and appointing a Receiver under Sections 101 and 109 of the LPA (as varied and extended under this Deed) shall arise on the execution of this Deed by the Buyer and shall become immediately exercisable without the restrictions contained in the LPA on giving of notice or otherwise at any time after the occurrence of an Event of Default. Upon the occurrence of an Event of Default the whole of the Liabilities will become payable including any element of the Secured Consideration even if the relevant payment date for that part of the Secured Consideration has not occurred under the Sale Agreement

9 Power to Appoint a Receiver

- 9 1 Either (i) at the request of the Buyer or (ii) at any time after the occurrence of an Event of Default, whilst an Event of Default is subsisting the Seller may in its discretion without further notice appoint in writing a Receiver or Receivers over all or any part of the Property with power (subject to the provisions of the Insolvency Act 1986) from time to time to remove any Receiver so appointed and appoint one or more Receivers in his place. Where two or more persons are appointed as Receivers they shall have the power to act severally as well as jointly
- 9 2 The Seller may from time to time determine the remuneration of such Receiver
- 9 3 Every such Receiver shall be the agent of the Buyer for all purposes and the Buyer alone shall be responsible for the acts and defaults, loss or misconduct of the Receiver and for the remuneration costs charges and expenses of the Receiver and the Seller shall not incur any liability as a result of its making or consenting to his appointment as such Receiver

10 Powers, Rights and Duties of Receiver

- 10 1 The Receiver shall have and be entitled to exercise all powers conferred by the LPA and the Insolvency Act 1986 in the same way as if the Receiver had been duly appointed under such statutes and in particular by way of addition to but without limiting any general powers referred to above (and without prejudice to any of the Seller' powers referred to above) the Receiver shall have power in the name of the Buyer or otherwise to do the following things namely
- 10 1 1 to take possession of, collect and get in all or any part of the Property and for this purpose to make demands and take proceedings as he may think fit,
 - 10 1 2 to commence and/or complete any building operations on the Property and to apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licences in each case as he may in his absolute discretion think fit,
 - 10 1 3 to borrow moneys from the Seller or others on the security of the Property for the purpose of exercising any of his powers,
 - 10 1 4 to purchase or acquire any land and purchase, acquire and grant any interest in or right over the land or accept surrenders of leases or tenancies of the Property and to carry any such transactions into effect,
 - 10 1 5 without the restrictions of section 103 of the Law of Property Act 1925 or the need to observe any of the provisions of sections 99 and 100 of such act to sell, transfer, assign, lease or concur in selling, letting or leasing the Property or any part of it on such terms and conditions and for such consideration and payable at such time to time as he may in his absolute direction think fit including without limitation the power to dispose of any fixtures separately from the Property,
 - 10 1 6 to take, continue or defend proceedings or make any arrangement or compromise between the Buyer and any persons which he may think expedient,
 - 10 1 7 to make and effect all repairs and improvements to the Property,
 - 10 1 8 to effect such insurances of or in connection with the Property as he shall in his absolute discretion think fit,
 - 10 1 9 to purchase materials, tools, equipment, goods or supplies for the above purposes,
 - 10 1 10 without any further consent by or notice to the Buyer exercise on its behalf all powers and provisions conferred on a landlord or a tenant by the Landlord and Tenant Acts 1927 and 1954 or any other legislation from time to time in force relating to any tenancy or any matter relating to or arising out of any tenancy in respect of any part of the Property but without any obligation to exercise any

of such powers and without any liability in respect of powers so exercised or omitted to be exercised,

10 1 11 to appoint managers, officers, contractors and agents for the above purposes upon such terms concerning remuneration or otherwise as he may determine, or

10 1 12 to do all such other acts and things as may be considered to be incidental or conducive to any of the above matters or powers and which he lawfully may or can do

10 2 Any moneys received by the Receiver in the exercise of his powers under this Deed and under general law shall be (so far as the law permits) applied by him in the following order

10 2 1 in the payment of the costs, charges and expenses of and incidental to his appointment and the exercise of all or any of his powers,

10 2 2 in payment of his remuneration at such rates as may be agreed between him and the Seller,

10 2 3 in payment to the Seller in or towards satisfaction of the Liabilities, and

10 2 4 any balance shall be paid to the person or persons entitled to it

11 The Seller and Receiver Liable only for Actual Receipts and Indemnity

11 1 The Seller shall not nor shall any Receiver appointed by it or its agents be liable by reason of an entry into possession of the Property or any part of it to account as seller in possession or for anything except actual receipts or be liable for any loss on realisation or for any default or omission for which the Seller in possession might be liable

