



Registration of a Charge

Company name: **STEWART MILNE GROUP LIMITED**

Company number: **SC057709**

Received for Electronic Filing: **23/11/2018**



X7JBXSMP

Details of Charge

Date of creation: **21/11/2018**

Charge code: **SC05 7709 0225**

Persons entitled: **BURFORD DELTA LIMITED**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS PART OF THE LAND AT ROFTEN WORKS, HOOTON HEATH, WIRRAL BEING THE STRIP OF LAND 2 METRES IN DEPTH SHOWN IN GREEN ON PLAN 1 ANNEXED TO THE CHARGE AND THE LAND SHOWN EDGED BLUE ON PLAN 2 ANNEXED TO THE CHARGE AND BEING THE WHOLE OF THE PROPERTY REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBERS CH518548, CH261482, CH130416 AND CH250054 (PLEASE REFER TO THE DEFINITION OF "PROPERTY" OF THE INSTRUMENT FOR MORE INFORMATION)**

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: **TAYLOR WESSING LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 57709

Charge code: SC05 7709 0225

The Registrar of Companies for Scotland hereby certifies that a charge dated 21st November 2018 and created by STEWART MILNE GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd November 2018 .

Given at Companies House, Edinburgh on 26th November 2018

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

21 November

2018

STEWART MILNE GROUP LIMITED

and

BURFORD DELTA LIMITED

LEGAL MORTGAGE

relating to

Land at Roften Works, Hooton Heath, Wirral (Care Home Site and Corfe Strip)

We hereby certify that this is a true
and correct copy of the original

Dated.....21/11/2018.....

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Manchester
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THIS DEED is dated

21 November

2018

PARTIES

- (1) **STEWART MILNE GROUP LIMITED** company number SC057709 whose registered office is at Mosscroft Avenue, Westhill Business Park, Westhill, Aberdeen, AB32 6TQ ("the **Chargor**"); and
- (2) **BURFORD DELTA LIMITED** company number 4930714 whose registered office is at Richmond House, Avonmouth Way, Avonmouth, Bristol BS11 8DE (the "**Chargee**").

BACKGROUND

- (A) The **Chargor** has today completed the purchase of the Property from the **Chargee** in respect of which part of the purchase price is payable on a deferred basis after the date of this deed.
- (B) The **Chargor** has agreed to provide this deed to the **Chargee** as security for payment of the deferred element of the purchase price in respect of the Property.

AGREED TERMS

1. Definitions and interpretation

1.1 Definitions

The definitions and rules of interpretation in this clause apply in this deed:

"**Acquisition Date**" the date on which the **Chargor** became or becomes legal and beneficial owner of the Property;

"**Chargee's Solicitor**" Taylor Wessing LLP of 5 New Street Square, London EC4A 3TW (Ref: ACE/BUR129.U22) or such other firm as the **Chargee** may nominate by notice in writing to the **Chargor**;

"**Chargor's Solicitor**" Squire Patton Boggs (UK) Limited of No.1 Spinningfields, 1 Hardman Square, Manchester, M3 3EB (Ref: Jonathan Brooke);

"**Contract for Sale**" means the contract for the sale of the Property made between the **Chargee** and Stewart Milne Homes North West England (Developments) Limited and the **Chargor** dated 27 March 2018 (as varied by an agreement made between the **Chargee** and Stewart Milne Homes North West England (Developments) Limited and the **Chargor** dated 21/11/2018);

"**Costs**" all costs, charges, expenses, taxes and liabilities of any kind, including (without limitation) costs and damages in connection with litigation, professional fees, disbursements and any VAT charged on **Costs** (except such VAT as the receiver of the supply or service is entitled to recover as input tax) which the **Chargee** or any Receiver may properly charge or incur in relation to the enforcement of this deed or breach of any provision of this deed by the **Chargor**;

"Deed of Priority" means any deed of priority entered into pursuant to Clause 21 of this Deed;

"Deferred Payment" means the Corfe Deferred Consideration and the CH Deferred Consideration as such terms are defined in the Contract for Sale;

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

"Environment" all of the air, water and land, including (without limitation) the air within buildings and other natural or man-made structures above or below ground, ground and surface water, and surface and sub-surface soil;

"Environmental Law" any law or requirement, code of practice, circular, guidance note, licence, consent or permission made or given under any law concerning the protection of the Environment or human health, the condition of any land or of any place of work or the production, storage, treatment, transport or disposal of any substance capable of causing harm to any living organism or the environment;

"Events of Default" the events set out in Schedule 5;

"Insolvent" in relation to a corporation:

- (a) it is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness; or
- (b) the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities); or
- (c) a moratorium is declared in respect of any of its indebtedness; or
- (d) any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up (other than a winding up petition in respect of which a stay of execution is issued within 14 days of the date of issue of the petition), dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of it;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of it;
 - (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets; or
 - (iv) enforcement of any Encumbrance over any of its assets,or any analogous procedure or step is taken in any jurisdiction; or
- (e) a judgement or order made against it is not complied with within 10 Working Days;

