



**Registration of a Charge**

Company name: **MILLER HOMES LIMITED**

Company number: **SC255429**



X9I6ECCI

Received for Electronic Filing: **19/11/2020**

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**Details of Charge**

Date of creation: **12/11/2020**

Charge code: **SC25 5429 0372**

Persons entitled: **PHILIP JAMES HOPE  
GEORGINA MARY HOPE-CROSSLEY**

Brief description: **LAND AT BISHOPTON LANE, STRATFORD-UPON-AVON COMPRISING  
12 PARCELS SHOWN EDGED RED ON THE FOUR PLANS ATTACHED  
TO THE CHARGE AT APPENDIX A (TOGETHER DEFINED AS 'PLAN 1')  
AND FORMING PART OF THE LAND UNDER TITLE NUMBERS WK395826,  
WK464054 AND WK331385**

**Contains fixed charge(s).**

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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:

**GOWLING WLG (UK) LLP**



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

Company number: 255429

Charge code: SC25 5429 0372

The Registrar of Companies for Scotland hereby certifies that a charge dated 12th November 2020 and created by MILLER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th November 2020 .

Given at Companies House, Edinburgh on 20th November 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

12<sup>th</sup> November

2020

MILLER HOMES LIMITED

(1)

AND

PHILIP JAMES HOPE AND GEORGINA MARY HOPE-CROSSLEY

(2)

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LEGAL CHARGE

relating to land at Bishopton Lane, Stratford  
Upon Avon

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## **CONTENTS**

<b>Clause</b>	<b>Heading</b>	<b>Page</b>
1	DEFINITIONS AND INTERPRETATION .....	1
2	COVENANT TO PAY AND PERFECT SECURITY .....	11
3	SECURITY .....	12
4	CHARGOR'S COVENANTS .....	13
5	CHARGEES COVENANTS .....	13
6	RESTRICTION ON DEALINGS .....	13
7	REPRESENTATIONS AND WARRANTIES .....	14
8	RIGHTS OF ENFORCEMENT .....	14
9	CHARGEES POWERS AND RIGHTS AND CONSENT TO EASEMENTS .....	16
10	RELEASE .....	17
11	LIABILITY .....	21
12	LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989 .....	22
13	INDEPENDENT SECURITY .....	23
14	COSTS AND INDEMNITY .....	23
15	POWER OF ATTORNEY .....	24
16	PERPETUITY PERIOD .....	24
17	GENERAL PROVISIONS .....	24

SCHEDULE 2	CHARGOR'S COVENANTS .....	29
SCHEDULE 3	REPRESENTATIONS AND WARRANTIES.....	32
SCHEDULE 4	EVENTS OF DEFAULT .....	33
SCHEDULE 5	CHARGEES' POWERS .....	34

THIS LEGAL CHARGE by way of deed is made the 12<sup>th</sup> day of November 2020

**BETWEEN:**

- (1) **MILLER HOMES LIMITED** (registered number SC255429) whose registered office is at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH

(the "Chargor")

- (2) **PHILIP JAMES HOPE** of 19 Kingston Road, Woodbridge IP12 4AY and **GEORGINA MARY HOPE-CROSSLEY** of 7 Engayne Gardens, Upminster, Essex, RM14 1UY

(the "Chargee")

**BACKGROUND**

- (A) The Chargor is entitled to be registered as proprietor of the Property.
- (B) Under the Agreement referred to below the Chargor has agreed to pay certain deferred payments to the Chargee.

**OPERATIVE PROVISIONS**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions shall apply:

**Act** the Law of Property Act 1925 (as amended);

**Adjoining Land** such part or parts of the Development Area (not comprising the Property from time to time charged by this Charge) as are within the ownership of the Chargor and which are required to;

(a) provide access to and from the Property from the nearest adopted highway; and

(b) provide Services to and from the Property from the nearest adopted service main;

**Affordable Housing**

means housing that satisfies the definition of 'affordable housing' in Annex 2 of the National Planning Policy Framework (February 2019) produced by the Secretary of State for Housing, Communities and Local Government and/or constitutes Affordable Housing as defined in the s106 Agreement;

**Agreement**

a contract for the sale and purchase of the Development Area dated 12<sup>th</sup> November 2020 and made between (1) Lynda Mary Kirk Smith, Richard John Kirk Smith, Robin Turney and Jane Maria Turney (2) Philip James Hope and Georgina Mary Hope-Crossley (3) Topenhall Limited and Lilian Christine Kingston (4) Richard Liam Kingston (5) Taylor Wimpey UK Limited and (6) Miller Homes Limited;

**Charged Asset**

all the assets, property and undertaking of the Chargor, which are, or are intended to be, subject to the Security created by, or pursuant to, this deed (and references to the Charged Assets shall include references to any part of them);

**Deed of Mutual Grant**

has the meaning attributed to it in the Agreement;

**Delegate**

any person appointed by the Chargee or any Receiver and any person appointed as attorney of the Chargee, Receiver or Delegate;

**Development Area**

the development site shown edged red on Plan 2;

**Dispose of**

bears the meaning given to it under Section 205(1) Law of Property Act 1925 and **disposition** and **disposal** shall be interpreted accordingly;



<b>Dwelling</b>	a house or bungalow (in each case detached, semi-detached or terraced), apartment or flat, any flat above garage(s), maisonette, cottage or other dwelling constructed or to be constructed on the Property together with its curtilage, any associated garage or garages, parking space or spaces, car port and the like (whether separate from the main dwelling or not) and (in respect of any RP Disposal) the land on which such Dwellings are to be constructed by the Chargor pursuant to a building contract entered into with the provider of Affordable Housing and <b>Dwellings</b> shall be construed accordingly;
<b>Event of Default</b>	any event specified in Schedule 4;
<b>First Deferred Payment</b>	the second instalment of the Price payable by the Chargor to the Chargee pursuant to paragraph 1(b) of Schedule 2 of the Agreement and on the date set out in the Agreement together with all interest further or additional amounts due under this Charge;
<b>Insurance Policy</b>	each contract or policy of insurance effected or maintained by the Chargor from time to time in respect of the Property (with or without any other land);
<b>Material Adverse Effect</b>	<p>a material adverse effect on:</p> <ul style="list-style-type: none"> <li>(a) the ability of the Chargor to perform and observe its obligations under this Charge or the Agreement; and</li> <li>(b) the validity or enforceability of, or the effectiveness or ranking of, the Security granted or purported to be granted pursuant to this Charge;</li> </ul>
<b>Partition Transfer</b>	<p>together the:</p> <ul style="list-style-type: none"> <li>(a) Miller Partition Transfer;</li> </ul>

(b) the Miller Common Land Transfer;

