



Registration of a Charge

Company Name: **MILLER HOMES LIMITED**

Company Number: **SC255429**



Received for filing in Electronic Format on the: **17/10/2023**

XCECLFYI

Details of Charge

Date of creation: **03/10/2023**

Charge code: **SC25 5429 0413**

Persons entitled: **WOLVERHAMPTON CITY COUNCIL**

Brief description: **ALL THAT FREEHOLD PROPERTY AT LAND SOUTH OF MARKSE-BY-SEA, REDCAR, CLEVELAND, TS11 6EZ AND REGISTERED AT HM LAND REGISTRY WITH TITLE ABSOLUTE UNDER PART OF TITLE NUMBER CE54837 AND SHOWN COLOURED GREEN ON THE PLAN.**

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: **MORTON FRASER LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 255429

Charge code: SC25 5429 0413

The Registrar of Companies for Scotland hereby certifies that a charge dated 3rd October 2023 and created by MILLER HOMES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th October 2023 .

Given at Companies House, Edinburgh on 17th October 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

3 October

2023

- (1) **MILLER HOMES LIMITED**
- (2) **WOLVERHAMPTON CITY COUNCIL**

LEGAL CHARGE

Relating to

LAND SOUTH OF MARSKE-BY-THE-SEA, REDCAR, CLEVELAND, TS11 6EZ

CONTENTS

1.	DEFINITIONS AND INTERPRETATION.....	1
2.	DEFERRED PRICE.....	5
3.	PAYMENT	5
4.	INTEREST	5
5.	EXTENT OF SECURITY	5
6.	CHARGE OF PROPERTY/PRIORITY	5
7.	DEVELOPER'S COVENANTS.....	5
8.	OWNER'S POWERS.....	7
9.	REPRESENTATION AND WARRANTIES	7
10.	OWNER'S LIABILITY / INDEMNITY	9
11.	PROTECTION OF THIRD PARTIES	10
12.	POWERS OF LEASING	10
13.	POWER OF ATTORNEY	10
14.	OWNER'S RIGHTS	10
15.	RELEASES DISCHARGES AND CONSENTS	11
16.	OWNER'S DEVELOPMENT RIGHTS FOLLOWING ENFORCEMENT	12
17.	EXPENSES, STAMP TAXES AND INDEMNITY	12
18.	DEMANDS AND NOTICES	13
19.	CAPACITY AND DEALINGS	13
20.	THIRD PARTY RIGHTS	13
21.	GOVERNING LAW	13
22.	EXCLUSIVE JURISDICTION	14
23.	EXECUTED AS A DEED	14
	SCHEDULE 1	15
	THE PROPERTY	15

THIS DEED is made the 3rd day of October 2023

County and District:

North Yorkshire: Redcar and Cleveland

Title Number(s):

CE54837

Property:

Land south of Marske-By-The-Sea, Redcar, Cleveland, TS11 6EZ shown coloured green on the Plan.

BETWEEN:

- (1) **MILLER HOMES LIMITED** (incorporated and registered in Scotland with company number: SC255429) whose registered office is at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH (the **Developer**); and
- (2) **WOLVERHAMPTON CITY COUNCIL** as Administering Authority for the West Midlands Pension Fund, of i9 Wolverhampton Interchange, Railway Drive, Wolverhampton, WV1 1LD (the **Owner**).

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in this clause apply to this deed:

Act of Insolvency means any one or more of the following applies in relation to the Developer:

- (a) it enters into voluntary liquidation (other than for the purpose of reconstruction or amalgamation not involving a realisation of assets) or has a receiver appointed over all or any part of its assets or an administration order is made pursuant to the Insolvency Act 1986;
- (b) it becomes insolvent and commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Developer with one or more other companies or the solvent reconstruction of the company or distress sequestration or execution is levied on its goods;
- (c) an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Developer;
- (d) an administrator or Receiver is appointed in respect of the Developer;
- (e) the Developer ceases to exist, is wound up, is dissolved or is removed from the Register of Companies;

Challenge Period

eight weeks following the receipt of the written approval from the Local Planning Authority or the Secretary of State (as applicable) for the variation to remove any occupation limit within Condition 34 or the removal of Condition 34 where no Challenge Proceedings are commenced

Challenge Proceedings

any form of judicial proceedings or statutory challenge (including any application or appeal to a higher court or any other tribunal of competent jurisdiction) against or in respect of the decision of the local planning authority or the Secretary of State (as applicable) the court or

any other tribunal person or forum including (without limitation) an application for judicial review;

