



**Registration of a Charge**

Company Name: **LESLEY DEVELOPMENTS (GREENISLAND) LIMITED**

Company Number: **NI674787**



Received for filing in Electronic Format on the: **27/04/2022**

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**Details of Charge**

Date of creation: **07/04/2022**

Charge code: **NI67 4787 0003**

Persons entitled: **NATIONAL WESTMINSTER BANK PLC (TRADING AS ULSTER BANK)**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **SHOOSMITHS NI LLP**



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

Company number: NI674787

Charge code: NI67 4787 0003

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 7th April 2022 and created by LESLEY DEVELOPMENTS (GREENISLAND) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th April 2022 .

Given at Companies House, Belfast on 28th April 2022

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

7 April

2022

**(1) LESLEY DEVELOPMENTS (GREENISLAND) LIMITED**

- and -

**(2) NATIONAL WESTMINSTER BANK PLC (TRADING AS ULSTER BANK)**

**CHARGE OVER BUILDING CONTRACT**

relating to

Upper Road, Greenisland, County Antrim

**SHOOSMITHS**

2-14 East Bridge Street  
Belfast  
BT1 3NQ

Ref: B-00001519

THIS DEED is made on 7 April 2022

**BETWEEN:-**

- (1) Lesley Developments (Greenisland) Limited, a company incorporated in Northern Ireland (registered number NI674787) whose registered office is at Aisling House, 50 Stranmillis Embankment, Belfast, Northern Ireland, United Kingdom, BT9 5FL (the **Borrower**); and
- (2) National Westminster Bank Plc (trading as Ulster Bank), a company registered in England with number 00929027 and having its registered office in 250 Bishopsgate, London, EC2M 4AA (the **Lender**).

**IT IS AGREED** as follows:-

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:-

<b>Act</b>	means the Conveyancing and Law of Property Act 1881.
<b>Affiliate</b>	means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company.
<b>Authorisations</b>	means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
<b>Contract</b>	means the building contract dated 15 June 2021 made between (1) the Borrower (as employer) and (2) the Contractor (as contractor) in relation to the Development.
<b>Contractor</b>	means P&K McKaigue Limited incorporated and registered in Northern Ireland (company number: NI042862).
<b>Development:</b>	means all demolition and clearance operations, site preparation, excavation, building and other construction works for the construction of 31 new build dwellings with associated siteworks and drainage at the Property.
<b>Holding Company</b>	has the meaning given in section 1159 of the Companies Act 2006.
<b>Parallel Security Document</b>	means any security document in respect of any asset secured under this Deed entered into by the Borrower in favour of the Lender.
<b>Property</b>	means the Borrower's property at Upper Road, Greenisland, County Antrim more particularly described in a legal charge dated on or about the date hereof and granted by the Borrower in favour of the Lender.
<b>Receiver</b>	means a receiver and/or manager of any or all of the Borrower's assets appointed by the Lender under the Security.
<b>Secured Liabilities</b>	means all the Borrower's liabilities to the Lender (present, future, actual or contingent and whether incurred alone or jointly with another) and include:  (a) interest at the rate charged by the Lender ( <b>Interest</b> ), calculated both before and after demand or judgment

on a daily basis and compounded according to agreement, or, in the absence of agreement, quarterly on the days selected by the Lender; and

- (a) any expenses the Lender or a receiver incurs (on a full indemnity basis and with Interest from the date of payment) in connection with the Security Assets or taking, perfecting, protecting, enforcing or exercising any power under the Security.