(c) the TW Partition Transfer; and

(c) the TW Common Land Transfer

all as defined in the Agreement;

**Permitted Disposition**

any of the following:

- (a) the Disposal dedication or adoption of any part of the Property to or in favour of any statutory undertaking, utility company, local authority or similar body for the provision and adoption of sewers, Service Media or other infrastructure; and/or
- (b) the Disposal dedication or adoption of any part of the Property and/or the grant of rights or easements to the highway or other competent authority for roads, footpaths, cycleways (together with ancillary area and rights) or other highway works in relation to the adoption of such roads, footpaths, cycleways (together with ancillary areas and rights) or other highway works including any agreement made under Sections 38 or 278 of the Highways Act 1980; and/or
- (c) the Disposal of any part of the Property which is required to comply with the requirements of a Statutory Agreement (including but not limited to the Education Land as defined in the Agreement but for the avoidance of doubt excluding a RP Disposal); and/or
- (d) the Disposal of any part of the Property as common parts, open space, amenity land or similar to the local authority or a management company; and/or
- (e) the grant of easements or the creation of covenants over any part of the Property required for the

development of the Property and/or the Development Area in accordance with the Planning Permission provided that such easements and/or covenants do not have a material adverse effect on the Security created by this Charge (but any standard easements or covenants in respect of Dwellings which are consistent with the provisions of clause 9.4 are permitted);

- (f) granting a temporary non-exclusive licence to contractors or surveyors to access the Property where reasonably necessary for the progression of the development of the Property in accordance with the Planning Permission; and
- (g) granting temporary access to the Property to allow for inspection by prospective purchasers of any Dwellings to be constructed on the Property pursuant to the Planning Permission;

provided always a disposition that does not comply with clause 6.2 shall not be a Permitted Disposition for the purposes of this Charge;

<b>Plan 1</b>	each of the plans attached to this Charge at Appendix A;
<b>Plan 2</b>	the plan attached to this Charge at Appendix B;
<b>Planning Acts</b>	the Town and Country Planning Act 1990 the Planning (Listed Buildings and Conservation Areas) Act 1990 the Planning (Hazardous Substances) Act 1990 the Planning (Consequential Provisions) Act 1990 and the Planning and Compensation Act 1991 and all orders regulations and instruments relating to the use and/or occupation of the Property;

<b>Planning Permission</b>	the outline planning permission ref: 15/04499/OUT dated 17 May 2017 together with the reserved matters approval ref: 18/011061/REM dated 2 May 2019 (and any other variation or replacement planning permission for residential development and ancillary uses) in respect of the Development Area;
<b>Plot Plan</b>	a Land Registry compliant plan identifying a single Dwelling constructed in accordance with the Planning Permission;
<b>Property</b>	the property described in Schedule 1;
<b>Price</b>	the amount payable by the Chargor to the Chargee as the Second Property Price as defined in and under the terms of the Agreement;
<b>Receiver</b>	any one or more receiver or manager or receiver and manager appointed by the Chargee pursuant to this Charge (whether sole, joint and/or several including any substitute);
<b>Release Documentation</b>	<p>the documentation to be produced by the Chargor at its own cost and executed or provided by the Chargee (at the reasonable cost of the Chargor) and required by the Land Registry or Companies House to give effect to (1) any Permitted Disposition completed by way of a freehold or leasehold disposal, (2) the release of part or the whole of the Property from this Charge pursuant to clause 10 or (3) on the expiry of the Security Period, including the following:</p> <ul style="list-style-type: none"> <li>(a) the name address and reference of the conveyancer (if any) acting for the Chargee in relation to the discharge;</li> <li>(b) Land Registry Form DS1 (where it is a release of the whole of the Property from this Charge) or DS3 (where it is a release of part of the Property from this Charge) and, where required Land Registry Forms RX4, duly completed by a conveyancer to enable the Chargor's solicitors to register the discharge of this Charge at the</li> </ul>

Land Registry and if the Land Registry Form DS1 or DS3 is executed by an attorney for the Chargee then the Chargee shall (in addition to complying with the above) provide the Chargor with:-

- (i) the duly executed and completed Power of Attorney; and
  - (ii) the name address and reference of the conveyancer (if any) acting for the attorney in relation to the discharge; or
  - (iii) where the attorney is not a conveyancer or represented by a conveyancer, evidence of the attorney's identity in Land Registry Form ID1 or ID2 as appropriate duly completed by a conveyancer; or
  - (iv) written confirmation (if applicable) that the attorney is a conveyancer;
- (c) duly completed and executed Companies House Form MR04),

in each case approved by the Chargee and Chargor or their solicitors acting reasonably.

**Relevant Authority**

the local planning authority local and county highway authorities town and parish councils drainage gas water electricity cable television and telecommunications companies and any other authority utility company body corporation or organisation concerned with the grant of the Planning Permission or the control of development or the control of pollution or the adoption of the Roadways and sewers and open space or the installation of Service Media and the provision of Services and the dispersal or disposal of surface water;

<b>Roadways</b>	roads, cycleways and/or footpaths including (without limitation) carriageways, roundabouts, junctions, footways, visibility splays, verges, landscaping and/or street furniture and/or any other ancillary and/or associated works to be constructed on the Property and /or the Adjoining Land (but excluding shared access areas which are not intended to be made available for public use);
<b>RP Disposal</b>	means a disposal of land to a provider of Affordable Housing and in respect of which the Chargor has simultaneously entered into a building contract with such buyer, for the construction of Affordable Housing and (at the Chargor's discretion) open market Dwellings in addition;
<b>Second Deferred Payment</b>	the third (and final) instalment of the Price payable by the Chargor to the Chargee pursuant to the calculations and on the date set out in paragraph 1(c) of Schedule 2 of the Agreement (less the aggregate of any payments already made to the Chargee pursuant to clause 10.4 and/or 10.5), together with all interest and further or additional amounts due under this Charge.
<b>Secured Sums</b>	the First Deferred Payment and the Second Deferred Payment together with all interest accruing in respect of those monies and all other sums and costs due and payable under this Charge;
<b>Security</b>	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, hypothecation, lien, assignment by way of security or other security agreement, contract, interest or encumbrance whatsoever securing any obligation of any person or any other agreement or arrangement having a similar effect;
<b>Security Period</b>	the period commencing on the date of this Charge and ending on the date upon which the Secured Sums have been unconditionally and irrevocably paid and discharged in full;

