



Registration of a Charge

Company name: **MILLER HOMES HOLDINGS LIMITED**

Company number: **SC255430**



X5DWUZX6

Received for Electronic Filing: **22/08/2016**

Details of Charge

Date of creation: **17/08/2016**

Charge code: **SC25 5430 0011**

Persons entitled: **HSBC BANK PLC (AS LENDER)**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 255430

Charge code: SC25 5430 0011

The Registrar of Companies for Scotland hereby certifies that a charge dated 17th August 2016 and created by MILLER HOMES HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd August 2016 .

Given at Companies House, Edinburgh on 23rd August 2016

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

17 August

2016

(1) THE CHARGORS LISTED HEREIN

- and -

(2) HSBC BANK PLC

SHARE CHARGE

relating to shares in

MILLER WATES (DIDCOT) LIMITED

HSBC 

HSBC Bank plc
70 Pall Mall
London
SW1Y 5EZ

THIS DEED is made on

17 August

2016

BETWEEN

- (1) **MILLER HOMES HOLDINGS LIMITED**, a company registered in Scotland with registered number SC255430 with its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH; and
- (2) **WATES DEVELOPMENTS LIMITED**, a company registered in England and Wales with registered number 00441484 with its registered office at Wates House, Station Approach, Leatherhead, Surrey, KT22 7SW;

(each a **Chargor** and together the **Chargor**);

and

- (3) **HSBC BANK PLC** (the **Lender**).

1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions

In this Deed:

Affiliate means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company;

Borrower means Miller Wates (Didcot) Limited a company incorporated and registered under the laws of England and Wales with number 09606711 with its registered office at 2 Centro Place, Pride Park, Derby, Derbyshire, DE24 8RF;

Hedging Agreement means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Borrower for the purpose of hedging interest rate liabilities and/or any exchange rate or other risks in relation to all or part of the Secured Liabilities and shall include all trades conducted thereunder;

Holding Company has the meaning given in section 1159 of the Companies Act 2006;

Interest Rate means the rate of interest payable on any facility secured by the Security;

Receiver means a receiver and/or manager of any or all of the Chargor's assets appointed by the Lender under the Security;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Borrower to the Lender (including any under any Hedging Agreement) and all monies covenanted by the Chargor to be paid under this Deed;

Security means the Security Interests created or intended to be created by or pursuant to this Deed;

Security Assets means all the Chargor's assets from time to time the subject of Security;

Security Interest means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

Shares means the shares and associated rights referred to in clause 3 (*The Charge*); and

Subsidiary has the meaning given in section 1159 of the Companies Act 2006.

1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) **assets** includes present and future properties, revenues and rights of every description;
 - (ii) **the Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees;
 - (iii) **a disposal** includes a lease, licence, transfer, sale or other disposal of any kind;
 - (iv) **includes** or **including** shall be read and construed as including the phrase **without limitation**;
 - (v) **this Deed** or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Chargor's obligations or provides for further advances);
 - (vi) **a provision of law** is a reference to that provision as amended or re-enacted; and
 - (vii) **the singular** includes the plural and vice versa.
- (b) When any provision of this Deed refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing.
- (c) Where the Chargor includes two or more entities a reference to the Chargor shall mean to each of the entities severally.
- (d) Where the Chargor is not a limited company, references to 'its' and 'it' shall be read and construed as references to 'his' and 'him' or 'her' as applicable.
- (e) References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed.
- (f) Clause headings are for ease of reference only and shall not affect the construction of this Deed.
- (g) If the Lender reasonably considers that an amount paid by the Chargor under this Deed or by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Chargor or the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.3 Third party rights

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.4 Delivery

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this document take effect as a deed notwithstanding the fact that the Lender may only execute this document under hand.

2. NATURE OF SECURITY

All Security is created or made in favour of the Lender with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the payment and discharge of the Secured Liabilities.

3. THE CHARGE

- (a) The Chargor charges to the Lender by way of first fixed charge all of its rights in and to the shares referred to in the schedule (if any).
- (b) The Lender hereby acknowledges that nothing in this deed shall require the Chargor (or either of them) to pay any of the Secured Liabilities directly.
- (c) Notwithstanding anything in this Deed to the contrary, the Lender agrees that:
 - (i) the Chargors' sole obligations and liabilities to the Lender under or in relation to this Deed shall be limited and the Lender's only recourse to the Chargors under this Deed shall be to the Security Assets (and for the avoidance of doubt the Lender shall not have any other recourse or remedy against any other assets of the Chargors with respect to amounts due under this Deed);
 - (ii) the Lender shall not commence any bankruptcy, winding up or insolvency proceedings against the Chargors in respect of amounts due under this Deed or exercise any other remedy against the Chargors (except for any judicial proceedings to obtain a declaratory or other similar judgement or order in each event solely as to the obligations and liabilities of the Chargors under this Deed).

4. REPRESENTATIONS

4.1 General

The Chargor makes the representations and warranties set out in this clause 4 (*Representations*) to the Lender on the date of this Deed and on each day the Secured Liabilities are outstanding.

4.2 Status

- (a) If the Chargor is a company it is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) The Chargor has the power to own its assets and carry on its businesses as they are being conducted.

4.3 Binding obligations

- (a) The Chargor's obligations in this Deed are legal, valid, binding and enforceable obligations.
- (b) The Security Interests which this Deed purports to create are valid and effective and are not liable to be avoided or otherwise set aside on the Chargor's death, bankruptcy, liquidation or administration.

4.4 Non-conflict with other obligations

The entry into and performance by the Chargor of its obligations under this Deed and the granting of the Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) (if the Chargor is not an individual) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

4.5 Insolvency

As at the date of this Deed the Chargor is able to meet its debts as they fall due and is not otherwise deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any analogous provision in any relevant jurisdiction.

4.6 Title and ranking

- (a) The Chargor has a good and marketable title to and is the sole legal and beneficial owner of the Shares, which are fully paid.
- (b) The Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security Interest.
- (c) The Chargor has not entered into any agreement or option to dispose of the Shares other than as is contained in this Deed.
- (d) The Shares constitute all of the issued share capital of the Borrower.

4.7 Centre of main interest and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulation**), the Chargor's "*centre of main interest*" (as that term is used in Article 3(1) of the Regulation) is situated in (with respect to Wates Developments Limited) England and Wales or (with respect to Miller Homes Holdings Limited) the United Kingdom and the Chargor has no "*establishment*" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

5. GENERAL UNDERTAKINGS

5.1 Negative covenants

The Chargor shall not:

- (a) create or permit to subsist any Security Interest over the Shares without the consent of the Lender; or
- (b) make any disposal of the Shares unless the Lender consents.