<b>Security</b>	means the Security Interests created or intended to be created by or pursuant to this Deed.
<b>Security Assets</b>	means all the Borrower's assets from time to time the subject of Security.
<b>Security Interest</b>	means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
<b>Subsidiary</b>	has the meaning given in section 1159 of the Companies Act 2006.
<b>Tax</b>	means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

## 1.2 Interpretation

1.2.1 Unless a contrary indication appears, any reference in this Deed to:-

- (a) **assets** includes present and future properties, revenues and rights of every description;
- (b) the **Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees;
- (c) a **disposal** includes a lease, licence, transfer, sale or other disposal of any kind whether voluntary or involuntary;
- (d) **includes** or **including** shall be read and construed as including the phrase **without limitation**;
- (e) this **Deed** or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Borrower's obligations or provides for further advances);
- (f) a provision of law is a reference to that provision as amended or re-enacted; and
- (g) the singular includes the plural and vice versa;
- (h) any real property includes:-
  - (i) all or any part of it;
  - (ii) all buildings, fixtures (including trade fixtures), fittings and fixed plant or machinery at any time on that property;

- (iii) all easements, servitudes, rights and agreements in respect of that property;
- (iv) all rents from and proceeds of sale of that property; and
- (v) the benefit of all covenants given in respect of that property.

- 1.2.2 When any provision of this Deed refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing.
- 1.2.3 Where the Borrower includes two or more entities a reference to the Borrower shall mean to each of the entities severally as well as all of the entities jointly.
- 1.2.4 Where the Borrower is not a limited company, references to "its" and "it" shall be read and construed as references to "his" and "him" or "her" as applicable.
- 1.2.5 References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed.
- 1.2.6 Clause headings are for ease of reference only and shall not affect the construction of this Deed.
- 1.2.7 If the Lender reasonably considers that an amount paid by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

### **1.3 Third party rights**

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

### **1.4 Delivery**

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this Deed shall take effect as a deed notwithstanding the fact that the Lender may only execute this Deed under hand.

## **2. COVENANT TO PAY**

### **2.1 Covenant to pay**

The Borrower shall pay or discharge each of the Secured Liabilities when the same fall due for payment.

### **2.2 Further advances**

This Deed is made to secure any further advances or other facilities but it does not create any obligation on the Lender to make any further advances or make other facilities available.

## **3. GRANT OF SECURITY**

### **3.1 Charge**

- 3.1.1 The Borrower as beneficial owner and as security for the repayment of the Secured Liabilities hereby charges by way of a first fixed legal charge:-

- (a) the Borrower's present and future rights title and interest in and to the Contract;

- (b) sums which shall from time to time become payable to the Borrower by the Contractor or otherwise under the Contract or any provision of it;
  - (c) the Borrower's rights arising out of or in connection with any breach or default by the Contractor or any other party to the Contract or under any of the terms, obligations, covenants, undertakings or conditions of the Contract;
  - (d) the benefit of all sums recovered in any proceeding against the Contractor;
  - (e) the benefit of any Authorisation (statutory or otherwise) held in connection with the Property or the Development;
  - (f) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in paragraph (e) above; and
  - (g) the benefit of all rights in relation to any item under paragraphs (e) and (f) above.
- 3.1.2 If at any time the Secured Liabilities have been fully discharged and repaid and the Borrower has no actual or contingent liability to the Lender then the Lender shall (at the request and cost of the Borrower) release to the Borrower the Security Assets (which have been charged to the Lender pursuant to this Deed) without recourse warranty.
- 3.1.3 The Borrower hereby confirms that there are no restrictions preventing the charging of the Security Assets and hereby undertake forthwith on demand to charge to the Lender absolutely or as the Lender shall direct the Security Assets and rights and remedies available to the Borrower under it to the extent that the Security Assets shall not be fully and effectively charged to the Lender by this Deed. The Borrower shall do all such things as may be necessary to effect such a charge.

## 3.2 Trust

If or to the extent that for any reason the charging of any Security Asset is prohibited, the Borrower shall:

- 3.2.1 hold it on trust for the Lender as security for the payment and discharge of the Secured Liabilities; and
- 3.2.2 take such steps as the Lender may require to remove the impediment to charging it.

