



**Registration of a Charge**

Company name: **MILLER HOMES LIMITED**

Company number: **SC255429**



X979816Q

Received for Electronic Filing: **15/06/2020**

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**Details of Charge**

Date of creation: **29/05/2020**

Charge code: **SC25 5429 0366**

Persons entitled: **EDWARD ANDREW HUGHES**

Brief description: **THE PROPERTY DEFINED AS "PARCEL 2" IN THE SALE CONTRACT DATED 2 NOVEMBER 2018 BETWEEN THE CHARGEES AND THE SUB-CHARGOR IN RESPECT OF THE FREEHOLD LAND WITH VACANT POSSESSION AT BARNSTONE VALE, STANLEY, WAKEFIELD**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**GATELEY PLC**



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

Company number: 255429

Charge code: SC25 5429 0366

The Registrar of Companies for Scotland hereby certifies that a charge dated 29th May 2020 and created by MILLER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th June 2020 .

Given at Companies House, Edinburgh on 15th June 2020

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

29th May

2020

**MILLER HOMES LIMITED**  
as Sub-Chargor

(1)

and

**EDWARD ANDREW HUGHES**  
as Chargee

(2)

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**DEED OF SUB-CHARGE**

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DATE OF DEED OF SUB-CHARGE

29th May

2020

**PARTIES**

- (1) **MILLER HOMES LIMITED** (Company Number SC255429) whose registered office is at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH (the "**Sub-Chargor**")
- (2) **EDWARD ANDREW HUGHES** of Bridgeland Grange Farm, 142 Church Road, Altofts, Wakefield WF6 2QS (the "**Chargee**")

**INTRODUCTION**

- A The Chargee agreed to sell the Property to the Sub-Chargor pursuant to the Original Sale Contract. The Original Sale Contract has been varied pursuant to the First Deed of Variation and the Second Deed of Variation.
- B The Sub-Chargor has agreed to a further sale of the Property to the Sub-Buyer, again with a portion of the consideration for such sale being deferred.
- C The Sub-Buyer's obligations to the Sub-Chargor will be secured by way of the Legal Mortgage.
- D Pursuant to the Second Deed of Variation the Chargee has agreed to defer a portion of the consideration and has consented to the sale of the Property to the Sub-Buyer on the condition that the Sub-Chargor enters into this Deed.
- E The Board of Directors of the Sub-Chargor is satisfied that the Sub-Chargor is entering into this Deed for the purposes of its business and that its doing so benefits the Sub-Chargor.
- F The Chargee and the Sub-Chargor intend this Deed to take effect as a deed notwithstanding that the Chargee may have executed it under hand only.

**IT IS AGREED THAT:**

**1 INTERPRETATION**

**1.1 Definitions**

In this Deed the following terms have the meanings given to them in this clause.

**"Acknowledgement"** means a duly completed acknowledgement of assignment and charge in the form set out in Schedule 1 (*Form of Notice and Acknowledgement*) or in such other form as may be approved by the Chargee.

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**"Business Day"** means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**"Default Rate"** means 8% (eight per centum) per annum.

**"Encumbrance"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Event of Default"** has the meaning in clause 12.1.

**"First Deed of Variation"** means the deed of variation to the Original Sale Contract dated 14 June 2019.

**"Legal Mortgage"** means the legal mortgage over the Property granted immediately prior to this Deed by the Sub-Buyer in favour of the Sub-Chargor as security for the Sub-Buyer's obligations to the Sub-Chargor pursuant to the Sub-Sale Agreement.

**"Liability"** means any present or future obligation or liability for the payment of money, whether in respect of principal, interest or otherwise, whether actual or contingent, whether owed jointly or severally and whether as principal or surety or in any other capacity and including any amount which would constitute such a liability but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

**"Material Contracts"** means:

- (a) the Sub-Sale Agreement;
- (b) the Legal Mortgage; and
- (c) any other contract from time to time designated in writing as a Material Contract by the Chargee and the Sub-Chargor.

**"Notice"** means a duly completed notice of assignment and charge in the form set out in Schedule 1 (*Form of Notice and Acknowledgement*) or in such other form as may be approved by the Chargee.

**"Original Sale Contract"** means the contract for sale of freehold land with vacant possession at Barnstone Vale, Stanley, Wakefield between the Chargee and the Sub-Chargor dated 2 November 2018.

**"Property"** means "Parcel 2" as defined in the Sale Contract.

**"Real Property"** means:

- (a) any freehold, leasehold or immovable property and all rights, easements and privileges from time to time attached thereto; and
- (b) any buildings, fixtures from time to time situated on or forming part of that freehold, leasehold or immovable property.

**"Receiver"** means a receiver and manager or any other receiver (whether appointed pursuant to this Deed or any statute, by a court or otherwise) of all or any of the Secured Assets and shall, where permitted by law, include an administrative receiver.



**"Related Rights"** means, in relation to any asset:

- (a) the proceeds of sale of all or any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies, proceeds or income paid or payable in respect of that asset.

**"Sale Contract"** means the Original Sale Contract as amended by the First Deed of Variation and the Second Deed of Variation and as further amended and / or restated from time to time.

**"Second Deed of Variation"** means the deed of variation to the Original Sale Contract as varied by the First Deed of Variation and dated on or about the date of this Deed.

**"Secured Assets"** means all of the assets, rights, title, interests and benefits of the Sub-Chargor from time to time subject to the Security.

**"Secured Obligations"** means all present and future Liabilities of the Sub-Chargor to the Chargee under or in relation to the Sale Contract (including, without limitation, all Liabilities arising out of any extension, variation, modification, restatement or novation of the Sale Contract whatsoever).