Condition 34 means condition 34 of the Planning Permission;

Contract means the contract dated 13 October 2013 and made between (1) the Owner and (2) the Developer and Taylor Wimpey UK Limited;

Deferred Payment Date means the earlier of:

(a) the later of:

(i) 10 (ten) Working Days from

(a) the date:

(I) of receipt of written confirmation from the Local Planning Authority (and written confirmation shall be in a form satisfactory to the Buyer acting reasonably) that the neighbourhood centre (as referred to within Condition 34) has been constructed and made available for occupation such that there is an unfettered right to construct and occupy not less than 825 units on the Property; or

(II) on which the 600th unit which has been constructed by the Buyer on the Property has been sold; or

(b) the date on which is the later of:

(I) the written approval of the Local Planning Authority or the Secretary of State (as applicable) for the variation or removal of Condition 34 such that any occupation trigger is removed and there is an unfettered right to construct and occupy not less than 825 units on the Property and Provided Always that no new or varied obligations or restrictions are imposed by the Local Planning Authority as a result of the variation or removal of Condition 34 (as the case may be) which would prevent the construction or occupation on the Property of any of the 825 contemplated by the Planning Permission; and

(II) and such variation or removal is Immune from Challenge; or

(ii) 31 January 2026;

OR

(b) the date of service of the Developer's Payment Election on the Owner

Deferred Sum means the sum of £5,087,500.00;

Deferred Sum Lapse Date means the date of expiry of the Owner's option to acquire the Property pursuant to clause 18.4.3 of the Contract;

Developer's Payment Election means a written notice served on the Owner and in accordance with clause 18.4.3 of the Contract confirming in writing that the Developer elects to pay the Deferred Sum notwithstanding that Condition 34 has not been discharged

Development means the development to be undertaken pursuant to the Planning Permission and/or the section 106 agreement dated 14 November 2016 and made between (1) The

Council of Redcar and Cleveland and (2) the Seller and any modifications and/or variations to the same;

Dwelling means a residential dwelling house (which expression shall include a house, flat, maisonette, bungalow or other unit of residential accommodation) within use class C3 of the Schedule, Part C to the Town & Country Planning (Use Classes) Order 1987 (as amended and in force as at the date of this deed) with an integrated garage if this forms part of its original construction and the term **Dwellings** shall be construed as more than one such dwelling house;

Encumbrance means any mortgage, charge, pledge, lien, assignment, security, interest, preferential right or trust arrangement or other encumbrance, security agreement or arrangement of any kind or any right conferring a priority of payment;

Immune from Challenge means the Challenge Period has expired without Challenge Proceedings having been instituted or (where Challenge Proceedings have been instituted) such Challenge Proceedings have been exhausted leaving in place a valid written approval for the variation to remove any occupation limit within Condition 34 or the removal of Condition 34 in full;

Interest Rate means 2% above the base lending rate of the Bank of England as set by the Bank's Monetary Policy Committee from time to time or, should this rate cease to exist, at another rate of interest closely comparable with the Interest Rate decided on by the Owner acting reasonably and without delay;

Law means an Act of Parliament, statutory instrument, regulation, bye-law, requirement of a competent authority, statutory body, utility company or authority, common law or regulation, directive or mandatory requirement of the European Union;

Liabilities means all actions, proceedings, costs, claims, demands, losses, expenses and liabilities;

Local Planning Authority means the local planning authority for the area in which the Property is situated;

LPA means the Law of Property Act 1925, as amended;

Outline Planning Permission means the planning permission issued by the Secretary of State dated 20 July 2017, reference R/2013/0669/OOM appeal reference APP/V0728/W/15/3134502;

Overriding Interest (in the case of registered land) all those interests listed in schedule 3 to the Land Registration Act 2002 and (in the case of unregistered land) means all those interests listed in schedule 1 to the Land Registration Act 2002 and any interests which fall within section 11(4)(c) of the Land Registration Act 2002 (including in the case of both registered and unregistered land all those interests inserted into those schedules by schedule 12 to the 2002 Act);

Permitted Disposal means any one or more of the following:

- (a) the grant of any easements contained within a Plot Assurance
- (b) the abandonment, build over, dedication, deed of grant of rights or easements, diversion, wayleave, transfer and/or lease of, adoption or vesting of, any parts of the Property pursuant to any Third Party Agreements or otherwise to a statutory body, approving body or service supply company or other person or entity of an electricity substation, gas governor, pumping station, water pumping station, balancing pond or other statutory services or drainage system or other infrastructure or similar which have been or are to be constructed or installed on, in, under or over such part of the Property as is not intended to comprise an actual Dwelling (with or without other property);