## 3.3 Notice of Security

The Borrower must give notice on the date of this Deed of the grant of the Security to the Contractor and any other relevant person in the form set out in Schedule 1 (*Notice of Charge*) and it shall use its reasonable endeavours to procure that the recipient of each notice acknowledges it in writing substantially in the form of Schedule 2 (*Acknowledgement of Charge*).

## 4. REPRESENTATIONS

### 4.1 General

The Borrower makes the representations and warranties set out in this Clause 4 (*Representations*) to the Lender on the date of this Deed and on each day the Secured Liabilities are outstanding.

#### **4.2 Status**

- 4.2.1 It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- 4.2.2 It has the power to own their assets and carry on their respective businesses as they are being conducted.

#### **4.3 Binding obligations**

- 4.3.1 Its obligations in this Deed are legal, valid, binding and enforceable obligations.
- 4.3.2 The Security Interests which this Deed purports to create are valid and effective and are not liable to be avoided or otherwise set aside on its liquidation, or administration.

#### **4.4 Non-conflict with other obligations**

The entry into and performance by the Borrower of its obligations under this Deed and the granting of the Security do not and will not conflict with:-

- 4.4.1 any law or regulation applicable to it;
- 4.4.2 its constitutional documents; or
- 4.4.3 any agreement or instrument binding upon the Borrower or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

#### **4.5 Power and authority**

- 4.5.1 The Borrower has the power to enter into, perform and deliver, and have taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the grant of the Security.
- 4.5.2 No limit on the Borrower's powers will be exceeded as a result of the grant of the Security.

#### **4.6 Validity and admissibility in evidence**

- 4.6.1 All Authorisations required or desirable:
  - (a) to enable it lawfully to enter into, and comply with its obligations under this Deed and to grant the Security; and
  - (b) to make this Deed admissible in evidence in its jurisdiction of incorporation and in Northern Ireland,

have been obtained or effected and are in full force and effect.

- 4.6.2 All Authorisations necessary for the conduct of its business, trade and ordinary activities have been obtained or effected and are in full force and effect.

#### **4.7 Solvency**

As at the date of this Deed:-

- 4.7.1 it is able to meet its debts as they fall due;
- 4.7.2 it is not deemed unable to pay its debts within the meaning of article 103 of the Insolvency (Northern Ireland) Order 1989 or any analogous provision in any relevant jurisdiction; and



- 4.7.3 no corporate action, legal proceeding or other procedure or step has been taken in relation to:-
- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
  - (b) a composition, compromise, assignment or arrangement with any creditor of the Borrower;
  - (c) the expropriation, attachment, sequestration, execution or other enforcement process affects any asset or assets of the Borrower;
  - (d) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets; or
  - (e) any enforcement of any Security over assets of the Borrower.

or any analogous procedure or step has been taken in any jurisdiction.

#### 4.8 **Security**

- 4.8.1 No Security Interest exists over the Security Assets other than pursuant to a Parallel Security Document or as permitted by this Deed.
- 4.8.2 The Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security Interest (other than pursuant to any Parallel Security Document).
- 4.8.3 The Borrower has a good and marketable title to and is the sole legal and beneficial owner of the Security Assets.

#### 4.9 **Centre of main interest and establishments**

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the **Regulation**), the Borrower's "*centre of main interest*" (as that term is used in Article 3(1) of the Regulation) is situated in its jurisdiction of incorporation and it has no "*establishment*" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

#### 4.10 **No filing or stamp taxes**

It is not necessary that this Deed be notarised or filed, recorded, registered or enrolled with any court or other authority in any jurisdiction or that any notarial costs or stamp, registration or similar Tax be paid on or in relation this Deed (except, where applicable, registration of particulars at Companies House in Northern Ireland and payment of associated fees).

#### 4.11 **Governing law and enforcement**

- 4.11.1 The choice of law specified in this Deed as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation.
- 4.11.2 Any judgment obtained in Northern Ireland in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.

#### 4.12 **Contract**

- 4.12.1 The Contract is in full force and effect in accordance with its terms, has been validly executed and is enforceable (subject to this Deed) by the Borrower against the Contractor and vice versa.