**"Security"** means the security created or intended to be created by this Deed.

**"Security Period"** means the period beginning on the date of this Deed and ending on the date upon which the Chargee is satisfied that all Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

**"Sub-Buyer"** means Berkeley de Veer Limited (Company Number 08859036).

**"Sub-Sale Agreement"** means the sale and purchase agreement between, among others, the Sub-Chargor and the Sub-Buyer dated 25 January 2019 relating to the onward sale of the Property (as varied by a deed of variation on or around the date of this Deed).

**"Sub-Sale Transfer Deed"** means the deed of transfer of the Property dated on or about the date of this Deed between the Sub-Chargor and the Sub-Buyer.

**"Subsidiary"** means a subsidiary within the meaning of section 1159 of the Companies Act 2006.

**"Tax"** 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).

"VAT" means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

## 1.2 Defined Terms

Unless this Deed provides otherwise or the context otherwise requires, a term which is defined (or expressed to be subject to a particular construction) in the Sale Contract shall have the same meaning (or be subject to the same construction) in this Deed.

## 1.3 Incorporation of Terms

The terms of the Sale Contract and any side letters between the Sub-Chargor and the Chargee are incorporated into this Deed to the extent required for any purported disposition contained in this Deed to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 1.4 Certificates

Any certification or determination by the Chargee of a rate or amount of any Secured Obligation owed to it shall be, in the absence of manifest error, conclusive evidence of the existence and amount of such Secured Obligation.

## 1.5 Implied Covenants

In accordance with Rule 68 of the Land Registration Rules 2003:

- (a) the covenants set out in Section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to clauses 3 (*Fixed Charges*) and 4 (*Assignments*) save for the words "other than any charges, encumbrances or rights which that person does not and could not reasonably be expected to know about";
- (b) the covenants set out in Section 3(2) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to clauses 3 (*Fixed Charges*) and 4 (*Assignments*) save for the words "except to the extent that such liabilities and rights are, by reason of (i) being, at the time of the disposition, only potential liabilities and rights in relation to the property or (ii) being liabilities and rights imposed or conferred in relation to property generally, not such as to constitute defects in title"; and
- (c) the covenants set out in Section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to clauses 3 (*Fixed Charges*) and 4 (*Assignments*).

## **1.6 Third Party Rights**

- (a) The terms of this Deed may be enforced only by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded, provided that any Receiver may rely on and enforce this Deed.
- (b) The parties to this Deed may vary or rescind this Deed without the consent of any third party.

## **1.7 Clause and Schedule Headings**

- (a) Unless otherwise stated, any reference in this Deed to a clause or a Schedule shall be construed as a reference to a clause of or a schedule to this Deed.
- (b) Clause and Schedule headings are for ease of reference only and shall not affect the construction of this Deed.

## **2 COVENANT TO PAY**

### **2.1 Covenant to Pay**

The Sub-Chargor agrees that it will pay and discharge the Secured Obligations as and when they fall due or, if no time for payment is specified in respect of the same, promptly on demand of the Chargee.

### **2.2 Interest**

Any Secured Obligation which is owed by the Sub-Chargor under this Deed and is not paid when due shall bear interest at the Default Rate from the due date until the date on which such Secured Obligation is unconditionally and irrevocably paid in full and such interest shall accrue from day to day (after as well as before judgment) and be payable by the Sub-Chargor on demand of the Chargee.

## **3 FIXED CHARGES**

- (a) The Sub-Chargor, with full title guarantee and as continuing security for the payment and discharge of the Secured Obligations, charges in favour of the Chargee:
  - (i) at law with the payment of the money indebtedness secured by the Legal Mortgage;
  - (ii) all rights of the Sub-Chargor under the Legal Mortgage; and
  - (iii) to the extent that the same are not validly assigned pursuant to clause 4 (*Assignments*), the Material Contracts and all Related Rights.
- (b) The Security created pursuant to paragraphs (a)(i) and (ii) above is a charge as referred to in section 23(2) of the Land Registration Act 2002 and shall not be construed as a "legal sub-mortgage" as defined in section 23(3) of the Land Registration Act 2002.

## **4 ASSIGNMENTS**

### **4.1 Assignments**

Subject to clause 4.2 (*Non-Assignable Rights*), the Sub-Chargor, with full title guarantee and as continuing security for the payment and discharge of the Secured Obligations, assigns absolutely to the Chargee all its present and future right, title and interest in and to and the benefit of all the Material Contracts and all Related Rights.

### **4.2 Non-Assignable Rights**

The Sub-Chargor declares that to the extent that any right, title, interest or benefit in or in respect of any asset described in clause 4.1 (*Assignments*) cannot be or is not effectively assigned pursuant to clause 4.1 for whatever reason, the Sub-Chargor shall:

- (a) promptly notify the Chargee of the same and the reasons therefor;
- (b) hold the benefit of the same on trust for the Chargee as security for the payment and discharge of the Secured Obligations; and
- (c) take such steps as the Chargee may require to remove such impediment to an assignment.

## **5 NOTICE OF ASSIGNMENT OR CHARGE**

The Sub-Chargor shall promptly upon the execution of this Deed and thereafter upon the request of the Chargee, give notice of the assignments or charges effected pursuant to clauses 3 (*Fixed Charges*) and 4.1 (*Assignments*) by sending a Notice to each debtor or obligor party to each Material Contract and the Sub-Chargor shall use all its reasonable endeavours to procure that within 3 days of the date of the relevant Notice the recipient thereof acknowledges the same in the form of the relevant Acknowledgement.

## **6 CONTINUING SECURITY**

### **6.1 Continuing and Independent Security**

The Security shall constitute and be continuing security which shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Obligations, shall continue in full force and effect until the end of the Security Period and is in addition to and independent of, and shall not prejudice or merge with, any other security (or any right of set-off) which the Chargee may hold at any time for the Secured Obligations or any of them.