5.2 Deposit of certificates and transfers

- (a) The Chargor must ensure that the following documents are deposited with the Lender:
 - (i) all stock and share certificates and documents of title relating to the Shares;
 - (ii) transfers of the Shares duly completed in favour of the Lender or otherwise as the Lender may direct; and

- (iii) any other documents which the Lender may from time to time require for perfecting title to the Shares (duly executed by or signed on behalf of the registered holder) or for vesting or enabling the Lender to vest those Shares in itself, its nominees or in any purchaser.
- (b) The Chargor must execute such documents, pass such resolutions or take such other action as is necessary to protect the Lender's title to the Shares.
- (c) The Chargor must ensure that all or any of the Shares are transferred into the name of the Lender, its nominee or agent on request.

5.3 No share issues

The Chargor shall (to the extent within its power) ensure that without the Lender's prior consent, no company whose share capital includes or comprises the Shares will:

- (a) issue or allot any shares or other securities or enter into or permit any agreement or other arrangement to make, or entitle any person to call for, an issue or allotment of that company's shares or other securities;
- (b) in any way modify the rights attached to any of the shares in its issued share capital;
- (c) increase, consolidate, sub-divide or reduce its share capital;
- (d) alter its articles of association;
- (e) purchase its own shares or reduce its share capital; or
- (f) take any step to place itself in liquidation or administration or pass any resolution to wind itself up.

5.4 Calls

The Chargor shall ensure all calls, instalments or other payments which may be made or become due in respect of the Shares are punctually met as and when the same become due from time to time.

6. FURTHER ASSURANCE

The Chargor shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for:

- (a) giving effect to, perfecting or protecting the Security;
- (b) facilitating the realisation of the Shares;
- (c) facilitating the exercise of all powers, authorities and discretions vested by this Deed in the Lender or in any Receiver; or
- (d) perfecting any Security over any Shares acquired by it after the date of this Deed.

7. ENFORCEMENT

7.1 Remedying defaults

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by the Chargor to observe and perform the provisions of this Deed at the Chargor's cost.

7.2 Timing of enforcement

- (a) The Secured Liabilities are deemed to have become due on the date of this Deed.
- (b) The Security shall become enforceable on the earlier of:
 - (i) the date the Lender demands repayment of any of the Secured Liabilities;
 - (ii) the date the Chargor breaches a provision of this Deed or any document evidencing the facilities to which the Secured Liabilities relate;
 - (iii) the date the Borrower breaches a provision of any document evidencing the facilities to which the Secured Liabilities relate; and
 - (iv) the Chargor's request.
- (c) Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this Deed.

7.3 Powers of the Lender

- (a) At any time after the Security becomes enforceable (or if so requested by the Chargor at any time), the Lender may without further notice (unless required by law):
 - (i) appoint any person (or persons) to be a receiver or receiver and manager of all or any part of the Shares; and/or
 - (ii) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
 - (iii) exercise (in the Chargor's name) any voting rights and any powers or rights which may be exercised by the Chargor in relation to the Shares.
- (b) The Lender is not entitled to appoint a Receiver in respect of any Shares which are subject to Security which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium).

7.4 No liability

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Shares for any loss on realisation or for any other default or omission. No exercise of the right in clause 7.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession. Neither the Lender nor the Receiver is under any obligation to exercise any power or discretion enjoyed by it in relation to the Shares.

8. RECEIVER

8.1 Removal and replacement

The Lender may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

8.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Shares and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

8.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender).

8.4 Payment by Receiver

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

8.5 Chargor's agent

Any Receiver shall be the Chargor's agent and the Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

9. POWERS OF RECEIVER

9.1 General powers

- (a) Any Receiver shall have:
 - (i) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act;
 - (ii) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
 - (iii) all powers which are conferred by any other law conferring power on receivers.
- (b) To the extent that the Shares constitute "financial collateral" and this Deed and the Chargor's obligations under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Lender shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (c) For the purpose of clause 9.1(b) the value of the financial collateral appropriated shall be such amount as the Receiver or Lender reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

9.2 Additional powers

In addition to the powers referred to in clause 9.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Shares and/or income in respect of which he was appointed;

- (b) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (c) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Shares in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation:
 - (i) the consideration for any such transaction may consist of cash, deeds or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
 - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (d) to carry out any sale, or other disposal of all or any part of the Shares by conveying, transferring or assigning the same in the Chargor's name and, for that purpose, to enter into covenants and other contractual obligations in its name and so as to bind it;
- (e) to take any such proceedings in the Chargor's name as he shall think fit in respect of the Shares and/or income in respect of which he was appointed (including proceedings for recovery of dividends or other monies in arrears at the date of his appointment);
- (f) to exercise any voting rights attached to any of Shares;
- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- (i) to:
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of the Shares;
 - (ii) exercise in relation to the Shares all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Shares; and
 - (iii) use the Chargor's name for any of the above purposes.

9.3 Limitation

- (a) The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver.
- (b) The Receiver shall be under no duty to the Chargor to exercise any power he may have and shall not incur any liability to the Chargor either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers.

10. APPROPRIATION OF RECEIPTS

10.1 Application

- (a) Subject to clause 10.2 (*Suspense account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in

substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority:

- (i) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment, together with interest on that remuneration and those costs, charges and expenses at the Interest Rate;
 - (ii) in or towards payment or discharge of the Secured Liabilities; and
 - (iii) in payment of the surplus (if any) to the Chargor or other person entitled to it.
- (b) The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by the Chargor.

10.2 Suspense account

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent.

11. CURRENCY CONVERSION

All monies received or held by the Lender or any Receiver under this Deed may be converted from their existing currency into such other currency as the Lender or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange.

12. NEW ACCOUNT

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Shares or their proceeds of sale, then the Lender may open a new account for the Chargor. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Lender for the Chargor's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

13. CUSTODY

The Lender shall be entitled to provide for the safe custody by third parties of all documents deposited with it in connection with the Shares and shall not be responsible for any loss or damage to such documents unless such loss or damage occurs as a result of the wilful default or gross negligence of the Lender.

14. DELEGATION AND APPOINTMENT OF ATTORNEYS

14.1 Delegation

- (a) The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit.
- (b) The Lender shall not be liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates.

14.2 Attorneys

- (a) By way of security, the Chargor irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under clause 14.1 (*Delegation*) separately to be its attorney on its behalf, in its name:
 - (i) to execute and do any documents, acts and things which it is required to execute and do under this Deed; and
 - (ii) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed or by law on the Lender or any Receiver.
- (b) The Chargor ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 14.2 (*Attorneys*).

15. REDEMPTION OF PRIOR SECURITY INTERESTS

15.1 Redemption

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at the Chargor's cost.

15.2 Costs of redemption

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under clause 15.1 (*Redemption*) shall be paid by the Chargor on demand, in each case together with interest calculated and in the manner referred to in clause 19 (*Indemnities*).