- (f) it ceases to carry on its business or any substantial part of it; or
- (g) it being struck off the Register of Companies;

and in relation to the various events of insolvency they are wherever appropriate to be interpreted in accordance and in conjunction with the relevant provisions of the 1986 Act;

"Interest Rate" 4 per cent. above the base rate of National Westminster Bank plc from time to time or, should this rate cease to exist, at another rate of interest closely comparable with the Interest Rate;

"Lease" a lease of the whole or any part of all or any part of the Property and includes any underlease, tenancy, letting, licence, any document supplemental or collateral to any of them and any agreement to enter into any of them and the expression tenant will be construed accordingly;

"Material Adverse Effect" an effect which in the opinion of the Chargee (acting reasonably) is or may become materially adverse to or will or may materially adversely affect:

- (a) the financial condition, business, assets or undertaking of the Chargor;
- (b) the ability of the Chargor duly to perform its payment and/or other material obligations under the Transaction Documents; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Encumbrance granted or purporting to be granted pursuant to any of, the Transaction Documents or the rights or remedies of the Chargee under any of the Transaction Documents;

"Permitted Disposition" means:

- (a) any disposal of the Property or part of the Property for the siting of an electricity substation gas governor pumping station or other similar service facility; or
- (b) disposal or dedication of part of the Property as a public footpath/bridleway (or similar); and/or
- (c) the grant of any easements or rights required by the relevant highways authority, drainage authority and/or utility providers or as may be necessary in order to procure the construction, maintenance, dedication and (if applicable) the adoption of all roads, sewers, service media and ancillary infrastructure serving or intending to serve the Property or the land shown edged red, green, pink or light blue on Plan 3 as authorised by the Planning Permission;

"Plan 1" and **"Plan 2"** and **"Plan 3"** means the plans annexed to this contract at schedule 6 and numbered accordingly;

"Planning Permission" means the full planning permission in respect of the Property (and other premises) resolved to be granted by the Council under reference 17/02741/FUL and/or any other planning permission for the residential development of the Property or the land shown edged red, green, pink or light blue on Plan 3 or any part of it or them;

"Property" means the freehold property known as part of the land at Roften Works, Hooton Heath, Wirral being the strip of land 2 metres in depth shown for identification purposes in green on Plan 1 and the land shown for identification purposes edged blue

on Plan 2 and being the whole of the property registered at the Land Registry under title numbers CH518548, CH261482, CH130416 and CH250054 other than the land comprised in the transfer dated 1 May 2018 and made between Burford Delta Limited (1) and Stewart Milne Homes North West England (Developments) Limited (2);

"Receiver" a receiver and/or manager of any or all of the Property;

"Secured Amounts" means the Deferred Payment and all present and future monies owed by the Chargor to the Chargee under this deed together, in each case, with all VAT and interest in accordance with the provisions of (as applicable) the Contract for Sale or this deed;

"Security Period" the period starting on the date of this deed and ending on the earlier of the date on which all the Secured Amounts have been unconditionally and irrevocably paid and discharged in full;

"Transaction Documents" this deed and the Contract of Sale;

"VAT" value added tax as provided in the VAT Act and any other tax of a similar nature;

"VAT Act" the Value Added Tax Act 1994;

"Working Day" any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday;

"1925 Act" The Law of Property Act 1925; and

"1986 Act" The Insolvency Act 1986.

1.2 *Interpretation*

In this deed:

- (a) a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts;
- (b) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular;
- (d) unless the context otherwise requires reference to a clause or Schedule is to a clause of, or Schedule to, this deed and references to paragraphs are to paragraphs of the relevant Schedule;
- (e) a reference to **"this deed"** (or any provision of it) or any other document shall be construed as a reference to this deed, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties;
- (f) the Schedules form part of this deed and shall have effect as if set out in full in the body of this deed;
- (g) a reference to **"Property"** includes references to any part of it;

- (h) a reference to a "**person**" shall include a reference to an individual, firm, company, partnership, corporation, unincorporated body of persons, or any state or any agency of any person;
- (i) a reference to an "**amendment**" includes a novation, re-enactment, supplement or variation (and "**amended**" shall be construed accordingly);
- (j) a reference to "**assets**" includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (k) a reference to an "**authorisation**" includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (l) a reference to a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (m) a reference to "**determines**" or "**determined**" means, unless the contrary is indicated, a determination at the discretion of the person making it;
- (n) clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- (o) a reference in this deed to a "**charge or mortgage of or over the Property**" includes:
 - (i) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Property at any time;
 - (ii) the proceeds of sale of any part of the Property which remains subject to this deed and any other monies paid or payable in respect of or in connection with any part of the Property which remains subject to this deed;
 - (iii) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of the Property and any monies paid or payable in respect of those covenants; and
 - (iv) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

2. **Payment**

2.1 *Payment of Secured Amounts*

The Chargor shall pay to the Chargee and discharge the Secured Amounts (free from any legal or equitable input or set off) when they become due.