- (c) any dedication, transfer or lease of, adoption or vesting of, estate common parts open space, amenity land or similar to a management company, local authority or other person or entity

Plan means the plan attached to this deed and marked **Plan**;

Planning Act means the Town and Country Planning Act 1990 and any act for the time being in force amending or replacing the same and all regulations and orders made under it and any other legislation relating to town and country planning in force from time to time including the Planning (Listed Buildings and Conservation Areas) Act 1990;

Planning Permission means the permission granted under reference R/2020/0025/RMM dated 2 March 2023 issued by the Secretary of State together with any reserved matters approvals relating to development of the Property and any modification or variation thereto;

Plot Assurance means a transfer or lease of a plot for Dwelling(s) on the Developers' adjoining land (transferred pursuant to the Transfer)

Prior Encumbrance the Encumbrances existing at the date of this deed, details of which are set out in Part 2 of the Schedule;

Property means the freehold property referred to in Part 1 of the Schedule and any part(s) of it and including all rights attached and appointment to it and all immovable property including buildings, fixtures and fixed plant and machinery from time to time situate on it and belonging to the Developer;

Receiver means an administrative receiver, a receiver or a receiver and manager and substitute for any such person and whether appointed under this deed or pursuant to any statute or otherwise;

Restriction means the restriction to be registered against the title to the Property at the Land Registry pursuant to clause 7.2.

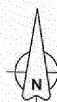
Third Party Agreements means an agreement, deed or undertaking (and including any variation thereto) in respect of and affecting the Property or part thereof (with or without other property) including, but not limited to, agreements pursuant to section 106 and/or 106A of the Planning Act and agreements or undertakings pursuant to section 38 and/or section 278 of the Highways Act 1980 and/or sections 98 to 101 (inclusive) or section 104 of the Water Industry Act 1991 and/or the Flood Water Management Act 2010 or any provision to similar intent or any agreement with a water authority, approving body or other appropriate authority as to water supply or drainage or surface and/or foul water or any agreement, deed, easement, wayleave or licence (including, for the avoidance of doubt, any agreement or deed of the type referred to in the definition of Permitted Disposal) in relation to any electricity substations, pumping stations and sustainable urban drainage systems or other infrastructure with any competent authority or body, person or entity relating to services or supplies;

Transfer means the transfer dated 13 October 2023 made between Wolverhampton City Council (1) and Miller Homes Limited and Taylor Wimpey UK Limited (2) of the Property and other land more particularly described therein

Working Day means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in all or part of England and Wales, but excluding the period from 21st December and the 4th January (inclusive).

1.2 In this deed, unless the context otherwise requires:

1.2.1 the singular includes the plural and vice versa;



487/2023



Key:
■ MH Legal Charge Plan

miller homes
Miller Homes Limited - Torquato Region
100-105
Merrivale, South Australia 5015
Telephone 0871 526 079
www.millerhomes.co.uk

Longmish Road,
Merrivale by the Sea

Project:
MH Legal
Charge Plan

Drawn	Checked	Project
11/04/23	11/04/23	11/04/23

MAINTENANCE: []
[]

- 1.2.2 references to persons includes references to firms, companies, corporations or limited liability partnerships and vice versa;
 - 1.2.3 references in the masculine gender include references in the feminine or neuter genders and vice versa; and
 - 1.2.4 a reference to a statutory provision includes a reference to that statutory provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this deed.
- 1.3 The clause and schedule headings do not form part of this deed and are not to be taken into account in its construction or interpretation.
- 1.4 The expressions the **Developer** and the **Owner** shall include the persons respectively deriving title under them.
- 1.5 Any reference in this deed to land or property includes the whole or any part(s) thereof.
2. **DEFERRED PRICE**
- The Developer has agreed to pay to the Owner the Deferred Sum on the date set out in clause 3 of this deed unless the Developer and the Owner expressly agree otherwise in writing.
3. **PAYMENT**
- The Developer hereby covenants with the Owner to pay to the Owner the Deferred Sum on or before the Deferred Payment Date.
4. **INTEREST**
- In the event that the Developer fails to pay the Deferred Sum on or before the Deferred Payment Date then the Owner shall be entitled to charge interest at the Interest Rate for the period from the date the relevant payment became due and payable until the date of payment (both before and after judgement).
5. **EXTENT OF SECURITY**
- It is agreed that this deed is intended to be the sole security which is held by the Owner over the Property for the Deferred Sum and that the Owner will not take or exercise any other security (including any lien) over the Property unless the Developer and the Owner expressly agree otherwise in writing.
6. **CHARGE OF PROPERTY/PRIORITY**
- The Developer with full title guarantee charges the Property by way of first legal mortgage as a continuing security for the payment and discharge of the Deferred Sum.
7. **DEVELOPER'S COVENANTS**
- 7.1 The Developer covenants not to do nor purport to do the following (without the prior written consent of the Owner):-
- 7.1.1 create or allow to subsist or arise any Encumbrance or any right or option on the Property other than any Prior Encumbrance;
 - 7.1.2 exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or accept any surrender of any lease, underlease or tenancy;