16. RELEASES

16.1 Releases conditional

- (a) Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this clause 16 (*Releases*), a **release**) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency.
- (b) If any avoidance, reduction, or clawback occurs or any order is made as referred to in clause 16.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between the Chargor and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as security for the Secured Liabilities.

16.2 Retention

- (a) If and for so long as any assurance, security or payment as is mentioned in clause 16.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.
- (b) If, at any time while all or part of the Lender's rights under this Deed are so retained:

- (i) an application is made to a competent court for a winding-up order to be made in respect of the Chargor;
- (ii) steps are taken to wind the Chargor up;
- (iii) an application is made to a competent court for an administration order to be made in respect of the Chargor;
- (iv) a notice of intention to appoint an administrator to the Chargor is filed at court; or
- (v) the appointment of an administrator to the Chargor takes effect,

then the Lender may continue to retain all or part of its rights under this Deed for any further period as the Lender may determine in its absolute discretion.

17. CONTINUING SECURITY

17.1 Continuing security

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding:

- (a) intermediate payment or discharge of the whole or part of the Secured Liabilities;
- (b) the Chargor's death, bankruptcy, liquidation or other incapacity or any change in its constitution, name or style;
- (c) any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person; or
- (d) any other event, matter or thing.

17.2 Additional to other rights

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Chargor or otherwise) in favour of the Lender. Accordingly, the Chargor's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding:

- (a) the existence or invalidity of all or any of those rights; or
- (b) at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights.

18. THIRD PARTY PROTECTION

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned:

- (a) to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged;
- (b) whether the power which the Lender or Receiver is purporting to exercise has become exercisable; or
- (c) to see to the application of any money paid to the Lender or to a Receiver.

19. INDEMNITIES

The Chargor agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) on demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver):

- (a) as a result of the Chargor's failure to perform any of its obligations under this Deed;
- (b) arising with the vesting of the Shares in the Lender or the re-vesting of the Shares in the Chargor on redemption of the Security;
- (c) in the exercise (or purported exercise) of any of the powers or other rights conferred by this Deed;
- (d) in respect of any costs, charges or expenses incurred in connection with clause 11 (*Currency conversion*);
- (e) in respect of the redemption of any prior Security Interest over the Shares under clause 15 (*Redemption of prior Security Interests*);
- (f) in respect of any other matter or thing done or omitted relating to the Shares,

together in each case with interest at the rate of two per cent (2%) above the base lending rate of the Lender from time to time calculated on a daily basis from the date it is incurred or becomes payable to the Lender or the Receiver until the date of payment, whether before or after any judgment.

20. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

21. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22. REMEDIES AND WAIVERS

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

23. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Chargor and the Lender agree in writing and any breach of this Deed may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

24. TRANSFER AND CONFIDENTIALITY

24.1 Transfer

- (a) The Lender may assign and/or transfer its rights and obligations under this Deed.
- (b) The Chargor shall not assign any of its rights or transfer any of its obligations under this Deed.

24.2 Confidentiality

The Lender may disclose to:

- (a) any transferee or potential transferee;
- (b) any assignee or potential assignee;
- (c) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Secured Liabilities;
- (d) any ratings agency;
- (e) any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 24.2(a) to 24.2(d);
- (f) any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives;
- (g) any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation,

such confidential information as the Lender shall consider appropriate if any person to whom the confidential information is to be given is informed in writing of its confidential nature.

25. MANAGEMENT TIME

The Lender reserves the right to charge for its management time or other resources (which will be calculated on the basis of such reasonable daily or hourly rates as the Lender may notify to the Chargor from time to time).

26. COUNTERPARTS

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

27. NOTICES

27.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing in the English language and, unless otherwise stated, must be made by letter.

27.2 Addresses

The Lender may deliver any communication, document or notice to the Chargor relating to this Deed to its registered office, to any address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address the Chargor may notify to the Lender by not less than five business days' notice.

27.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address.
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

28. GOVERNING LAW

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

29. ENFORCEMENT

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**).
- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) This clause 29.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

In witness whereof the Chargor has executed this Deed as a deed the year and date appearing on the first page of it.

SCHEDULE

The Shares

Number of Shares	Class of Shares	Owner
500	A Ordinary	Miller Homes Holdings Limited
500	B Ordinary	Wates Developments Limited

EXECUTION PAGE

EXECUTED as a Deed (but not delivered until dated))
by **MILLER HOMES HOLDINGS LIMITED** acting)
by a Director in the presence of a witness:)

) Director

Name of Director *JILLIE JACKSON.*

Signature of witness:

Name of witness: *KIRBY CRANMAN*

Address: *2 LOCHSIDE VIEW*
EDINBURGH

EXECUTED as a Deed (but not delivered until dated))
by **WATES DEVELOPMENTS LIMITED** acting by a)
Director in the presence of a witness:)

) Director

Name of Director

Signature of witness:

Name of witness:

Address:

THE LENDER

SIGNED for and on behalf of

)

HSBC BANK plc

)

DATED

17 August

2016

(1) THE CHARGORS LISTED HEREIN

- and -

(2) HSBC BANK PLC

SHARE CHARGE

relating to shares in

MILLER WATES (DIDCOT) LIMITED

HSBC 

HSBC Bank plc
70 Pall Mall
London
SW1Y 5EZ

THIS DEED is made on

17 August

2016

BETWEEN

- (1) **MILLER HOMES HOLDINGS LIMITED**, a company registered in Scotland with registered number SC255430 with its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH; and
- (2) **WATES DEVELOPMENTS LIMITED**, a company registered in England and Wales with registered number 00441484 with its registered office at Wates House, Station Approach, Leatherhead, Surrey, KT22 7SW;

(each a **Chargor** and together the **Chargor**);

and

- (3) **HSBC BANK PLC** (the **Lender**).

1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions

In this Deed:

Affiliate means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company;

Borrower means Miller Wates (Didcot) Limited a company incorporated and registered under the laws of England and Wales with number 09606711 with its registered office at 2 Centro Place, Pride Park, Derby, Derbyshire, DE24 8RF;

Hedging Agreement means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Borrower for the purpose of hedging interest rate liabilities and/or any exchange rate or other risks in relation to all or part of the Secured Liabilities and shall include all trades conducted thereunder;

Holding Company has the meaning given in section 1159 of the Companies Act 2006;

Interest Rate means the rate of interest payable on any facility secured by the Security;

Receiver means a receiver and/or manager of any or all of the Chargor's assets appointed by the Lender under the Security;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Borrower to the Lender (including any under any Hedging Agreement) and all monies covenanted by the Chargor to be paid under this Deed;

Security means the Security Interests created or intended to be created by or pursuant to this Deed;

Security Assets means all the Chargor's assets from time to time the subject of Security;

Security Interest means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

Shares means the shares and associated rights referred to in clause 3 (*The Charge*); and

Subsidiary has the meaning given in section 1159 of the Companies Act 2006.