2.2 *Payment of interest*

- (a) The Chargor shall pay interest on any Secured Amounts from the day they become due from day to day until full discharge (whether before or after judgment or an Event of Default) at the rate and manner set out in the Contract for Sale.

2.3 *Payment of Costs*

The Chargor shall pay within five Working Days of written demand all Costs together with interest from the date when the Chargee becomes liable for them until payment by the Chargor at the Interest Rate.

3. **Grant of security**

The Chargor, with full title guarantee, charges the Property to the Chargee by way of first legal mortgage as continuing security for the payment or discharge of the Secured Amounts.

4. **Registration at the Land Registry**

4.1 The Chargor consents to an application being made by the Chargee to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the legal mortgage dated 21/11/18 in favour of Burford Delta Limited referred to in the charges register or without a certificate signed by a conveyancer that the provisions in Schedule 2 Paragraph 1 of the legal mortgage have been complied with."

4.2 If any notice (whether agreed or unilateral) is registered against the Chargor's title to the Property, the Chargor shall immediately upon becoming aware of the same provide the Chargee with full particulars of the circumstances relating to such caution or notice.

4.3 If such notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Chargor shall immediately, and at its own expense, take all such steps as the Chargee may reasonably require to ensure that the notice is withdrawn or cancelled.

5. **Liability of the Chargor**

5.1 The Chargor's liability under this deed shall not be reduced, released, discharged, prejudiced or affected by (whether or not known to it or the Chargee):

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Chargee that is or becomes wholly or partially illegal, void or unenforceable on any ground; or
- (b) the Chargee 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
- (c) any other act, omission, matter or thing which but for this clause might have discharged, or otherwise reduced, released, discharged, prejudiced or affected, the liability of the Chargor.

- 5.2 The Chargor waives any right it may have to require the Chargee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Chargor.

6. Warranties and covenants

- 6.1 The Chargor represents and warrants to the Chargee as set out in Schedule 1.
- 6.2 The Chargor covenants at all times with the Chargee in the terms set out in Schedule 2.

7. Powers of the Chargee

The Chargee shall have the powers set out in Schedule 3.

8. Enforcement

- 8.1 At any time after the occurrence of an Event of Default but always subject to the terms of any Deed of Priority, this deed shall be immediately enforceable and the Chargee's power of sale as amended or varied by this deed shall be immediately exercisable in respect of the whole or any part of the Property without the restrictions contained in the 1925 Act to the giving of notice or otherwise.
- 8.2 Section 103 of the 1925 Act shall not apply to this deed and the power of sale and all other powers conferred by section 101 of the 1925 Act as varied or extended by this deed will arise upon execution of this deed by the Chargor.
- 8.3 After the security constituted by this deed has become enforceable, the Chargee may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Property.
- 8.4 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Encumbrance having priority to this deed shall have become exercisable, the Chargee may:
- (a) redeem such or any other prior Encumbrance, or procure its transfer to itself; and
 - (b) settle any account of the beneficiary of that Encumbrance.
- 8.5 The settlement of any such account pursuant to clause 8.4 shall be conclusive and binding on the Chargor.
- 8.6 All monies paid by the Chargee to the beneficiary of an Encumbrance in settlement of an account pursuant to clause 8.4 shall, as from its payment by the Chargee, be due from the Chargor to the Chargee on current account and shall bear interest and be secured as part of the Secured Amounts.
- 8.7 The statutory powers of leasing and accepting surrenders are extended so as to authorise the Chargee and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Chargor to make any lease or agreement for lease, accept surrenders of leases or grant any option of the whole or any part of the Property with whatever rights relating to other parts of it, containing whatever covenants on the part of the Chargor, generally on such

terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Chargee or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the 1925 Act.

- 8.8 Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the 1925 Act on mortgagees and receivers.
- 8.9 Neither the Chargee nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Property for which a mortgagee in possession might be liable as such.
- 8.10 If the Chargee or any Receiver enters into or takes possession of the Property, it or he may at any time relinquish possession.

9. Receivers

- 9.1 At any time after the security constituted by this deed has become enforceable or at the request of the Chargor, the Chargee may, without further notice:
 - (a) appoint under seal or in writing, by a duly authorised officer of the Chargee, any one or more person or persons to be a receiver or a receiver and manager, of all or any part of the Property; and
 - (b) (subject to the obtaining of any required order of the court in the case of an administrative receiver) from time to time, under seal or in writing, by a duly authorised officer of the Chargee, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.
- 9.2 Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Chargee specifies to the contrary).
- 9.3 The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Chargee under the 1986 Act, the 1925 Act or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the 1925 Act.
- 9.4 The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Chargee despite any prior appointment in respect of all or any part of the Property.
- 9.5 The Chargee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the 1925 Act and the remuneration of the Receiver shall be a debt secured by this deed which shall be due and payable immediately upon its being paid by the Chargee.