- 4.12.2 Neither the Borrower nor (to the best of the Borrower's knowledge and belief) the Contractor is in breach of or in default of any of the terms and conditions of the Contract.
- 4.12.3 The Borrower is entitled under the Contract and in law to create security over the Contract in the manner set out in this Deed.
- 4.12.4 The Contract is capable of being charged to the Lender.

5. **GENERAL UNDERTAKINGS**

5.1 **Negative pledge**

The Borrower shall not create or permit to subsist any Security Interest over the Security Assets other than a Security Interest created under any Parallel Security Document without the consent of the Lender.

5.2 **No disposals**

Unless the Lender consents, the Borrower shall not make any disposal of any Security Assets even if the disposal is involuntary.

5.3 **General**

The Borrower covenants with the Lender that it shall:-

- 5.3.1 diligently take all steps necessary or advisable or any steps the Lender may properly request to be taken to procure the due performance by the Contractor of all its obligations under the Contract in accordance with the terms of it;
- 5.3.2 promptly and diligently:-
- (a) perform all the obligations on the Borrower's part contained in the Contract;
  - (b) notify the Lender immediately in writing of any breach of or default under the Contract on the Borrower's part or on the part of the Contractor or any other party to the Contract;
  - (c) institute and prosecute completely at its own expense all such proceedings as may be necessary or advisable to preserve or protect the Borrower's own interests and those of the Lender in the Security Assets;
  - (d) if the Lender shall by written notice to the Borrower so require forthwith upon receipt of the same send to the Lender a copy of each instruction, professional fee, invoice, certificate, variation, order, notice, insurance policy or other document issued or served upon it or by it pursuant to under or in connection with the Contract;
  - (e) upon receipt of the same remit to the Lender all sums which shall from time to time become payable to the Borrower in respect of the Security Assets;
  - (f) provide the Lender with such information as it may request in relation to the Contract or in respect of any aspect of it or the progress of the development and in any event not later than seven business days from the Lender making the request;
  - (g) will keep the Lender fully and effectively indemnified from and against any and all actions, losses, claims, proceedings, costs, demands and liabilities which may be suffered or incurred by the Lender under or by virtue of this Deed or otherwise in respect of the Property;

5.3.3 not, for the duration of this Deed without the prior written consent of the Lender:-

- (a) make or vary or consent to any modification or variation of the terms of the Contract;
- (b) consent or agree to any waiver or release of any obligation of the Contractor or of any other relevant person under the Contract;
- (c) give or agree to give any time or other indulgence to the Contractor in respect of its obligations in respect of the Contract;
- (d) make or agree to any claim that the Contract is in any manner frustrated, rescinded, terminated, repudiated or otherwise at an end or that the Contract is in any way waived or discharged;
- (e) rescind, cancel or terminate the Contract or accept any breach of it or default thereunder as repudiatory;
- (f) take or omit to take any action the taking or omission of which would or might result in any impairment of the Security Assets; and

5.3.4 comply at all times with the terms (expressed or implied) of this Deed and execute deliver and perform or procure the execution delivery and performance of all such documents as may be necessary or desirable to secure to the Lender the full benefit of this Deed or the rights powers and remedies herein conferred on the Lender.

#### **5.4 Documents**

The Borrower irrevocably and unconditionally undertakes to deposit with the Lender (to the intent that the same shall be subject in all respects to the provisions of this Deed) all and any originals of any deeds, documents, instruments or material evidencing or constituting the Security Assets. The Borrower shall be deemed to have complied with this Clause if it has complied with the equivalent clause of any Parallel Security Document relating to the same Security Assets.

#### **6. FURTHER ASSURANCE**

The Borrower shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for:-

- 6.1 giving effect to, perfecting or protecting the Security;
- 6.2 facilitating the realisation of any Security Asset;
- 6.3 facilitating the exercise of all powers, authorities and discretions vested in the Lender or in any Receiver; or
- 6.4 perfecting any Security over any assets acquired by the Borrower after the date of this Deed.