1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) **assets** includes present and future properties, revenues and rights of every description;
 - (ii) **the Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees;
 - (iii) **a disposal** includes a lease, licence, transfer, sale or other disposal of any kind;
 - (iv) **includes or including** shall be read and construed as including the phrase **without limitation**;
 - (v) **this Deed** or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Chargor's obligations or provides for further advances);
 - (vi) **a provision of law** is a reference to that provision as amended or re-enacted; and
 - (vii) **the singular** includes the plural and vice versa.
- (b) When any provision of this Deed refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing.
- (c) Where the Chargor includes two or more entities a reference to the Chargor shall mean to each of the entities severally.
- (d) Where the Chargor is not a limited company, references to 'its' and 'it' shall be read and construed as references to 'his' and 'him' or 'her' as applicable.
- (e) References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed.
- (f) Clause headings are for ease of reference only and shall not affect the construction of this Deed.
- (g) If the Lender reasonably considers that an amount paid by the Chargor under this Deed or by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Chargor or the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.3 Third party rights

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.4 Delivery

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this document take effect as a deed notwithstanding the fact that the Lender may only execute this document under hand.

2. NATURE OF SECURITY

All Security is created or made in favour of the Lender with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the payment and discharge of the Secured Liabilities.

3. THE CHARGE

- (a) The Chargor charges to the Lender by way of first fixed charge all of its rights in and to the shares referred to in the schedule (if any).
- (b) The Lender hereby acknowledges that nothing in this deed shall require the Chargor (or either of them) to pay any of the Secured Liabilities directly.
- (c) Notwithstanding anything in this Deed to the contrary, the Lender agrees that:
 - (i) the Chargors' sole obligations and liabilities to the Lender under or in relation to this Deed shall be limited and the Lender's only recourse to the Chargors under this Deed shall be to the Security Assets (and for the avoidance of doubt the Lender shall not have any other recourse or remedy against any other assets of the Chargors with respect to amounts due under this Deed);
 - (ii) the Lender shall not commence any bankruptcy, winding up or insolvency proceedings against the Chargors in respect of amounts due under this Deed or exercise any other remedy against the Chargors (except for any judicial proceedings to obtain a declaratory or other similar judgement or order in each event solely as to the obligations and liabilities of the Chargors under this Deed).

4. REPRESENTATIONS

4.1 General

The Chargor makes the representations and warranties set out in this clause 4 (*Representations*) to the Lender on the date of this Deed and on each day the Secured Liabilities are outstanding.

4.2 Status

- (a) If the Chargor is a company it is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) The Chargor has the power to own its assets and carry on its businesses as they are being conducted.

4.3 Binding obligations

- (a) The Chargor's obligations in this Deed are legal, valid, binding and enforceable obligations.
- (b) The Security Interests which this Deed purports to create are valid and effective and are not liable to be avoided or otherwise set aside on the Chargor's death, bankruptcy, liquidation or administration.

4.4 Non-conflict with other obligations

The entry into and performance by the Chargor of its obligations under this Deed and the granting of the Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) (if the Chargor is not an individual) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

4.5 Insolvency

As at the date of this Deed the Chargor is able to meet its debts as they fall due and is not otherwise deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any analogous provision in any relevant jurisdiction.

4.6 Title and ranking

- (a) The Chargor has a good and marketable title to and is the sole legal and beneficial owner of the Shares, which are fully paid.
- (b) The Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security Interest.
- (c) The Chargor has not entered into any agreement or option to dispose of the Shares other than as is contained in this Deed.
- (d) The Shares constitute all of the issued share capital of the Borrower.

4.7 Centre of main interest and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulation**), the Chargor's "*centre of main interest*" (as that term is used in Article 3(1) of the Regulation) is situated in (with respect to Wates Developments Limited) England and Wales or (with respect to Miller Homes Holdings Limited) the United Kingdom and the Chargor has no "*establishment*" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

5. GENERAL UNDERTAKINGS

5.1 Negative covenants

The Chargor shall not:

- (a) create or permit to subsist any Security Interest over the Shares without the consent of the Lender; or
- (b) make any disposal of the Shares unless the Lender consents.

5.2 Deposit of certificates and transfers

- (a) The Chargor must ensure that the following documents are deposited with the Lender:
 - (i) all stock and share certificates and documents of title relating to the Shares;
 - (ii) transfers of the Shares duly completed in favour of the Lender or otherwise as the Lender may direct; and

- (iii) any other documents which the Lender may from time to time require for perfecting title to the Shares (duly executed by or signed on behalf of the registered holder) or for vesting or enabling the Lender to vest those Shares in itself, its nominees or in any purchaser.
- (b) The Chargor must execute such documents, pass such resolutions or take such other action as is necessary to protect the Lender's title to the Shares.
- (c) The Chargor must ensure that all or any of the Shares are transferred into the name of the Lender, its nominee or agent on request.

5.3 No share issues

The Chargor shall (to the extent within its power) ensure that without the Lender's prior consent, no company whose share capital includes or comprises the Shares will:

- (a) issue or allot any shares or other securities or enter into or permit any agreement or other arrangement to make, or entitle any person to call for, an issue or allotment of that company's shares or other securities;
- (b) in any way modify the rights attached to any of the shares in its issued share capital;
- (c) increase, consolidate, sub-divide or reduce its share capital;
- (d) alter its articles of association;
- (e) purchase its own shares or reduce its share capital; or
- (f) take any step to place itself in liquidation or administration or pass any resolution to wind itself up.

5.4 Calls

The Chargor shall ensure all calls, instalments or other payments which may be made or become due in respect of the Shares are punctually met as and when the same become due from time to time.

6. FURTHER ASSURANCE

The Chargor shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for:

- (a) giving effect to, perfecting or protecting the Security;
- (b) facilitating the realisation of the Shares;
- (c) facilitating the exercise of all powers, authorities and discretions vested by this Deed in the Lender or in any Receiver; or
- (d) perfecting any Security over any Shares acquired by it after the date of this Deed.

7. ENFORCEMENT

7.1 Remedying defaults

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by the Chargor to observe and perform the provisions of this Deed at the Chargor's cost.

7.2 Timing of enforcement

- (a) The Secured Liabilities are deemed to have become due on the date of this Deed.
- (b) The Security shall become enforceable on the earlier of:
 - (i) the date the Lender demands repayment of any of the Secured Liabilities;
 - (ii) the date the Chargor breaches a provision of this Deed or any document evidencing the facilities to which the Secured Liabilities relate;
 - (iii) the date the Borrower breaches a provision of any document evidencing the facilities to which the Secured Liabilities relate; and
 - (iv) the Chargor's request.
- (c) Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this Deed.