<b>Service Media</b>	includes all drains, pipes, wires, cables, conducting media and apparatus for the provision of Services now or in the future constructed on the Property;
<b>Services</b>	foul and surface water drainage and the supply of water, gas, electricity, data, energy, electronic transmissions, telecommunications services and all other services and utilities;
<b>Statutory Agreement</b>	<p>an agreement, obligation or undertaking made or to be made pursuant to all or any of the following:</p> <p>Section 106 Town and Country Planning Act 1990, Section 38, Section 184 and/or Section 278 Highways Act 1980, Section 104 Water Industry Act 1991, Section 33 Local Government (Miscellaneous Provisions) Act 1982 or Section 111 of the Local Government Act 1972 and/or any provision of the Electricity Act 1989, Gas Act 1986, Flood and Water Management Act 2010 or pursuant to any other statutory enactment or derivative legislation or as may be required by a Relevant Authority</p>
<b>s106 Agreement</b>	the section 106 agreement dated 17 May 2017 and made between (1) Topenhall Limited (2) Richard John Kingston and Lilian Christine Kingston (3) Lynda Mary Kirk Smith Richard John Kirk Smith Robin Turney and Jane Turney (4) Philip James Hope and Georgina Mary Hope-Crossley (5) Stratford-on-Avon District Council (6) Taylor Wimpey UK Limited and (7) Miller Homes Limited as varied or amended from time to time
<b>VAT</b>	value added tax or any equivalent tax chargeable in the UK or elsewhere;
<b>Working Days</b>	any day when banks in London are open for business other than a Saturday, or Sunday or public holiday in England and

other days upon which the clearing banks to the City of London are not open for business.

- 1.2 The clause, paragraph and schedule headings in this Charge are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 1.3 Unless the contrary intention appears reference:
  - (a) to numbered clauses and schedules are references to the relevant clause in or Schedule to this Charge; and
  - (b) to a numbered paragraph in any Schedule are references to the relevant paragraph in that Schedule.
- 1.4 Words in this Charge denoting the singular include the plural meaning and vice versa.
- 1.5 Words in this Charge importing one gender include the other genders and may be used interchangeably and words denoting natural persons where the context allows include corporations and vice versa.
- 1.6 Where a party to this Charge comprises more than one individual the obligations and covenants of that party shall be joint and several.
- 1.7 Reference to a party shall include that party's successors, permitted assigns and permitted transferees and this Charge shall be binding on, and enure to the benefit of, the parties to this Charge and their respective personal representatives, successors, permitted assigns and permitted transferees
- 1.8 A reference to asset or assets includes present and future properties, undertakings, revenues, rights and benefits of every description.
- 1.9 A reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution (as applicable).
- 1.10 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.

- 1.11 A reference to a statute, statutory provision or statutory instrument is a reference to it as amended, extended or re-enacted from time to time. Reference in this Charge to any statutes, statutory provision or statutory instruments include and refer to any statute, statutory provision or statutory instrument amending, consolidating or replacing them respectively from time to time and for the time being in force and references to a statute or statutory provision include statutory instruments, regulations and other subordinate legislation made pursuant to it.
- 1.12 A reference to this Charge (or any provision of it) or to any other agreement or document referred to in this Charge is a reference to this Charge, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Charge) from time to time.
- 1.13 A reference to an amendment includes a novation, re-enactment, supplement or variation (and amend and amended shall be construed accordingly).
- 1.14 Any obligation of the Chargor to do something shall include an obligation to procure that it is done and any obligation not to do something shall include an obligation not to perform, suffer or allow it to be done.
- 1.15 The term "person" includes individuals, firms, companies, corporations, bodies, organizations, partnerships, unincorporated bodies of persons, governments, states and agencies of a state, associations, trusts, joint ventures and consortiums (in each case whether or not having separate legal personality).
- 1.16 The terms "include", "including" and "in particular" or any similar expression shall be construed as not limiting any general words and expressions in connection with which it is used.
- 1.17 A reference to an **Event of Default that is continuing** is an Event of Default which has not been remedied or waived.

## **2 COVENANT TO PAY AND PERFECT SECURITY**

- 2.1 The Chargor covenants with the Chargee to pay the Secured Sums on the dates and otherwise in accordance with the Agreement and this Charge and if any part of the Secured Sums shall not be paid on the relevant due date the Chargor will pay interest (as well before as after any

judgment) on the Secured Sums or so much thereof as shall for the time being remain unpaid at the rate of 4% above the base rate from time to time of the Bank of England from (and including) the relevant due date until (and including) the date of actual payment.

- 2.2 The Chargor covenants (at the cost of the Chargor) with the Chargee promptly to execute and do all such assurances and things as the Chargee or any Receiver may require for creating, perfecting or protecting the security constituted by or intended to be created by this Charge or the rights granted or intended to be granted by it and/or facilitating the realisation of the Property or the exercise of all rights, powers, authorities and discretions conferred by this Charge upon the Chargee or any Receiver including, without limitation (if the Chargee or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Property (whether to the Chargee or to its nominee), any deed of grant in respect of rights exercisable over, through and under the Adjoining Land and the giving of any notice, order or direction and the making of any registration.

### **3 SECURITY**

- 3.1 As continuing security for the payment and discharge of the Secured Sums the Chargor with full title guarantee charges to the Chargee:

- (a) by way of first legal mortgage,
  - (i) the Property together with the rights referred to and contained in the Agreement and the transfers and deeds referred to in Schedule 1; and
  - (ii) all buildings and fixtures and fittings (including trade fixtures and fittings) that are situated on or form part of the Property at any time;
- (b) by way of a first fixed charge:
  - (i) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
  - (ii) the benefit of all other contracts, guarantees, appointments and warranties relating to the Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to any development, use or the operation of the Property.

3.2 None of the provisions of this clause 3 shall be deemed to impose on the Chargee or imply on its part any obligation or other liability in relation to the Property.

3.3 Section 103 of the Act shall not apply to this Charge or the security constituted by this Charge.

#### **4 CHARGOR'S COVENANTS**

The Chargor covenants with the Chargee in the manner set out in Schedule 2.

#### **5 CHARGEES COVENANTS**

5.1 Provided that there is no Event of Default that is continuing, the Chargee hereby consents to any Permitted Disposition and any disposal of Dwellings authorised by clause 10 (and consents to the easements created by any such Permitted Disposition and/or disposal) and agrees promptly to enter into any Statutory Agreement (at the request and reasonable and proper cost of the Chargor) as chargee only provided that:

- (a) the Chargor indemnifies the Chargee against all reasonable and proper expenses and liabilities incurred by the Chargee arising out of any Statutory Agreement;
- (b) the Chargee is not liable to perform any covenants contained in the Statutory Agreement to the extent they relate to the Property unless and until it takes possession of the Property.