## **6.2 New Accounts**

If the Chargee receives notice of any Encumbrance created or arising after the date of this Deed in respect of the Secured Assets or any of them or makes demand of the Sub-Chargor for payment of any or all of the Secured Obligations:

- (a) the Chargee may open a new account or accounts in respect of any or all of the Secured Obligations (and if it does not do so it shall be treated as if it had done so at the time it received such notice or made such demand); and
- (b) thereafter any amounts paid to the Chargee in respect of the Secured Obligations, or realised or recovered by the Chargee under this Deed, shall be credited to a new account (or be treated as having been so credited) and not applied (or be treated as having been applied) in or towards payment of all or any of the Secured Obligations.

## **6.3 Avoidance of Payments**

Where any release, discharge or other arrangement in respect of any Secured Obligation or any Encumbrance which the Chargee may hold for such Secured Obligation is given or made in reliance on any payment or other disposition which is avoided or must be repaid in an insolvency, liquidation or otherwise, and whether or not the Chargee has conceded or compromised any claim that any such payment or other disposition will or should be avoided or repaid, this Deed and the Security shall continue as if such release, discharge or other arrangement had not been given or made.

## **6.4 Immediate Recourse**

The Chargee shall not be obliged before exercising any of the rights conferred on it by this Deed or by law to seek to recover amounts due from any guarantor or surety or to exercise or enforce any other rights or security it may have or hold in respect of the Secured Obligations or any of them.

## **6.5 Waiver of Defences**

Neither the obligations of the Sub-Chargor under this Deed, nor the Security and the rights, powers and remedies conferred on the Chargee by this Deed or by law shall be discharged, impaired or otherwise affected by:

- (a) the winding-up, dissolution, administration or reorganisation of the Sub-Chargor or any other person or any change in the status, function, control or ownership of the Sub-Chargor or any such person;
- (b) any of the Secured Obligations or any other security held by the Chargee in respect thereof being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (c) any time or other indulgence being granted or agreed to or with the Sub-Chargor or any other person in respect of the Secured Obligations or any of them or in respect of any other security held by the Chargee in respect thereof;

- (d) any amendment to, or any variation, waiver or release of, the Secured Obligations or any of them or any other security, guarantee or indemnity held by the Chargee in respect thereof;
- (e) any total or partial failure to take or perfect any security proposed to be taken in respect of the Secured Obligations or any of them;
- (f) any total or partial failure to realise the value of, or any release, discharge, exchange or substitution of, any other security, guarantee or indemnity held by the Chargee in respect of the Secured Obligations or any of them; or
- (g) any other act, event or omission which might operate to discharge, impair or otherwise affect the obligations of the Sub-Chargor under this Deed, the Security or any of the rights, powers and remedies conferred on the Chargee by this Deed or by law.

## **6.6 No Competition**

Any right which the Sub-Chargor may have by way of subrogation, contribution or indemnity in relation to the Secured Obligations, or otherwise to claim or prove as a creditor of any other person or its estate in competition with the Chargee, shall be exercised by the Sub-Chargor only if and to the extent that the Chargee so requires and in such manner and upon such terms as the Chargee may specify and the Sub-Chargor shall hold any moneys, rights or security held or received by it as a result of the exercise of any such rights on trust for the Chargee for application in accordance with the terms of this Deed as if such moneys, rights or security were held or received by the Chargee under this Deed.

## **6.7 Appropriation**

The Chargee shall not be obliged to apply any sums held or received by it in respect of the Secured Obligations in or towards payment of the Secured Obligations and any such sum shall be held by or paid to the Chargee for application pursuant to the terms of this Deed provided that any such sum may be credited to a suspense or impersonal account and held in such account pending the application from time to time of such sums in or towards discharge of the Secured Obligations.

## **7 REPRESENTATIONS AND WARRANTIES**

The Sub-Chargor makes the representations and warranties set out in clauses 7.1 (*Status and Due Authorisation*) to 7.9 (*Terms of Sub-Sale*) to the Chargee and acknowledges that the Chargee has entered into the Second Deed of Variation and this Deed in reliance on such representations and warranties.

### **7.1 Status and Due Authorisation**

It is a limited company incorporated under the laws of Scotland with power to enter into this Deed and to exercise its rights and perform its obligations under this Deed and all corporate and other action required to authorise its execution of this Deed and its performance of its obligations under this Deed has been duly taken.

## **7.2 Binding Obligations**

The obligations expressed to be assumed by it in this Deed are legal and valid obligations binding on and enforceable against it in accordance with the terms of this Deed and no limit on its powers will be exceeded as a result of the creation of the Security or the performance of its obligations under this Deed.

## **7.3 No conflict**

Its execution of this Deed and the exercise of its rights and performance of its obligations under this Deed do not and will not conflict with:

- (a) any agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets or, except as provided in this Deed, result in a requirement for the creation of any Encumbrance over any of its assets in any way;
- (b) its constitutional documents; or
- (c) any applicable law, regulation or official or judicial order.

## **7.4 All Actions Taken**

All acts, conditions and things required to be done, fulfilled and performed in order to:

- (a) enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this Deed;
- (b) ensure that the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable; and
- (c) make this Deed admissible in evidence in England and Scotland,

have been done, fulfilled and performed.

## **7.5 No Deductions or Withholdings**

It will not be required to make any deduction for or withholding on account of Tax from any payment it may make under this Deed.

## **7.6 No Filing or Stamp Taxes**

It is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in England or Scotland or that any stamp, registration or similar Tax be paid on or in relation to this Deed save that it is registrable under the Companies Act 2006 and under the Land Registration Act 2002.