#### **7. CONTINUING OBLIGATIONS**

Notwithstanding anything contained in this Deed:-

- 7.1 the Borrower shall at all times remain liable to the Contractor to perform its duties and obligations under the Contract;
- 7.2 the exercise by the Lender of any of the rights confirmed by this Deed shall not release the Borrower from any of its duties or obligations under the Contract;

- 7.3 the Lender shall not be under any obligation or liability under the Contract to the Contractor or any other party by reason of this Deed or anything done or omitted to be done by the Lender pursuant to it; and
- 7.4 the Lender shall not be obliged to:-
- 7.4.1 assume or be under any obligation in any manner to perform or fulfil any of the Borrower's obligations under or pursuant to the Contract; or
  - 7.4.2 make any payment under it; or
  - 7.4.3 enforce against the Contractor any term, obligation, covenant, undertaking or condition of the Contract; or
  - 7.4.4 make any enquiry as to the nature or sufficiency of any payment received under or pursuant to this Deed.

## **8. ENFORCEMENT**

### **8.1 Remedying defaults**

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by the Borrower to observe and perform the provisions of this Deed at the Borrower's cost.

### **8.2 Timing of enforcement**

- 8.2.1 The Secured Liabilities are deemed to have become due on the date of this Deed.
- 8.2.2 The Security shall become enforceable on the earlier of:-
- (a) the date the Lender demands repayment of any of the Secured Liabilities;
  - (b) the date the Borrower breaches a provision of this Deed or any document evidencing the facilities to which the Secured Liabilities relate;
  - (c) any Security Interest created pursuant to a Parallel Security Document becoming enforceable; or
  - (d) the Borrower's request.
- 8.2.3 Neither section 17 nor section 20 of the Act shall apply to this Deed.

### **8.3 Powers of the Lender**

- 8.3.1 At any time after the Security becomes enforceable or if requested by the Borrower, the Lender may without further notice (unless required by law):-
- (a) appoint any person (or persons) to be a receiver or receiver and manager of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
  - (b) appoint or apply for the appointment of any person as the Borrower's administrator (if the Borrower is a company); and/or
  - (c) exercise all or any of the powers conferred on mortgagees by the Insolvency (Northern Ireland) Order 1989, the Act and Conveyancing Act 1911 (as each are amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or

- (d) take such further action as it sees fit to enforce all or any part of the Security.

**8.4 No liability**

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Security Assets for any loss on realisation or for any other default or omission. No exercise of the right in Clause 8.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession. Neither the Lender nor the Receiver is under any obligation to exercise any power or discretion enjoyed by it in relation to the Security Assets.

**9. RECEIVER**

**9.1 Removal and replacement**

The Lender may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

**9.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

**9.3 Remuneration**

9.3.1 Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender) and section 26(6) of the Act shall not apply.

9.3.2 The remuneration of any Receiver shall be payable by the Borrower and shall form part of the Secured Liabilities.

**9.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

**9.5 Borrower's agent**

Any Receiver shall be the Borrower's agent and the Borrower shall (subject to the Companies Act 2006 and the Insolvency (Northern Ireland) Order 1989) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to the Borrower or to any other person) by reason of the appointment of a Receiver or for any other reason.

**10. POWERS OF RECEIVER**

**10.1 General powers**

10.1.1 Any Receiver shall have:-

- (a) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under that Act but without the restrictions contained in sections 20 and 24(1) of the Act;
- (b) all the powers which are listed in schedule 1 of the Insolvency (Northern Ireland) Order 1989; and

- (c) all powers which are conferred by any other law or regulation conferring power on receivers.