- 7.1.3 part with or share possession or occupation of the Property or grant any tenancy or licence to occupy the Property;
- 7.1.4 sell, convey, assign or transfer the Property or any interest in it or otherwise part with or dispose of the Property or assign or otherwise dispose of any monies payable to the Developer in relation to the Property or grant any rights over the Property save and except for a Permitted Disposal
- 7.2 The Developer hereby consents to the Owner placing a restriction on the title to the Property in the form of an RX1 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 7.1.4 of a legal charge dated [1] and made between (1) Miller Homes Limited and (2) Wolverhampton City Council has been complied with or that it does not apply to the disposition."
- 3 October 2023 TSM
- 7.3 The Developer confirms to the Owner on the date hereof that this deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Developer and is security over the Property in accordance with its terms.
- 7.4 The Developer will not use the Property for any purpose other than the permitted use pursuant to the Planning Permission and any use ancillary thereto unless the Developer and the Owner expressly agree otherwise in writing.
- 7.5 The Developer will comply with the requirements of any law or regulation relating to the Property which is the responsibility of the Developer.
- 7.6 The Developer will procure that the Property is insured against loss or damage and after receipt of reasonable notice in writing being not less than forty eight (48) hours previous notice the Developer shall permit the Owner to inspect the policy or evidence of its terms.
- 7.7 The Developer will punctually pay all present and future rents, rates, taxes, assessments and outgoings imposed upon or payable in respect of the Property or by the owner or occupier thereof.
- 7.8 The Developer will give immediate notice to the Owner if it receives any notice under section 146 of the LPA or any proceedings are commenced against it for the forfeiture of any lease, if any, comprised in the Property.
- 7.9 The Developer will observe and perform all known covenants, stipulations and conditions to which the Property or the use of it is or may be subject and which are the responsibility of the Developer.
- 7.10 The Developer covenants to duly and punctually pay all sums payable in respect of any Prior Encumbrance (subject to any applicable agreement or arrangement as to (priorities) from time to time to produce to the Owner on demand reasonable evidence of every such payment.
- 7.11 The Developer covenants to keep the Owner and any Receiver fully and effectively indemnified from and against all Liabilities in respect of any breach, non-observance or non-performance of any covenants, obligations, warranties or undertakings on the part of the Developer contained in this deed or the making good of any such breach or non-observance or non-performance.
- 7.12 The Developer covenants not without the consent of the Owner (not to be unreasonably withheld or delayed) to create or permit to arise any Overriding Interest in relation to the

Property nor permit any person to become entitled to any proprietary right or interest in the Property.

8. OWNER'S POWERS

8.1 Section 103 of the LPA shall not apply to this deed and the statutory power of sale and all other powers conferred by section 101 of the LPA shall arise on the date of this deed and shall become exercisable by the Owner upon twenty eight (28) Working Days written notice to the Developer served following the happening of any one or more of the following events:

8.1.1 if the whole or part of the Deferred Sum is not paid in accordance with the provisions of this deed (unless failure to pay is caused by an administrative or technical error and the payment is made within three (3) Working Days of the due date); or

8.1.2 if the Developer fails to pay any of the Liabilities when due (unless failure to pay is caused by an administrative or technical error and the payment is made within three (3) Working Days of the due date);

8.1.3 if the Developer is in breach of any of its obligations to the Owner and that breach (if capable of remedy) has not been remedied to the satisfaction of the Owner within twenty (20) Working Days of notice by the Owner to the Developer to remedy the breach;

8.1.4 any representation, warranty or statement made, repeated or deemed made by the Developer to the Owner is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect in the Owner's reasonable discretion when made, repeated or deemed made;

8.1.5 any event occurs (or circumstances exist) which, in the opinion of the Owner, has or is reasonably likely to materially and adversely affect the Developer's ability to perform all or any of its obligations under, or otherwise comply with the terms of, this deed;

8.1.6 if the Developer (being a company) enters into liquidation whether compulsory or voluntary (except for the amalgamation or reconstruction of a solvent company).