## **7.7 No Winding-up**

It has not taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against it for its winding-up, dissolution, administration or reorganisation or for the appointment of a Receiver or similar officer of it or of any or all of its assets or

revenues nor have any steps which are similar or which would have similar effect been taken, whether in its jurisdiction of incorporation or elsewhere.

#### **7.8 No Adverse Interests**

- (a) Subject only to the Security, no person other than the Sub-Chargor has any legal or beneficial interest (or any right to claim any such interest) in the Secured Assets and the Sub-Chargor has not received notice of any such claim.
- (b) It has not transferred, mortgaged, charged or otherwise disposed of (or agreed to transfer, mortgage, charge or otherwise dispose of), whether by way of security or otherwise, the benefit of all or any of its right, title and interest in and to the Secured Assets or any part of the Secured Assets.

#### **7.9 Terms of Sub-Sale**

- (a) The Sub-Sale Agreement, the Sub-Sale Transfer Deed and the Legal Mortgage contain all the terms applicable to the sub-sale of the Property to the Sub-Buyer.
- (b) The deferred consideration payments under the Sub-Sale Agreement fall due on the same dates as the Sale Contract and are no less than the amounts due under the Sale Contract on the relevant date.
- (c) The Legal Mortgage creates a valid Encumbrance over the Property and will take effect as a first legal mortgage upon registration at the Land Registry.
- (d) No other Encumbrance will be created or permitted to be created over the Property by the Sub-Buyer.
- (e) Without prejudice to clause 7.3 (*No conflict*) above, the execution of this Deed and the exercise of its rights and performance of its obligations under this Deed and its registration at the Land Registry do not and will not conflict with any term of the Sub-Sale Agreement, the Sub-Sale Transfer Deed or the Legal Mortgage.

#### **7.10 Repetition**

The representations and warranties set out in clauses 7.1 (*Status and Due Authorisation*) to 7.9 (*Terms of Sub-Sale*):

- (a) shall survive the execution of this Deed; and
- (b) are made on the date of this Deed and are deemed to be repeated on each day during the Security Period with reference to the facts and circumstances then existing.



## **8 GENERAL UNDERTAKINGS**

### **8.1 Authorisations**

The Sub-Chargor shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all Authorisations required in or by the laws of England or Scotland to enable it lawfully to enter into and perform its obligations under this Deed and to ensure the legality, validity, enforceability and admissibility in evidence in England and Scotland of this Deed.

### **8.2 Negative Pledge and Disposals**

The Sub-Chargor will not:

- (a) create or permit to subsist any Encumbrance over all or any of its present or future Secured Assets; or
- (b) dispose of any of its Secured Assets,

except in each case with the prior written consent of the Chargee.

### **8.3 No Prejudicial Action and Maintenance**

- (a) The Sub-Chargor shall not:
  - (i) take any action which would cause any of the representations made in clause 7 (*Representations and Warranties*) to be untrue or incorrect in any respect at any time during the Security Period; or
  - (ii) do or permit to be done anything which could reasonably be expected to prejudice the Security.
- (b) The Sub-Chargor shall notify the Chargee of the occurrence of any event which results in (or could reasonably be expected to result in) any of the representations contained in clause 7 (*Representations and Warranties*) being untrue or incorrect in any respect when made or when deemed to be repeated.

## **9 MATERIAL CONTRACTS**

### **9.1 Documents**

The Sub-Chargor will deliver to the Chargee:

- (a) immediately following execution of this Deed certified copies of the Sub-Sale Agreement, the Sub-Sale Transfer Deed and the Legal Mortgage executed by the parties thereto; and
- (b) promptly following execution of the same, certified copies of any variations to the Sub-Sale Agreement, the Sub-Sale Transfer Deed and the Legal Mortgage executed by the parties thereto.

## **9.2 No Amendments**

The Sub-Chargor will not:

- (a) amend, supplement, supersede or waive any provision of any Material Contract, exercise any right to rescind, cancel or terminate any Material Contract or release any counterparty from any obligations under any Material Contract; or
- (b) waive any breach by any counterparty or consent to any act or omission which would otherwise constitute such a breach,

except with the prior written consent of the Chargee.

## **9.3 Performance**

The Sub-Chargor will:

- (a) duly and promptly perform its obligations and, unless the Chargee shall otherwise require, diligently pursue its rights and remedies under each Material Contract; and
- (b) notify the Chargee of any material breach of or default under a Material Contract by it or any other party and any right that arises entitling it or any other party to terminate or rescind a Material Contract, promptly on becoming aware of the same.

## **9.4 Restriction on Dealing**

Without prejudice and in addition to clause 8.2 (*Negative Pledge and Disposals*) the Sub-Chargor will not assign, transfer, charge or otherwise deal with or dispose of any Material Contract or any of the Sub-Chargor's rights, title, interest and benefits in, to and in respect of any Material Contract.

## **10 FURTHER ASSURANCE**

The Sub-Chargor shall from time to time and at its own expense, give all such assurances and do all such things as the Chargee may require or consider desirable to enable the Chargee to perfect, preserve or protect the Security or the priority of the Security or to exercise any of the rights conferred on the Chargee by this Deed or by law and to that intent the Sub-Chargor shall execute all such instruments, deeds and agreements, obtain all consents, approvals and other authorisations necessary to create legally and validly, without any breach of contract or duty, the fixed charges and to effect the assignments envisaged under clauses 3 (*Fixed Charges*) and 4 (*Assignments*) respectively, and shall give all such notices and directions as the Chargee may consider expedient.