10. Powers and capacity of a Receiver

- 10.1 Any Receiver appointed by the Chargee under this deed shall, in addition to the powers conferred on him by the 1925 Act and the 1986 Act, (both before and after the commencement of any liquidation of the Chargor) have the powers set out in Schedule 4 and may use the name of the Chargor in connection with any exercise of such powers.

- 10.2 Any exercise of any of the powers of a Receiver by the Receiver may be on behalf of the Chargor, the directors of the Chargor or himself.
- 10.3 Any Receiver appointed by the Chargee under this deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.
- 10.4 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Chargee.

11. Application of proceeds

- 11.1 All monies received by the Chargee or a Receiver (other than sums received pursuant to any insurance policy) pursuant to this deed after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the 1925 Act) be applied:
- (a) first in paying all costs, charges and expenses of, and incidental to, the appointment of any Receiver and the exercise of his powers and all outgoings paid by him;
 - (b) second in paying the remuneration of any Receiver (as agreed between the Receiver and the Chargee);
 - (c) third in or towards discharge of the Secured Amounts in such order and manner as the Chargee determines; and
 - (d) finally in paying any surplus to the Chargor or any other person entitled to it.
- 11.2 Neither the Chargee nor any Receiver shall be bound (whether by virtue of section 109(8) of the 1925 Act, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Amounts.

12. Protection of third parties

- 12.1 No purchaser, mortgagee or other person dealing with the Chargee or any Receiver shall be concerned:
- (a) to enquire whether any of the Secured Amounts have become due or payable, or remain unpaid or undischarged, or whether the power the Chargee or a Receiver is purporting to exercise has become exercisable; or
 - (b) to see to the application of any money paid to the Chargee or any Receiver.
- 12.2 The receipt of the Chargee or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Property or in making any acquisition in the exercise of their respective powers, the Chargee and every Receiver may do so for such consideration, in such manner and on such terms as it or he thinks fit.

13. Indemnity

The Chargee and any Receiver shall be indemnified on a full indemnity basis out of the Property in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

- (a) the exercise of any of the powers, authorities or discretions vested in them under this deed; or
- (b) any matter or thing done, or omitted to be done, in relation to the Property under those powers; or
- (c) any default or delay by the Chargor in performing any of its obligations under this deed.

14. Power of attorney

14.1 By way of security, the Chargor irrevocably appoints the Chargee and every Receiver separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- (a) the Chargor is required to execute and do under this deed; and
- (b) any attorney may deem to be required in exercising any of the powers, authorities and discretions conferred by this deed or by law on the Chargee or any Receiver.

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

15. Release

15.1 Upon the expiry of the Security Period the Chargee shall release the Property from the security constituted by this deed by way of a duly executed form of release in form DS1.

15.2 In respect of any form of release of the Property provided in accordance with the provisions of this clause being executed pursuant to a power of attorney the Chargee shall provide a certified copy of the power of attorney together with such documents as shall reasonably be required in accordance with current Land Registry rules to satisfy the evidence of identity requirements of the Land Registry in relation to any attorney.

15.3 Within 10 Working Days of request from the Chargor, and at the reasonable expense of the Chargor, the Chargee shall:

- (a) provide any necessary written consents required to enable the registration of any Permitted Disposition; and
- (b) release any part of the Property disposed of by way of a Permitted Disposition as is specified in paragraph (b) of such definition from the security constituted by this deed by way of a duly executed form of release in form DS3.

16. Assignment and transfer

- 16.1 At any time the Chargee may assign or transfer the whole or any part of the Chargee's rights and/or obligations under this deed to the person to whom it has assigned or transferred its rights and/or obligations under the Contract of Sale.
- 16.2 The Chargee may disclose such information about the Chargor, the Property and this deed as the Chargee considers appropriate to any actual or proposed assignee or transferee.
- 16.3 The Chargor may not assign any of its rights, or transfer any of its obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

17. Further provisions regarding this security

- 17.1 This legal mortgage shall be in addition to, and independent of, every other security or guarantee which the Chargee may hold for any of the Secured Amounts at any time.
- 17.2 No prior security held by the Chargee over the whole or any part of the Property shall merge in the security created by this deed.
- 17.3 This legal mortgage shall remain in full force and effect as a continuing security for the Secured Amounts, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Chargee discharges this deed in writing.
- 17.4 Any release, discharge or settlement between the Chargor and the Chargee shall be deemed conditional on no payment or security received by the Chargee in respect of the Secured Amounts being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, winding-up, administration, receivership or otherwise.
- 17.5 The rights and powers of the Chargee conferred by this deed are cumulative, may be exercised as often as the Chargee considers appropriate, and are in addition to its rights and powers under the general law.
- 17.6 Any waiver or variation of any right by the Chargee (whether arising under this deed or under the general law) shall only be effective if it is in writing and signed by the Chargee and applies only in the circumstances for which it was given, and shall not prevent the Chargee from subsequently relying on the relevant provision.
- 17.7 No act or course of conduct or negotiation by or on behalf of the Chargee shall, in any way, preclude the Chargee from exercising any right or power under this deed or constitute a suspension or variation of any such right or power.
- 17.8 No delay or failure to exercise any right or power under this deed shall operate as a waiver.
- 17.9 No single or partial exercise of any right under this deed shall prevent any other or further exercise of that or any other right.
- 17.10 The restriction on the right of consolidation contained in section 93 of the 1925 Act shall not apply to this deed.
- 17.11 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions.