8.2 At any time after the power of sale has become exercisable the Owner may by writing under hand appoint any person or persons to be receivers of the Property (whether or not any income is arising therefrom) and such receivers shall have full power to enter the Property and to sell and lease the same. A receiver shall have and be entitled to exercise all the powers conferred by the LPA and, where such a receiver is an administrative receiver, all the powers conferred upon an administrative receiver by the Insolvency Act 1986. Any proper and reasonable expenditure incurred in doing so shall be immediately repayable by the Developer and shall be a liability charged on the Property in priority to all sums secured.

8.3 All costs, charges and expenses properly incurred by the Owner in connection with recovery of the Deferred Sum or (as appropriate) the protection, realisation or enforcement of the security constituted by this deed shall be reimbursed by the Developer to the Owner within fifteen (15) Working Days of written demand and until so reimbursed shall carry interest at the Interest Rate from the date of payment to the date of reimbursement and be secured on the Property.

9. REPRESENTATION AND WARRANTIES

9.1 Subject to clause 9.2 the Developer represents and warrants to the Owner (and such representations and warranties will be deemed to be repeated on each day until all payments due under this deed and all Liabilities are fully and unconditionally paid or discharged) that:

- 9.1.1** the Developer has the capacity and power to enter into and perform its obligations as expressed in this deed and has taken all necessary action to authorise the granting of interests by way of security upon the terms and conditions of this deed and to authorise the execution, delivery and performance of its obligations as expressed in this deed in accordance with their respective terms;
- 9.1.2** this deed has been validly entered into by the Developer and creates legal, valid and binding obligations upon the Developer enforceable in accordance with its terms and
- subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry, perfected security over the assets referred to in this deed,
- in favour of the Owner, having the priority and ranking expressed to be created by this deed and ranking ahead of all (if any) security and rights of third parties, except those preferred by law subject to the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors
- 9.1.3** the execution, delivery and performance by the Developer of the terms of this deed do not and will not conflict with or result in a breach of, in any respect:
- (a) any provision of any Law or any order, decree, permit or licence of any authority, agency or court binding on the Developer or on any of its assets; or
 - (b) the constitutional documents or resolutions of the Developer; or
 - (c) any subsisting loan stock or debenture or other deed, contract or other undertaking or instrument to which the Developer is a party and which is binding upon it or any of its assets;
- 9.1.4** no Act of Insolvency has occurred;
- 9.1.5** no litigation, or other proceeding or claim is current or pending or, to the best of the knowledge, information and belief of the Developer, threatened against the Developer or any of the assets of the Developer which could have a material adverse effect on the financial condition of the Developer;
- 9.1.6** this deed is not liable to be avoided or otherwise set aside on the liquidation, administration or bankruptcy of the Developer or otherwise subject to the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; and
- 9.1.7** the Developer is the sole legal and beneficial owner of the Property;
- 9.1.8** there subsists no breach of any Law which materially adversely affects the market value of the Property;
- 9.1.9** there are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters which materially adversely affect the market value of the Property;
- 9.1.10** nothing has arisen or has been created or is subsisting which would be an Overriding Interest in respect of the Property;

- 9.1.11 no facility necessary for the enjoyment and use of the Property is enjoyed on terms entitling any person to terminate or curtail its use;
 - 9.1.12 the Developer has not received notice of any adverse claim by any person in respect of the ownership of the Property or any interest in it, nor has any acknowledgement of any adverse right been given to any person in respect of the Property;
 - 9.1.13 to the best of the Developer's knowledge, no waste or noxious, offensive or dangerous substance has been used, disposed of, produced, stored or deposited under, on or in, or emitted from the Property;
 - 9.1.14 the present use of the Property is a permitted use within the provisions of the Planning Act and the Developer has not before the execution of this deed carried out any operation upon the Property or put the Property to any use which is a development within the provisions of the Planning Act and in respect of which any requisite permission or consent has not been obtained or any valid enforcement order may be made;
 - 9.1.15 there are no proceedings, actions, disputes or circumstances relating to the Property or any neighbouring property which materially adversely affect the market value or the ability to use the Property for the purposes for which it is currently used; and
 - 9.1.16 the Property is free from any tenancy or licence and no person (other than the Developer) has any right (actual or contingent) to possession, occupation or use of or interest in the Property.
- 9.2 It is agreed and acknowledged that the Developer purchased the Property from the Owner immediately prior to the grant of this Legal Charge. The Developer gives no warranty in respect of:
- 9.2.1 any matter disclosed to the Developer in writing or otherwise by the Owner or the Owner's solicitors in relation to the sale of the Property to the Developer before the date of this deed; and
 - 9.2.2 any matter disclosed in writing by the Developer's solicitors to the Owner's solicitors in respect of the Property before the date of this deed;