## **11 POWER TO REMEDY**

Without prejudice to the Chargee's rights under clause 8 (*General Undertakings*), if the Sub-Chargor fails to comply with any of its obligations in relation to any of its assets under this Deed, or the Chargee reasonably considers that the Sub-Chargor has failed to comply with any such obligations, the Chargee may, if it thinks fit (but

without any obligation) take such steps as it deems appropriate to remedy such failure (including, without limitation, the carrying out of repairs, the putting in place of insurance or the payment of costs, charges or other expenses) and the Sub-Chargor will co-operate with and will grant the Chargee or its agents or contractors such access as the Chargee may require to the relevant assets or otherwise in order to facilitate the taking of such steps.

## **12 ENFORCEMENT OF SECURITY**

### **12.1 Event of Default**

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

(a) Breach of Sale Contract

The Sub-Chargor fails to comply with the provisions of the Sale Contract (including paying any sum payable under the Sale Contract when due).

(b) Misrepresentation

Any representation or statement made or deemed to be made by the Sub-Chargor in the Sale Agreement or this Deed or any other document delivered by or on behalf of the Sub-Chargor under or in connection with them is or proves to have been incorrect or misleading when made or deemed to be made.

(c) Insolvency

- (i) The Sub-Chargor is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend 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.
- (ii) The value of the assets of the Sub-Chargor is less than its liabilities (taking into account contingent and prospective liabilities).
- (iii) A moratorium is declared in respect of any indebtedness of the Sub-Chargor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

(d) Insolvency proceedings

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, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Sub-Chargor;

- (ii) a composition, compromise, assignment or arrangement with any class of creditors of the Sub-Chargor;
  - (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Sub-Chargor or any of its assets; or
  - (iv) enforcement of any security over any assets of the Sub-Chargor,
- or any analogous procedure or step is taken in any jurisdiction.

(e) Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Sub-Chargor and is not discharged within 5 Business Days.

(f) Unlawfulness and invalidity

- (i) It is or becomes unlawful for the Sub-Chargor to perform any of its obligations under the Sale Contract or this Deed or any Security created or expressed to be created or evidenced by this Deed ceases to be effective or is or becomes unlawful.
- (ii) Any obligation or obligations of the Sub-Chargor under the Sale Contract or this Deed are not or cease to be legal, valid, binding or enforceable.

(g) Repudiation and rescission of agreements

The Sub-Chargor rescinds or purports to rescind or repudiates or purports to repudiate the Sale Contract or this Deed or evidences an intention to do so.

## 12.2 Security Enforceable

The Security shall become immediately enforceable:

- (a) if an Event of Default has occurred and is continuing;
- (b) if the Sub-Chargor requests the Chargee to appoint a Receiver; or
- (c) if so requested by the Sub-Chargor.

## 12.3 Enforcement

At any time after the Security has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Security and exercise any of the rights conferred on it by this Deed or by law at such times and in such manner as it thinks fit.

## **12.4 Power of Sale**

At any time after the Security has become enforceable, the Chargee may (without notice to the Sub-Chargor) sell or otherwise dispose of the Secured Assets or any of them and shall be entitled to apply the proceeds of such sale or other disposal in paying the costs of such sale or disposal and thereafter in or towards the discharge of the Secured Obligations or otherwise as provided for in this Deed.

## **12.5 Statutory Powers**

For the purposes of all powers implied by statute, the Secured Obligations shall be deemed to have become due and payable on the date of this Deed.

## **12.6 Law of Property Act**

Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Deed or to any exercise by the Chargee of its right to consolidate mortgages or its power of sale. The statutory powers of leasing conferred on the Chargee shall be extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases and grant such options as the Chargee shall think fit and without the need to comply with any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, and clause 12.3 (*Enforcement*) shall operate as a variation and extension of Section 101 of such Act.

## **12.7 Appropriation of Financial Collateral**

To the extent that the Secured Assets constitute "financial collateral" and this Deed constitutes a "security financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226)), the Chargee may appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Obligations, the value of the property so appropriated being such amount as the Chargee shall determine in a commercially reasonable manner.

## **13 RECEIVERS**

### **13.1 Appointment of Receivers**

At any time after the Security has become enforceable or if the Sub-Chargor requests it to do so, the Chargee may, by written instrument and without notice to the Sub-Chargor, appoint any one or more persons as Receiver of such part of the Secured Assets as may be permitted by law.

### **13.2 Status of Receivers**

Each Receiver shall:

- (a) be entitled to act individually as well as jointly with any other person appointed as Receiver; and
- (b) for all purposes be deemed to be the agent of the Sub-Chargor (and no Receiver shall at any time act as agent for the Chargee) and shall as such agent be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925.

### 13.3 Powers of a Receiver

- (a) Every Receiver appointed pursuant to clause 13.1 (*Appointment of Receivers*) shall have and be entitled to exercise all of the powers set out in paragraph (b) below in addition to (i) all the powers conferred by the Law of Property Act 1925 (as extended by this Deed) on any receiver appointed under such Act and (ii) (whether or not such Receiver is an administrative receiver) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986.
- (b) The powers referred to in the first sentence of paragraph (a) above are:
  - (i) to take immediate possession of, get in and collect all or any part of the Secured Assets over which he is appointed;
  - (ii) to carry on the business of the Sub-Chargor insofar as it relates to the Secured Assets over which he is appointed as it may think fit, including the entering into of contracts and the repudiation, rescission or variation of any contract to which the Sub-Chargor is a party, and the acquisition or hiring of assets;
  - (iii) to make and effect all repairs and insurances and do all other acts which the Sub-Chargor might do in the ordinary course of its business or is obliged to do under the terms of this Deed whether for the protection or for the improvement of the Secured Assets over which he is appointed and to commence and/or complete any building operations on the Sub-Chargor's Real Property over which he is appointed and to apply for and maintain any planning permissions, building regulation approvals and any other permissions, consents or licences, in each case as it may in his absolute discretion think fit;
  - (iv) to appoint, discharge and vary the terms of employment or other engagement of managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as it may think proper;
  - (v) for the purpose of exercising any of the powers, authorities and discretions conferred on it by or pursuant to this Deed and/or of defraying any costs, charges, losses or expenses (including remuneration) which shall be incurred by it in the exercise thereof or for any other purpose, to raise and borrow money either unsecured or on the security of all or any part of the Secured Assets over which he is appointed either in priority to the Security or otherwise and generally on such terms and conditions as it may think fit and no person lending such money shall be concerned to enquire as to the propriety or purpose of the exercise of such power or to see to the application of any money so raised or borrowed;
  - (vi) to sell, lease, exchange, grant options or licences over, convert into money and realise or otherwise deal with, all or any part of the Secured Assets over which he is appointed by public auction or private contract and generally in such manner and on such terms as it shall think proper. Without prejudice to the generality of the foregoing,