#### **6 RESTRICTION ON DEALINGS**

6.1 Other than by way of a Permitted Disposition or disposal of Dwellings authorised by clause 10 whilst there is no Event of Default that is continuing, the Chargor may not and covenants that it will not at any time without the prior written consent of the Chargee:

- (a) create or attempt to create or purport to create or suffer or permit to subsist any Security over or in relation to the Property (to the extent it is then subject to the Security created by this Charge) during the Security Period ;
- (b) contract in relation to, sell, assign, transfer, create or grant any legal or equitable estate or interest in, create or allow to exist any trust in respect of the Property and notwithstanding Section 99 of the Act not to grant any lease, tenancy or licence or part with possession and occupation or in any other way dispose of the Property (or purport

to or agree to do any of the foregoing) while the same remains subject to charge created by this Charge save in accordance with the terms of the Agreement and this Charge;

- (c) otherwise deal with or dispose of all or any part of or any interest in the Property or contract or purport to do the same or suffer to arise any set-off or other third party right or rights in respect of all or any part of them.

6.2 It is agreed and declared that the Chargor may make Permitted Dispositions and disposal of Dwellings authorised by clause 10 without the consent of the Chargee but only whilst there is no Event of Default that is continuing.

6.3 The Chargor shall

supply to the Chargee on reasonable request full details of all intended Permitted Dispositions to be carried out or which have completed.

6.4 The parties to this Charge hereby apply to the Chief Land Registrar for a restriction in Standard Form NN to be registered against the title to the Property at the Land Registry to the effect that:

*"No disposition of the registered estate or any part of it is to be registered by the proprietor of the registered estate without a written consent signed by Philip James Hope and Georgina Mary Hope-Crossley or their conveyancer or a certificate signed by a conveyancer that the disposition is a Permitted Disposition as defined in the legal charge dated 12<sup>th</sup> November 2020 and made between (1) Miller Homes Limited and (2) Philip James Hope and Georgina Mary Hope-Crossley".*

## **7 REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and gives the warranties set out in Schedule 3 to the Chargee on the date of this Charge and on each day of the Security Period with reference to the facts and circumstances existing at the time.

## **8 RIGHTS OF ENFORCEMENT**

8.1 The whole of the Secured Sums shall become due (including within the meaning of Section 101 of the Act) immediately following demand after the occurrence of an Event of Default and in

addition to all other protection afforded by statute every purchaser (as defined by section 205 of the Act) or other party dealing with the Chargee or the Receiver shall be entitled to assume that the power of sale and other powers conferred by section 101 of the Act (as varied or extended by this Charge) arose on and are exercisable at any time after the execution of this Charge.

- 8.2 No purchaser, mortgagee or other person dealing with the Chargee, any Receiver or Delegate shall be concerned to enquire:
- (a) whether any of the Secured Sums have become due or payable, or remain unpaid or undischarged;
  - (b) whether any power the Chargee, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
  - (c) how any money paid to the Chargee, any Receiver or any Delegate is to be applied.
- 8.3 The receipt of the Chargee or any Receiver or Delegate shall be a conclusive discharge to a purchaser.
- 8.4 The enforcement powers of the Chargee (in addition to the powers from time to time conferred by the Act or any other statute or otherwise under the law in force from time to time) shall be immediately exercisable upon and following demand after the occurrence of an Event of Default and shall be as follows in each case without becoming liable as mortgagee in possession:
- (a) for the Chargee itself to exercise all or any of the powers and rights specified in this Charge (including but not limited to the powers and rights specified in Schedule 5) and in addition all statutory and other powers and rights as the Chargee shall, acting reasonably, think fit, after it has taken possession of any Charged Asset;
  - (b) to appoint a Receiver or any number of Receivers (by way of deed or otherwise in writing) of the Property (and to remove and substitute any such Receiver as and when the Chargee shall think fit) with all the powers and rights in law or specified in this Charge (including but not limited to the powers and rights specified in Schedule 5) which the receiver may exercise either in its own name or in the name of the Chargor of the directors of the Chargor after it has taken possession of any Charged Asset.
  - (c) so far as the law allows the Receiver shall be the agent of the Chargor who shall be liable for his acts, defaults, and remuneration but the Chargee shall be entitled to agree

such reasonable fees and expenses of and the mode of payment to the Receiver and the remuneration of the Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal;

- (d) the powers conferred on mortgagees or receivers by the Act shall apply to any Receiver appointed under this Charge as if such powers were incorporated in this Charge except in so far as they are expressly or impliedly excluded and where there is any ambiguity of conflict between the powers contained in the Act and those contained in this Charge the terms of this Charge shall prevail.

8.5 The Chargee or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Charge including the power of attorney granted under this Charge. The Chargee and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

8.6 All monies received by the Chargee, a Receiver or a Delegate shall be applied in the order determined by the Chargee. Neither the Chargee, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment in any particular order between any of the Secured Sums.

8.7 Neither the Chargee nor any Receiver shall be liable to account as mortgagee in possession in respect of the Property or be liable for any loss on realisation or for any neglect or default of any nature whatsoever for which a mortgagee in possession may be liable as such.

## **9 CHARGEES' POWERS AND RIGHTS AND CONSENT TO EASEMENTS**

9.1 At any time after this security has become enforceable the Chargee shall have all statutory and other powers and rights and in addition (and not substitution) the powers and rights specified in clause 8 and Schedule 5 and may exercise all rights and powers in the name of the Chargor and at the times and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

9.2 The Chargee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers.

### **Consent to Easements**

- 9.3 In the event of the Chargee exercising its power of sale pursuant to this Charge, the Chargee shall procure that in the event of any disposal of any part of the Property by the Chargee appropriate reasonable and necessary rights for the proper use and enjoyment of the remainder of the Property are granted or excepted and reserved over the Property subject to such disposal for the benefit of the remainder of the Property (provided the same do not adversely affect the use and enjoyment of the relevant parts of the Property so disposed of for residential dwellings).

### **Disposal of Adjoining Land**

- 9.4 In the event of any Disposal of any part of the Adjoining Land by the Chargor, the Chargor shall procure that:-
- (a) appropriate reasonable or desirable rights for the proper use and enjoyment of the Property pursuant to the Planning Permission are granted or excepted and reserved over the Adjoining Land for the benefit of the Property;
  - (b) appropriate covenants are entered into by the disponee so that the proper use and enjoyment of the Property pursuant to the Planning Permission is not adversely affected; and
  - (c) any such Disposal does not adversely affect the development, use and enjoyment of the Property in accordance with the Planning Permission.