and any warranty, confirmation or representation made by the Developer shall relate solely to its period of ownership.

10. OWNER'S LIABILITY / INDEMNITY

- 10.1 In no circumstances will the Owner be liable to account to the Developer as a mortgagee in possession or otherwise for any monies except those actually received unconditionally and irrevocably by the Owner which have not been distributed or paid to the Developer or other person entitled to them or at the time of payment honestly and reasonably believed by the Owner to be entitled to them.
- 10.2 The Owner will be under no obligation to take any steps or institute any proceedings for the recovery of any payments and Liabilities due under this deed and in no circumstances will the Owner be liable to the Developer or any other person for any Liabilities arising from or connection with any realisation of the Property or from any act, default, omission or misconduct of the Owner or the Receiver or their respective officers, employees or agents in relation to the Property or in connection with this deed except to the extent that they are caused by the

Owner's or (as the case may be) the Receiver's own fraud, negligence or wilful misconduct or that of their respective officers, employees or agents.

10.3 The Developer shall, notwithstanding any release or discharge of the Property as security, indemnify the Owner and any Receiver against any Liability which the Owner or any Receiver may sustain as a consequence of any breach by the Developer of the provisions of this deed or the exercise or purported exercise of any of the rights and powers conferred on them by this deed, or otherwise relating to the Property.

10.4 All the provisions of this clause 10 will apply (with the necessary changes) in respect of the Liability of any Receiver or any officer, employee or agent of the Owner or any Receiver.

11. PROTECTION OF THIRD PARTIES

11.1 Any purchaser or any other person dealing with the Owner or any Receiver shall not be concerned to enquire whether the payment due or Liabilities have become payable or whether any power which the Owner or any Receiver is purporting to exercise has become exercisable or whether any money is due under this deed or as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with the Owner or such Receiver.

11.2 All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other Law for the time being in force will apply to any person purchasing from or dealing with the Owner or any Receiver.

12. POWERS OF LEASING

The statutory powers of sale, leasing and accepting surrenders exercisable by the Owner are by this deed extended so as to authorise the Owner, whether in the name of the Owner or in that of the Developer, to grant lease(s) of the Property with such rights relating to other parts of it and containing such covenants on the part of the Developer and generally on such terms and conditions (including the payment of money to a tenant on a surrender) and whether or not at a premium as the Owner thinks fit.

13. POWER OF ATTORNEY

13.1 The Developer by this deed irrevocably appoints the Owner and any Receiver jointly and also severally the attorney(s) of the Developer for the Developer and in the name and on behalf of the Developer and as the act and deed of the Developer or otherwise to execute as a deed and otherwise perfect any instrument or act which may be required or may be deemed proper for any of the purposes referred to in or otherwise in connection with this deed.

13.2 The Developer ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under this clause 13 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 deed.

13.3 The power of attorney granted by this deed is irrevocable and for value as part of the security constituted by this deed.

14. OWNER'S RIGHTS

14.1 All powers of any Receiver may be exercised by the Owner whether as attorney of the Developer or otherwise.

14.2 The Developer agrees that, upon any sale or other disposition in exercise of the powers contained or implied by this deed the Owner may sever any fixtures belonging to the Developer and sell them separately from the remainder of the Property without taking possession of the

Property and apply the net proceeds of such sale in or towards satisfaction of the Deferred Sum.

15. RELEASES DISCHARGES AND CONSENTS

15.1 On the earlier of:

15.1.1 the date of payment in cleared funds of the Deferred Sum; or

15.1.2 the Deferred Sum Lapse Date; or

15.1.3 the date of completion of the transfers in accordance with clause 18.4.2 or 18.4.3(a) (as applicable) of the Contract

the Owner shall immediately duly release and discharge the security afforded by this deed over the Property or, where appropriate, the relevant part(s) of it.