it may do any of these things for a consideration consisting of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as it may think fit;

- (vii) to let all or any part of the Real Property over which he is appointed for such term and at such rent (with or without a premium) as it may think proper and to accept a surrender of any lease or tenancy thereof on such terms as it may think fit (including the payment of money to a lessee or tenant on a surrender);
- (viii) to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Sub-Chargor or relating in any way to the Secured Assets over which he is appointed or any part thereof;
- (ix) to bring, prosecute, enforce, defend and abandon any actions, suits and proceedings in relation to the Secured Assets over which he is appointed or any part thereof as may seem to it to be expedient;
- (x) to give valid receipts for all moneys and execute all assurances and things which it may think proper or desirable for realising the Secured Assets over which he is appointed;
- (xi) to form a Subsidiary or Subsidiaries of the Sub-Chargor (whether by acquisition or otherwise) and to supervise and manage the same and to transfer or otherwise dispose to any such Subsidiary all or any part of the Secured Assets over which he is appointed;
- (xii) to make or require the directors of the Sub-Chargor to make calls upon the holders of share capital in the Sub-Chargor and to enforce payment of any unpaid calls as it sees fit;
- (xiii) to enter into or otherwise grant guarantees, indemnities or otherwise incur obligations in respect of the liabilities of third parties and to make payments due in relation to the same; and
- (xiv) to do all such other acts and things as it may consider desirable or necessary for realising all or any part of the Secured Assets over which he is appointed or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of this Deed; to exercise in relation to all or any part of the Secured Assets over which he is appointed all such powers, authorities and things as it would be capable of exercising if it were the absolute beneficial owner of the same; and to use the name of the Sub-Chargor for all or any of such purposes.

#### **13.4 Removal and Remuneration**

- (a) The Chargee may whenever it may deem it expedient (and so far as it is lawfully able), by written instrument (i) remove any Receiver appointed by it and (ii) appoint a new Receiver in the place of any Receiver whose

appointment has been terminated and may from time to time fix the remuneration of any Receiver appointed by it without the limitations imposed by Section 109 of the Law of Property Act 1925.

- (b) The Sub-Chargor shall be solely responsible for the payment of the remuneration of any Receiver appointed pursuant to this Deed.

### **13.5 Chargee's Rights**

To the fullest extent permitted by law, all or any of the powers, authorities and discretions which are conferred by this Deed (either expressly or impliedly) upon a Receiver in respect of the Secured Assets may, after the Security has become enforceable, be exercised by the Chargee in relation to the whole or any part of the Secured Assets irrespective of whether or not a Receiver of all or any part of such Secured Assets has been appointed.

## **14 APPLICATION OF PROCEEDS**

Any moneys held or received by the Chargee or by any Receiver under or pursuant to this Deed shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied by the Chargee or by such Receiver, at such times as the Chargee or the Receiver considers expedient, in the following order of priority:

- (a) in or towards payment of all costs, charges, expenses and remuneration incurred by or payable to any Receiver;
- (b) in or towards payment of all other Secured Obligations; and
- (c) after the end of the Security Period, in payment of the surplus (if any) to the Sub-Chargor or such other person as may be entitled thereto.

## **15 POWER OF ATTORNEY**

### **15.1 Appointment**

By way of security for the performance of its obligations under this Deed, the Sub-Chargor irrevocably appoints the Chargee and any Receiver (and their respective delegates and sub-delegates) to be its attorney acting severally (or jointly with any other such attorney or attorneys) and on its behalf and in its name or otherwise to do any and every thing which the Sub-Chargor is obliged to do under the terms of this Deed or which such attorney considers necessary or desirable in order to exercise the rights conferred on it by or pursuant to this Deed or by law.

### **15.2 Ratification**

The Sub-Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under this Deed shall do in its capacity as such.



## **16 PROTECTION OF CHARGEES AND RECEIVERS**

### **16.1 No Liability as Mortgagee in Possession**

Neither the Chargee nor any Receiver shall, by reason of it or such Receiver entering into possession of all or any part of the Secured Assets or taking any action permitted by this Deed, be liable to account as mortgagee in possession or otherwise be liable for any loss of any kind or for any default or omission for which a mortgagee in possession might be liable.

### **16.2 Receivers and Mortgagees**

Each Receiver and the Chargee shall be entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 (as extended by this Deed) on mortgagees and receivers when such receivers have been duly appointed thereunder and the Sub-Chargor alone shall be responsible for the Chargee's and each Receiver's contracts, engagements, acts, omissions, defaults and losses and for all liabilities incurred by either of them and neither the Chargee nor any Receiver shall incur any liability therefor (either to the Sub-Chargor or to any other person).