## **10 RELEASE**

- 10.1 Provided that there is no Event of Default that is continuing, the Chargee shall, at the request and cost of the Chargor:
- (a) duly discharge from the security constituted by this Charge any part of the Property subject to a Permitted Disposition which is completed by way of a freehold or leasehold disposal and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause; and

- (b) (with immediate effect) duly discharge from the security constituted by this Charge any part(s) of the Property comprising not more than 27 plots upon which the Chargor has constructed (and/or, in the case of any open market units comprised within a RP Disposal, has contracted to construct) a Dwelling for sale on the open market and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause provided that the Chargor's solicitor shall be permitted to insert the relevant Plot Plan and equivalent plot number sign the plan on behalf of the Chargee provided that such Plot Plan shall only relate to the curtilage of a single Dwelling for sale on the open market and provided further that such Release Documentation shall only be completed following the date on which the Dwelling has been practically completed as evidenced by the issue of an NHBC or similar warranty in respect of the relevant Dwelling (or, in the case of any open market unit comprised within a RP Disposal, such Release Documentation shall only be completed prior to such practical completion of the Dwelling if the RP Disposal contains a covenant in favour of the Chargor not to construct more than a single Dwelling on the land comprised within the Plot Plan and the aggregate number of open market units comprised within the RP Disposal (and any previous RP Disposal) which are not then capable of being accessed and serviced by an adopted highway or an estate road and services which have then been constructed (at least to base course in the case of the estate road) cannot exceed the relevant number of Dwellings which have been practically completed on the Property since the date of this Charge as evidenced by the issue of an NHBC or similar warranty in respect of the relevant Dwellings); and
- (c) (with immediate effect) duly discharge from the security constituted by this Charge any part(s) of the Property upon which the Chargor has constructed or intends to construct not more than 50 Dwellings required by the relevant Statutory Agreement for use as Affordable Housing and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause provided that the plan showing the extent of the Property to be discharged pursuant to this clause shall only relate to the curtilage of any such Dwellings as are required by the Relevant Authority for use as Affordable Housing up to the maximum number of Dwellings referred to in this clause (c)).

10.2 On the payment of the First Deferred Payment by the Chargor the Chargee shall (provided that there is no Event of Default that is continuing) at the cost of the Chargor duly discharge from the security constituted by this Charge any part(s) of the Property comprising not more than 60



plots upon which the Chargor has constructed or is intending to construct a Dwelling for sale on the open market and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause provided that the Chargor's solicitor shall be permitted to insert the relevant Plot Plan and equivalent plot number and sign the plan on behalf of the Chargee provided that such Plot Plan shall only relate to the curtilage of a single Dwelling for sale on the open market and provided further that such Release Documentation shall only be completed following the date on which the Dwelling has been practically completed as evidenced by the issue of an NHBC or similar warranty in respect of the relevant Dwelling (or, in the case of any open market unit comprised within a RP Disposal, such Release Documentation shall only be completed prior to such practical completion of the Dwelling if the RP Disposal contains a covenant in favour of the Chargor not to construct more than a single Dwelling on the land comprised within the Plot Plan and the aggregate number of open market units comprised within the RP Disposal (and any previous RP Disposal) which are not then capable of being accessed and serviced by an adopted highway or an estate road and services which have then been constructed (at least to base course in the case of the estate road) cannot exceed the relevant number of Dwellings which have been practically completed on the Property since the date of this Charge as evidenced by the issue of an NHBC or similar warranty in respect of the relevant Dwellings).

10.3 On the expiry of the Security Period and subject to the Chargor having:

- (a) settled the whole of the Secured Sums remaining at the relevant time; or
- (b) (if the paragraph 6 and/or paragraph 8 of Schedule 2 of the Agreement applies) paid the Secured Sums to the extent not disputed and paid the relevant disputed amounts pursuant to and in accordance with paragraph 6b and/or 8b of Schedule 2 of the Agreement into the Escrow Account (as defined in the Agreement)

the Chargee shall (at the cost of the Chargor) release the Property from the security constituted by this Charge and shall promptly provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause

10.4 The Chargor may (in addition to the number of plots referred in clause 10.1 prior to the payment of the First Deferred Payment and in addition to the number of plots referred in clause 10.2 following payment of the First Deferred Payment) elect to release from this Charge one or more Dwelling for sale on the open market prior to the date for payment of the First Deferred Payment

or the Second Deferred Payment in accordance with the Agreement and this Charge as applicable PROVIDED THAT:

- (a) the Chargor shall (by way of payment on account towards the Second Deferred Payment) pay to the Chargee the sum of £80,000 (eighty thousand pounds) for release of each such Dwelling on or before completion of the disposal by the Chargor of such Dwelling provided that such Dwelling has been practically completed as evidenced by the issue of an NHBC or similar warranty in respect of the relevant Dwelling;
- (b) the Chargee shall on receipt of payment pursuant to clause 10.4(a) in respect of the relevant Dwelling to which the payment relates duly discharge from the security constituted by this Charge each such plot upon which the Chargor has constructed a Dwelling for sale on the open market and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause provided that the Chargor's solicitor shall be permitted to insert the relevant Plot Plan and equivalent plot number and sign the plan on behalf of the Chargee if each shall only relate to the curtilage of a single Dwelling for sale on the open market;
- (c) the amount of the Second Deferred Payment shall be reduced by an amount equal to the amount paid pursuant to this clause 10.4(a).

10.5 The Chargor may (in addition to the number of plots referred in clause 10.1(c) elect to release from this Charge one or more Dwelling for sale as Affordable Housing prior to the date for payment of the First Deferred Payment or the Second Deferred Payment in accordance with the Agreement and this Charge as applicable PROVIDED THAT:

- (a) the Chargor shall (by way of payment on account towards the Second Deferred Payment) pay to the Chargee the sum of £20,000 for release of each such Dwelling on or before completion of the disposal by the Chargor of such Dwelling;
- (b) the Chargee shall on receipt of payment pursuant to clause 10.5(a) in respect of the relevant Dwelling(s) to which the payment relates duly discharge from the security constituted by this Charge each such plot upon which the Chargor has constructed or intends to construct a Dwelling required by the relevant Statutory Agreement for use as Affordable Housing and shall within 15 Working Days of receipt of the engrossment Release Documentation from the Chargor provide those parts of the Release

Documentation which are its responsibility to produce and/or execute to give effect to the provisions of this clause provided that the relevant plan shall only relate to shall only relate to the curtilage of any such Dwellings as are required by the Relevant Authority for use as Affordable Housing and only to the relevant number of Dwellings to which the payment made pursuant to clause 10.5(a) relates);

- (c) the amount of the Second Deferred Payment shall be reduced by an amount equal to the amount paid pursuant to this clause 10.5(a).
- 10.6 By giving not less than 15 Working Days' notice the Chargor may elect to settle the whole of the Secured Sums remaining at the relevant time prior to the due date for payment of the First Deferred Payment or the payment of the Second Deferred Payment in consideration of full release of the Property from this Charge by the Chargee Provided That (if the Chargor intends to deduct any CRT Consideration (as defined in the Agreement) from the Secured Sums then the Chargor has discharged its obligations in paragraphs 6 and/or 8 (as applicable) of Schedule 2 of the Agreement save that the Settlement Date (as defined in such Schedules) shall be deemed to be reference to the date on which the Chargor intends to settle the whole of the Secured Sums remaining at the relevant time pursuant to this clause 10.6.

