



**Registration of a Charge**

Company Name: **MILLER HOMES LIMITED**

Company Number: **SC255429**



Received for filing in Electronic Format on the: **04/08/2023**

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**Details of Charge**

Date of creation: **02/08/2023**

Charge code: **SC25 5429 0411**

Persons entitled: **PAUL MICHAEL HEYGATE  
ARTHUR ROBERT HEYGATE  
SARAH ELIZABETH KRECKLER**

Brief description: **RELATING TO LAND AT 'TRANCHE 1' AND 'TRANCHE 2', PHASE 1  
NORWOOD FARM, SANDY LANE, NORTHAMPTON**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **ABY SUMMERS OF GOWLING WLG (UK) LLP**



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

Company number: 255429

Charge code: SC25 5429 0411

The Registrar of Companies for Scotland hereby certifies that a charge dated 2nd August 2023 and created by MILLER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th August 2023 .

Given at Companies House, Edinburgh on 4th August 2023

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 AUGUST 2023

MILLER HOMES LIMITED (1)

AND

PAUL MICHAEL HEYGATE, ARTHUR ROBERT HEYGATE AND SARAH ELIZABETH  
KRECKLER (2)

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Legal Charge  
relating to  
land at 'Tranche 1' and 'Tranche 2', Phase 1  
Norwood Farm, Sandy Lane, Northampton

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**GOWLING WLG**

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THIS LEGAL CHARGE by way of deed is made on 02 August

2023

**BETWEEN:**

- (1) **MILLER HOMES LIMITED** (company number SC255429) whose registered office is at 2 Lochside View Edinburgh Park, Edinburgh EH12 9DH (the "Chargor"); and
- (2) **PAUL MICHAEL HEYGATE, ARTHUR ROBERT HEYGATE AND SARAH ELIZABETH KRECKLER** of Bugbrooke Mills, Bugbrooke, Northampton NN7 3QH (the "Chargee").

**BACKGROUND**

- (A) The Chargee has today transferred the Property to the Chargor and the Chargor is entitled to be registered as proprietor of the Property.
- (B) The Chargor has agreed to pay the Secured Sums to the Chargee in accordance with the provisions of the Agreement.

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions shall apply:

<b>Act</b>	the Law of Property Act 1925 (as amended);
<b>Adjoining Land</b>	any other land in the vicinity of the Charged Property which is in the ownership of the Chargee from time to time and which, for the avoidance of doubt, includes all parts of the Property which do not constituted parts of the Charged Property;
<b>Agreement</b>	a sale agreement dated 15 December 2021 made between (1) the Chargee (2) Dei-Han Limited (3) the Chargor and (4) Barwood Development Securities Limited;
<b>Approval</b>	approval by or for the Chargee which shall not be unreasonably withheld or delayed and the term <b>Approved</b> shall be construed accordingly and such approval shall be deemed to have been given if the Chargee fails to respond

	to a request for Approval within 10 Working Days of such request;
<b>Charged Property</b>	the Property, excluding the land edged blue on the plan attached at Annexure 1;
<b>Chargee's Solicitors</b>	DLA Piper UK LLP of 1 St Paul's Place, Sheffield S1 2JX (reference: NH/423160/4);
<b>Chargor's Solicitors</b>	Gowling WLG (UK) LLP of Two Snowhill, Birmingham B4 6WR or such other firm as the Chargor may appoint and notify to the Chargee in writing;
<b>Delegate</b>	any person appointed by the Chargee or any Receiver and any person appointed as attorney of the Chargee, Receiver or Delegate;
<b>Dispose of</b>	bears the meaning given to it under Section 205(1) Law of Property Act 1925 and <b>disposition</b> and <b>Disposal</b> 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 any part of the Property and/or the Adjoining Land together with its curtilage, any associated garage, parking space, car port and the like (whether separate from the main dwelling or not) and " <b>Dwellings</b> " shall be construed accordingly;
<b>Enforced Property</b>	any parts of the Charged Property over which the security created by this Charge has been enforced;
<b>Estate Roads</b>	any Roadways constructed or consented to be constructed on the Enforced Property or on any part of it;
<b>Event of Default</b>	the failure by the Chargor to pay any Secured Sums in full within 10 Working Days of demand following its due date for payment in accordance with the Agreement;
<b>Permitted Disposition</b>	all or any of the following:

- (a) any Disposal and/or dedication of Roadways to any highway or other competent authority, or the grant of rights over any roads and/or to use Services and/or to enable the occupation of any Dwelling(s);
- (b) any Disposal of land intended for use as an electricity substation, transformer chamber, gas governor, pumping station, balancing pond or facility or similar infrastructure;
- (c) any Disposal to or in favour of any statutory undertaking, utility company, local authority or similar body for the provision and/or adoption of sewers, Service Media or other infrastructure;
- (d) any Disposal in accordance with the provisions of the Planning Agreement or which is required to comply with the requirements of any other Statutory Agreement;
- (e) any Disposal of common parts, communal areas, open space, play areas, amenity land, ecology mitigation areas or similar to the local authority, a management company or similar;
- (f) any Disposal of Social Housing and/or of land upon which Social Housing is to be constructed; and/or
- (g) the grant of any easements, covenants and/or rights over the Charged Property and/or the Adjoining Land or any part of it;

#### **Planning Acts**

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 Charged Property;

#### **Planning Agreement**

means the Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 30 June 2020 and made between (1) South Northamptonshire

Council (2) Northamptonshire County Council (3) the Chargee and (4) the Barwood Land Securities Limited as amended from time to time;

**Property**

the aggregate of:

(a) the land comprised in title number NN384104 as at the date of this Charge; and

(b) the land conveyed by a transfer deed dated 21 December 2022 made between (1) the Chargee and (2) the Chargor, which has been allocated title number NN391453,

together being shown edged red on the plan attached at Annexure 1;

**Receiver**

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);

**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;

**Retained Property**

the Property excluding the Enforced Property;

**Roadways**

roads, footpaths and/or cycleways and other highway works including (without limitation) carriageways, roundabouts, junctions, footways, visibility splays, verges, landscaping and/or street furniture and/or other ancillary areas and/or associated works to be constructed on any part of the Property and/or the Adjoining Land (but excluding shared



	access areas which are not intended to be made available for public use);
<b>Secured Sums</b>	shall have the meaning given to 'Secured Obligation' in the Agreement;
<b>Security</b>	a legal mortgage;
<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 paid in full;
<b>Service Media</b>	includes all drains, pipes, wires, cables, conducting media and apparatus for surface and foul water drainage, gas, electricity, water, electronic transmissions and similar services now or in the future constructed on any part of the Property;
<b>Services</b>	foul and surface water drainage, water, gas, electricity and telecommunications services;
<b>Social Housing</b>	housing subject to restrictions in respect of occupiers or tenure or rent or carrying any subsidy from the Chargor for land or building cost or housing required to be transferred to or managed by a local authority, a social landlord, a registered provider of social housing, a society, association, charity or similar body;
<b>Statutory Agreement</b>	<p>any of the following:</p> <p>(a) an agreement, obligation or undertaking pursuant to all or any of the following: Section 106 of the Town and Country Planning Act 1990, Section 38 and/or Section 278 of the Highways Act 1980, Section 104 of the Water Industry Act 1991, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or pursuant to any other statutory enactment or derivative legislation or as may be required by any local authority, local highway authority or service undertaker; and/or</p>

- (b) any agreement, obligation or undertaking with any Relevant Authority for the provision and/or adoption of sewers, Service Media or other infrastructure;

**Substitute Property** any substitute property Approved by the Chargee pursuant to clause 23 of the Agreement;

**VAT** value added tax or similar replacement imposition; and

**Working Days** has the meaning given in the Agreement.

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 references:

- (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.

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 An Event of Default is "continuing" if it has not been remedied or waived.
- 1.17 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.

## **2. COVENANT TO PAY**

The Chargor covenants with the Chargee to pay the Secured Sums on the dates specified in the Agreement.

## **3. SECURITY**

- 3.1 As continuing security for the payment and discharge of the Secured Sums, the Chargor charges the Charged Property to the Chargee by way of first legal mortgage.
- 3.2 The Chargor may, at any time, submit to the Chargee a request that there be substituted for any property forming part of the Charged Property another property, a bond or a bank guarantee (or

any combination of them) in accordance with the provisions of clause 23 of the Agreement (the "Substitute Property").

3.3 This Charge and the security constituted by this Charge shall not preclude the Chargor from:

- (a) entering into any Permitted Disposition in relation to the Charged Property and/or any Substitute Property;
- (b) entering into and/or complying with the requirements of any Statutory Agreement in relation to the Charged Property and/or any Substitute Property.