10.1.2 To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the Borrower's obligations under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003/3226)) each Receiver and the Lender shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

## 10.2 Additional powers

In addition to the powers referred to in Clause 10.1 (*General powers*), a Receiver shall have the following powers:-

- 10.2.1 to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- 10.2.2 to manage the Security Assets as he thinks fit;
- 10.2.3 to proceed to completion of the Contract and satisfy the Borrower's obligations and liabilities under the Contract;
- 10.2.4 to exercise in relation to the Security Assets all such rights as the Borrower might exercise in relation to the Security Assets as if the same were unencumbered by this Deed or otherwise;
- 10.2.5 require the Lender to lend him as the Borrower's agent (so that such loan shall be deemed to be a further advance to the Borrower) such monies as in his opinion shall be properly required to realise the Security Assets. Any such monies loaned shall be immediately owing by the Borrower to the Lender and secured by this Deed;
- 10.2.6 to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 10.2.7 to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 20 of the Act, and, without limitation:-
  - (a) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
  - (b) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- 10.2.8 to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to abandon, complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Borrower was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land);
- 10.2.9 to carry out any sale or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the Borrower's name and, for that purpose, to enter into covenants and other contractual obligations in the Borrower's name and so as to bind it;

- 10.2.10 to take any such proceedings in the Borrower's name as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for monies in arrears at the date of his appointment);
- 10.2.11 to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- 10.2.12 to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ any firm, partner, company or other entity with which he is associated);
- 10.2.13 to form one or more Subsidiaries of the Borrower and to transfer to any such Subsidiary all or any part of the Security Assets; and
- 10.2.14 to:-
- (a) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (b) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (c) use the Borrower's name for any of the above purposes.

### 10.3 **Limitation**

The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver.

## 11. **APPROPRIATION OF RECEIPTS**

### 11.1 **Application**

- 11.1.1 Subject to Clause 12 (*Suspense Account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in substitution for section 24(8) of the Act) shall be applied in the following order of priority:-
- (a) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment;
  - (b) in or towards payment or discharge of the Secured Liabilities; and
  - (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.
- 11.1.2 The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by the Borrower.

## 12. **SUSPENSE ACCOUNT**

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent.

## 13. **SET-OFF**

- 13.1 The Lender may (but shall not be obliged to) set off any obligation which is due and payable by the Borrower and unpaid or any contingent obligation from the Borrower against any obligation (whether

or not matured) owed by the Lender or any of its Affiliates to the Borrower, regardless of the place of payment, booking branch or currency of either obligation.

- 13.2 If either obligation is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation.

14. **CURRENCY CONVERSION**

All monies received or held by the Lender or any Receiver under this Deed may be converted from their existing currency into such other currency as the Lender or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange.

15. **NEW ACCOUNT**

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Security Assets or their proceeds of sale, then the Lender may open a new account for the Borrower. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Lender for the Borrower's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

16. **DELEGATION AND APPOINTMENT OF ATTORNEYS**

16.1 **Delegation**

16.1.1 The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit.

16.1.2 The Lender shall not be liable or responsible to the Borrower for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates.

16.2 **Attorneys**

16.2.1 By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under Clause 16.1 (*Delegation*) separately to be its attorney on its behalf, in its name:-

- (a) to execute and do any documents, acts and things which the Borrower is required to execute and do under this Deed or any other document relating to the Secured Liabilities; and
- (b) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed, any other document relating to the Secured Liabilities or by law on the Lender or any Receiver.

16.2.2 The Borrower ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 16.2 (*Attorneys*).



**17. REDEMPTION OF PRIOR SECURITY INTERESTS**

**17.1 Redemption**

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at the Borrower's cost.

**17.2 Costs of redemption**

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under Clause 17.1 (*Redemption*) shall be paid by the Borrower on demand, in each case together with interest calculated in the manner referred to in Clause 21 (*Indemnities*).

**18. RELEASES**

**18.1 Releases conditional**

18.1.1 Any release, settlement, discharge or arrangement in respect of the Security (in this Clause 18 (*Releases*), a **release**) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency.