## **11 VARIATION TO EXTENT OF PROPERTY**

- 11.1 The Chargor may at any time prior to payment of the Secured Sums request from the Chargee a variation to the extent of the Property such that:
- (a) part or the whole of the Property is released and discharged from the security affordable by this Charge and part of the Development Area then still in the ownership of the Chargee on which the same number of Dwellings equivalent to the number of Dwellings on the whole or part of the Property to be released from this Charge becomes charged with payment of the Secured Sums; and
  - (b) when making such request the Chargor will provided to the Chargee a plan identifying the proposed revised extent of the Property.
- 11.2 As soon as reasonably practicable following any request by the Chargor pursuant to clause 11.1 the Chargee and the Chargor will (at the Chargor's reasonable cost):

- (a) execute a deed (the form of which to be agreed between the Chargee and the Chargor both acting reasonably and without delay) varying this Charge by substituting Plan 1 with the plan referred to in clause 11.1(b); and
- (b) apply to the Land Registry (and deal promptly with any requisitions raised by the Land Registry in respect of such application) for the registration referred to in clause 6.4 to be varied to include all of the land which following completion of the deed referred to in clause 11.2(a) is the subject of this Charge and to exclude any land which is released from this Charge pursuant to that deed.

## **12 LIABILITY**

12.1 The Chargor's liability under this Charge in respect of any of the Secured Sums shall not be discharged, prejudiced or affected by:

- (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;
- (b) the Chargee renewing, determining, varying or increasing any 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 or omission that, but for this clause, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

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

## **13 LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989**

13.1 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Agreement and of variations of such Agreement made between the parties thereto are incorporated into this deed.

- 13.2 Any grant of rights with full title guarantee shall be deemed to contain all of the covenants and warranties implied in respect of any conveyance with full title guarantee pursuant to section 1(2) of the Law of Property (Miscellaneous Provisions) Act 1994.

#### 14 INDEPENDENT SECURITY

The security constituted by this Charge shall be in addition to, and independent of, any other security or guarantee that the Chargee may hold for any of the Secured Sums at any time.

#### 15 COSTS AND INDEMNITY

- 15.1 The Chargor shall, on demand, pay to, or reimburse, the Chargee and any Receiver, all proper costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Chargee, any Receiver or any Delegate following the giving of notice after occurrence of an Event of Default in connection with:

- (i) this Charge or the Property;
- (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Chargee's, a Receiver's or a Delegate's rights under this Charge; and
- (iii) taking proceedings for, or recovering, any of the Secured Sums,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from (and including) the date on which the relevant cost, charge, expense, tax or liability arose until (and including) the date of full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate and in the manner specified in [this Charge].

- 15.2 The Chargee and any Receiver, attorney, agent or other person appointed by the Chargee under this Charge and the officers and employees of any such persons (each an "**Indemnified Party**") shall be entitled to be indemnified by the Chargor in respect of all costs and losses which may be incurred by, or made against, any of them (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising out of or as a consequence of:

- (a) anything done or omitted in the exercise, or purported exercise, of the powers contained in this Charge (and which was not caused by the negligence or default of the relevant Indemnified Party); or
- (b) any breach by the Chargor of any of its obligations under this Charge; or
- (c) any claim made or asserted against an Indemnified Party under any law which would not have arisen if this Charge had not been executed and which was not caused by the negligence or default of the relevant Indemnified Party.

## **16 POWER OF ATTORNEY**

- 16.1 By way of security, the Chargor irrevocably appoints the Chargee, every Receiver and every Delegate 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 that the Chargor is required to execute and do under this Charge in the event of default by the Chargor of its equivalent obligations under this Charge to execute such document or do such act or thing.
- 16.2 By way of security, the Chargee irrevocably appoints the Chargor to be the attorney of the Chargee and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that the Chargee is required to execute and do under this Charge in the event of default by the Chargee of its obligations under this Charge to execute such document or do such act or thing.
- 16.3 The Chargor and the Chargee ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the exercise or purported exercise of all or any of the rights, powers, authorities and discretions referred to in this clause.

## **17 PERPETUITY PERIOD**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **18 GENERAL PROVISIONS**

- 18.1 Neither the whole or any part of the Secured Sums and/or this Charge shall be modified, released, waived or otherwise affected in any way by any grant of time, indulgence, modification,

release, variation or waiver granted or allowed to or agreed with the Chargor or any other person or otherwise.

- 18.2 A waiver of any right or remedy under this Charge or by law by the Chargee, or any consent given under this Charge by the Chargee, is only effective if given in writing and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the Chargee from subsequently relying on the relevant provision.
- 18.3 A failure or delay by the Chargee to exercise any right or remedy provided under this Charge or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Charge. No single or partial exercise of any right or remedy provided under this Charge or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Charge by the Chargee shall be effective unless it is in writing.
- 18.4 The rights and remedies provided under this Charge to the Chargee are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law
- 18.5 If any provision (or part of a provision) of this Charge is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Charge.
- 18.6 The restriction on the right of consolidation contained in Section 93 of the Act shall not apply to this Charge.
- 18.7 Any written certificate or determination given by the Chargee pursuant or relating to this Charge shall be conclusive and binding as to the relevant items save in the case of manifest error or omission.
- 18.8 The unenforceability for whatever reason of any provision of this Charge shall in no way affect the enforceability of each and every other provision.
- 18.9 Except as expressly provided for in clause 10, this security shall not be considered as satisfied or discharged by any intermediate payment, repayment or discharge of any part only of the Secured Sums and shall constitute and be a continuing security for the Chargee notwithstanding

any settlement of account or other matter or thing and shall be in addition to and shall not operate so as in any way to limit or affect any other security which the Chargee may hold now or at any time hold for or in respect of the Secured Sums.

18.10 If the Chargee reasonably considers that an amount paid by the Chargor in respect of the Secured Sums is capable of being avoided or otherwise set aside on the Chargor suffering an Act of Insolvency (as defined in Schedule 4) or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Charge.