15.2 The Owner agrees to deliver to the Developer within ten (10) Working Days of the later of:

15.2.1 the date which first occurs pursuant to clause 15.1 above; and

15.2.2 the Developer supplying the necessary application forms properly and duly prepared from the Developer

a duly executed form of discharge and release for the Property or, where appropriate, the relevant part(s) of it and in the event that the Owner does not provide to the Developer the duly executed form of discharge and release in accordance with this clause 15.2 and within the timescale prescribed by this clause then the Owner hereby grants to the Developer an irrevocable power of attorney by way of security for the performance of the Owner's obligations under this clause 15.2 whereby the Developer may in the event of the Owner's default (and without prejudice to any other remedy available) act as attorney for the Owner for the purposes of executing the discharge and release form(s).

15.3 The Owner agrees that the Restriction is not intended to be registered against the title created for the relevant part or parts of the Property comprised in a Permitted Disposal (the 'Exempt Land') and the Owner hereby consents to the removal of the Restriction by the Developer or the Chief Land Registrar at the Land Registry insofar as it relates to the Exempt Land and the Owner hereby grants to the Developer an irrevocable power of attorney by way of security for the Developer in the event of the Owner's default (and without prejudice to any other remedy available) to act as attorney for the Owner for the purposes of making all necessary applications and executing the consent and relevant forms to effect such removal at the Land Registry.

15.4 If required by the Land Registry the Owner shall do all reasonable acts (at the Developer's reasonable request and cost) and sign such applications duly prepared by the Developer as may be necessary to ensure that the Restriction is not registered against the title to any Exempt Land.

15.5 The Owner agrees that it will promptly as mortgagee only join in as a party to and consent to the conclusion by the Developer of Third Party Agreements which the Developer requires in the course of the development of the Property (with or without other property) provided that the Owner has first approved the terms of such Third Party Agreements (such approvals not to be unreasonably withheld or delayed).

15.6 The Owner hereby consents as mortgagee to the grant of any covenants or rights over the Property in a Third Party Agreement that has been approved in accordance with clause 15.5 or in the Plot Assurance.

15.7 The Owner agrees that

any part of the Property which is the subject of a Permitted Disposal may be released from this deed prior to the payment of the Deferred Sum and, without prejudice to the generality of the preceding, the Owner hereby undertakes to provide to the Developer the following duly executed forms within ten (10) Working Days of receipt of a copy for execution from the Developer:

- 15.7.1 DS3's (or such replacement form required by the Land Registry from time to time) to discharge this deed following a disposition which is a Permitted Disposal ; and
- 15.7.2 RX4's (or such replacement form required by the Land Registry from time to time) to release the restriction contained in this deed following a disposition which is a Permitted Disposal.

16. OWNER'S DEVELOPMENT RIGHTS FOLLOWING ENFORCEMENT

- 16.1 At any time after the security constituted by this deed has become enforceable the Owner or any Receiver may serve upon the Developer a written notice identifying in detail and with reference to a plan the nature and extent of all temporary and permanent rights and easements reasonably required for the benefit of the Property over the unbuilt upon parts or intended to remain unbuilt upon parts of the adjoining land in the Developer's ownership as at the date of this deed and / or covenants for the continued use of the Property and its future development (**Appropriate Reservations**) and as reasonably necessary and as not already granted in the relevant transfer.

- 16.2 In determining the nature of the Appropriate Reservations regard shall be had to the following intention of the parties:

- 16.2.1 the routes of such easements and rights shall be determined by the Owner acting reasonably;
- 16.2.2 proper infrastructure adequate for the future development of the Property is to be taken to the boundary with the Property and where such infrastructure would normally be adopted and maintained by the highway authority or statutory undertakers the same shall be made the subject of agreements for adoption as soon as reasonably possible;
- 16.2.3 such easements and rights relating to the passage of any services and drainage shall be over an identified route and of an identified width of land reasonably and properly designated by the Owner and shall, as appropriate, have with them the rights to enter up on the burdened land to connect into install inspect maintain alter adjust and repair the same; and
- 16.2.4 such easements and rights relating to access (including but without limitation as to roadways, footpaths and cycle ways) shall be over an identified route of an identified width reasonably designated by the Owner and shall have with them the appropriate rights to enter upon the burdened land to construct maintain and repair the same.

- 16.3 On receipt of a notice pursuant to clause 16.1 the Developer shall promptly enter into all documentation required to grant the Appropriate Reservations having regard to and subject to the rights granted and reserved to any purchaser on or around the Property.