7.3 Powers of the Lender

- (a) At any time after the Security becomes enforceable (or if so requested by the Chargor at any time), the Lender may without further notice (unless required by law):
 - (i) appoint any person (or persons) to be a receiver or receiver and manager of all or any part of the Shares; and/or
 - (ii) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
 - (iii) exercise (in the Chargor's name) any voting rights and any powers or rights which may be exercised by the Chargor in relation to the Shares.
- (b) The Lender is not entitled to appoint a Receiver in respect of any Shares which are subject to Security which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium).

7.4 No liability

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Shares for any loss on realisation or for any other default or omission. No exercise of the right in clause 7.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession. Neither the Lender nor the Receiver is under any obligation to exercise any power or discretion enjoyed by it in relation to the Shares.

8. RECEIVER

8.1 Removal and replacement

The Lender may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

8.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Shares and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

8.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender).

8.4 Payment by Receiver

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

8.5 Chargor's agent

Any Receiver shall be the Chargor's agent and the Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

9. POWERS OF RECEIVER

9.1 General powers

- (a) Any Receiver shall have:
 - (i) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act;
 - (ii) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
 - (iii) all powers which are conferred by any other law conferring power on receivers.
- (b) To the extent that the Shares constitute "financial collateral" and this Deed and the Chargor's obligations under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Lender shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (c) For the purpose of clause 9.1(b) the value of the financial collateral appropriated shall be such amount as the Receiver or Lender reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

9.2 Additional powers

In addition to the powers referred to in clause 9.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Shares and/or income in respect of which he was appointed;

- (b) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (c) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Shares in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation:
 - (i) the consideration for any such transaction may consist of cash, deeds or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
 - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (d) to carry out any sale, or other disposal of all or any part of the Shares by conveying, transferring or assigning the same in the Chargor's name and, for that purpose, to enter into covenants and other contractual obligations in its name and so as to bind it;
- (e) to take any such proceedings in the Chargor's name as he shall think fit in respect of the Shares and/or income in respect of which he was appointed (including proceedings for recovery of dividends or other monies in arrears at the date of his appointment);
- (f) to exercise any voting rights attached to any of Shares;
- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- (i) to:
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of the Shares;
 - (ii) exercise in relation to the Shares all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Shares; and
 - (iii) use the Chargor's name for any of the above purposes.

9.3 Limitation

- (a) The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver.
- (b) The Receiver shall be under no duty to the Chargor to exercise any power he may have and shall not incur any liability to the Chargor either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers.

10. APPROPRIATION OF RECEIPTS

10.1 Application

- (a) Subject to clause 10.2 (*Suspense account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in

substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority:

- (i) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment, together with interest on that remuneration and those costs, charges and expenses at the Interest Rate;
 - (ii) in or towards payment or discharge of the Secured Liabilities; and
 - (iii) in payment of the surplus (if any) to the Chargor or other person entitled to it.
- (b) The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by the Chargor.

10.2 Suspense account

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent.

11. CURRENCY CONVERSION

All monies received or held by the Lender or any Receiver under this Deed may be converted from their existing currency into such other currency as the Lender or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange.

12. NEW ACCOUNT

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Shares or their proceeds of sale, then the Lender may open a new account for the Chargor. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Lender for the Chargor's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

13. CUSTODY

The Lender shall be entitled to provide for the safe custody by third parties of all documents deposited with it in connection with the Shares and shall not be responsible for any loss or damage to such documents unless such loss or damage occurs as a result of the wilful default or gross negligence of the Lender.

14. DELEGATION AND APPOINTMENT OF ATTORNEYS

14.1 Delegation

- (a) The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit.
- (b) The Lender shall not be liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates.

14.2 Attorneys

- (a) By way of security, the Chargor irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under clause 14.1 (*Delegation*) separately to be its attorney on its behalf, in its name:
 - (i) to execute and do any documents, acts and things which it is required to execute and do under this Deed; and
 - (ii) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed or by law on the Lender or any Receiver.
- (b) The Chargor ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 14.2 (*Attorneys*).

15. REDEMPTION OF PRIOR SECURITY INTERESTS

15.1 Redemption

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at the Chargor's cost.

15.2 Costs of redemption

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under clause 15.1 (*Redemption*) shall be paid by the Chargor on demand, in each case together with interest calculated and in the manner referred to in clause 19 (*Indemnities*).

16. RELEASES

16.1 Releases conditional

- (a) Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this clause 16 (*Releases*), a release) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency.
- (b) If any avoidance, reduction, or clawback occurs or any order is made as referred to in clause 16.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between the Chargor and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as security for the Secured Liabilities.

16.2 Retention

- (a) If and for so long as any assurance, security or payment as is mentioned in clause 16.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.
- (b) If, at any time while all or part of the Lender's rights under this Deed are so retained:

- (i) an application is made to a competent court for a winding-up order to be made in respect of the Chargor;
- (ii) steps are taken to wind the Chargor up;
- (iii) an application is made to a competent court for an administration order to be made in respect of the Chargor;
- (iv) a notice of intention to appoint an administrator to the Chargor is filed at court; or
- (v) the appointment of an administrator to the Chargor takes effect,

then the Lender may continue to retain all or part of its rights under this Deed for any further period as the Lender may determine in its absolute discretion.

17. CONTINUING SECURITY

17.1 Continuing security

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding:

- (a) intermediate payment or discharge of the whole or part of the Secured Liabilities;
- (b) the Chargor's death, bankruptcy, liquidation or other incapacity or any change in its constitution, name or style;
- (c) any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person; or
- (d) any other event, matter or thing.

17.2 Additional to other rights

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Chargor or otherwise) in favour of the Lender. Accordingly, the Chargor's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding:

- (a) the existence or invalidity of all or any of those rights; or
- (b) at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights.

18. THIRD PARTY PROTECTION

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned:

- (a) to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged;
- (b) whether the power which the Lender or Receiver is purporting to exercise has become exercisable; or
- (c) to see to the application of any money paid to the Lender or to a Receiver.

19. INDEMNITIES

The Chargor agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) on demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver):

- (a) as a result of the Chargor's failure to perform any of its obligations under this Deed;
- (b) arising with the vesting of the Shares in the Lender or the reversion of the Shares in the Chargor on redemption of the Security;
- (c) in the exercise (or purported exercise) of any of the powers or other rights conferred by this Deed;
- (d) in respect of any costs, charges or expenses incurred in connection with clause 11 (*Currency conversion*);
- (e) in respect of the redemption of any prior Security Interest over the Shares under clause 15 (*Redemption of prior Security Interests*);
- (f) in respect of any other matter or thing done or omitted relating to the Shares,

together in each case with interest at the rate of two per cent (2%) above the base lending rate of the Lender from time to time calculated on a daily basis from the date it is incurred or becomes payable to the Lender or the Receiver until the date of payment, whether before or after any judgment.

20. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

21. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22. REMEDIES AND WAIVERS

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

23. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Chargor and the Lender agree in writing and any breach of this Deed may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

24. TRANSFER AND CONFIDENTIALITY

24.1 Transfer

- (a) The Lender may assign and/or transfer its rights and obligations under this Deed.
- (b) The Chargor shall not assign any of its rights or transfer any of its obligations under this Deed.

24.2 Confidentiality

The Lender may disclose to:

- (a) any transferee or potential transferee;
- (b) any assignee or potential assignee;
- (c) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Secured Liabilities;
- (d) any ratings agency;
- (e) any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 24.2(a) to 24.2(d);
- (f) any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives;
- (g) any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation,

such confidential information as the Lender shall consider appropriate if any person to whom the confidential information is to be given is informed in writing of its confidential nature.

25. MANAGEMENT TIME

The Lender reserves the right to charge for its management time or other resources (which will be calculated on the basis of such reasonable daily or hourly rates as the Lender may notify to the Chargor from time to time).

26. COUNTERPARTS

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

27. NOTICES

27.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing in the English language and, unless otherwise stated, must be made by letter.

27.2 Addresses

The Lender may deliver any communication, document or notice to the Chargor relating to this Deed to its registered office, to any address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address the Chargor may notify to the Lender by not less than five business days' notice.

27.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address.
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

28. GOVERNING LAW

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

29. ENFORCEMENT

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**).
- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) This clause 29.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

In witness whereof the Chargor has executed this Deed as a deed the year and date appearing on the first page of it.

SCHEDULE

The Shares

Number of Shares	Class of Shares	Owner
500	A Ordinary	Miller Homes Holdings Limited
500	B Ordinary	Wates Developments Limited

EXECUTION PAGE

EXECUTED as a Deed (but not delivered until dated))
by MILLER HOMES HOLDINGS LIMITED acting)
by a Director in the presence of a witness:)

) Director

)

Name of Director

Signature of witness:

Name of witness:

Address:

EXECUTED as a Deed (but not delivered until dated))
by WATES DEVELOPMENTS LIMITED acting by a)
Director in the presence of a witness:)

) Director

)

Name of Director

DAVID ROZNERBANK

Signature of witness:

[Redacted Signature]

Name of witness:

DAVID LAW

Address:

WATES HOUSE
STATION APPROACH
LEATHGELGAD
SURREY
KT22 7SW

THE LENDER

SIGNED for and on behalf of)

HSBC BANK plc)

DATED

17 August

2016

(1) THE CHARGORS LISTED HEREIN

- and -

(2) HSBC BANK PLC

SHARE CHARGE

relating to shares in

MILLER WATES (DIDCOT) LIMITED

HSBC 

HSBC Bank plc
70 Pall Mall
London
SW1Y 5EZ

THIS DEED is made on

17 August

2016

BETWEEN

- (1) **MILLER HOMES HOLDINGS LIMITED**, a company registered in Scotland with registered number SC255430 with its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH; and
- (2) **WATES DEVELOPMENTS LIMITED**, a company registered in England and Wales with registered number 00441484 with its registered office at Wates House, Station Approach, Leatherhead, Surrey, KT22 7SW;

(each a **Chargor** and together the **Chargor**);

and

- (3) **HSBC BANK PLC** (the **Lender**).

1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions

In this Deed:

Affiliate means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company;

Borrower means Miller Wates (Didcot) Limited a company incorporated and registered under the laws of England and Wales with number 09606711 with its registered office at 2 Centro Place, Pride Park, Derby, Derbyshire, DE24 8RF;

Hedging Agreement means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Borrower for the purpose of hedging interest rate liabilities and/or any exchange rate or other risks in relation to all or part of the Secured Liabilities and shall include all trades conducted thereunder;

Holding Company has the meaning given in section 1159 of the Companies Act 2006;

Interest Rate means the rate of interest payable on any facility secured by the Security;

Receiver means a receiver and/or manager of any or all of the Chargor's assets appointed by the Lender under the Security;

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Borrower to the Lender (including any under any Hedging Agreement) and all monies covenanted by the Chargor to be paid under this Deed;

Security means the Security Interests created or intended to be created by or pursuant to this Deed;

Security Assets means all the Chargor's assets from time to time the subject of Security;

Security Interest means a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

Shares means the shares and associated rights referred to in clause 3 (*The Charge*); and

Subsidiary has the meaning given in section 1159 of the Companies Act 2006.

1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) **assets** includes present and future properties, revenues and rights of every description;
 - (ii) the **Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees;
 - (iii) a **disposal** includes a lease, licence, transfer, sale or other disposal of any kind;
 - (iv) **includes or including** shall be read and construed as including the phrase **without limitation**;
 - (v) **this Deed** or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Chargor's obligations or provides for further advances);
 - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
 - (vii) the singular includes the plural and vice versa.
- (b) When any provision of this Deed refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing.
- (c) Where the Chargor includes two or more entities a reference to the Chargor shall mean to each of the entities severally.
- (d) Where the Chargor is not a limited company, references to 'its' and 'it' shall be read and construed as references to 'his' and 'him' or 'her' as applicable.
- (e) References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed.
- (f) Clause headings are for ease of reference only and shall not affect the construction of this Deed.
- (g) If the Lender reasonably considers that an amount paid by the Chargor under this Deed or by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Chargor or the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.3 Third party rights

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.4 Delivery

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this document take effect as a deed notwithstanding the fact that the Lender may only execute this document under hand.

2. NATURE OF SECURITY

All Security is created or made in favour of the Lender with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the payment and discharge of the Secured Liabilities.

3. THE CHARGE

- (a) The Chargor charges to the Lender by way of first fixed charge all of its rights in and to the shares referred to in the schedule (if any).
- (b) The Lender hereby acknowledges that nothing in this deed shall require the Chargor (or either of them) to pay any of the Secured Liabilities directly.
- (c) Notwithstanding anything in this Deed to the contrary, the Lender agrees that:
 - (i) the Chargors' sole obligations and liabilities to the Lender under or in relation to this Deed shall be limited and the Lender's only recourse to the Chargors under this Deed shall be to the Security Assets (and for the avoidance of doubt the Lender shall not have any other recourse or remedy against any other assets of the Chargors with respect to amounts due under this Deed);
 - (ii) the Lender shall not commence any bankruptcy, winding up or insolvency proceedings against the Chargors in respect of amounts due under this Deed or exercise any other remedy against the Chargors (except for any judicial proceedings to obtain a declaratory or other similar judgement or order in each event solely as to the obligations and liabilities of the Chargors under this Deed).