18.1.2 If any avoidance, reduction, or clawback occurs or any order is made as referred to in Clause 18.1.1, then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between the Borrower and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as security for the Secured Liabilities.

**18.2 Retention**

18.2.1 If and for so long as any assurance, security or payment as is mentioned in Clause 18.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.

18.2.2 If, at any time while all or part of the Lender's rights under this Deed are so retained:-

- (a) an application is made to a competent court for a winding-up or bankruptcy order to be made in respect of the Borrower;
- (b) steps are taken to wind the Borrower up or make the Borrower bankrupt;
- (c) an application is made to a competent court for an administration order to be made in respect of the Borrower;
- (d) a notice of intention to appoint an administrator to the Borrower is filed at court;  
or
- (e) the appointment of an administrator to the Borrower takes effect,

then the Lender may continue to retain all or part of its rights under this Deed for any further period as the Lender may determine in its absolute discretion.

## **19. CONTINUING SECURITY**

### **19.1 Continuing security**

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding:-

- 19.1.1 intermediate payment or discharge of the whole or part of the Secured Liabilities;
- 19.1.2 the Borrower's death, bankruptcy, liquidation or other incapacity or any change in its constitution, name or style;
- 19.1.3 any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person; or
- 19.1.4 any other event, matter or thing.

### **19.2 Additional to other rights**

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Borrower or otherwise) in favour of the Lender. Accordingly, the Borrower's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding:-

- 19.2.1 the existence or invalidity of all or any of those rights; or
- 19.2.2 at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights.

## **20. THIRD PARTY PROTECTION**

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned:-

- 20.1 to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged;
- 20.2 whether the power which the Lender or Receiver is purporting to exercise has become exercisable; or
- 20.3 to see to the application of any money paid to the Lender or to a Receiver.

## **21. INDEMNITIES**

The Borrower agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) on demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver):-

- 21.1 as a result of the Borrower's failure to perform any of its obligations under this Deed;
- 21.2 in the exercise (or purported exercise) of any of the powers or other rights conferred by this Deed;
- 21.3 in respect of any costs, charges or expenses incurred in connection with Clause 14 (*Currency Conversion*);

21.4 in respect of the redemption of any prior Security Interest over any Security Asset under Clause 17 (*Redemption of prior security interests*);

21.5 as a result of the Borrower's breach of any current or other obligation or matter relating to the Property; or

21.6 in respect of any other matter or thing done or omitted relating to the Security Assets,

together in each case with interest at the Interest Rate calculated on a daily basis from the date it is incurred or becomes payable to the Lender or the Receiver until the date of payment, whether before or after any judgment.

## **22. CALCULATIONS AND CERTIFICATES**

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against the Borrower of the matters to which it relates.

## **23. PARTIAL INVALIDITY**

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **24. REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Borrower shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## **25. AMENDMENTS AND WAIVERS**

Any provision of this Deed may be amended only if the Borrower and the Lender agree in writing and any breach of this Deed may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## **26. TRANSFER AND CONFIDENTIALITY**

### **26.1 Transfer**

26.1.1 The Lender may assign and/or transfer its rights and obligations under this Deed.

26.1.2 The Borrower shall not assign any of its rights or transfer any of its obligations under this Deed.

### **26.2 Confidentiality**

The Lender may disclose to:-

26.2.1 any transferee or potential transferee;

26.2.2 any assignee or potential assignee;

26.2.3 any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Secured Liabilities;

- 26.2.4 any ratings agency;
  - 26.2.5 any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 26.2.1 to 26.2.4;
  - 26.2.6 any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives;
  - 26.2.7 any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - 26.2.8 any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes; and
  - 26.2.9 any insurance company or underwriters in relation to the insurance of the Property,
- such confidential information as the Lender shall consider appropriate.

## **27. COUNTERPARTS**

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

## **28. NOTICES**

### **28.1 Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing in the English language and, unless otherwise stated, must be made by letter.

### **28.2 Addresses**

The Lender may deliver any communication, document or notice to the Borrower relating to this Deed to its registered office, to any address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address the Borrower may notify to the Lender by not less than five business days' notice.

### **28.3 Delivery**

28.3.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address.

28.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

## **29. PARALLEL SECURITY DOCUMENTS**

The Borrower may at any time enter into a Parallel Security Document. Entry into and performance of the terms of a Parallel Security Document shall not breach any term of this Deed.

30. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

31. **ENFORCEMENT**

31.1 **Jurisdiction**

31.1.1 The courts of Northern Ireland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**).

31.1.2 The Borrower agrees that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

31.1.3 This Clause 31.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** whereof the Borrower has executed this Deed as a deed the year and date appearing on the first page of it.

## SCHEDULE 1

### NOTICE OF CHARGE

To: P&K McKaigue Limited  
181 Glen Road, Fallagloon  
Maghera  
Northern Ireland  
BT46 5LT

Dated 2022

Dear Sirs

This letter constitutes notice to you that by a deed dated \_\_\_\_\_ 2022 (the **Deed**), a copy of which is attached hereto, we charged to National Westminster Bank Plc (trading as Ulster Bank) (the **Lender**) all our rights in respect of the building contract between us and you dated 15 June 2021 relating to the construction of 31 new build dwellings with associated siteworks and drainage at the development site at Upper Road, Greenisland, County Antrim (the **Contract**).

We confirm that:

- a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
- b) none of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will also remain entitled to exercise all our rights, powers and discretions under the Contract, and you should continue to give notices and make payments under the Contract to us, unless and until you receive notice from the Lender to the contrary stating that the security under the Deed has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Lender or as it directs.

We irrevocably instruct and authorise you to disclose to the Lender any information relating to the Contract requested from you by the Lender.

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

This letter and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

Please acknowledge receipt of this letter by sending the attached acknowledgement to the Lender at 250 Bishopsgate, London, EC2M 4AA with a copy to us.

Yours faithfully



for and on behalf of  
Lesley Developments (Greenisland) Limited

## SCHEDULE 2

### ACKNOWLEDGMENT OF CHARGE

To: National Westminster Bank Plc (trading as Ulster Bank)  
250 Bishopsgate  
London  
EC2M 4AA

Dear Sirs

At the request of Lesley Developments (Greenisland) Limited (the **Borrower**) and in consideration of the National Westminster Bank Plc (trading as Ulster Bank) (the **Lender**) affording banking facilities to the Borrower we write to confirm that we:

- a) have received from the Borrower a notice dated \_\_\_\_\_ 2022 (the **Notice**) of a deed dated \_\_\_\_\_ 2022 given by the Borrower to the Lender (the **Deed**), relating to a charge over the building contract referred to therein (the **Contract**) with a copy of the Deed attached;
- b) accept the instructions contained in the Notice and agree to comply with the Notice; and
- c) will give notices and make payments under the Contract as directed in the Notice.

This letter and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

Yours faithfully

for and on behalf of  
P&K McKaigue Limited

Date: \_\_\_\_\_ 2022

EXECUTION PAGE

**Borrower**

Executed as a deed by )  
**LESLEY DEVELOPMENTS** )  
**(GREENISLAND) LIMITED** )  
acting by a director in the presence of: )

Director

Print name:

*JASON CARLSON*

Signature of witness

Print name (in BLOCK CAPITALS):

Address:

*KIRSTY MAIR*  
*42 QUEEN STREET*  
*BELFAST*  
*SOLICITOR*

**Lender**

**Signed and Delivered** as a deed for and )  
on behalf of National Westminster Bank Plc )  
(trading as Ulster Bank) by a duly )  
authorised Attorney in the presence of:- )

Attorney

\_\_\_\_\_  
Witness' Signature – Lender Employee

Communications to the Lender are to be delivered to:

Address: at 250 Bishopsgate, London, EC2M 4AA