17. EXPENSES, STAMP TAXES AND INDEMNITY

17.1 Expenses

The Developer will, from time to time on demand of the Owner, reimburse the Owner for all the costs and expenses (including legal fees) reasonably and properly incurred together with any VAT thereon properly incurred by it or by any Receiver in connection with the releases, discharges and consents contemplated under clause 15 of this deed. Provided that the costs

for providing the DS1 on final release of the charge (or such replacement form required by the Land Registry from time to time) and related RX4 shall not exceed £750 plus VAT.

17.2 Stamp taxes

The Developer will pay all stamp, stamp duty land tax, registration and other tax which is due pursuant to the security constituted by this deed (including but not limited to such sums falling due in order to facilitate the registration of the Transfer and this charge), indemnify the Owner on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

17.3 Payments free of deduction

All payments to be made under this deed will be made free and clear of and without deduction or withholding whatsoever for or on account of any tax except to the extent that the Developer is required by law to make such payment subject to the deduction or withholding of any tax.

18. DEMANDS AND NOTICES

18.1 Any notice served under this deed must be:

18.1.1 in writing;

18.1.2 signed by an officer of the party serving the notice or by its solicitors; and

18.1.3 delivered by hand, first class post, pre-paid or recorded delivery or fax at the address of the party on whom it is served set out above or such other address which they may notify in writing to the other parties at any time.

18.2 If a notice is received after 4.00 pm on a Working Day, or on a day which is not a Working Day, will be treated as having been received on the next Working Day.

18.3 Unless the time of actual receipt is proved, a notice served by the following means will be treated as having been received;

18.3.1 if delivered by hand, at the time of delivery;

18.3.2 if sent by post, on the second Working Day after posting.

19. CAPACITY AND DEALINGS

19.1 The execution of and the observance of the Owner's and the Developer's obligations under this deed does not and will not contravene any of the provisions of their respective constitutions.

19.2 Neither the Developer nor the Owner may assign or otherwise deal with the benefit and/or the burden of this deed, except with prior written consent of the other party.

20. THIRD PARTY RIGHTS

A person who is not a party to this deed except if a successor in title to the Developer shall have no rights in connection with this deed by virtue of the Contracts (Rights of Third Parties) Act 1999.

21. GOVERNING LAW

This deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

22. EXCLUSIVE JURISDICTION

The courts of England have exclusive jurisdiction to settle any dispute arising in connection with this deed (a Dispute). The parties agree that these courts are the most appropriate and convenient courts to settle any Dispute that arises under or in connection with this deed and accordingly neither party will argue to the contrary.

23. EXECUTED AS A DEED

This deed is a deed within the meaning of Section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 and is executed as such.

IN WITNESS this deed has been executed by the parties to it as a deed and delivered on the date which first appears in this deed.

SCHEDULE 1

Part 1

The Property

All that freehold property at land south of Marske-by-the Sea, Redcar, Cleveland, TS11 6EZ and registered at HM Land Registry with title absolute under part of title number CE54837 and shown coloured green on the Plan.

Part 2

The Prior Encumbrances

None

EXECUTED as a DEED by

MILLER HOMES LIMITED

by two
Authorised Signatories
Director

Signature:

SM

MORA

Name (in block capitals)

KINNIUSHERA

CORINNE ROBERTSON

In the presence of

Signature:

Name (in block capitals)

KAREN McDONNELL

Address

2 Lechside View, Edinburgh PK, Edinburgh, EH12 9DU

Occupation

Receptionist

Executed as a deed by Wolverhampton
City Council affixing the Common Seal
in the presence of:

Common Seal

Authorised Officer

**EXECUTED as a DEED by
MILLER HOMES LIMITED**

Director

Signature:

Name (in block capitals)

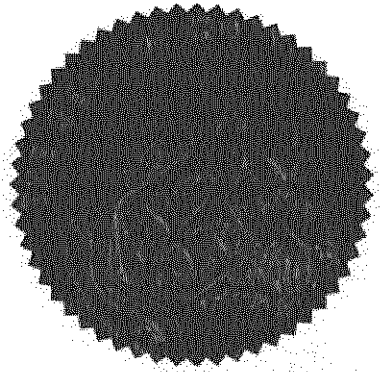
In the presence of

Signature:

Name (in block capitals)

Address

Occupation



487/2023

Executed as a deed by **Wolverhampton
City Council** affixing the Common Seal
in the presence of:



Authorised Officer

Common Seal