11 2 The Buyer hereby agrees to indemnify and hold harmless any Receiver from and against all actions claims expenses demands and liabilities whether arising out of contract or in tort or in any other way incurred or which may at any time be incurred by him or by any manager agent officer servant or workman for whose debt default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers under the provisions of this Deed or pursuant hereto

12 Delegation of power by the Seller

The Seller may on prior written notice to the Buyer at any time and from time to time delegate by power of attorney or in any other manner to any person or persons or fluctuating body of persons all or any of the powers authorities and discretions which are for the time being exercisable in respect of the Charged Property or any part hereof and any such delegation may be made on such terms and conditions and subject to such regulations as the Seller may think fit

13 Exclusion of liability

- 13 1 The Seller shall not in any circumstances by reason of the Seller taking possession of the Property or any part thereof or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever be liable to account to the Buyer for anything except the Seller's own actual receipts nor be liable to the Buyer for any loss or damage arising from any realisation of the Property or any part thereof or from any exercise or non exercise by her of any power authority or discretion conferred upon it in relation to the Property or any part thereof by or pursuant to this Deed or by the Law of Property Act 1925 unless such loss or damage shall be caused by the fraudulent actions of the Seller or any delegate of the Seller
- 13 2 All the provisions of clause 13 1 shall apply in relation to the liability of any Receiver and in respect of the liability of any such delegates as aforesaid in all respects as if every reference in clause 13 1 to the Seller were instead a reference to such Receiver or (as the case may be) to such delegate

14 Seller's general rights

- 14 1 The Seller's rights and powers arising out of any breach or non-performance of or non-compliance with any covenant agreement or condition herein contained or implied shall not be prejudiced by any delay in enforcing such rights and powers or time being given to the Buyer or any other act done or omitted by the Seller and which but for this sub-clause might have been deemed a waiver of such breach nor shall any single or partial exercise of any such right or power preclude any further exercise of the same or the exercise of any other right power or remedy available to it
- 14 2 The restrictions on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to this security

15 Payment of cost and certificate of sums due

- 15 1 All costs charges and expenses properly incurred hereunder by the Seller and all other monies properly paid by it in respect of the said costs charges and expenses or otherwise shall be payable by the Buyer and charged on the Property as part of the Liabilities
- 15 2 A written certificate by the Seller's Solicitors as to the Liabilities for the time being due or incurred to the Seller by the Buyer shall be conclusive evidence in any legal proceedings in the absence of any manifest error appearing on the face thereof

16 Release from the Charge

- 16 1 The Seller agrees to release the Property from this Deed forthwith on payment of all of the Secured Consideration and satisfaction of the Liabilities regardless of whether such payments are capable of being avoided or set aside (as distinct from where such payments have previously been avoided or set aside in which case (and only in such case and not further or otherwise) the provisions of clause 21 1 apply)

- 16 2 Without prejudice to clause 16 1 if there is no Event of Default subsisting the Seller must at the request the Buyer and within ten (10) Business Days of the Buyer's direction to do so (or such longer period as may be reasonable in the circumstances) and subject to (i) the Buyer bearing any reasonable professional costs properly and reasonably incurred by the Seller and (ii) the provisions of clause 16 4
- 16 2 1 enter into, execute and otherwise consent to any Works Agreement and/or Statutory Agreement or a deed of grant or wayleave satisfactory to any relevant statutory undertaker or authority, and/or
- 16 2 2 release from the burden of the legal charge created by clause 2 of this Deed such parts of the Property in respect of which the Buyer is completing a Permitted Disposal
- 16 3 Pursuant to section 4 of the Powers of Attorney Act 1971 the Seller hereby irrevocably appoints the Buyer and any person nominated in writing by the Buyer jointly and severally as attorney of the Seller and in its name and on behalf of the Seller and as the act and deed of the Seller to execute seal and deliver and otherwise perfect any deed assurance agreement instrument or act which may be properly required in relation to the obligations on the Seller in clause 16 2 (but subject always to the provisions of clauses 16 2(i) and 16 2(ii) having been complied with by the Buyer) and the Seller agrees to ratify and confirm the proper actions of the Buyer by virtue of this power of attorney PROVIDED THAT this clause shall only apply if the Seller has failed to comply and discharge its obligations to enter into, execute and otherwise consent to the same and/or in respect of the relevant Permitted Disposal the Seller has not released from the burden of the legal charge created by clause 2 of this Deed such parts of the Property in respect of which the Buyer is completing that Permitted Disposal in each case within ten (10) Business Days following receipt of a written request from the Buyer to do so
- 16 4 the Buyer must indemnify the Seller against all associated claims costs charges expenses and liabilities arising from any obligations entered into pursuant to clause 16 2 and (if applicable) clause 16 3 and ensure that any such obligations on the part of the Seller will cease on the Seller ceasing to have an interest in the Property pursuant to this Deed
- 16 5 The Seller shall (subject to the Seller's Solicitor receiving the Buyer's Solicitor undertaking to hold the Pre-Signed DS3s and Pre-Signed DS1 and to only release those in accordance with Clause 16 6 and further undertaking to return the same to the Seller's solicitor immediately on receiving valid notice of an Event of Default) deliver the Pre-Signed DS3s and Pre-Signed DS1 to the Buyer's Solicitor simultaneously on the completion of this Deed
- 16 6 The Seller and the Buyer irrevocably instruct the Buyer's Solicitor to
- 16 6 1 at any time following the date of this Deed to date up to twenty nine (29) of the Pre-Signed DS3s and attach a single Plot Plan to each of the same (which Pre-Signed DS3s cannot for the avoidance of doubt when taken together exceed more than 25 2% of the total number Market Units to be constructed on the