18.11 A reference in this Charge to a charge or mortgage of or over the Property includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property arising after the date of enforcement of this Charge;
- (c) 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
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

18.12 Any notice or other communication to be given or served under or in connection with this Charge shall be validly served if in writing and delivered by hand or by pre-paid first-class post or other next working day delivery service to

- (a) in the case of the Chargor to the Company Secretary at the registered office for the time being of the Chargor ; and
- (b) in the case of the Chargee to Ladders LLP of Number Ten, Elm Court, Arden Street, Stratford upon Avon CV37 6PA (Ref DM2/HOP00078/5) or such other solicitors as the Chargee shall appoint and notify to the other parties in writing



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

- 18.13 A notice or other communication given under or in connection with this Charge is not valid if sent by email or fax. A reference to writing or written does not include email or fax.
- 18.14 No amendment of this Charge shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 18.15 Except as expressly provided elsewhere in this Charge, a person who is not a party to this Charge shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Charge. This does not affect any right or remedy of a third party which exists, or is available, apart from the Contracts (Rights of Third Parties) Act 1999. The rights of the parties to agree any amendment or waiver under this Charge are not subject to the consent of any other person.
- 18.16 This Charge may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- 18.17 This Charge and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.
- 18.18 Neither party is permitted to assign or otherwise transfer the burden or benefit of this Charge

**DELIVERED** as a **DEED** on the date of this document

## **SCHEDULE 1**

### **Description of the Property**

ALL THAT freehold land at Bishopton Lane, Stratford-upon-Avon shown edged red on Plan 1 and which forms part of the land registered at the Land Registry under title number WK395826 , WK464054 and WK331385 (as at the date of this Charge)

Together with and subject to the rights, covenants, conditions and other matters contained in the documents set out in clauses 7.6 and 8.4 of the Agreement so far as the same affect and relate to the Property

## **SCHEDULE 2**

### **Chargor's Covenants**

- 1 Not do or cause or permit to be done anything that may in any way depreciate, jeopardise or otherwise prejudice the Security created by this Charge or prejudice the value of the Property or the effectiveness of the security created by this Charge.
- 2 On reasonable written notice to give to the Chargee or the Chargee's solicitors such information as it or they shall reasonably require relating to the Property or the operation of this Charge.
- 3 That no sale, assignment, transfer, parting with possession, lease, licence or other disposal of whatever nature or realisation of the whole or any part of or any interest in any Charged Asset nor purporting to do so nor any agreement to effect nor purport to effect all or any of them shall be entered into otherwise than as permitted in accordance with the terms of this Charge.
- 4 Promptly to advise the Chargee in writing on becoming aware of any representation or warranty set out in this Charge being materially incorrect or misleading when made or repeated, any breach of any covenant set out in this Charge and the occurrence of any Event of Default or any act, condition, circumstance or event which with the giving of notice and/or the lapse of time and/or the making of any determination and/or any combination of any of the foregoing and/or the fulfilment of any other requirements could become a breach of representation or warranty, a breach of covenant or an Event of Default.
- 5 To notify the Chargee immediately if the Chargor becomes aware that any person proposes to present a petition for an order of court or take any other step for the appointment of an administrator or liquidator.
- 6 Upon request by the Chargee to ensure that the Chargee, any Receiver and any officers, employees or other persons appointed or authorised by the Chargee or any Receiver have full access at all reasonable times and upon reasonable prior notice to all or any part of the Property and the Property as requested save to those parts of the Property where there has been a Permitted Disposition completed by way of a freehold or leasehold disposal.
- 7 Not to amalgamate or merge or enter into any partnership or joint venture arrangement in respect of the Property with any person except with the Chargee's consent.

- 8      Upon becoming aware that it is threatened, pending or commenced (whichever the earlier) to immediately give the Chargee notice in writing of any litigation, arbitration or administrative proceedings before or of any court, arbitration, tribunal or government authority or any dispute affecting the Chargor or any of its assets, rights or revenues which if determined against it might reasonably be expected to have a Material Adverse Effect.
- 9      In the event that this Charge is validly enforced by the Chargee, the Chargor shall (in connection with any report, survey, drawing or other document or materials prepared by it or on its behalf in connection with the development of the Property) promptly following request by the Chargee (at the Chargor's own cost) assign or procure the benefit of the same is assigned to the Chargee so that the Chargee shall have (in so far as the Chargor is able to grant) full copyright in respect of any drawings except the Chargor's standard house types and (in so far as the Chargor is able to grant) an irrevocable royalty free licence to use, reproduce and rely on any reports, surveys and other documents and materials which are reasonably required or desirable for the development, use, occupation and sale of any part of the Property in accordance with the Planning Permission.
- 10     To observe and perform all covenants, burdens, stipulations, requirements and obligations from time to time affecting the Property whether imposed by statute, contract, lease or otherwise.
- 11     To punctually pay, or cause to be paid, all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings now or at any time payable in respect of the Property or any part thereof or by any owner or occupier.
- 12     To give full particulars to the Chargee of any written notice, order or direction having specific application to the Property or to the area in which the Property is situate, given or made by any planning authority or other public body or authority and in connection with such notices, orders or directions, promptly take all reasonable or necessary steps to comply with the same.
- 13     Not do or knowingly omit or suffer to be done or omitted any act, matter or thing in, on or in respect of the Property required to be done or omitted by the Planning Acts or which shall contravene the provisions of the Planning Acts.
- 14     Not at any time use or permit the Property to be used in any way contrary to law and to at all times acquire and maintain all authorisations required by the Chargor's ownership, use or occupation of the Property or for the conduct of any business operated on or from the Property and will comply with all terms and conditions relating to such authorisations and with all other

applicable laws and will not do or permit any act or omission whereby any such authorisations would be liable to be varied or revoked.

- 15 Not at any time to vary the Planning Permission in a manner which would reduce the number of Dwellings remaining subject to this Charge and/or prevent access being gained to such Dwellings from the public highway along the estate roads constructed or to be constructed on the Development Area pursuant to the Planning Permission.

### **SCHEDULE 3**

#### **Representations and Warranties**

- 1      The Chargor is the sole legal and beneficial owner of the Property and has good, valid and marketable title to the Property.
- 2      The Property is free from any Security other than the Security created by this Charge.
- 3      No law, regulation, order or direction binding on it or any Charged Asset and no term of any other contract, Insurance Policy, mortgage, instrument or other undertaking or other obligation will be violated or breached by it accepting and giving full effect to all of the provisions of this Charge and/or the Agreement and no other debt incurred or owed by it or security created by it will become enforceable by virtue of the provisions of this Charge and/or the Agreement and the implementation of all or any of them.
- 4      No litigation, arbitration or administrative proceeding before or of any court, arbitration, tribunal or government authority or any dispute affecting the Chargor or any of its assets, rights or revenues is current or to the best of its knowledge threatened against it or any of the Property such as would have a Material Adverse Effect.
- 5      No Security expressed to be created under this Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or the Chargor suffering an Act of Insolvency (as defined in Schedule 4) or otherwise.
- 6      This Charge constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor and is and will continue to be effective security over the Property in accordance with its terms.
- 7      The Property has the benefit of all rights, easements, covenants and other matters over the Adjoining Land as may be reasonably necessary for the development, use and enjoyment of the Property in accordance with the Planning Permission.