4. REPRESENTATIONS

4.1 General

The Chargor makes the representations and warranties set out in this clause 4 (*Representations*) to the Lender on the date of this Deed and on each day the Secured Liabilities are outstanding.

4.2 Status

- (a) If the Chargor is a company it is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) The Chargor has the power to own its assets and carry on its businesses as they are being conducted.

4.3 Binding obligations

- (a) The Chargor's obligations in this Deed are legal, valid, binding and enforceable obligations.
- (b) The Security Interests which this Deed purports to create are valid and effective and are not liable to be avoided or otherwise set aside on the Chargor's death, bankruptcy, liquidation or administration.

4.4 Non-conflict with other obligations

The entry into and performance by the Chargor of its obligations under this Deed and the granting of the Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) (if the Chargor is not an individual) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

4.5 Insolvency

As at the date of this Deed the Chargor is able to meet its debts as they fall due and is not otherwise deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any analogous provision in any relevant jurisdiction.

4.6 Title and ranking

- (a) The Chargor has a good and marketable title to and is the sole legal and beneficial owner of the Shares, which are fully paid.
- (b) The Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security Interest.
- (c) The Chargor has not entered into any agreement or option to dispose of the Shares other than as is contained in this Deed.
- (d) The Shares constitute all of the issued share capital of the Borrower.

4.7 Centre of main interest and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulation**), the Chargor's "*centre of main interest*" (as that term is used in Article 3(1) of the Regulation) is situated in (with respect to Wates Developments Limited) England and Wales or (with respect to Miller Homes Holdings Limited) the United Kingdom and the Chargor has no "*establishment*" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

5. GENERAL UNDERTAKINGS

5.1 Negative covenants

The Chargor shall not:

- (a) create or permit to subsist any Security Interest over the Shares without the consent of the Lender; or
- (b) make any disposal of the Shares unless the Lender consents.

5.2 Deposit of certificates and transfers

- (a) The Chargor must ensure that the following documents are deposited with the Lender:
 - (i) all stock and share certificates and documents of title relating to the Shares;
 - (ii) transfers of the Shares duly completed in favour of the Lender or otherwise as the Lender may direct; and

- (iii) any other documents which the Lender may from time to time require for perfecting title to the Shares (duly executed by or signed on behalf of the registered holder) or for vesting or enabling the Lender to vest those Shares in itself, its nominees or in any purchaser.
- (b) The Chargor must execute such documents, pass such resolutions or take such other action as is necessary to protect the Lender's title to the Shares.
- (c) The Chargor must ensure that all or any of the Shares are transferred into the name of the Lender, its nominee or agent on request.

5.3 No share issues

The Chargor shall (to the extent within its power) ensure that without the Lender's prior consent, no company whose share capital includes or comprises the Shares will:

- (a) issue or allot any shares or other securities or enter into or permit any agreement or other arrangement to make, or entitle any person to call for, an issue or allotment of that company's shares or other securities;
- (b) in any way modify the rights attached to any of the shares in its issued share capital;
- (c) increase, consolidate, sub-divide or reduce its share capital;
- (d) alter its articles of association;
- (e) purchase its own shares or reduce its share capital; or
- (f) take any step to place itself in liquidation or administration or pass any resolution to wind itself up.

5.4 Calls

The Chargor shall ensure all calls, instalments or other payments which may be made or become due in respect of the Shares are punctually met as and when the same become due from time to time.

6. FURTHER ASSURANCE

The Chargor shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for:

- (a) giving effect to, perfecting or protecting the Security;
- (b) facilitating the realisation of the Shares;
- (c) facilitating the exercise of all powers, authorities and discretions vested by this Deed in the Lender or in any Receiver; or
- (d) perfecting any Security over any Shares acquired by it after the date of this Deed.

7. ENFORCEMENT

7.1 Remedying defaults

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by the Chargor to observe and perform the provisions of this Deed at the Chargor's cost.

7.2 Timing of enforcement

- (a) The Secured Liabilities are deemed to have become due on the date of this Deed.
- (b) The Security shall become enforceable on the earlier of:
 - (i) the date the Lender demands repayment of any of the Secured Liabilities;
 - (ii) the date the Chargor breaches a provision of this Deed or any document evidencing the facilities to which the Secured Liabilities relate;
 - (iii) the date the Borrower breaches a provision of any document evidencing the facilities to which the Secured Liabilities relate; and
 - (iv) the Chargor's request.
- (c) Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this Deed.

7.3 Powers of the Lender

- (a) At any time after the Security becomes enforceable (or if so requested by the Chargor at any time), the Lender may without further notice (unless required by law):
 - (i) appoint any person (or persons) to be a receiver or receiver and manager of all or any part of the Shares; and/or
 - (ii) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
 - (iii) exercise (in the Chargor's name) any voting rights and any powers or rights which may be exercised by the Chargor in relation to the Shares.
- (b) The Lender is not entitled to appoint a Receiver in respect of any Shares which are subject to Security which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium).

7.4 No liability

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Shares for any loss on realisation or for any other default or omission. No exercise of the right in clause 7.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession. Neither the Lender nor the Receiver is under any obligation to exercise any power or discretion enjoyed by it in relation to the Shares.

8. RECEIVER

8.1 Removal and replacement

The Lender may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

8.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Shares and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

8.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender).

8.4 Payment by Receiver

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

8.5 Chargor's agent

Any Receiver shall be the Chargor's agent and the Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

9. POWERS OF RECEIVER

9.1 General powers

(a) Any Receiver shall have:

- (i) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act;
- (ii) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (iii) all powers which are conferred by any other law conferring power on receivers.

(b) To the extent that the Shares constitute "financial collateral" and this Deed and the Chargor's obligations under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Lender shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

(c) For the purpose of clause 9.1(b) the value of the financial collateral appropriated shall be such amount as the Receiver or Lender reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

9.2 Additional powers

In addition to the powers referred to in clause 9.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Shares and/or income in respect of which he was appointed;

- (b) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (c) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Shares in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation:
 - (i) the consideration for any such transaction may consist of cash, deeds or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
 - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (d) to carry out any sale, or other disposal of all or any part of the Shares by conveying, transferring or assigning the same in the Chargor's name and, for that purpose, to enter into covenants and other contractual obligations in its name and so as to bind it;
- (e) to take any such proceedings in the Chargor's name as he shall think fit in respect of the Shares and/or income in respect of which he was appointed (including proceedings for recovery of dividends or other monies in arrears at the date of his appointment);
- (f) to exercise any voting rights attached to any of Shares;
- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- (i) to:
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of the Shares;
 - (ii) exercise in relation to the Shares all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Shares; and
 - (iii) use the Chargor's name for any of the above purposes.

9.3 Limitation

- (a) The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver.
- (b) The Receiver shall be under no duty to the Chargor to exercise any power he may have and shall not incur any liability to the Chargor either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers.