Property in accordance with the Development) before delivering each of those Pre-Signed DS3s to the Land Registry so as to effect the release of the those part(s) of the Property from the burden of this Deed provided that each of the Pre-Signed DS3s may only be dated on the date of completion of the sale of each of the Market Units to which the Pre-Signed DS3 relates and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of each signed and dated Pre-Signed DS3 within five (5) Business Days of the completion of each sale,

16 6 2 at any time following the payment of the sum due to the Seller in accordance with clause 3 2 2 of the Sale Agreement to date up to a further twenty nine (29) of the Pre-Signed DS3s and attach a single Plot Plan to each of the same (which Pre-Signed DS3s together with the Pre-Signed DS3s referred to in clause 16 6 1 cannot for the avoidance of doubt when taken together exceed more than 50 4% of the total number Market Units to be constructed on the Property in accordance with the Development) before delivering each of those Pre-Signed DS3s to the Land Registry so as to effect the release of the those part(s) of the Property from the burden of this Deed provided that each of the Pre-Signed DS3s may only be dated on the date of completion of the sale of each of the Market Units to which the Pre-Signed DS3 relates and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of each signed and dated Pre-Signed DS3 within five (5) Business Days of the completion of each sale, and

16 6 3 to at any time following the payment of the sum due to the Seller in accordance with clause 3 2 3 of the Sale Agreement and so as to effect the release of the balance of the Property from the burden of this Deed date the Pre-Signed DS1 and deliver it to the Land Registry and the Buyer's Solicitor will provide the Seller's Solicitor with a certified copy of such signed and dated Pre-Signed DS1 within five (5) Business Days of delivery to the Land Registry

PROVIDED THAT unless there is an Event of Default subsisting the Seller shall promptly complete such other documentation (if any) as may be required by the Land Registry and/or assist the Buyer and/or the Buyer's Solicitor to ensure that the charge created by clause 2 of this Deed is released in accordance with this Clause 16 6 (in each case at the request and reasonable cost of the Buyer and subject to the Buyer paying the reasonable legal costs of the Seller in this regard)

16 7 At any time following the grant of Planning Permission the Buyer may direct in writing that the Seller (at the expense and reasonable cost of the Buyer and subject to the Buyer paying the reasonable legal costs of the Seller in this regard) re-sign the Pre-Signed DS3s with individual Plot Plans attached and (subject to the Seller's Solicitor receiving an undertaking from the Buyer's Solicitor to simultaneously return to the Seller's Solicitor the previously signed Pre-Signed DS3s which the re-signed DS3s will replace) deliver those to the Buyer's Solicitor on the date which is ten (10) Business Days following the Buyer's direction to the Seller in accordance with this

Clause 16.7 whereupon they will be held by the Buyer's Solicitor in accordance with the undertaking referred to in Clause 16.5

17 Protection of Third Parties

No person dealing with the Seller or any Receiver shall be concerned to enquire whether the security created by this Deed has become enforceable or whether any power exercised or purported to be exercised under this Deed has become exercisable or whether any money remains due on the security created by this Deed or to see to the application of any money paid to the Seller or to any such Receiver and such dealing shall be deemed to be within the powers conferred by this Deed and the remedy of the Buyer for any irregularity in the exercise of such powers shall be in damages only