17.12 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

17.13 This legal mortgage 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.

18. Notices

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

(a) in writing, delivered personally or sent by pre-paid first-class letter or fax; and

(b) sent:

(i) to the Chargor at:

Harrier House
2 Lumsdale Road,
Cobra Business Park
Manchester
M32 0UT

marked for the attention of: the Company Secretary

and at the Chargor's Solicitor, quoting reference JB18

(ii) to the Chargee at:

Richmond House
Avonmouth Way
Avonmouth
Bristol BS11 8DE

marked for the attention of: the Company Secretary

and at the Chargee's Solicitor, quoting the reference ACE/BUR129.U22

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

18.2 Any notice or other communication that the Chargee or the Chargor gives shall be deemed to have been received:

(a) if given by hand, at the time of actual delivery; and

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

18.3 A notice or other communication given as described in clause 18.1 or clause 18.2 on a day which is not a Working Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Working Day.

18.4 The service of notice by email is not permissible.

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

19. Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of any side letters between any parties in relation to this deed are incorporated into this deed.

20. Third party rights

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

21. Deed of Priority

The Chargee acknowledges that the Chargor may create a second ranking security interest over the Property in favour of its bankers (the "Chargor's Funder") in a form approved by the Chargee (acting reasonably). If the Chargor does so, then the Chargee agrees to enter into a deed of priority with the Chargor and the Chargor's Funder in a form approved by the Chargee (acting reasonably) and pursuant to which, inter alia:

- (a) the Chargee acknowledges the creation of the second ranking security interest over the Property in favour of the Chargor's Funder; and
- (b) the Chargee agrees that it will not exercise its enforcement rights under Clause 8.1 of this Deed until:
 - (i) written notice has been given by the Chargee to the Chargor's Funder of the occurrence of an Event of Default and the Chargee's wish to take action under Clause 8.1 of this Deed; and
 - (ii) a period of not less than fifteen Working Days has elapsed from the date of receipt by the Chargor's Funder of the written notice referred to in paragraph (i) above; and
 - (iii) at the end of the fifteen Working Day period referred to in paragraph (ii) above, the Event of Default has not been remedied or waived by the Chargee.

22. Governing law

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

23. Chargee entering into planning agreements

23.1 The Chargee agrees with the Chargor to enter into any Planning Agreement (as defined in clause 23.2 below) if requested by the Chargor and/or Stewart Milne Homes North West England (Developments) Limited:

- (a) in order to ensure the grant of a Planning Permission where the Chargee is requested to be a party thereto by the Local Planning Authority in order to provide consent to the entering into and terms of the Planning Agreement; or
- (b) where required to give consent to the entering into and terms of any Planning Agreement being entered to secure/procure adoption of any roads or services serving the Property and/or the land shown edged red, green, pink or light blue on Plan 3, which are/will be constructed within the Property and/or the land shown edged red green, pink or light blue on Plan 3

provided that the Chargor shall fully and effectively indemnify the Chargee against any costs expenses and liabilities which may be incurred by the Chargee as a result of its entering into any such Planning Agreements and provided no liability for performance of the obligations in such Planning Agreements shall rest upon the Chargee unless it becomes a mortgagee in possession of the Property.

23.2 For the purpose of this clause 23, Planning Agreement means any agreement in relation to the Property and/or the land shown edged red green, pink or light blue on Plan 3 under:

- (a) Section 38 of the Highways Act 1980;
- (b) Section 278 of the Highways Act 1980;
- (c) Section 18 of the Public Health Act 1936;
- (d) Section 104 Water Industry Act 1991;
- (e) Section 106 of the Town and Country Planning Act 1990; and
- (f) any other enactment which enables agreements to be made between (inter alia) any statutory authority and any person interested in the development of land or the carrying out of any civil engineering work for the purpose of allowing or regulating the same

which is necessary or desirable in order to secure a Planning Permission for the Property and/or the land shown edged red green, pink or light blue on Plan 3, and/or to secure/procure adoption of any road or services serving the Property and/or the land shown edged red green, pink or light blue on Plan 3 which are/will be constructed within the Property.

This deed has been executed and delivered as a deed on the date shown at the beginning of hereof.