## **SCHEDULE 4**

### **Events of Default**

- (1) Any failure by the Chargor to pay the Secured Sums in full on the due date (time being of the essence) in accordance with the Agreement and this Charge.
- (2) An Act of Insolvency arising in respect of the Chargor,

For the purposes of this Charge an Act of Insolvency means in relation to the Chargor:

- a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Chargor or any guarantor
- b) the making of an administration order in relation to the Chargor or any guarantor;
- c) the appointment of an administrator, in any case in relation to the Chargor or any guarantor;
- d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Chargor or any guarantor;
- e) the commencement of a voluntary winding-up in respect of the Chargor or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;
- f) the making of a winding-up order in respect of the Chargor or any guarantor;
- g) the striking-off of the Chargor or any guarantor from the Register of Companies or the making of an application for the Chargor or any guarantor to be struck-off;
- h) the Chargor or any guarantor otherwise ceasing to exist (but excluding where the Chargor or any guarantor dies); or
- i) the making of a bankruptcy order against the Chargor or any guarantor; or
- j) the levying of any execution or other such process on or against, or taking control of possession of, the whole of the Chargor's assets.

An Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction

## **SCHEDULE 5**

### **Chargee's and Receiver's Powers**

- 1 To manage and conduct the business of the Chargor in respect of the Property in all respects as if it was and remained throughout its absolute and beneficial owner and for, such purpose to enter upon and take possession, hold, get in, collect or otherwise assume control in respect of all or any of the Property.
- 2 To enter upon and take possession of the Property and undertake any works of demolition, building, reconstruction, improvement, repair or decoration on it including the commencement, carrying out and completion of any alteration, building or development utilizing for any such purpose any chattels, plant, machinery and materials then on or in the Property or otherwise attributable to any such works or which the Chargor is otherwise entitled to use and any plans, drawings and specifications of the Chargor or otherwise.
- 3 To pay any rent or other outgoings and payments charged on or otherwise relating to the Property or their ownership, occupation or use.
- 4 To sell, assign, convert into money or otherwise realize, dispose of and deal with and transfer title to the Property (including the Property) and realize assets by surrender of a leasehold estate upon such terms including the amount and nature of the consideration and in such manner as the Chargee shall think fit and on terms which bind any subsequent mortgagee.
- 5 To sever or remove or permit to be severed or removed and sell separately any fixtures or fittings.
- 6 To promote, or concur in promoting, a company to purchase the Property to be disposed of.
- 7 To grant or create any lease, tenancy or licence or enter into an agreement to do so or any other agreement or contract relating to the disposal of or other dealing with the Property (including the Property) at any and generally on such terms as it shall agree and to accept the surrender of any lease, tenancy, licence or other such agreement or contract upon such terms as it shall think fit and on terms which bind any subsequent mortgagee
- 8 To compromise any claim or claims of, against, arising out of or otherwise relating to any Charged Asset.



- 9 To effect insurances and obtain and/or enter into bonds, covenants, commitments, engagements, guarantees and indemnities or other like matters in any way relating to the Property from time to time and to make all requisite payments to effect, maintain or satisfy them.
- 10 To give receipts and releases for any sums received and execute all assurances and things that may be proper or desirable for realising any of the Property.
- 11 To obtain and maintain all necessary planning permissions, development consents, building regulation approvals and other permissions, consents or licences as may reasonably be required for any development or use of the Property.
- 12 To cancel or otherwise determine any agreements or contracts in any way relating to the Property.
- 13 To commence, carry out and complete any acts and matters, make demands, commence, prosecute, enforce and abandon all actions, suits and proceedings, defend all actions, suits and proceedings, execute such contracts, deeds or other documents and otherwise deal for the preservation, improvement, enforcement or realization of all or any of the security created by this Charge in all respects as if it were and remained at all times the sole and absolute beneficial owner of the Property.
- 14 To provide services and employ or engage any professional advisers including: solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, workmen, stockbrokers and others and purchase or otherwise acquire any property, materials and other matters.
- 15 To make, exercise or revoke any VAT option to tax that it thinks fit.
- 16 To, in the case of a Receiver, charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by the Receiver) that the Chargee may prescribe or agree with the Receiver.
- 17 To make any arrangement, settlement or compromise that it may think expedient.
- 18 To, if it thinks fit, but without prejudice to the indemnities in this Charge, 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 Charge.

- 19 To exercise all powers, authorisations and rights it would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Property.
- 20 To exercise all powers provided for in the Act in the same way as if it had been duly appointed under the Act and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.
- 21 To do any other acts and things that it may consider desirable or necessary for realising any of the Property, may consider incidental or conducive to any of the rights or powers conferred on it under or by virtue of this Charge or by law or lawfully may or can do as agent for the Chargee.
- 22 To delegate its powers.

## **APPENDIX A – PLAN 1**





11-11-04	ADDED TO REMOVED TRUCK FROM MEMPHIS, TENNESSEE	201
11-11-04	REMOVED	201
LOCKSIDE W-47F, STRATFORD		20004 - WZT
MILLER 2 TRANSFER (WV444054)		
1980 - A2	24.08.11	
J51	A0	A
<p><b>Taylor Wimpey</b></p> <p>Taylor Wimpey West Midlands          General Freight, Part 1, Two-Bay Trailer          Redwood Way, Gilling, Gilling 100 000          Telephone: 01763 2001</p>		



Public Open  
Space

1:10,000 1:10,000 1:10,000		2019 - 2021	
LOCKSIDE WHARF, STRATFORD		2019 - 2021	
MILLER 3 TRANSFER (WY464054)		2019 - 2021	
1500 - A2	24.00.19	<b>Taylor Wimpey</b> Taylor Wimpey West Midlands Taylor Wimpey West Midlands Taylor Wimpey West Midlands	
J20	A2		



## **APPENDIX B – PLAN 2**





Project Name		Sheet No.	1 of 1
Project No.		Scale	1:10,000
Project Date		Author	John Doe
Project Location		Reviewer	Jane Smith



IN WITNESS whereof the parties have executed this Charge as a deed the day and year first before written

EXECUTED as a DEED by MILLER HOMES LIMITED

acting by a Director in the presence of:

[SIGNATURE OF WITNESS]

[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]

CHLOE WILLIAMSON

EXECUTED as a DEED by PHILIP JAMES HOPE in the presence

of:

[SIGNATURE OF PARTY]

[SIGNATURE OF WITNESS]

[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]

EXECUTED as a DEED by GEORGINA MARY HOPE-CROSSLEY

in the presence of:

[SIGNATURE OF PARTY]

[SIGNATURE OF WITNESS]

[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]