18 Rights of the Seller

18.1 At any time after this Deed becomes enforceable all powers of the Receiver may be exercised by the Seller whether as attorney of the Buyer or otherwise

18.2 The Buyer hereby and by way of security irrevocably appoints the Seller and any Receiver or Receivers appointed hereunder its attorney with full power to appoint substitutes and to subdelegate with regard to the whole or any part of the Property in its name and on its behalf to execute any document or do any act or thing which the Buyer is obliged to execute or do under this Deed

19 Remedies Cumulative

19.1 The rights, powers and remedies provided by this Deed are cumulative and are not, nor are they to be construed as being, exclusive of any rights powers or remedies provided by law or otherwise

19.2 No failure on the part of the Seller to exercise or delay on its part in exercising any of its respective rights, powers and remedies provided by this Deed or by law (collectively the "Rights") shall operate as a waiver of the Rights nor shall any single or partial waiver of any of the Rights preclude any further or other exercise of that one of the Rights concerned or the exercise of any other of the Rights

19.3 All costs, charges and expenses properly incurred by the Seller in connection with this Deed or the Liabilities shall be reimbursed by the Buyer to the Seller on demand on a full indemnity basis and until so reimbursed shall carry interest at the Interest Rate from the date of payment to the date of reimbursement and be secured on the Property

19.4 The Seller and every Receiver, attorney or other person appointed by the Seller under this Deed and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the Property for all liabilities and expenses properly incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Deed and against all actions,

proceedings, losses, costs, claims and demands for any matter or thing done or omitted in any way connected to the Property and the Seller and any such Receiver may retain and pay all sums for such matters out of the monies received under the powers conferred by this Deed

- 19 5 The restriction on the right of consolidating mortgage securities contained in Section 93 LPA shall not apply to this Deed.

20 Notices

- 20 1 Any communication to be made under or in connection with this Deed shall be made in writing

- 20 2 The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Deed is as set out at the beginning of this Deed (in each case marked for the attention of the Managing Director) or any substitute address, or department or officer as either party may notify to the other by not less than 5 Business Days' notice

20 3

- 20 3 1 Any such communication will be deemed to be given as follows

- 20 3 2 if personally delivered, at the time of delivery,

- 20 3 3 if by letter, at noon on the second Business Day following the day such letter was posted (or in the case of airmail, seven days after the envelope containing the same was delivered into the custody of the postal authorities), and

- 20 3 4 in proving service, it shall be sufficient to prove that personal delivery was made or that such letter was properly stamped first class, addressed and delivered to the postal authorities

21 Clawback and Liability

- 21 1 Subject to clause 16 1, if an amount paid by the Buyer in respect of the Liabilities is avoided or otherwise set aside on the occurrence of any of the events in paragraphs (d) to (g) (inclusive) of an Event of Default or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed

- 21 2 The Buyer's liability under this Deed in respect of any of the Liabilities shall not be discharged, prejudiced or affected by

- 21 2 1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Seller that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,

- 21 2 2 the Seller renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
- 21 2 3 any other act or omission that, but for this clause 22 2, might have discharged, or otherwise prejudiced or affected, the liability of the Buyer

22 Third Party Rights

The parties do not intend that a person who is not a party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed

23 Counterpart

This Deed 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

24 Law and Jurisdiction

This Deed shall be governed and construed in accordance with the provisions of the Laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales

Executed as a deed on the date appearing at the beginning of the Deed

EXECUTED as a deed by
Miller Wates (Southwater) Limited
 Acting by

Director

Director / Secretary

EXECUTED as a deed by **Anthony Merrik Burrell**

in the presence of,

Witness Signature X

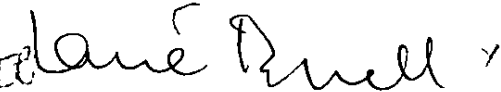
Witness Name X

Witness Address X

Witness Occupation X

CEONCE BARK

CATHY COYAR, MORT LANE COLDEN
 EDENBARIER TRAD 70P
 CHARTERS LONDON.

EXECUTED as a deed by Louise Iona Burrell XLT 

in the presence of,

Witness Signature X 

Witness Name ✓

GEORGE BACE

Witness Address X

AS ABOVE

Witness Occupation ✓