10. APPROPRIATION OF RECEIPTS

10.1 Application

- (a) Subject to clause 10.2 (*Suspense account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in

substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority:

- (i) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment, together with interest on that remuneration and those costs, charges and expenses at the Interest Rate;
 - (ii) in or towards payment or discharge of the Secured Liabilities; and
 - (iii) in payment of the surplus (if any) to the Chargor or other person entitled to it.
- (b) The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by the Chargor.

10.2 Suspense account

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent.

11. CURRENCY CONVERSION

All monies received or held by the Lender or any Receiver under this Deed may be converted from their existing currency into such other currency as the Lender or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange.

12. NEW ACCOUNT

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting some or all of the Shares or their proceeds of sale, then the Lender may open a new account for the Chargor. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to the Lender for the Chargor's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies.

13. CUSTODY

The Lender shall be entitled to provide for the safe custody by third parties of all documents deposited with it in connection with the Shares and shall not be responsible for any loss or damage to such documents unless such loss or damage occurs as a result of the wilful default or gross negligence of the Lender.

14. DELEGATION AND APPOINTMENT OF ATTORNEYS

14.1 Delegation

- (a) The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit.
- (b) The Lender shall not be liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates.

14.2 Attorneys

- (a) By way of security, the Chargor irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under clause 14.1 (*Delegation*) separately to be its attorney on its behalf, in its name:
 - (i) to execute and do any documents, acts and things which it is required to execute and do under this Deed; and
 - (ii) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed or by law on the Lender or any Receiver.
- (b) The Chargor ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 14.2 (*Attorneys*).

15. REDEMPTION OF PRIOR SECURITY INTERESTS

15.1 Redemption

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over any Security Assets at the Chargor's cost.

15.2 Costs of redemption

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under clause 15.1 (*Redemption*) shall be paid by the Chargor on demand, in each case together with interest calculated and in the manner referred to in clause 19 (*Indemnities*).

16. RELEASES

16.1 Releases conditional

- (a) Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this clause 16 (*Releases*), a *release*) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency.
- (b) If any avoidance, reduction, or clawback occurs or any order is made as referred to in clause 16.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between the Chargor and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as security for the Secured Liabilities.

16.2 Retention

- (a) If and for so long as any assurance, security or payment as is mentioned in clause 16.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.
- (b) If, at any time while all or part of the Lender's rights under this Deed are so retained:

- (i) an application is made to a competent court for a winding-up order to be made in respect of the Chargor;
- (ii) steps are taken to wind the Chargor up;
- (iii) an application is made to a competent court for an administration order to be made in respect of the Chargor;
- (iv) a notice of intention to appoint an administrator to the Chargor is filed at court; or
- (v) the appointment of an administrator to the Chargor takes effect,

then the Lender may continue to retain all or part of its rights under this Deed for any further period as the Lender may determine in its absolute discretion.

17. CONTINUING SECURITY

17.1 Continuing security

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding:

- (a) intermediate payment or discharge of the whole or part of the Secured Liabilities;
- (b) the Chargor's death, bankruptcy, liquidation or other incapacity or any change in its constitution, name or style;
- (c) any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person; or
- (d) any other event, matter or thing.

17.2 Additional to other rights

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Chargor or otherwise) in favour of the Lender. Accordingly, the Chargor's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding:

- (a) the existence or invalidity of all or any of those rights; or
- (b) at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights.

18. THIRD PARTY PROTECTION

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned:

- (a) to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged;
- (b) whether the power which the Lender or Receiver is purporting to exercise has become exercisable; or
- (c) to see to the application of any money paid to the Lender or to a Receiver.

19. INDEMNITIES

The Chargor agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) on demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver):

- (a) as a result of the Chargor's failure to perform any of its obligations under this Deed;
- (b) arising with the vesting of the Shares in the Lender or the revesting of the Shares in the Chargor on redemption of the Security;
- (c) in the exercise (or purported exercise) of any of the powers or other rights conferred by this Deed;
- (d) in respect of any costs, charges or expenses incurred in connection with clause 11 (*Currency conversion*);
- (e) in respect of the redemption of any prior Security Interest over the Shares under clause 15 (*Redemption of prior Security Interests*);
- (f) in respect of any other matter or thing done or omitted relating to the Shares,

together in each case with interest at the rate of two per cent (2%) above the base lending rate of the Lender from time to time calculated on a daily basis from the date it is incurred or becomes payable to the Lender or the Receiver until the date of payment, whether before or after any judgment.

20. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

21. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

22. REMEDIES AND WAIVERS

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

23. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Chargor and the Lender agree in writing and any breach of this Deed may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

24. TRANSFER AND CONFIDENTIALITY

24.1 Transfer

- (a) The Lender may assign and/or transfer its rights and obligations under this Deed.
- (b) The Chargor shall not assign any of its rights or transfer any of its obligations under this Deed.

24.2 Confidentiality

The Lender may disclose to:

- (a) any transferee or potential transferee;
- (b) any assignee or potential assignee;
- (c) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Secured Liabilities;
- (d) any ratings agency;
- (e) any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 24.2(a) to 24.2(d);
- (f) any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives;
- (g) any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation,

such confidential information as the Lender shall consider appropriate if any person to whom the confidential information is to be given is informed in writing of its confidential nature.

25. MANAGEMENT TIME

The Lender reserves the right to charge for its management time or other resources (which will be calculated on the basis of such reasonable daily or hourly rates as the Lender may notify to the Chargor from time to time).

26. COUNTERPARTS

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

27. NOTICES

27.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing in the English language and, unless otherwise stated, must be made by letter.

27.2 Addresses

The Lender may deliver any communication, document or notice to the Chargor relating to this Deed to its registered office, to any address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address the Chargor may notify to the Lender by not less than five business days' notice.

27.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address.
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

28. GOVERNING LAW

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

29. ENFORCEMENT

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**).
- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) This clause 29.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

In witness whereof the Chargor has executed this Deed as a deed the year and date appearing on the first page of it.

SCHEDULE

The Shares

Number of Shares	Class of Shares	Owner
500	A Ordinary	Miller Homes Holdings Limited
500	B Ordinary	Wates Developments Limited

EXECUTION PAGE

EXECUTED as a Deed (but not delivered until dated))
by **MILLER HOMES HOLDINGS LIMITED** acting)
by a Director in the presence of a witness:)

) Director

)

Name of Director

Signature of witness:

Name of witness:

Address:

EXECUTED as a Deed (but not delivered until dated))
by **WATES DEVELOPMENTS LIMITED** acting by a)
Director in the presence of a witness:)

) Director

1

Name of Director

Signature of witness:

Name of witness:

Address:

THE LENDER

SIGNED for and on behalf of

HSBC BANK plc

)

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