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

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

4.1 The Chargor covenants with the Chargee:

- (a) Not to Dispose of the Charged Property other than by way of a Permitted Disposition:
  - (i) without the Approval of the Chargee; or
  - (ii) as otherwise permitted in accordance with the terms of this Charge.
- (b) Not to create or purport to create or permit to subsist any Security upon any part of the Charged Property without the Approval of the Chargee.
- (c) Promptly to advise the Chargee in writing on becoming aware of the occurrence of any Event of Default.

4.2 The Chargor grants to the Chargee (and vice versa) and all persons deriving title under the Chargee for the benefit of the Property:

- (a) the right to lateral and subjacent support and protection for the Property from the Adjoining Land;
- (b) the right to the free passage and running of Services in and through the Service Media now constructed or at any time to be constructed on through or under the Adjoining Land provided that the Chargor may vary the route of such Service Media at any time without notice to the Chargee (provided that in varying the route there is no interruption to the running and passage of the Services and further provided that such alternative route is no less commodious and of no lesser specification or standard) and in such circumstances the right of passage and running shall apply to the Service Media as

varied and the exercise of the rights shall not be materially and unreasonably prejudiced by such variation;

- (c) the right to lay new Service Media in the Roadways and the right to connect into the Service Media now constructed or at any time to be constructed on through or under the Adjoining Land and to connect to any road to be laid on the Adjoining Land;
- (d) the right (with or without surveyors, agents, workmen, machinery and materials) to enter and for so long as is reasonably necessary remain on so much of the unbuilt parts of the Adjoining Land as is reasonably necessary for the purpose of:
  - (i) exercising its right contained in clauses 4.2(b) and 4.2(c) hereof and thereafter inspecting, cleansing, maintaining, altering, testing, replacing, repairing and renewing such Service Media;
  - (ii) constructing a road on the Property and to connect the same to the Roadways on the Adjoining Land;
- (e) The right to pass and repass at all times and for all purposes to and from the Property over the Roadways such passage and re-passage to be with or without motor and other vehicles (and in the case of footpaths on foot only) provided that the Chargor may upgrade the Roadways at any time without notice to the Chargor provided that there is no interruption to the right of way and in such circumstances the right of passage and re-passage shall apply to the Roadway as upgraded and the exercise of the rights shall not be materially and unreasonably prejudiced by such upgrade;
- (f) Until the Roadways are constructed the right to pass and repass at all times and for all purposes to and from the Property over the Adjoining Land to obtain access to the public adopted highway and to enter on to such parts of the Adjoining Land with or without workmen plant and machinery as is necessary to construct and complete such Roadways (and any Service Media under them) as are necessary between the Property and the public adopted highway.

## **5. CHARGEES CONSENT TO PERMITTED DISPOSITIONS**

The Chargee irrevocably consents to any Permitted Disposition.

## **6. RESTRICTION ON TITLE**

The parties to this Charge hereby apply to the Chief Land Registrar for a restriction to be registered against the title to the Charged Property at the Land Registry as follows:

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a conveyancer that the provisions of clause 4.1(a) of a legal charge dated [being the date hereof] made between [the parties hereto] have been complied with or do not apply to the disposition".*

## **7. RIGHTS OF ENFORCEMENT**

7.1 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.

7.2 The receipt of the Chargee or any Receiver or Delegate shall be a conclusive discharge to a purchaser.

7.3 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 and the relevant Secured Sum shall be immediately due and payable upon and following demand after the occurrence of an Event of Default that is continuing and shall be as follows:

- (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 the Schedule) and in addition all statutory and other powers and rights as the Chargee shall, acting reasonably, think fit, after it has taken possession of the Charged Property;
- (b) for the Chargee to appoint a Receiver of the Charged 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 the Schedule) which the Receiver may exercise after it has taken possession of the Charged Property.



7.4 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 then the terms of this Charge shall prevail.

7.5 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. The Chargee and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

7.6 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. CHARGEES POWERS AND RIGHTS**

8.1 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 the Schedule and may exercise all rights and powers at such times and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

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

8.3 The enforcement of the security created by this charge shall be subject to the reservation of the following rights over the Enforced Property for the benefit of the Chargor, all persons deriving title under the Chargor and the Retained Property and every part of it for all purposes reasonably required for the development and use of the Retained Property as a residential development:

(a) The right from the date on which the Estate Roads have been constructed until the date on which the Estate Roads have been adopted by the local authority as maintainable by such authority, to pass and repass (with or without vehicles in respect of the roads, on foot only in respect of the footpaths and by bicycle only in respect of the cycleways) at all times and for all purposes connected with access to and egress from the Retained Property over and along the Estate Roads.