SCHEDULE 1

Chargor's Warranties and Representations

1. Representations and Warranties

The Chargor represents and warrants to the Chargee as set out in this schedule.

2. Duration and Scope

The representations and warranties set out in this clause will be deemed to be repeated by the Chargor on each day until the Secured Amounts have been paid in full in relation to the then existing circumstances.

3. Status

3.1 It is a limited liability company, duly incorporated and validly existing under the laws of England.

3.2 It has the power to own its assets and carry on its business as it is being conducted.

4. Binding obligations

The obligations expressed to be assumed by it in this deed are its legal, valid, binding and enforceable obligations.

5. Non conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents, or
- (c) any agreement or instrument binding upon it or any of its assets.

6. Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents and the transactions contemplated by those documents.

7. Validity and admissibility in evidence

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, registrations and notarisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents; and

- (b) to make such documents admissible in evidence in its jurisdiction of incorporation,

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

8. Ownership of Charged Property

It is the legal and beneficial owner of the Property.

9. The Real Property

Except as disclosed in writing to the Chargee:

- (a) the Property is free from any Lease;
- (b) It has not received or acknowledged notice of any adverse claim by any person in respect of the Property or any interest in it;
- (c) there is no material breach of any law in respect of the Property;
- (d) there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which have been created by or permitted by the Chargor and which materially adversely affect the Property;
- (e) nothing has arisen or has been created during the Mortgagor's ownership of the Property which would be an overriding interest over the Property;

SCHEDULE 2

Chargor's Covenants

1. Dealings and encumbrances

The Chargor shall not without the previous consent in writing of the Chargee (and then only to the extent permitted by and in accordance with any conditions attached to such consent):

- (a) create or permit to subsist any mortgage, pledge, charge, incumbrance, lien or other security interest in the Property other than the security created pursuant to this deed and any security interest regulated by any Deed of Priority; and
- (b) sell or otherwise dispose of any interest it has in the Property (other than a Permitted Disposition or as otherwise regulated by any Deed of Priority).

2. Effectiveness of security

The Chargor shall not do, or permit to be done, any act or thing which would or might jeopardise or otherwise prejudice the effectiveness of the security created by this deed or materially diminish the value of all or any of the Property. This shall not prohibit the Chargor undertaking the remediation works on (inter alia) the Property that it is contractually obliged to the Chargee to undertake.

3. Compliance with laws

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

4. Further assurance

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

5. Chargor's waiver of set-off

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

6. No restrictive obligations

The Chargor shall not, without the prior written consent of the Chargee:

- (a) permit any person to be registered as proprietor of the Property under the Land Registration Act 2002;
- (b) enter into any onerous or restrictive obligations affecting the whole or any part of the Property; or
- (c) create or permit to arise any overriding interest, easement or right whatsoever in or over the whole or any part of the Property,

other than a Permitted Disposition.

7. Compliance with and enforcement of covenants

Save for any matters covered by defective title indemnity insurance the Chargor covenants by way of indemnity only to observe and perform in all material respects all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject.

8. Inspection

The Chargor shall permit the Chargee and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice without the Chargee becoming liable as mortgagee in possession.

9. Insurance

9.1 The Chargor shall ensure that it obtains all appropriate insurances in respect of the Property (including, without limitation, property owners' public liability and third party liability insurance) and shall insure such risks as a prudent company in the same business as the Chargor would insure and insure against any other risk as may be required by the Chargee (acting reasonably).

9.2 In each case, such insurance shall be in an amount, and in form, and with an insurance company or underwriters, which would be acceptable to a commercially sensible prudent company in the same business as the Chargor.

10. Information

The Chargor shall, at the request of the Chargee, provide the Chargee with any requested information in respect of the Property.

11. Development

11.1 Save for any works:

- (a) to be carried out or procured by the Chargor pursuant to the Contract for Sale; or
- (b) works reasonably required by the Chargor to provide services and infrastructure to the Property or any part of it (whether or not subject to the security comprised in this deed) or the land shown edged red, green, pink or light blue on Plan 3 in accordance with the Planning Permission; or

- (c) to be undertaken to discharge conditions contained in the Planning Permission or satisfy and discharge any obligations in any Planning Agreement,

the Chargor may not carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of all or any part of the Property that is from time to time subject to the terms of the security constituted by this deed.

- 11.2 If it carries out any works permitted under paragraph 11.1, the Chargor shall carry out such works in a good and workmanlike manner and in accordance with all statutory requirements (including, without limitation, the Planning Permission and/or Planning Agreement).