## **17 PROTECTION OF THIRD PARTIES**

No purchaser, mortgagee or other person or company dealing with the Chargee or any Receiver or the agents of any of them shall have any need to enquire whether the Secured Obligations have become due and payable, or whether any power which the Chargee or any Receiver is purporting to exercise has become exercisable or whether any of the Secured Obligations remains outstanding nor to have regard to the application of any money paid to the Chargee or to such Receiver.

## **18 DELEGATION BY CHARGEES**

The Chargee may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the powers, authorities and discretions which are for the time being exercisable by the Chargee under this Deed in relation to all or any part of the Secured Assets. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Chargee may think fit. The Chargee shall not be in any way liable or responsible to the Sub-Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## **19 REDEMPTION OF PRIOR MORTGAGES**

The Chargee may, at any time after the Security has become enforceable, redeem any prior Encumbrance over all or any part of the Secured Assets or procure the transfer of such Encumbrance to itself and may settle and pass the accounts of the prior mortgagee, chargee or encumbrancer. Any accounts so settled and passed shall be conclusive and binding on the Sub-Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to such redemption and transfer shall be paid by the Sub-Chargor to the Chargee on demand.

## **20 RELEASE OF THE SECURITY**

After the end of the Security Period, the Chargee shall, at the request and cost of the Sub-Chargor, execute all such documents and do such other things as may be reasonably required to release the Secured Assets from the Security and procure the reassignment to the Sub-Chargor of the property and assets assigned to the Chargee pursuant to this Deed, in each case subject to clause 26.2 (*Potentially Avoided Payments*) and without recourse to or any representation or warranty by or from the Chargee.

## **21 PAYMENTS**

### **21.1 Grossing Up**

All payments by the Sub-Chargor under this Deed shall be made free and clear of, and without deduction for or on account of, Tax except, in the latter case, to the extent that the Sub-Chargor is required by law to make payment subject to Tax. If any Tax or amounts in respect of Tax must be deducted, or any other deductions must be made, from any amounts payable or paid by the Sub-Chargor under this Deed, the Sub-Chargor shall pay such additional amounts as may be necessary to ensure that the Chargee receives a net amount equal to the full amount which it would have received had payment not been made subject to Tax.

### **21.2 No Set-Off**

All payments by the Sub-Chargor under this Deed shall be made free and clear of and without deduction for or on account of any set-off or counterclaim.

### **21.3 Manner of Payment**

Each payment made by the Sub-Chargor under this Deed shall be paid in the manner in which payments are to be made by the Sub-Chargor under the Sale Contract.

## **22 COSTS AND EXPENSES**

### **22.1 Preservation and Enforcement Costs**

The Sub-Chargor shall, from time to time within three Business Days of demand by the Chargee, reimburse the Chargee on a full indemnity basis for all costs and expenses (including legal fees) incurred in or in connection with the preservation and/or enforcement of any of the rights of the Chargee under this Deed.

### **22.2 Taxes**

The Sub-Chargor shall promptly pay all stamp, registration, documentary and other Taxes, including any penalties, fines, supplements, surcharges or interest relating to such Taxes, to which this Deed or any judgment given in connection with this Deed is or at any time may be subject and shall from time to time on demand of the Chargee indemnify the Chargee against any liabilities, costs, claims and expenses (including legal fees) resulting from any failure to pay or any delay in paying any such Tax.

## **22.3 Indemnity**

The Sub-Chargor shall indemnify and hold harmless the Chargee and any and every Receiver on demand from and against any and all costs, claims, losses, expenses (including legal fees) and liabilities, and any VAT thereon, which the Chargee or a Receiver may incur as a result of the occurrence of any Event of Default, the enforcement of the Security or the exercise or enforcement by the Chargee or a Receiver of any of the rights conferred on it or them by this Deed or by law.

## **22.4 Value Added Tax**

- (a) All amounts expressed to be payable under this Deed by the Sub-Chargor to the Chargee shall be exclusive of any VAT. If VAT is chargeable on any supply made by the Chargee to the Sub-Chargor under this Deed (whether that supply is taxable pursuant to the exercise of an option or otherwise), the Sub-Chargor shall pay to the Chargee (in addition to and at the same time as paying that consideration) an amount equal to the amount of the VAT as further consideration.
- (b) No payment or other consideration to be made or furnished to the Sub-Chargor pursuant to or in connection with this Deed may be increased or added to by reference to (or as a result of any increase in the rate of) any VAT which shall be or may become chargeable in respect of any taxable supply.
- (c) Where this Deed requires any party to reimburse the Chargee for any costs or expenses, that party shall also pay any amount of those costs or expenses incurred referable to VAT charged thereon.

## **23 ASSIGNMENTS AND TRANSFERS**

### **23.1 The Sub-Chargor's Rights**

None of the rights and benefits of the Sub-Chargor under this Deed shall be capable of being assigned or transferred and the Sub-Chargor undertakes not to seek to assign or transfer all or any of such rights and benefits.

### **23.2 The Chargee's Rights**

The Chargee may assign or transfer all or any of its rights and benefits under this Deed without the consent of the Sub-Chargor.

## **24 REMEDIES AND WAIVERS**

No failure by the Chargee to exercise, nor any delay by the Chargee in exercising, any right or remedy under this Deed shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof or the exercise of any other such right or remedy.

## **25 SET-OFF**

The Chargee may (to the extent that the same is beneficially owned by it), but shall not be obliged to, set off its rights in respect of any matured Secured Obligation

against any matured obligation owed by the Chargee to the Sub-Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of effecting such set-off.

## **26 ADDITIONAL PROVISIONS**

### **26.1 Partial Invalidity**

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect or any or all of the Security is or becomes ineffective in any respect under the law of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Deed or the effectiveness in any other respect of such Security; or
- (b) the legality, validity or enforceability of such provision or the effectiveness of such Security under the laws of any other jurisdiction.