(b) The right until the Estate Roads have been constructed to pass and repass (with or without vehicles in respect of the roads, on foot only in respect of the footpaths and by bicycle only in respect of the cycleways) at all times and for all purposes connected with

access to and egress from the Retained Property over and along the intended route of the Estate Roads or (during the period of construction of the Estate Roads) over and along such suitable alternative route within the Enforced Property as the Chargee (acting reasonably) may specify by notice in writing to the Chargor.

- (c) If the Estate Roads have not been constructed, the right to enter onto the intended route of the Estate Roads and such adjoining parts of the Enforced Property (but excluding any Dwelling and excluding the site of any electricity substation, transformer chamber, gas governor, pumping station, balancing pond or facility or similar infrastructure) as may be reasonably necessary to construct the Estate Roads to serve the Retained Property.
- (d) The right to the free passage and running of Services from and to the Retained Property through the Service Media constructed within the Enforced Property to serve the Retained Property and the right to connect into the Service Media constructed within the Enforced Property to serve the Retained Property provided in each case that the Chargee may vary the route of such Service Media at any time and in such circumstances these rights shall then apply to the Service Media as varied.
- (e) The right to enter onto the Estate Roads (or the intended route of the Estate Roads) and such adjoining parts of the Enforced Property (but excluding any Dwelling) as may be reasonably necessary to construct new Service Media to serve the Retained Property and thereafter the right to the free passage and running of Services from and to the Retained Property through such Service Media provided in each case that the Chargee may vary the route of such Service Media at any time and in such circumstances these rights shall then apply to the Service Media as varied.
- (f) The right to enter onto such parts of the Enforced Property (but excluding any Dwelling) as may be reasonably necessary for the purpose of complying with the requirements of any Statutory Agreement.

8.4 Any person entering on to the Enforced Property to carry out works in the exercise of the rights referred to in clause 8.3 above must:

- (a) enter on to only so much of the Enforced Property as is reasonably necessary to exercise the rights but not on to any Dwelling nor on to the site of any electricity substation, transformer chamber, gas governor, pumping station, balancing pond or facility or similar infrastructure then constructed on or consented to be constructed on the Enforced Property;
- (b) exercise the rights at reasonable times of the day;



- (c) give reasonable prior notice to the owner(s) or occupier(s) of the relevant part of the Enforced Property (except in the case of emergency when no prior notice shall be required but notice shall be given as soon as practicable thereafter);
- (d) cause as little inconvenience as reasonably practicable to the owner(s) or occupier(s) of the relevant part of the Enforced Property in the exercise of the rights;
- (e) reinstate the surface of the Enforced Property to the standard prior to excavation;
- (f) not obstruct the Roadways on the Enforced Property;
- (g) not deposit any waste, rubbish, soil or other material on any part of the Enforced Property;
- (h) not overload any Service Media;
- (i) ensure that the position and route of any connections to Service Media do not adversely affect the site or intended site of any Dwelling nor the site of any electricity substation, transformer chamber, gas governor, pumping station, balancing pond or facility or similar infrastructure then constructed on or consented to be constructed on the Enforced Property and that all connections shall (where reasonably practicable) be constructed or laid under the Estate Roads; and
- (j) make good at its own expense any damage caused by such entry.

8.5 At any time after the security created by this Charge has become enforceable the Chargor, any person deriving title under the Chargor and/or any administrator or receiver of the Chargor may serve upon the Chargee or upon any Receiver or Delegate of the Chargee a written notice requiring the Chargee to enter into a deed of easement to grant the rights referred to in clauses 8.3 and 8.4 (and any additional temporary rights or permanent easements reasonably required for the benefit of the Retained Property or any part of it) over the Enforced Property for the benefit of the Chargor, all persons deriving title under the Chargor and the Retained Property and every part of it.

## **9. STATUTORY AGREEMENTS, RELEASES AND CONSENTS**

9.1 The Chargee shall enter into any Statutory Agreement within 5 Working Days following a request from the Chargor to do so:

- (a) provided that the Chargor reimburses any legal costs reasonably and properly incurred by the Chargee in relation to the relevant Statutory Agreement (up to a maximum of £500.00 plus VAT in relation to each Statutory Agreement); and

(b) provided that the Chargee will not be liable to perform any covenants contained in the Statutory Agreement to the extent that such covenants relate to the Charged Property.

9.2 The Chargee shall duly discharge from the security constituted by this Charge in accordance with Clause 23 of the Agreement and shall immediately on receipt of the relevant payment provide all such properly executed release documentation (including, for the avoidance of doubt, a Land Registry Form DS3, DS1 and/or letter of consent) as may reasonably be required by the Chargor to give effect to the provisions of this clause.

9.3 The Chargee shall also, at the reasonable request and cost of the Chargor, duly discharge from the security constituted by this Charge:

(a) any part of the Charged Property that is the subject of a Permitted Disposition; and

(b) any part of the Charged Property to be released in accordance with clause 3.2 of this Charge,

and shall within 5 Working Days of such request provide all such properly executed release documentation (including, for the avoidance of doubt, a Land Registry Form DS3, DS1 and/or letter of consent) as may reasonably be required by the Chargor to give effect to the provisions of this clause.

9.4 On the expiry of the Security Period, the Chargee shall, at the reasonable request of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Charge and shall promptly following any such request provide all such properly executed release documentation (including, for the avoidance of doubt, Land Registry Form DS1) as may reasonably be required by the Chargor to give effect to the provisions of this clause.

9.5 The Chargee, by way of security, irrevocably appoints the Chargor as its attorney and in the name of and on behalf of each Chargee and as the act and deed of each Chargee or otherwise to sign and deliver and complete and otherwise perfect any deed assurance agreement instrument or act which may be required to be given to the Chargor by the Chargees in accordance with this clause 9 where the Chargee fails to deliver the same to the Chargor within 5 Working Days of being required to do so and this power of attorney is given as security pursuant to the Powers of Attorney Act 1971. The Chargee ratifies and confirms and agrees to ratify and confirm whatever attorney appointed under this clause properly does or purports to do in the exercise of all or any of the powers authorities and discretions granted or referred to in this clause.

## Consent to Easements

9.6 :

- (a) The Chargor shall procure that in the event of any Disposal of any part of the Adjoining Land by the Chargor appropriate reasonable or desirable rights for the proper use and enjoyment of the Property are granted or excepted and reserved over the Adjoining Land for the benefit of the Property and that appropriate reasonable and necessary rights for the proper use and enjoyment of the Adjoining Land are granted or excepted and reserved (as the case may be) over the Property for the benefit of the Adjoining Land;
- (b) 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 Adjoining Land are granted or excepted and reserved over the Property for the benefit of the Adjoining Land (provided the same do not adversely affect the use and enjoyment of the relevant parts of the Property for residential dwellings); and
- (c) ensure, simultaneously with the relevant grant, exception or reservation as referred to in clause (a) or (b), that appropriate covenants are entered into and the Chargor shall procure that prior to the grant or exception or reservation of such rights and the entering into of any appurtenant covenants the form of the assurance or other document containing such rights, exceptions, reservations and covenants shall be approved by the Chargee (such approval is not to be unreasonably withheld or delayed).

9.7 Notwithstanding the generality of clause 9.6 the Chargee confirms its consent to the grant by the Chargor of the following easements, rights and covenants to or on any third party purchasers of plots or land in each case forming part of the Adjoining Land:

- (a) to keep and maintain the projections (including the eaves, gutters, spouts, down-pipes, chimneys, flues, meter boxes, cappings, foundations and any similar structures) and roofs overhanging or underlying on any part of the Property in good repair;
- (b) the free passage and running of services through Service Media now or at any time to be laid or constructed by the Chargor on the Property together with the right to enter onto parts of the Property where reasonable and after giving reasonable notice for the

purpose of connecting to, inspecting, cleansing, repairing or renewing the Service Media;

(c) to enter upon any unbuilt on part or parts of the Property where reasonable and after giving reasonable notice for the purpose of inspecting, repairing, cleaning or renewing any party structure or thing on or under it and used or enjoyed in common with it; and

(d) for lateral support and shelter by and protection of the Adjoining Land from any part of the Property,

and shall at the cost of the Chargor furnish evidence of such consent immediately to the Chargee and if required to the third party purchaser and/or the Land Registry.

9.8 The Chargor shall procure that any assurance of or other appropriate document relating to the Adjoining Land contains easements and rights in clauses 9.7(a) to 9.7(d) (inclusive) for the benefit of the Property.

#### **10. LIABILITY**

10.1 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 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.

10.2 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.