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SCHEDULE 3

Powers of the Chargee

1. Power to remedy

- 1.1 The Chargee shall be entitled (but shall not be obliged) to remedy a breach at any time by the Chargor of any of its material obligations contained in this deed and the Chargor Irrevocably authorises the Chargee and its agents to do all such things as are necessary or desirable for that purpose.
- 1.2 Any monies expended by the Chargee in remedying a breach by the Chargor of any of its obligations contained in this deed shall be reimbursed by the Chargor to the Chargee and shall carry interest in accordance with clause 2.2.
- 1.3 In remedying any breach in accordance with paragraph 1 of this Schedule, the Chargee, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Chargee may (acting reasonably) consider necessary or desirable to remedy the breach including, without limitation, carrying out any repairs.

2. Exercise of rights

The rights of the Chargee under paragraph 1 of this Schedule are without prejudice to any other rights of the Chargee under this deed and the exercise of those rights shall not make the Chargee liable to account as a mortgagee in possession.

3. Chargee has Receiver's powers

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

4. Indulgence

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

SCHEDULE 4

Powers of a Receiver

1. Power to repair and develop the Property

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

2. Power to grant or accept surrenders of leases

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

3. Power to employ personnel and advisers

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

3.2 A Receiver may discharge any such person or any such person appointed by the Chargor.

4. Power to make and revoke VAT options to tax

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

5. Power to charge for remuneration

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

6. Power to realise Property

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

7. Power to dispose of Property

7.1 A Receiver may grant options and licences over all or any part of the Property, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases of, all or any of the Property in respect of which he is appointed for such consideration and, in such manner (including, without

limitation, by public auction or private sale) and generally on such terms and conditions as he thinks fit.

- 7.2 A Receiver may promote, or concur in promoting, a company to purchase the Property to be disposed of by him.

8. Power to sever fixtures and fittings

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

9. Power to give valid receipts

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

10. Power to make settlements

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

11. Power to bring proceedings

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

12. Power to insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 13 effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed.

13. Powers under LPA 1925

A Receiver may exercise all powers provided for in the 1925 Act in the same way as if he had been duly appointed under that act and exercise all powers provided for an administrative receiver in Schedule 1 of the 1986 Act.

14. Power to borrow

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

15. Power to redeem prior Encumbrances

- 15.1 A Receiver may redeem any prior Encumbrance and settle and pass the accounts to which the Encumbrance relates.

15.2 Any accounts settled and passed pursuant to paragraph 17 of this Schedule shall be conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

16. Power of absolute owner

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

17. Incidental powers

A Receiver may do all such other acts and things:

- (a) as he may consider incidental or conducive to any of the matters or powers in this Schedule, or which he lawfully may or can do as agent for the Chargor;
- (b) which the Chargor would have been entitled to do or exercise if no Receiver had been appointed; and
- (c) which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of the Property (or any part of it) or for or in connection with the enforcement of the Encumbrances created by this deed or the realisation of the Property or any part of it.

SCHEDULE 5

Events of Default


For the purposes of this deed the following are Events of Default:

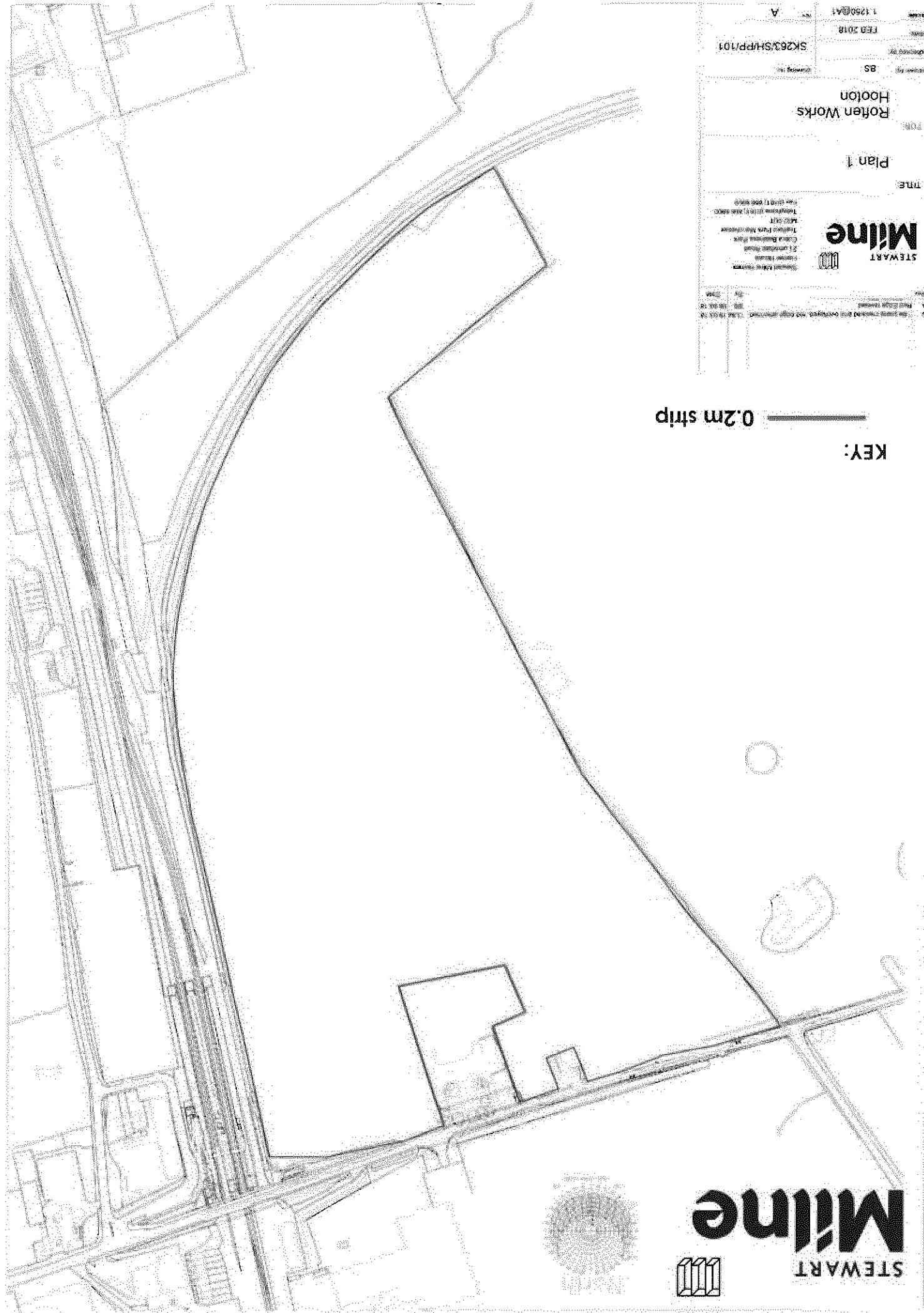
1. The Chargor fails to pay any sum payable by the Chargor as principal obligor under this deed or any other Transaction Document when it is validly due.
2. The Chargor is or becomes Insolvent.
3. Any rights conferred upon the Chargee by any provision of this deed in any respect cease to be in full force and effect or to be continuing or become invalid or unenforceable.
4. It is or becomes unlawful for the Chargor to perform any of its obligations under the Transaction Documents.
5. The Chargor repudiates any Transaction Document.