### **26.2 Potentially Avoided Payments**

If the Chargee determines that an amount paid to it under the Sale Contract or this Deed is capable of being avoided, reduced or otherwise set aside on the liquidation or administration of the person by whom such amount was paid, then for the purposes of this Deed, such amount shall be regarded as not having been paid and the liability of the Sub-Chargor under this Deed and the Security shall continue.

### **26.3 Rights Cumulative**

The rights and remedies provided by this Deed are cumulative and not exclusive of any rights or remedies provided by law.

### **26.4 Unfettered Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Chargee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

## **27 NOTICES**

Any communication to be made under or in connection with this Deed shall be made and delivered, or deemed delivered, in accordance with clause 28 (*Notices*) of the Sale Contract.

## **28 THE LAND REGISTRY**

The Sub-Chargor hereby undertakes to make or procure that there is made a due and proper application to the Land Registry (with the Chargee's consent as proprietor of the registered sub-charge):

- (a) for a restriction in the following terms to be entered on the Proprietorship Register relating thereto:

"No disposition by the proprietor of the registered charge dated *[insert date]* referred to above is to be registered without a written consent signed by the proprietor for the time being of the sub-charge dated *[insert date]* in favour of Edward Andrew Hughes or his conveyancer."; and

- (b) to note this Deed on the charges register.

## **29 GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

## **30 ENFORCEMENT**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 30 is for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

## **31 COUNTERPARTS AND EFFECTIVENESS**

### **31.1 Counterparts**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed. Transmission of an executed counterpart of this letter by fax or e-mail shall constitute effective delivery of that counterpart.

### **31.2 Effectiveness**

This Deed is intended to be a deed even if any party's execution is not in accordance with the formalities required for the execution of deeds. This Deed shall take effect and be delivered as a deed on the date on which it is stated to be made.

**This document has been executed as a deed by the Sub-Chargor and has been signed on behalf of the Chargee and is delivered and takes effect on the date stated at the beginning of it**

## SCHEDULE 1

### Form of Notice and Acknowledgement

To: Berkeley De Veer Limited  
Thorp Arch Grange  
Walton Road  
Thorp Arch  
Wetherby  
West Yorkshire  
LS23 7BA

[Date]

Dear Sirs

We hereby give you notice that pursuant to a Deed of Sub-Charge dated [• ] we have charged and assigned to Edward Andrew Hughes (the "**Chargee**"), all our rights, title, interests and benefits in, to or in respect of (i) the sale and purchase agreement dated 25 January 2019 between, among others, (1) Miller Homes Limited and (2) Berkeley De Veer Limited (as varied by a deed of variation dated [• ]) (the "**Sale Agreement**") and (ii) the legal mortgage granted by you in our favour dated [date] over land to the East of Aberford Road, Wakefield (more particularly described in a transfer dated [• ] made between (1) Miller Homes Limited and (2) De Veer Estates Limited) (the "**Legal Mortgage**", and together with the Sale Agreement, the "**Contracts**") including all monies which may be payable in respect of the Contract and have charged at law with payment of money secured by the Deed of Sub-Charge the indebtedness secured by the Legal Mortgage.

With effect from your receipt of this notice we hereby give you notice that we have agreed that:

- 1 following notice from the Sub-Chargor that an Event of Default (under and as defined in the Deed of Sub-Charge) has occurred:
  - 1.1 all payments to be made to us under or arising from the Contracts should be made to the Chargee or to its order as it may specify in writing from time to time;
  - 1.2 all remedies provided for in the Contracts or available at law or in equity shall be exercisable by the Chargee;
  - 1.3 all rights to compel performance of the Contracts shall be exercisable by the Chargee (although we shall remain liable to perform all the obligations assumed by us under the Contracts); and
  - 1.4 all rights, title, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contracts belong to the Chargee; and
- 2 no changes may be made to the terms of the Contracts nor may the Contracts be terminated without the Chargee's consent.

You are hereby authorised and instructed, without requiring further approval from us, to provide the Chargee with such information relating to the Contracts as he may from time to time request and to send copies of all notices issued by you under the Contracts to the Chargee as well as to us.

These instructions may not be revoked, nor may the terms of the Contracts be amended, varied or waived without the prior written consent of the Chargee.

Please acknowledge receipt of this notice by signing and dating the acknowledgement set out on the enclosed copy and returning it to the Chargee.

Yours faithfully

.....

for and on behalf of  
**Miller Homes Limited**



***[To be printed only on copy of the relevant Notice given]***

To: Edward Andrew Hughes  
Bridgeland Grange Farm  
142 Church Road  
Altofts  
Wakefield  
WF6 2QS

Date:

Dear Sirs

We acknowledge receipt of a notice in the terms set out above (the "Notice"). We confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title, interests and benefits in, to or in respect of the Contracts and that we will comply with the terms of the Notice.

We further agree and confirm that:

- 1 no amendment, waiver or release of any provision of the Contracts shall be effective without the prior written consent of the Chargee; and
- 2 we will not terminate the Contracts or take any action in relation to any breach thereof by the Sub-Chargor unless we have given the Chargee 30 days' prior written notice of our intention to do so specifying the action necessary by the Sub-Chargor or the Chargee to avoid such termination or action.

Yours faithfully

.....

For and on behalf of Berkeley De Veer Limited

By:

Date:

SIGNATURES

The Sub-Chargor

Executed and delivered when dated as a )  
deed by **MILLER HOMES LIMITED** acting )  
by a director in the presence of )

) Director

Signature of witness

Name .....BRYAN HARRIS.....

Address .....[REDACTED].....

The Chargee

Signed and delivered when dated as a )  
deed by **EDWARD ANDREW HUGHES** in )  
the presence of )

Signature of witness

Name .....

Address .....