#### **11. LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Agreement are incorporated into this deed.

**12. 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.

**13. POWER OF ATTORNEY**

13.1 Following the occurrence of an Event of Default that is continuing, 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, where the Chargor has failed to do any such actions following receipt of reasonable notice from the Chargee.

13.2 The Chargor 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.

**14. GENERAL PROVISIONS**

14.1 The security created by this Charge shall not 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.

14.2 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.

14.3 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.

14.4 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.

14.5 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, then 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.

14.6 The restriction on the right of consolidation contained in Section 93 of the Act shall not apply to this Charge.

14.7 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.

14.8 The unenforceability for whatever reason of any provision of this Charge shall in no way affect the enforceability of each and every other provision.

14.9 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.

14.10 Any notice or other document to be given or sent under this Charge shall be in writing and may be delivered personally or sent first class by registered post or recorded delivery post to be served:

- (a) on the Chargor at its registered address addressed to the Company Secretary; or
- (b) on the Chargee at their respective addresses appearing in this Charge; and
- (c) in either case at such other addresses as either shall notify in writing to the other party; or
- (d) in either case to the party's solicitors at their address in this Charge or at such other addresses as either party shall notify in writing to the other party.

14.11 Any such notice or document shall be deemed to have been served:

- (a) if delivered personally at the time of delivery; or
- (b) if posted at the expiration of two Working Days after the envelope containing the same shall have been put into the post.

14.12 In proving such service it shall be sufficient to prove (as the case may be) that delivery was made or that the envelope containing such notice or document was properly addressed and posted as a pre-paid first class registered letter or recorded delivery.



- 14.13 A notice or other communication given under or in connection with this Charge is not valid if sent by email. A reference to writing or written does not include email.
- 14.14 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).
- 14.15 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.
- 14.16 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.
- 14.17 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.

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

## **SCHEDULE**

### **Chargee's Powers**

- 1 To enter upon and take possession of the Charged Property and to sell, assign, convert into money or otherwise realize, dispose of and deal with and transfer title to the Charged Property upon such terms (including the amount and nature of the consideration) and in such manner as the Chargee shall think fit.
- 2 To grant or create any lease, tenancy or licence (or enter into an agreement to do so) of the Charged Property upon such terms (including the amount and nature of the consideration) and in such manner as the Chargee shall think fit.
- 3 To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Property or its ownership, occupation or use.
- 4 To effect insurances and obtain and/or enter into bonds, commitments, engagements, guarantees and indemnities or other like matters in any way relating to the Charged Property and to make all requisite payments to effect, maintain or satisfy them.
- 5 To compromise any claim or claims of, against, arising out of or otherwise relating to the Charged Property.
- 6 To give receipts and releases for any sums received and to execute all assurances relating to the Charged Property as may reasonably be required for realising the security created by this Charge.
- 7 To obtain and maintain all necessary planning permissions, development consents, building regulation approvals and other permissions, consents or licences for the Charged Property as may reasonably be required for realising the security created by this Charge.
- 8 To cancel or otherwise determine any agreements or contracts in any way relating to the Charged Property as may reasonably be required for realising the security created by this Charge.
- 9 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 in respect of the Charged Property and otherwise deal with the Charged Property 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 Charged Property.



- 10 To 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 as may reasonably be required for realising the security created by this Charge.
- 11 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.
- 12 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 Charged Property as may reasonably be required for realising the security created by this Charge.
- 13 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.
- 14 To delegate its powers.
- 15 To do any other acts and things that it may consider desirable or necessary in respect of the Charged Property for the purpose of realising the security created by this Charge.

Signed as a deed for and on behalf of )  
**PAUL MICHAEL HEYGATE** in the presence of )

a witness:

Signature .....

Name (block capitals) .....

Witness signature .....

Witness name  
(block capitals) .....

Witness address .....

Signed as a deed for and on behalf of )  
**ARTHUR ROBERT HEYGATE** in the )  
presence of a witness: )

Signature .....

Name (block capitals) .....

Witness signature .....

Witness name  
(block capitals) .....

Witness address .....

Signed as a deed for and on behalf of  
**SARAH ELIZABETH KRECKLER** in the  
presence of a witness:

)  
)  
)

Signature

Name (block capitals)

Witness signature

Witness name  
(block capitals)

Witness address

Executed as a deed by **MILLER HOMES**  
**LIMITED** by one director in the presence of a  
witness:

)  
)  
)

Signature

Name (block capitals)

Director

Witness signature

Witness name  
(block capitals)

Witness address

## Annexure 1

### Plan