SCHEDULE 6

Plan

STEWART Milne 25, Lonsdale Road Glasgow G4 0PU Tel: 0141 204 4400 Fax: 0141 204 4401 Email: info@stewartmilne.co.uk		Project: Roffen Works Hooton	Drawing No: BS	Drawing Date: SK263/SH/PP/1/01
Title: Plan 1		Scale: 1:1250 @ A1		
Date: FEB 2018		Author: A		

KEY:  0.2m strip





KEY:

———— **CARE HOME LAND**

Revised plans checked and approved: not stage amended. Date: 10.03.18
 By: BS Date: 10.03.18



Stewart Milne - Harrier
 Harrier House
 2 Lupton Road
 Colton Business Park
 Trafford Park Manchester
 M20 6UJ
 Telephone: 0161 856 0902
 Fax: 0161 856 0903

TITLE

**Plan 2
Care Home Land**

JOB

**Roften Works
Hooton**




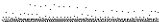

Drawn by:	BS	Drawing No:	SK263/SH/PP/102
Checked by:			
Date:	FEB 2018		
Scale:	1:1250 @ A1	Rev:	A

STEWART

Milne



KEY:

-  PHASE 1
-  PHASE 2
-  PHASE 3
-  PHASE 4
-  CARE HOME LAND

0 This state checked and approved: not edge amended: DATE: 19.03.18
A Phase 1 and Care Home Land revised as submitted: BS: 09.03.18
edge amendments

Rev: By: Date:

STEWART
Milne



Stewart Milne Group
Harlow House
2 Lonsdale Road
Coles Business Park
Fishtoft Park, Mansfield
NG20 0BT
Telephone: 01930 898 860
Fax: 01930 898 850

TITLE:
Plan 3
Phasing Plan

FOR:
Roften Works
Hooton

drawn by: BS Drawing no:
checked by: SK263/SHPP/103
date: FEB 2018
scale: 1:1250 @ A1 rev: B

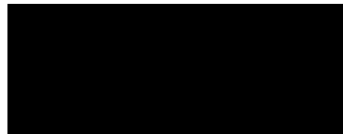
EXECUTION PAGE

CHARGOR

EXECUTED as a deed by
STEWART MILNE GROUP
LIMITED acting by a director in the
presence of:

)
)
)
)

Director



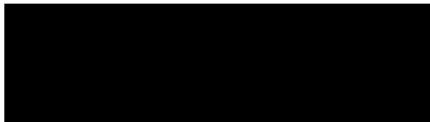
Witness

Signature:



Full Name: DAVID UESLIE

Address:



CHARGEЕ

EXECUTED as a deed by
BURFORD DELTA LIMITED acting by a
director in the presence of:

)
)
)

Director

Witness

Signature:

Full Name:

Address: