

Dated: _____ 2023

TANDRIDGE DISTRICT COUNCIL

- and -

SURREY COUNTY COUNCIL

-and-

[PENELOPE ANN RISPIN]¹

-and-

ROBERT GEORGE ALEXANDER BALCHIN and JENNIFER MAVIS BALCHIN

-and-

ROBERT OLIVER CHAPMAN

and-

WOOLBRO MORRIS LIMITED

**Deed of Agreement to Provide Planning Obligations
pursuant to Section 106 of the Town and Country Planning Act 1990 and
Section 111 Local Government Act 1972
in relation to the proposed development on Land at the Old Cottage, Station
Road, Lingfield
Planning Reference Number TA/2022/685
Appeal Reference Number APP/M3645/W/23/3319149**

¹ Title SY612053 remains in the joint names of Robin and Penelope Rispin. Penelope Rispin's solicitors to provide evidence to the Council in respect of the passing of Robin Rispin and to amend the agreement accordingly.

The Developer's interest in the Site is not capable of being bound by Section 106 of the 1990 Act and the Developer enters into this Deed as a contract and pursuant to the Act unless and until it acquires an interest in the Site capable of being bound by Section 106A of the 1990 Act in which case it too will be bound as successor in title to the First Owner, Second Owner and Third Owner.

7. The Planning Application has been made by the Developer to the District Council for planning permission for the Development on the Site.
8. The District Council has been deemed to have refused the Planning Application and the Owner and the Developer enters into this Deed to in support of the Appeal

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

For the purposes of this Deed the following words and expressions shall have the following meanings:

“Act” the Town and Country Planning Act 1990, as amended

“Affordable Housing” housing of different tenures provided with subsidy support for people who are unable to resolve their needs in the private housing market because of the relationship between local housing costs and their incomes such housing being provided for in conformity with the advice contained in the National Planning Policy Framework published by the Department for Levelling Up, Housing and Communities. Affordable Housing shall:

- (a) meet the needs of eligible households who the Local Planning Authority could reasonably expect to occupy this Development having regard to its Housing Allocation Scheme including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices; and
- (b) include provision for the homes to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision within the District subject to any such

recycling of the subsidy being in accordance with the requirements of Homes England;

"Affordable Housing Dwellings" shall mean 40% of the number of Dwellings for use as Affordable Housing consisting of a mix of 75% Affordable Rented Housing and 25% Shared Ownership Housing which shall be built in compliance with the Standards (the exact size and mix of which are to be specified herein)

"Affordable Housing Plan" means a plan to be approved in writing by the District Council setting out the location of Affordable Housing Dwellings within the Development

"Affordable Rented Housing" shall mean rented housing provided by Registered Providers and shall be subject to rent controls that require a rent of no more than 80% of local market rents (inclusive of service charges, where applicable and where local market rents are calculated using the Royal Institution of Chartered Surveyors approved valuation methods) AND the rent levels shall not at any time (unless otherwise agreed in writing) exceed the maximum amount of Local Housing Allowance applicable for the size of the relevant dwelling and which is occupied pursuant to a Tenancy and **Affordable Rented** shall be construed accordingly;

"Appeal" an appeal by the Developer to the Secretary of State and which is determined by the Secretary of State or his appointed Inspector in relation to the District Council's refusal of the Planning Application given appeal reference number APP/M3645/W/23/3319149

"Biodiversity Metric" means the metric published by Natural England from time to time to measure and account for biodiversity losses and gains resulting from development or land

management change (or in the absence of any metric published by Natural England, such other metric as may be agreed by the Owner and the District Council and the County Council)

"Biodiversity
Offsetting
Contribution"

means the sum (exclusive of VAT if applicable) to be calculated in accordance with the formula set out at Schedule 7 of this Deed and agreed by the District Council and County Council as part of the Biodiversity Offsetting Scheme approved pursuant to this Deed to offset the loss of habitats on the Site in the event that the Biodiversity Post-Development Site Value does not achieve a net gain of a minimum of 10% to the Biodiversity Pre-Development Site Value and to be used by the District Council and County Council or Nominees towards the creation of new habitats in accordance with the Biodiversity Offsetting Scheme

"Biodiversity
Offsetting Scheme"

means a scheme to be implemented at the Receptor Site to be approved by the District Council and the County Council which shall include the following details:

- (a) the final calculation of the Biodiversity Offsetting Contribution;
- (b) whether the Biodiversity Offsetting Contribution is proposed to be paid to the District Council and County Council or its Nominees and details of the Nominees in the event that it is proposed to be paid to the Nominees which FOR THE AVOIDANCE OF DOUBT will be at the discretion of the District Council; and

(c) details of the provision of contractual terms to secure the offsetting measures in the event that the Biodiversity Offsetting Contribution is to be paid to a Nominee(s)

"Biodiversity Onsite Compensation" means biodiversity measures to be implemented within the Site as part of the Development in accordance with the Biodiversity Onsite Compensation Scheme approved by the District Council and County Council in accordance with this Deed

"Biodiversity Onsite Compensation Certificate" means a certificate or certificates in writing relating to the Biodiversity Onsite Compensation provided by a suitably qualified and experienced ecologist (the identity of whom has been approved by the District Council and County Council in writing) that confirms that the Biodiversity Onsite Compensation has been laid out in accordance with the approved Biodiversity Onsite Compensation Scheme

"Biodiversity Onsite Compensation Scheme" means a scheme to be approved by the District Council and the County Council detailing Biodiversity Onsite Compensation and which shall include (but shall not be limited to) the following:

- (a) the Biodiversity Post-Development Site Value;
- (b) the programme for the delivery of the Biodiversity Onsite Compensation; and
- (c) details of all measures to maintain the Biodiversity Onsite Compensation

"Biodiversity Pre-Development Site Value" means 19.75 Biodiversity Units, being the biodiversity value of the Site prior to the Development and calculated as part of the Applications in accordance the Biodiversity Metric

"Biodiversity Post-Development Site Value" means the number of Biodiversity Units that shall be achieved through the Biodiversity Onsite Compensation to be delivered as part of the Biodiversity Onsite Compensation Scheme approved in accordance with this Deed (calculation in accordance with the Biodiversity Metric) such score to be approved by the District Council and County Council as part of the Biodiversity Onsite Compensation Scheme

"Biodiversity Units" means the measure of biodiversity resource to be quantified and assessed in accordance with the Biodiversity Metric

"Certificate of Practical Completion" means a certificate to be issued to the Owner by the District Council to certify practical completion of the laying out and / or construction of works

"CIL" shall mean the planning charge known as the community infrastructure levy introduced by the Community Infrastructure Levy Regulations 2010 (as amended)

"Commencement of Development" the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and no other purpose) operations consisting of marking out, surveying, ground investigations, archaeological investigations, demolition, site clearance, site preparation, site

~~clearance, site preparation,~~ investigation for the purposes of assessing contamination, remedial action in respect of contamination, ~~diversion and laying services~~ and the erection of any temporary means of enclosure for the purposes of site security and the temporary display of advertisements and “Commence” and “Commencement” shall be construed accordingly

Commented [CD2]: These operations could constitute a start of development.

“Detailed Specification” means a document which sets out in sufficient detail the manner in which the relevant item of infrastructure/ subject of the document is to be laid out/constructed/ delivered and/or maintained

“Development” means the residential development of 99 Dwellings (of which 40% are Affordable Housing Dwellings) with associated access, formal open space, landscaping, car & cycle parking and refuse, as set out in the Planning Application

“Dwelling” any dwelling (including a house flat or maisonette with associated garden garage driveway and parking spaces) to be constructed within the Development pursuant to the Planning Permission

“Index” means the Retail Prices (All Items) Index as published by the Office for National Statistics or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the District Council may specify;

“Index-Linked” means that the sum of money payable to the County Council under this Deed shall be varied by movements in the Index between the date of this Deed and the date of actual payment in accordance with the following formula:

$$\text{Amount Payable} = \text{Relevant Amount} \times (\text{A divided by B})$$

Where the Relevant Amount = the payment to be Index-Linked

A = the figure for the Index which applied when the Index was last published prior to the date the Relevant Amount is actually paid under this Deed

B = the figure for the Index which applied when the Index was last published prior to the date of this Deed

It should be noted that the Index presents forecast figures which are published quarterly. These forecast figures are updated and finalised periodically. If the indexation figure has not been finalised at such time as A is calculated then the forecast figure will be used for the purposes of the calculation

“Lingfield Station” the railway station at [].

“Management Company” means a limited company registered at Companies house or any such future management company which shall replace it in respect of which all of the owner of the dwellings comprised in the Development shall be members and shareholders and of which the principle objects shall be if applicable in accordance with the terms of this Deed to hold the legal interest in the Open Space and the Play Area within the Development; to levy and collect charges including the service charges from persons having a relevant legal interest within the Development in respect of the cleaning, maintenance, winter maintenance and repair of the Open Space and the Play Area and the SuS and arranging all necessary insurances and to keep in repair the the Open Space and the Play Area and the SuDS constructed by the Owners

“Mobility Impaired” means the sum of [£] Index Linked towards the installation of a mobility impaired persons bridge at Lingfield Station.

Persons Bridge
Contribution”

“Monitoring
Fee”³ Means the sum of ~~£3,000~~ being the fee payable to the District Council and the sum of ~~£150~~ payable to the County Council in monitoring the implementation of the obligations in this Deed

Commented [CD3]: Payment sums not yet agreed.

“Mortgagee” means a mortgagee or chargee of the Registered Provider of the Affordable Housing Dwellings (or any number of them) (or any receiver including an administrative receiver) and manager appointed by such mortgagee or chargee pursuant to either the Law of Property Act 1925 or appointed under security documentation or any other person appointed under any security documentation to enable such mortgagee or chargee of the Registered Provider to realise its security or any administrator (howsoever appointed) including a housing administrator appointed pursuant to Chapter 5 of Part 4 of the Housing and Planning Act 2016)

NHS Contribution means the sum of £224,330 payable to the NHS as defined in their Report dated 11/07/2023 annexed to this Deed at Schedule { }

“Nomination Agreement” a Deed substantially in the form of the draft Nomination Agreement in Part 3 of the First Schedule by which the District Council may nominate tenants for the 40% Affordable Housing Dwellings in accordance with this Deed

“Nominee” The management company or such other reasonable party suitable to the District Council (the District Council not to unreasonably withhold or delay consent to such other reasonable party)

³ TBC.

“Occupation” and “Occupied”	means personal residential occupation of a Dwelling by an individual or individuals in right of an interest in the Dwelling purchased or rented by that individual or individuals
“Open Market Dwellings”	shall mean any Dwellings which are not designated as Affordable Housing Dwellings
“Open Space”	means the communal areas of informal and formal open space to be provided within the Development as shown shaded green on the Plan attached to this Deed
“Open Space Management Plan”	means the Detailed Specification for the establishment and future maintenance of the Open Space which shall include the formation of the Management Company with responsibility to perform such obligations
“Owners”	means the First Owner, the Second Owner and the Third Owner and their respective successors in title
“Plan”	the plan numbered 2661/C/1005/PL/B attached to this Deed
“Planning Application”	the planning application for outline planning permission made under reference TA/2022/685 for the Development
“Planning Inspector”	An inspector appointed by the Secretary of State to determine the Appeal
“Planning Permission”	means the planning permission for the Development granted by the Secretary of State or his Planning Inspector on appeal pursuant to the Appeal
“Play Area”	means a play area within the Development, the exact location and specification of which are to be agreed in

writing by the District Council pursuant to the Planning Permission

“Practical Completion” means constructed to a level of practical completion and certified as such by the relevant project professional under the construction contract

“Protected Occupier” means in respect of an Affordable Housing Dwelling a person who:

- i. has exercised the right to acquire pursuant to section 180 of the Housing and Regeneration Act 2008 and governed by the Housing Act 1985 and modified by the Housing (Right to Acquire) Regulations 1997 or any equivalent statutory provision for the time being in force
- ii. has exercised any statutory right to buy or statutory preserved right to buy pursuant to the Housing Act 1985 or any equivalent statutory provision for the time being in force
- iii. has been granted a lease of a unit of Shared Ownership Housing by a Registered Provider and has subsequently purchased from the Registered Provider 100% of the equity from the and owns the entire unit of Shared Ownership Housing

PROW Improvement Contribution” means the sum of £[]⁴ Index-Linked towards improvements to []⁵ and such improvements can include surfacing works, removal and/or upgrading of stiles/gates and new signage

“Receptor Site” the land shown [edged in red] on the plan annexed to the agreement at the Seventh Schedule.

shall mean either:

⁴ TBC.

⁵ TBC.

“Registered Provider” or “RP”	(1) a registered provider within the meaning of the Housing & Regeneration Act 2008 or any statutory modifications made thereto; or (2) the District Council
“Reserved Matters Application”	an application for reserved matters relating to the Planning Permission
“SDLT”	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect
“Secretary of State”	means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function
“Shared Ownership Housing”	shall mean housing provided by a Registered Provider where the occupier will initially be offered an equity share in the property of up to 75% (with an option of staircasing up to 100% should the occupier so wish)
“Service Installations”	means all sewers drains pipes wires cables channels watercourses ducts flues conduits optic fibres pumping stations holding tanks drainage systems and all other conducting media and associated equipment
“Site”	the land known as Land at the Old Cottage, Station Road, Lingfield and shown for identification purposes only edged red on the Plan annexed to this Deed
“Standards”	means built in accordance with the standards requirements and latest guidance issued by Homes England and to meet the national space standards
“Station Car Park Contribution”	means the sum of [£] Index Linked towards repairs to the Lingfield Station Car Park.

“SuDS” means the Sustainable Drainage Systems to be constructed within the Development the exact location and specification of which are to be agreed in writing by the District Council pursuant to the Planning Permission

“Surgery” means the doctors surgery at []
“Surgery Contribution” means the sum of [£] Index Linked towards the cost of rebuilding the Surgery.

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“Tenancy” means an assured or assured shorthold tenancy drawn in accordance with the guidelines and requirements of Homes England or such other form of tenancy as may be authorised by Homes England from time to time for use by the Registered Provider or a secure tenancy under the Housing Act 1985

“Transfer” means transfer of the ownership of any part of the Site and includes appropriation where at the time of any intended transfer to the Management Company

“Travel Plan” means the travel plan to be submitted for approval pursuant to the conditions attached to the Planning Permission

“Travel Plan Monitoring Contribution” means the sum of £4,600.00 Index-Linked towards monitoring the Travel Plan

“Working Days” means Mondays through Fridays but shall not include Saturdays, Sundays or Bank Holidays

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of the restriction.
- 2.5 Where more than one person is obliged to observe or perform an obligation the obligation can be enforced against all such persons jointly and against each individually unless there is an express provision otherwise.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Deed shall include the successors in title to that party and to anyone deriving title through or under that party and in the case of the District Council the successor to its statutory functions.
- 2.8 The clause headings shall not be taken into account for the purposes of the construction or interpretation of this Deed.

[2.11 If the Planning Inspector concludes that any of the planning obligations set out in this deed are incompatible with The Community Infrastructure Levy Regulations 2010 and accordingly attaches no weight to that obligation or obligations in determining the Appeal then the relevant obligation\(s\) shall from the date of this decision letter cease to have effect and the Owner shall be under no obligation to comply with it or them.](#)

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to all powers enabling the parties and in particular Section 106 of the Act Section 111 of the Local Government Act 1972 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 Localism Act 2011 and creates planning obligations for the purposes of Section 106 of the Act and to the intent that it shall bind the First Owner and their respective successors in title and assigns, the Second Owner and their respective successors in title and assigns and the Third Owner and his successors in title and assigns and all the persons claiming under or through the First Owner and/or the Second Owner and/or the Third Owner.
- 3.2 The obligations imposed upon the Owners under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council and County

Council as local planning authorities against the Owners and all their successors in title and assigns and the persons claiming under or through it.

4 CONDITIONALITY

- 4.1 This Deed is conditional upon the grant of the Planning Permission and the Commencement of the Planning Permission SAVE that clauses 5.2, 5.4, 7.2, 9, 12, 13 and 14 shall take effect from the date of this Deed

5 THE OWNERS' COVENANTS

- 5.1 The Owners covenant with the District Council and the County Council as set out in the First Schedule the Second Schedule the Third Schedule the Fourth Schedule and the Fifth Schedule.
- 5.2 The Owners covenant to pay to the District Council and the County Council on completion of this Deed the reasonable legal costs of the District Council and the County Council incurred in the negotiation, preparation and execution of this Deed, upon completion of this Deed;⁶
- 5.3 The Owners covenant to pay the Monitoring Fee to the District Council and the County Council respectively upon the Commencement of Development;
- 5.4 [The Owners covenant with the District Council that it will give not less than seven (7) days prior notice in writing to the District Council of:
- 5.2.1 the date of Commencement of Development
 - 5.2.2 the date of first Occupation of the Dwellings
 - 5.2.3 the date of Occupation of 40% of the Dwellings
 - 5.2.3 the date of Occupation of 50% of the Dwellings
 - 5.2.4 the date of Occupation of 75% of the Dwellings
 - 5.2.5 the date of Occupation of 90% of the Dwellings]

6 THE COUNTY COUNCIL'S COVENANTS

- 6.1 The County Council covenants with the Owners as set out in the Sixth Schedule.

⁶ Fees TBC.

7. MISCELLANEOUS

- 7.1 It is hereby agreed and declared that a person who is not a party to this Deed shall not be entitled in his own right to enforce any of the terms of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 7.2 This Deed shall be enforceable as a local land charge and shall be registered as such by the District Council.
- 7.3 Where the agreement, approval, consent or expression of satisfaction is to be given by any party or any person on behalf of any party hereto under this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction may only be given in writing and may be validly obtained only prior to the act or event to which it applies and the party giving such agreement, approval, consent or expression of satisfaction shall at all times act reasonably.
- 7.4 Where any payment of costs or other payments are to be made by the Owners to the District Council such costs and other payments shall be deemed to be reasonable and proper.
- 7.5 Any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party
- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.10 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the County Council in the exercise of its functions in any capacity in particular its capacities as highway authority or the District Council as local planning authority and the rights, powers, duties and obligations of the District Council

under private, public or subordinate legislation may be effectively exercised as if it were not a party to this Deed.

- 7.13 The obligations contained in this Deed shall not be binding upon nor enforceable against:
- i. any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services;
 - ii. an individual owners, occupier or tenant or mortgage of an Open Market Unit who is occupying that unit as such EXCEPT for the obligations contained in the Second Schedule of this Deed which shall remain binding
 - iii. an individual owner, occupier or tenant or mortgagee of an Affordable Housing Dwelling in their capacity as such EXCEPT for the obligations regulating the use of the Affordable Housing Dwellings as contained in First Schedule and the obligations in the First Schedule of this Deed which shall remain binding SAVE THAT the said obligations regulating the use of the Affordable Housing Dwellings shall not be binding on Protected Occupier(s) or their mortgagees and their successors in title or any successor in title to such Protected Occupier(s) or their mortgagees and their successors in title

8 WAIVER

- 8.1 No waiver (whether expressed or implied) by the District Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

- 9.1 The Owners agree with the County Council and the District Council to give the County Council and the District Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan save that this clause 9.1 shall not apply to the disposal of any Dwellings to individual owner/occupiers.

10 INTEREST

- 10.1 Any payment which is due to the District Council under the terms of this Deed that is paid after the date the payment is due shall attract interest at the rate of 4% above the

National Westminster Bank PLC base rate from time to time being charged from the date payment was due to the date payment is received by the District Council.

11 VAT

- 11.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

12 JURISDICTION

- 12.1 This Deed is governed by and interpreted in accordance with the law of England and Wales.

13 DELIVERY

- 13.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

14 APPEAL: MATERIALITY

- 14.1 If the Secretary of State or his Planning Inspector for the purposes of the determination of the Appeal shall in his decision letter for the Appeal clearly and expressly indicate that one or more of the planning obligations secured by this Deed are incompatible with any one or more of the criteria for planning obligations set out at Regulation 122(2) of the CIL Regulations, and/or that any such obligation is not a material planning consideration in respect of the determination of the Appeal and/or that he attaches no weight to the relevant obligation(s) for the purposes of his determination then the relevant obligation so expressly specified in the decision letter shall, from the date of the decision letter cease to have effect and the Owner shall be under no obligation to comply with it (but this shall not affect the validity or enforceability of the other obligations under this Deed) and for the avoidance of doubt where the Secretary of State or his Planning Inspector is silent upon any obligations then the obligations shall apply and be enforceable by the District Council in accordance with the terms of this Deed.

**FIRST SCHEDULE
OWNERS COVENANTS
AFFORDABLE HOUSING**

The Owners covenant with the District Council as follows:

PART 1

Provision of Affordable Housing

1. Upon Commencement of Development 40% of the Dwellings on the Site shall be provided as Affordable Housing, the exact locations of which are to be agreed in writing by the District Council pursuant to the Planning Permission.
2. Not to commence construction of any Affordable Housing Dwellings until it has submitted to the District Council the name of the chosen Registered Provider.
3. [Not to permit more than 75% of the Open Market Dwellings to be used or Occupied unless and until all of the Affordable Housing has been completed and either the freehold ownership or a minimum 125 year lease has been transferred/granted to a Registered Provider on the terms set out in Part 2 of this Schedule or as otherwise agreed in writing by the District Council]

PART 2

Terms of Offer

The Affordable Housing Dwellings shall be transferred

- 1.1 with vacant possession
- 1.2 subject to any easements wayleaves and rights over on and under and any other matters to which the Owners title is subject in relation to the Affordable Housing Dwellings as may exist at the date of the offer
- 1.3 free from any charge or other encumbrances which would prevent the same from being used for the development and the subsequent use of them as Affordable Housing
- 1.4 with full title guarantee and
- 1.5 cleared of debris and building materials
- 1.6 with all necessary rights of access and services

Occupation of the Affordable Housing Dwellings

- 2 Subject to paragraph 3 below, the Affordable Housing Dwellings shall not be used for any purpose other than as Affordable Housing and shall not be Occupied until the Registered Provider has executed the Nominations Agreement and deliver the same to the District Council.

Affordable Housing Mortgagee Sale Provision

3. The Affordable Housing provisions in this Deed shall not be binding on a Mortgagee or chargee of a Registered Provider (or any receiver including an administrative receiver or administrator appointed by such Mortgagee or chargee or any other person appointed under any security documentation to enable such Mortgagee or chargee to realise its security (each a Receiver)) of the whole or any part of the Affordable Housing Dwellings or any persons or bodies deriving title through such Mortgagee or chargee or Receiver PROVIDED THAT:
 - 3.1. Such Mortgagee or chargee or Receiver shall first give written notice to the District Council of its intention to dispose of the Affordable Housing Dwellings and shall have used reasonable endeavours over a period of eight weeks from the date of the written notice to complete a disposal of the Affordable Housing Dwellings to another Registered Provider for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and reasonable costs and reasonable expenses; and
 - 3.2. If such disposal has not completed within the eight week period, the Mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Dwellings free from the Affordable Housing provisions in this Deed which provisions shall determine absolute.

PART 3

Nomination Agreement

DATED

2023

[] (1)

and

THE DISTRICT COUNCIL OF TANDRIDGE (2)

NOMINATION AGREEMENT
Relating to land known as

[Ref]

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accordance with this Agreement and "Affordable Housing Unit" is any part of the Affordable Housing Units capable of separate occupation;

Affordable Rent means rented housing subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges where applicable and where local market rents are calculated using the Royal Institution of Chartered Surveyors approved valuation methods) AND in any event and in all cases the rent levels shall not at any time (unless otherwise agreed in writing by the Responsible Officer) exceed the maximum amount of Local Housing Allowance applicable for the size of the relevant Affordable Housing Unit and "Affordable Rented" shall be construed accordingly;

Agreement for Sale means the agreement dated [] made between (1) [] and (2) the Registered Provider;

Allocation Scheme means the scheme adopted by the District Council from time to time for determining priorities and the procedure to be followed in allocating housing accommodation in accordance with Part VI of the Housing Act 1996 as amended;

Capital Funding Guide means the rules and procedures published by Homes England on 4th November 2016 (as amended) or any successor documents issued by Homes England;

Chargee means a mortgagee or chargee of the Registered Provider (or any receiver including an administrative receiver) appointed by such mortgagee or chargee pursuant to either the Law of Property Act 1925 or appointed under security documentation or any other person appointed under any security documentation to enable such mortgagee or chargee of the Registered Provider to realise its security or any administrator (howsoever appointed) including a housing administrator appointed pursuant to Chapter 5 of Part 4 of the Housing and Planning Act 2016;

Choice Based Letting Scheme means a process through which the District Council may allocate the Affordable Housing Units in accordance with its adopted Allocation Scheme and which incorporates an advertising scheme under the Communities and Local Government Code of Guidance for Local Housing Authorities Allocation of accommodation: Choice Based Lettings or as set out in any subsequent guidance or legislation in relation to the allocation of accommodation which the District Council must or chooses to adopt;

Data Controller has the meaning as set out in the Data Protection Legislation;

Data Protection Legislation has the meaning set out in [clause 23.1];

Data Subject has the meaning as set out in the Data Protection Legislation;

Decant means moving a tenant out of his/her accommodation on a temporary basis whilst works are undertaken requiring the property to be vacated

Help to Buy Agents means the organisation appointed by Homes England to administer low cost home ownership products in the south of England or any agent from time to time appointed by Homes England;

Help to Buy: Shared Ownership means the government scheme for low cost home ownership products administered by the Help to Buy Agents and "Help to Buy" shall be construed accordingly;

Homes England means the body that funds and regulates Registered Providers and such expression shall include successors to the functions and powers of Homes England;

Initial Let means the first letting of each newly constructed and previously unoccupied Rented Unit;

Initial Sale means the first sale of a newly constructed and previously unoccupied Shared Ownership Unit

Lease means a shared ownership lease drawn in accordance with the guidelines and requirements of Homes England and substantially in the form of the Model Lease;

Local Housing Allowance means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department of Works and Pensions or such similar framework that may replace it; means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department of Works and Pensions or such similar framework that may replace it;

Management Transfer means a transfer of an existing tenant by the Registered Provider previously agreed by the District Council in writing in circumstances where the District Council is satisfied that the tenant needs or is required to move to a different area due to exceptional circumstances requiring immediate or urgent resolution;

Market Value means the value of the leasehold interest of a Shared Ownership Unit with vacant possession on the open market between a willing seller and a willing buyer as assessed by a

qualified independent valuer and registered with the Royal Institution of Chartered Surveyors and calculated in accordance with the Capital Funding Guide;

Model Lease means the appropriate form of model lease for a shared ownership flat or house published by Homes England (as may be amended from time to time);

Nominee means a person who is selected by the District Council and whose name is taken from the Tandridge Housing Register originally established under section 162 of the Housing Act 1996 or such other procedure as may be implemented by the District Council including any Choice Based Letting Scheme and in compliance with the Local Criteria applicable to the Affordable Housing Units;

Nomination Notice means notice given by the District Council to the Registered Provider nominating a Nominee to a relevant Affordable Housing Unit;

Nomination Request means a written notice to the District Council requesting the District Council to nominate a Nominee for an Affordable Housing Unit (or part thereof)

Other Eligible Person means a person selected by a Registered Provider in accordance with this Nomination Agreement and who is in need of Affordable Housing and in the case of Shared Ownership who shall meet the criteria for Help to Buy (those eligible to be on the home ownership register held by the Help to Buy agent);

Personal Data has the meaning as set out in the Data Protection Legislation;

Plan means the plan annexed at Schedule 2;

Planning Permission means the planning permission granted by the District Council dated [] under reference [];

Processing has the meaning as set out in the Data Protection Legislation and "Process" and "Processed" shall be construed accordingly;

Property means the [freehold] **OR** [leasehold] land known as land at Surrey being registered at the Land Registry under title number(s) [] and shown for the purposes of identification only edged [] on the Plan **OR** means the land known as [] and shown for the more particularly delineated and edged [] on the Plan;

Protected Occupier means a person who is Occupying an Affordable Housing Unit and who:

- has exercised the right to acquire pursuant to Section 180 of the Housing and a person who is Occupying an Affordable Housing Unit and who:

- has exercised the right to acquire pursuant to Section 180 of the Housing and Regeneration Act 2008 or any equivalent statutory provision for the time being in force in respect of a particular Affordable Housing Unit; or
- has exercised any statutory right to buy or preserved right to buy pursuant to the Housing Act 1985 or any equivalent statutory provision for the time being in force in respect of a particular Affordable Housing Unit; or
- has been granted a lease of a Shared Ownership Unit by a Registered Provider and has subsequently purchased from the Registered Provider 100% of the equity from the Registered Provider and owns the entire Shared Ownership Unit

Rented Units means any Affordable Housing Units which are to be let at Affordable Rent as identified in the Schedule 1 [and coloured in [] on the Plan] which are to be provided by the Registered Provider and occupied by a Nominee or Other Eligible Person in accordance with the provisions of this Agreement pursuant to a Tenancy and "Rented Unit" is any of the Rented Units;

Re-Sales means any existing Shared Ownership Unit in respect of which the Registered Provider:-

- (a) has received from the existing leaseholder thereof notice of a proposed onward sale or assignment in accordance with the alienation provisions (or equivalent) contained within the Lease of the same; or
 - (b) is entitled to dispose via the grant of a fresh Lease (whether as a result of a surrender or forfeiture of the previous Lease or otherwise)
- and "Re-Sale Shared Ownership Unit" shall be construed accordingly.;

Responsible Officer means the Strategic Director of People or such person as the District Council may nominate in her place from time to time.

Section 106 Agreement means the agreement made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) dated [] and made between (1) the District Council (in its capacity as Local Planning Authority) and [] (2) relating to the development of the Property pursuant to the Planning Permission or any modification or variation thereof.

Shared Ownership Unit means an Affordable Housing Unit which is occupied under a form of Model Lease granted by the Registered Provider where the occupier purchases an initial share of the equity and Shared Ownership shall be construed accordingly;

Tenancy means an assured or assured shorthold tenancy drawn in accordance with the guidelines and requirements of Homes England or such other form of tenancy as may be authorised by Homes England from time to time for use by the Registered Provider or a secure tenancy under the Housing Act 1985 and "Tenancies" shall be construed accordingly;

Void Rented Unit means an existing Rented Unit which is vacant as a result of its previous tenant or occupier vacating and "Void" shall be construed accordingly;

Working Day means any day (other than a Saturday, Sunday, or any statutory bank holiday) on which Clearing Banks (being a bank which is a member of the CHAPS Clearing Company Limited and APACS Limited) are open in England for the transaction of banking business;

- 2.2 For the purposes of this Agreement words importing gender include any other gender and words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 For the purposes of this Agreement a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated or re-enacted from time to time and includes any instrument, order, regulation, permission, consent, licence, notice, direction, bye-law, statutory guidance or code practice made or granted under such legislation whether made before or after the date of this Agreement .
- 2.4 In the event of any inconsistency between this Agreement and the Section 106 Agreement, the Section 106 Agreement shall prevail.

3 NOMINATION RIGHTS

- 3.1 In consideration of the District Council discharging its responsibility for identifying, allocating and bringing forward sufficient housing land to meet the strategic housing requirements as they relate to its district and for facilitating the provision of Affordable Housing the Registered Provider hereby agrees for the benefit of the District Council as set out in this Agreement.
- 3.2 The Registered Provider covenants not to cause, permit or suffer the disposal or occupation of any Affordable Housing Unit at any time otherwise than strictly in accordance with the procedures set out in this Agreement.

4 RENTED UNITS

- 4.1 From the date hereof, the Registered Provider grants the District Council the right to nominate to 100% of the Initial Lets of the Rented Units and 75% of the subsequent lets upon the terms contained in this clause.

Initial Let Rented Units

- 4.2 In the case of all Initial Let Rented Units:-

- 4.2.1 The Registered Provider shall give the District Council not less than Three (3) months' prior written notice of the date when it reasonably believes an Initial Let Rented Unit will be ready for occupation.
- 4.2.2 The Registered Provider shall serve on the District Council a Nomination Request not less than two (2) months prior to such Initial Let Rented Unit becoming available for occupation. A Nomination Request shall be deemed to have been served if a Rented Unit is advertised as available to let through the Choice Based Letting Scheme. The nomination request shall contain details of the postal address, rent, property size and any required information relevant to the letting of the Affordable dwelling in question on the District Council's choice based letting system.
- 4.2.3 Within twenty-five (25) Working Days of receipt of the Nomination Request (or within twenty-five (25) Working Days of the relevant bidding cycle closing if the Choice Based Letting Scheme is applicable the District Council or its agents shall be entitled to give a Nomination Notice.
- 4.2.4 Upon receipt of the Nomination Notice the Registered Provider will (subject to clause 6) offer the Nominee identified in the Nomination Notice a Tenancy of the Initial Let Rented Unit.
- 4.2.5 If the District Council or its agents fail to serve a Nomination Notice within twenty-five (25) Working Days of receipt of the Nomination Request (or within twenty-five (25) Working Days of the relevant bidding cycle closing if the Choice Based Letting Scheme is applicable) the Registered Provider may make its own allocation in respect of the relevant Rented Unit to an Other Eligible Person.
- 4.2.6 If a Nominee named in a Nomination Notice served pursuant to clause 4.2.3 to whom the Registered Provider offers a Tenancy pursuant to clause 4.2.4 either:-
- (a) does not accept that offer within five (5) Working Days of the offer being made; or
 - (b) thereafter fails to enter into a Tenancy within a reasonable time of the offer being accepted

then the Registered Provider must give the District Council a further Nomination Request and the District Council or its agents will then be entitled to serve a further Nomination Notice within fifteen (15) Working Days of the date of receipt of that further Nomination Request and the procedure set out in clauses 4.2.4 to 4.2.6 (inclusive) shall be repeated (and for the avoidance of doubt the procedure shall be repeated for a period of three (3) cycles after which time the Registered Provider may make its own allocation in respect of the relevant Rented Unit to an Other Eligible Person

Void Rented Units

- 4.3 In the case of all Rented Units which have become Void after the Initial Let:

- 4.3.1 The Registered Provider shall give the District Council not less than fifteen (15) Working Days prior written notice of the date when it reasonably believes a Void Rented Unit will be ready for occupation.
- 4.3.2 The Registered Provider shall serve on the District Council a Nomination Request not less than five (5) Working Days prior to such Void Rented Unit becoming available for occupation. A Nomination Request shall be deemed to have been served if a Rented Unit is advertised as available to let through the Choice Based Letting Scheme.
- 4.3.3 Within twenty (20) Working Days of receipt of the Nomination Request (or within twenty (20) Working Days of the relevant bidding cycle closing if the Choice Based Letting Scheme is applicable) the District Council or its agents shall be entitled to give a Nomination Notice.
- 4.3.4 Upon receipt of the Nomination Notice the Registered Provider will offer the Nominee identified in the Nomination Notice a Tenancy of the Void Rented Unit.
- 4.3.5 If the District Council or its agents fail to serve a Nomination Notice within twenty (20) Working Days of receipt of the Nomination Request (or within twenty (20) Working Days of the relevant bidding cycle closing if the Choice Based Letting Scheme is applicable) the Registered Provider may make its own allocation in respect of the relevant Rented Unit to an Other Eligible Person.
- 4.3.6 If a Nominee named in a Nomination Notice served pursuant to clause 4.3.3 to whom the Registered Provider offers a Tenancy pursuant to clause 4.3.4 either:-
- (a) does not accept that offer within five (5) Working Days of the offer being made; or
 - (b) thereafter fails to enter into a Tenancy within a reasonable time of the offer being accepted
- then the Registered Provider must give the District Council a further Nomination Request and the District Council or its agents will then be entitled to serve a further Nomination Notice within fifteen (15) Working Days of the date of receipt of that further Nomination Request and the procedure set out in clauses 4.3.4 to 4.3.6 (inclusive) shall be repeated for a period of three (3) cycles after which time the Registered Provider may make its own allocation in respect of the relevant Rented Unit to an Other Eligible Person

5 SHARED OWNERSHIP UNITS

- 5.1.1 From the date hereof the Registered Provider grants the District Council the right to nominate to 100% of the Initial Sales of the Shared Ownership Units and 75% of the subsequent sales upon the terms contained in this clause.

Initial Sale Shared Ownership Units

- 5.2 In the case of all Initial Sale Shared Ownership Units:-
- 5.2.1 The Registered Provider shall give the District Council not less than four (4) months' prior written notice of the date when it reasonably believes an Initial Sale Shared Ownership Units will be ready for occupation.
- 5.2.2 The Registered Provider shall serve on the District Council a Nomination Request not less than two (2) months prior to such Initial Sale Shared Ownership Units becoming available for occupation.
- 5.2.3 Within ten (10) Working Days of receipt of the Nomination Request the District Council or its agents shall be entitled to give a Nomination Notice.
- 5.2.4 Upon receipt of the Nomination Notice the Registered Provider will offer the Nominee identified in the Nomination Notice a Lease of the Initial Sale Shared Ownership Units.
- 5.2.5 If the District Council or its agents fail to serve a Nomination Notice within ten (10) Working Days of receipt of the Nomination Request the Registered Provider may make its own allocation in respect of the relevant Shared Ownership Units to an Other Eligible Person.
- 5.2.6 If a Nominee named in a Nomination Notice served pursuant to [clause 5.2.3] to whom the Registered Provider offers a Lease pursuant to [clause 5.2.4] either:-
- (a) does not accept that offer within ten (10) Working Days of the offer being made;
 - or
 - (b) thereafter fails to enter into a contract for the grant of a Lease within a reasonable time (but not less than eight (8) weeks following the offer being accepted)
- then the Registered Provider must give the District Council a further Nomination Request and the District Council or its agents will then be entitled to serve a further Nomination Notice within 10 (ten) Working Days of the date of receipt of that further Nomination Request and the procedure set out in [clauses 5.2.4 to 5.2.6] (inclusive) shall be repeated (and for the avoidance of doubt the procedure shall be repeated until such time as the District Council is unable to provide a Nominee).

Re-Sale Shared Ownership Units

- 5.3 In the case of all Re-Sale Shared Ownership Units:
- 5.3.1 On receipt of a notice from the existing leaseholder enquiring whether the Registered Provider has any nomination to offer pursuant to the terms of the Lease ("a Leaseholder Notice") or a Re-Sale Shared Ownership Unit becoming available for purchase, the Registered Provider must:

- (a) within five (5) Working Days register the Shared Ownership Unit with the Help to Buy Agents for advertisement and shall simultaneously notify the District Council that this has been done; and
 - (b) serve on the District Council a Nomination Request not more than ten (10) Working Days after advertisement pursuant to [clause 5.3.1(a)]
- 5.3.2 Within five (5) Working Days of receipt of the Nomination Request the District Council or its agents shall be entitled to give a Nomination Notice
- 5.3.3 Upon receipt of the Nomination Notice the Registered Provider will (subject to clause 8) offer (or procure a reasonable offer is made to) the Nominee identified in the Nomination Notice a Lease of the Re-Sale Shared Ownership Unit
- 5.3.4 If the District Council or its agents fail to serve a Nomination Notice within five (5) Working Days of receipt of the Nomination Request, the Registered Provider may make its own allocation in respect of the relevant Shared Ownership Unit to an Other Eligible Person
- 5.3.5 If a Nominee named in a Nomination Notice served pursuant to [clause 5.3.2] to whom the Registered Provider offers a Lease pursuant to [clause 5.3.3] either:-
 - (a) does not accept that offer within ten (10) Working Days of the offer being made; or
 - (b) thereafter fails to enter into a contract for the grant or assignment of a Lease within a reasonable time (but not less than eight (8) weeks following the offer being accepted)then the Registered Provider (to the extent it is entitled to do so under the Lease) must give the District Council a further Nomination Request and the District Council or its agents will then be entitled to serve a further Nomination Notice within three (3) Working Days of the date of receipt of that further Nomination Request and the procedure set out in [clauses 5.3.3 to 5.3.5] (inclusive) shall be repeated until the eight (8) week period has been exhausted.]

6 RELEASE OF NOMINATION RIGHTS ON RENTED UNITS

- 6.1 The District Council may consent to a release of its nomination rights under clause 4 (such consent not to be unreasonably withheld or delayed) in relation to a specific Tenancy of a Rented Unit for:
 - 6.1.1 a temporary Decant of a Rented Unit after which the tenant occupier will be returning to that Rented Unit;
 - 6.1.2 a Management Transfer
- 6.2 The District Council may consent to a release of its nomination rights under clause 4 (such consent not to be unreasonably withheld or delayed) in relation to a specific Tenancy of a Rented Unit in the following circumstances:
 - 6.2.1 a mutual exchange; or

6.2.2 a transfer of a Tenancy to a qualified successor being a person entitled to succeed to the Tenancy by reason of statute or the specific terms of the Tenancy PROVIDED ALWAYS that any such release under clause 6.1 and 6.2 will not affect the District Council's future nomination rights under clause 4.

7 REJECTION OF NOMINEES

7.1 The Registered Provider may reject a Nomination Notice given by the District Council in respect of an Affordable Housing Unit pursuant to clause 4 on the following (and no other) grounds:-

7.1.1 the Affordable Housing Unit does not meet the household's need in terms of size or accessibility;

7.1.2 the Registered Provider considers that the Nominee is not a qualifying person as defined by the Allocation Scheme;

7.1.3 the Registered Provider can demonstrate to the satisfaction of the District Council that the property is unaffordable for the nominated household and that all reasonable steps have been taken to verify its affordability for the nominated household ;

7.2 The Registered Provider may in exceptional circumstances reject a Nominee where the Registered Provider (acting reasonably) considers that the Nominee fails the criteria set out in its own internal policies and procedures for letting Rented Units and shall provide the reasons for refusal in writing to the District Council

PROVIDED THAT where such a rejection is made pursuant to clause [7.1 or 7.2] the District Council shall be entitled to serve another Nomination Notice in respect of the Affordable Housing Unit in accordance with clause 4 by way of replacement

8 CHOICE BASED LETTING SCHEME AND LOCAL CRITERIA

8.1 In the case of Rented Units the Registered Provider will comply fully at all times with the Choice Based Letting Scheme (where applicable).

9 ALLOCATION SCHEME

The Allocation Scheme shall apply to all nominations made by the District Council pursuant to this Agreement and shall take precedence over any other letting or allocation scheme, marketing strategy or other procedure or policy adopted by the Registered Provider.

10 TENANCY TERMS AND LETTINGS POLICY

10.1 In respect of all Tenancies of Rented Units offered or granted to Nominees and Other Eligible Persons pursuant to clause 4 the Registered Provider shall

10.1.1 ensure its tenure term and terms are reasonably appropriate to the relevant Nominee or Other Eligible Person; and

10.1.2 have reasonable regard to and reasonably reflect the District Council's Tenancy Strategy

10.2 The Registered Provider shall upon the date of this Agreement provide the District Council with copies of its current:

10.2.1 tenancy policy;

10.2.2 lettings/allocations policy; and

10.2.3 associated policies and documents adopted or followed by the Registered Provider and provide to the District Council any revisions of the above from time to time promptly following their issue or adoption.

11 SUPPLY OF INFORMATION AND MONITORING MEETINGS

11.1 The Registered Provider shall promptly provide to the District Council upon reasonable request at any time any information in relation to the Affordable Housing Units relating to: -

11.1.1 waiting lists, allocation criteria, vacancies, allocations and (where applicable) rent levels and any policy relating to rent in advance payments;

11.1.2 any proposed or actual sales pursuant to any statutory or contractual right to buy (whether under Part 1 of the Housing Act 1996 or otherwise); and

11.1.3 such other information that the District Council may reasonably require in order to enable it to ensure that the Registered Provider is at all times complying with the provisions of this Agreement

11.2 Upon reasonable written notice from the District Council the Registered Provider shall attend monitoring meetings to consider and discuss its compliance with the provisions of this Agreement and in particular the Registered Provider shall ensure that:

11.2.1 any information requested by the District Council pursuant to [clause 11.1] shall be provided to it not less than five (5) Working Days prior to any such meeting; and

11.2.2 staff and agents with reasonable seniority and experience of the subject matter of this Agreement shall attend any such meeting

PROVIDED THAT the District Council shall not call such meetings more than once annually, unless the District Council has reasonable grounds to believe that the Registered Provider is in material breach of any of its any obligations under this Agreement (in which event the District Council will set out these grounds in its written notice to the Registered Provider requesting such meeting)

12 MANAGEMENT AND MAINTENANCE

12.1 The Registered Provider shall ensure or procure that following practical completion of the Affordable Housing Units they are at all times properly managed and maintained and that the Registered Provider (in its capacity as landlord of the Affordable Housing Units) complies at all

times with all its statutory and contractual obligations to the tenants, leaseholders and occupiers of the same.

13 FINANCIAL CONSTRAINTS ON RENTED UNITS

13.1 In relation to the Rented Units the Registered Provider shall:

13.1.1 be responsible for providing (or procuring the provision of) all services required to be provided under each Tenancy; and

13.1.2 not require:

- (a) any form of tenancy deposit (meaning any money intended to be held by the landlord under the Tenancy or otherwise as security for the performance of any obligations of the tenant or the discharge of any liability of his/hers arising under or in connection with the Tenancy);
- (b) a charge for credit reference checks; or
- (c) any form of guarantee or bond from any third-party guarantor unless the tenant is under the age of 18

13.1.3 be entitled to levy rent in advance but such a levy shall not be applied in such a way that excludes eligible households that meet the definition of Affordable Housing. Where such exclusion occurs, based on the household's income and expenditure, the Registered Provider will make arrangements with the Nominee to levy the rent in advance in instalments over a reasonable period of time.

13.1.4 ensure compliance at all times with the requirements for rents and service charges published by Homes England and/or contained in statute or other guidance affecting the Rented Units from time to time.

14 DISPOSAL RESTRICTIONS

14.1 The parties reaffirm the covenants and conditions contained in the Section 106 Agreement in relation to the occupation and disposal of the Affordable Housing Units.

14.2 The Registered Provider shall not dispose or part with possession of the Affordable Housing Units (or part thereof) unless the Registered Provider has ensured compliance at all times with the terms of this Agreement.

14.3 The Registered Provider shall not dispose or part with possession of the Affordable Housing Units (or part thereof) unless the Registered Provider shall first procure that the disponee (being a provider of Affordable Housing registered with Homes England and first approved in writing by the Responsible Officer for Housing) shall have entered into a nomination agreement with the District Council which shall be substantially in the form of this Agreement (or such other form of nomination agreement as the District Council shall adopt from time to time).

15 SHARED OWNERSHIP UNIT SALES

- 15.1 In respect of each sale of a Shared Ownership Unit (whether an Initial Sale or a Re-Sale as the context permits):-
- 15.1.1 the Registered Provider shall not (unless otherwise reasonably agreed with the prospective purchaser of a Shared Ownership Unit) on an Initial Sale offer a Shared Ownership Unit for sale at more than a 75% share of the equity in that Shared Ownership Unit PROVIDED ALWAYS this shall not prevent a buyer from acquiring a greater share in a Shared Ownership Unit where this can be afforded by the buyer taking into account their individual financial circumstances and in all cases should be in accordance with the requirements of Homes England;
 - 15.1.2 the Registered Provider shall ensure compliance at all times with the requirements for rents and service charges published by Homes England and/or contained in statute or other guidance affecting the Shared Ownership Units from time to time;
 - 15.1.3 the Registered Provider shall retain in perpetuity a legal interest in each Shared Ownership Unit as landlord under each Lease (subject to any right of the leaseholder under each Lease to staircase to 100%);
 - 15.1.4 subject to any statutory provision and the requirements and/or guidance of Homes England published from time to time the leaseholder under each Lease shall be entitled to increase his share in the value of the Shared Ownership Unit in tranches of the Market Value so that on the final tranche the leaseholder shall acquire either the freehold interest or the whole of the leasehold interest;
 - 15.1.5 the Registered Provider shall ensure that the Lease contains the following provisions (unless the terms of the Model Lease expressly provide otherwise):
 - (a) the leaseholder under the Lease shall occupy the Shared Ownership Unit as his only main residence for himself and his household only; and
 - (b) the leaseholder shall not be entitled to assign or transfer the Shared Ownership Unit or any part of it unless he has first offered in writing to assign his interest to a person nominated by the Registered Provider in accordance with the terms of the Lease (where applicable); and
 - (c) the leaseholder under the Lease shall not without the prior consent of the Registered Provider underlet the whole or any part of the Shared Ownership Unit;
 - 15.1.6 the sale price in respect of any assignment by the leaseholder under each Lease shall be determined in accordance with the provisions of that Lease (where applicable); and
 - 15.1.7 in the event of any breach by the leaseholder under a Lease of the provisions of [subclauses 15.1.515.1.5(a), (b) or (c)] herein the Registered Provider shall take all reasonably necessary action to enforce the provisions of the same (including the taking of legal proceedings where reasonably necessary)]

16 LAND REGISTRY RESTRICTION

- 16.1 **[Clauses 16.1 and 16.2 are for use where the Land has not yet been transferred to the RP:**
The Registered Provider shall promptly [enforce the Agreement for Sale and secure the transfer] OR [make an application to the Land Registry for registration of the transfer/lease] of the Affordable Housing Units pursuant to clause [] of the Section 106 Agreement].
- 16.2 [The Registered Provider shall supply to the District Council a copy of the title information document issued by the Land Registry immediately following receipt of notice of completion of registration].
- 16.3 Immediately following the completion of [this Agreement] OR [registration referred to at [clause 16.2] above] the Registered Provider shall apply to the Land Registry for entry of a restriction in the proprietorship register of the title(s) to the Property as follows:-
"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate (or by the proprietor of any registered charge not being a charge registered before the entry of this restriction) is to be registered without a certificate signed on behalf of The District Council by its conveyancer that the provisions of [clause 14.3] of a Nomination Agreement dated [] have been complied with or that they do not apply to the disposition." (Land Registry Form L).
- 16.4 The Registered Provider shall promptly supply to the District Council a copy of the title information document issued by the Land Registry following receipt of notice of completion of registration of the restriction referred to in [clause 16.3].
- 16.5 Any certificates requested by the Registered Provider pursuant to the restriction referred to in [clause 16.3] must be made in writing to the District Council accompanied by the following information:
- 16.5.1 the full address of the Affordable Housing Units affected and up-to-date official copies of each and every Land Registry title relating to such Affordable Housing Units (including all superior freehold and leaseholds to the same and title plans);
 - 16.5.2 the date of the nomination agreement to which the Affordable Housing Units are subject and the addresses as stated in the nomination agreement;
 - 16.5.3 official copies of the Land Registry title(s) of the Registered Providers' interest (if not the same as in [clause 16.3]);
 - 16.5.4 a written description of the dealing for which the Registered Provider is requesting certificate;
 - 16.5.5 the name of the proposed disponee;
 - 16.5.6 the anticipated completion date of the proposed disposal; and
 - 16.5.7 a copy of any plan to be used with such disposal
- 16.6 The District Council will deal with all requests for certificates received from the Registered Provider in accordance with [clause 16.3] within a reasonable period of time and the District Council shall be entitled to recover all reasonable and proper costs incurred in connection with the grant of any certificates required pursuant to this clause.

17 COUNCIL'S POWERS AND LIABILITIES

17.1 Nothing contained in or implied by this Agreement shall:

- 17.1.1 prejudice or affect the District Council's rights, powers, duties or obligations relating to the exercise of the District Council's functions as a statutory body whether as a Council, Local Planning Authority or otherwise nor shall any consent (express or implied) given by the District Council under this Agreement be binding upon it in any capacity other than as a beneficiary of the covenants contained in this Agreement; and
- 17.1.2 imply that the District Council has any further or future liability for the Affordable Housing Units in respect of the management, maintenance, repair, insurance or general upkeep of the Affordable Housing Units.

18 MORTGAGEE PROTECTION

18.1 The District Council will retain the nomination rights contained in this Agreement in respect of the Affordable Housing Units in perpetuity and notwithstanding any sale or transfer to another provider of Affordable Housing the nomination rights shall be retained by the District Council EXCEPT THAT:

- 18.1.1 in the event of any Chargee lawfully exercising a power of sale granted to it under any mortgage or charge created by the Registered Provider in respect of any Affordable Housing Units (or part thereof) the terms of this Agreement shall cease to have effect in relation to the said Affordable Housing Units (or part thereof) and the terms of this Agreement shall not be binding or enforceable against any such Chargee PROVIDED THAT the Chargee has first complied with its obligations contained in clause [10] of the Section 106 Agreement EXCEPT THAT the District Council will retain the nomination rights as set out in this Agreement in the event of a disposal of the Affordable Housing Units (or part thereof) or any Affordable Housing Unit (as the case may be) to another provider of Affordable Housing; and
- 18.1.2 the terms of this Agreement shall cease to have effect in respect of any Affordable Housing Unit which is occupied by a Protected Occupier and the terms of this Agreement shall not be binding or enforceable against any Protected Occupier or any mortgagee or chargee of a Protected Occupier or any person deriving title from a Protected Occupier or any successor in title thereto and their respective mortgagees and chargees SAVE THAT if any successor in title to a Protected Occupier is a provider of Affordable Housing this provision shall not apply and the terms of this Agreement shall still be binding and enforceable against such successors in title

19 DISPUTE RESOLUTION

- 19.1 In the event that any difference or dispute arises between the parties with regard to this Agreement such matter shall in the first instance be referred to [] of the Registered Provider and the Responsible Officer (or any persons nominated by them to act on their behalf) who shall within ten (10) Working Days of the referral to them, negotiate in good faith and attempt to resolve the dispute
- 19.2 If the matter cannot be resolved as provided for in [clause 19.1] then it shall be referred to the respective Chief Executive Officers of the Registered Provider and the District Council (or any persons nominated by them to act on their behalf) who shall within twenty eight (28) Working Days of the referral to them negotiate in good faith and attempt to resolve the dispute.
- 19.3 If the matter cannot be resolved as provided for in [clause 17.2] then either person referred to in [clause 19.2] may refer it to be determined by a person chosen by the Chief Executive for the time being of the Chartered Institute of Housing. That person shall act as an expert and not an arbitrator but shall consider written representations made to him/her by the parties.
- 19.4 The parties agree that the decision of the person named in [clause 19.3] shall be binding and that each party shall bear its own costs of resolving the dispute and share equally the costs of such person (unless otherwise directed by such person).

20 NOTICES

- 20.1 Any notice or other communication required or permitted to be given under this Agreement shall be given in writing and addressed to:
- 20.1.1 For the District Council: The Responsible Officer at the address of the District Council given herein
 - 20.1.2 For the Registered Provider: [SPECIFY NAME OR ROLE] at [SPECIFY ADDRESS]
- or to such other person or address as one party shall notify to the other in writing from time to time
- 20.2 Any notice or other communication may be given by one of the following means and shall be deemed to be served as described unless the actual time of receipt is proved:
- 20.2.1 by first class post deemed served two (2) Working Days after posting;
 - 20.2.2 by hand deemed served on signature of a delivery receipt provided that if delivery occurs before 9.00am on a Working Day, the notice will be deemed to have been received at 9.00am on that day, and if delivery occurs after 5.00pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00am on the next Working Day;
 - 20.2.3 through a document exchange deemed served on the first (1st) Working Day after the day on which it would normally be available for collection by the addressee; and

23.2.5 by e-mail to a party who confirms they will accept service by electronic means other than fax will be deemed served if sent on a business day before 4.30pm on that day; or in any other case, on the next business day after the day on which it was sent.

21 COSTS

The Registered Provider shall pay to the District Council on or before the Date of this Deed the District Council's reasonable legal costs together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed.

22 NO FETTER OF DISCRETION

Nothing contained or implied in this Deed shall fetter or restrict the District Council's statutory rights, powers, discretions and responsibilities.

23 DATA PROTECTION

23.1 In this Agreement, "**Data Protection Legislation**" means, for the periods in which they are in force in the United Kingdom, the Data Protection Act 2018, the General Data Protection Regulation (Regulation (EU) 2016/679) ("**GDPR**"), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the GDPR and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner's Office, in each case as amended or substituted from time to time;

23.2 In relation to all Personal Data, each party shall at all times comply with the Data Protection Legislation in connection with this Deed.

23.3 The parties shall (and shall procure that any of their respective personnel shall) insofar as it relates to the performance of their respective obligations under this Deed:

23.3.1 adhere to all applicable provisions of the Data Protection Legislation;

23.3.2 comply with any notification requirements under the Data Protection Legislation; and

23.3.3 to the extent applicable, duly observe all their obligations under the Data Protection Legislation which arise in connection with this Deed.

23.4 Notwithstanding the general obligation in [clause 23.3], in respect of the parties' rights and obligations under this Deed, the parties acknowledge and agree that they are Data Controllers in respect of the Personal Data they hold for the purposes of the Deed.

23.5 Each party shall notify the other of the name and contact details of that party's designated data protection lead or Data Protection Officer (as that term is understood by reference to the Data Protection Legislation). Each party shall promptly inform the other of any change in its Data Protection Officer.

- 23.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each party shall, in relation to the Personal Data, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
- 23.7 Each party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other (the "**Indemnified Party**") against any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Indemnifying Party's non-compliance with the Data Protection Legislation. The Indemnified Party shall use its reasonable endeavours to mitigate the amount of any claim under the indemnity in this [clause 23.7].
- 23.8 The parties agree to provide reasonable assistance as is necessary to each other to enable them to comply with the application of Data Subjects' rights, including the right of subject access, as provided to Data Subjects under the Data Protection Legislation.

24 GOVERNING LAW

This Deed shall be governed and interpreted in accordance with the law of England and Wales.

In witness whereof the parties hereto have duly executed this Deed on the day and the year first before written

SCHEDULE 1 - AFFORDABLE HOUSING UNITS

Not Used

SCHEDULE 2 - PLAN

[Insert appropriate attestation for RP]

[Execution clause: execution by a society of contracts or deeds using a common seal]

Executed as a deed by affixing the common seal of

[NAME OF SOCIETY]

in the presence of:-

[COMMON SEAL]

.....

[SIGNATURE OF COMMITTEE MEMBER/DIRECTOR]

[Committee member **OR** Director]

.....

[SIGNATURE OF COMMITTEE MEMBER/DIRECTOR/SECRETARY]

[Committee member **OR** Director **OR** Secretary]

[Execution clause: execution by a society of contracts and deeds without a common seal]

Executed as a deed by **[NAME OF SOCIETY]**

acting by [NAME OF FIRST DIRECTOR/COMMITTEE MEMBER],

a [director **OR** member of its Committee] and

[NAME OF SECOND DIRECTOR/COMMITTEE MEMBER/SECRETARY],

[a director **OR** member of its Committee **OR** its secretary]

.....

[SIGNATURE OF FIRST DIRECTOR/COMMITTEE MEMBER]

[Director **OR** Committee member]

.....

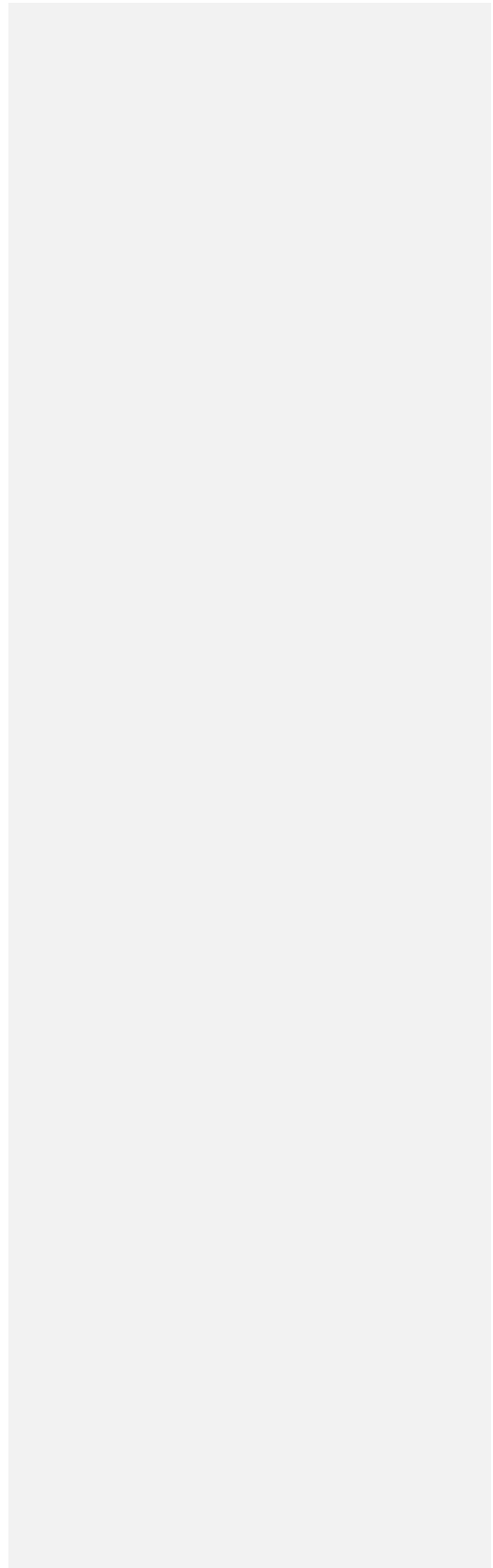
[SIGNATURE OF SECOND DIRECTOR/COMMITTEE MEMBER/SECRETARY]

[Director **OR** Committee member **OR** Secretary]

The **COMMON SEAL** of
TANDRIDGE DISTRICT COUNCIL

was hereunto affixed in the presence of:

Authorised Officer



**SECOND SCHEDULE
OWNERS COVENANTS
CONTRIBUTIONS**

The Owners covenant with the County Council:

1. Travel Plan Monitoring Contribution

- 1.1 To pay to the Travel Plan Monitoring Contribution prior to the Occupation of Development.
- 1.2 Not to Occupy the Development until the Travel Plan Monitoring Contribution has been paid to the County Council.

2 PROW Improvements Contribution

- 2.1 To pay to the County Council the PROW Improvements Contribution prior to the construction of any of the Dwellings comprised in the Development.
- 2.2 Not to construct any of the Dwellings comprised in the Development until the PROW Improvements Contribution has been paid to the County Council.

3. Mobility Impaired Persons Bridge

- 3.1 To pay to the County Council the Mobility Impaired Persons Bridge Contribution prior to the Construction of any of the Dwellings comprised in the Development.
- 3.2 Not to construct any of the Dwellings comprised in the Development until the Mobility Impaired Persons Bridge Contribution has been paid to the County Council.

This contribution may be payable to the District Council.

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4. Station Car Park Contribution

- 4.1 To pay the County Council the Station Car Park Contribution prior to the Construction of the Dwellings comprised in the Development.

- 4.2 Not to construct any of the Dwellings comprised in the Development until the Station Car Park Contribution has been paid to the County Council.

This contribution may be payable to the District Council.

5. Surgery Contribution

- 5.1 To pay to the County Council the Surgery Contribution prior to the Construction of the Dwellings comprised in the Development.
- 5.2 Not to construct any of the Dwellings comprised in the Development until the Surgery Contribution has been paid to the County Council.

This contribution will be payable to the District Council.

THIRD SCHEDULE
OWNERS COVENANTS
OPEN SPACE AND PLAY AREA
PART 1

1. OPEN SPACE

The Owners covenant with the District Council:

1. Not to Occupy nor permit or allow first Occupation of the Development until the Owner has submitted to the District Council the Open Space Management Plan for the District Council's written approval and until such approval is given in writing by the District Council.
2. Not to:
 - 2.1 erect any Dwellings on the Open Space;
 - 2.2 use the Open Space other than for open space and outdoor recreation for the life time of the Development subject to paragraph 7 of this Schedule.
3. To submit to the District Council for its written approval (such approval not to be unreasonably withheld or delayed) a Detailed Specification in respect of the Open Space prior to construction of any Dwelling
4. To construct and deliver the Open Space in accordance with the Detailed Specification as approved in writing by the District Council prior to the Occupation of [50%] of the Dwellings on the Development or as otherwise agreed in writing by the District Council.
5. Following completion of each parcel of Open Space the Owners shall forthwith serve notice on the District Council inviting it to inspect the completed relevant Open Space and to issue a Certificate of Practical Completion confirming that the relevant Open Space has been completed to its reasonable satisfaction:
 - 5.1 if the District Council chooses to inspect the relevant Open Space and identifies necessary remedial works, the Owners shall complete such remedial works to the reasonable satisfaction of the District Council as soon as reasonably practicable; and

5.2 upon completion of any remedial works, the Owners shall serve notice on the District Council inviting it to inspect the remedial works identified pursuant to paragraph 5.1 and to issue a Certificate of Practical Completion confirming that the relevant Open Space has been completed to their reasonable satisfaction

PROVIDED THAT:-

- (a) if the District Council fails to inspect the relevant Open Space within 28 Working Days after receipt of the notice of invitation from the Owners; or
- (b) fails to issue a Certificate of Practical Completion within 28 Working Days after the inspection where no remedial works have been identified

then the Certificate of Practical Completion shall be deemed to have been issued at the end of those specified periods; and

- (c) the inspection procedure identified in paragraph 5 may be repeated until such time as the District Council issues a Certificate of Practical Completion or a Certificate of Practical Completion shall have been deemed to have been issued in relation to the relevant Open Space.

6. Following issue or deemed issue of a Certificate of Practical Completion in respect of any relevant Open Space the Owners shall maintain the relevant Open Space for the Maintenance Period to the reasonable satisfaction of the District Council.

7. To allow access to relevant Open Space (free of charge but on a permissive basis only) to members of the public each day for the purpose of recreation and play subject to reasonable regulations (unless the District Council agrees otherwise in writing), PROVIDED THAT the Owners shall not be prevented from where it is reasonably necessary to do so:

- 7.1 closing such areas (or any part thereof) for the purposes of maintenance repair decoration replacement or alterations to any Service Installations equipment, building or land on or abutting such areas (or any part thereof) for such period or periods as may be reasonably necessary to carry out and complete such maintenance repairs decorations replacements or alterations;

- 7.2 working on such areas (or any part thereof) as necessary in connection with the maintenance repair decoration or alteration of the Development or any part or parts thereof;
- 7.3 ejecting from or refusing access to such areas (or any part thereof) to any persons conducting themselves in any excessively noisy or disorderly manner or indecently behaving or causing any nuisance or annoyance;
- 7.4 closing such areas (or any part thereof) at any time on the advice of an officer in public authority (whether temporarily or permanently but only for so long as is necessary) in the event of there being a security risk or alert in the vicinity;
- 7.5 erecting barriers or gates whether temporarily or permanently to facilitate closure of such areas (or any part thereof) in the event of there being such a security risk or alert in the vicinity;
- 7.6 closing such areas (or any part thereof) during hours of darkness;
- 7.7 closing such areas (or any part thereof) temporarily for not more than one day per year to assert rights of proprietorship preventing public or private rights from coming into being by means of prescription or other process of law.

8 On expiration of the Maintenance Period the Owners shall:

- 8.1 serve notice on the District Council inviting them to inspect the relevant Open Space and to issue a Final Certificate confirming that such works have been maintained to its reasonable satisfaction;
- 8.2 either, as the Owners determine, acting reasonably:
 - 8.2.1 provide an inspection report relating to the relevant Open Space to be conducted in accordance with the District Council's reasonable specification; or
 - 8.2.2 pay the District Council's reasonably and properly incurred costs in carrying out said inspection.

8.3 if the inspection identifies necessary remedial works, to complete such remedial works to the reasonable satisfaction of the District Council as soon as reasonably practicable;

8.4 upon completion of any remedial works, to serve notice on the District Council inviting them to inspect the remedial works identified by them pursuant to paragraph 8.3 and to issue a Final Certificate confirming that the relevant Open Space has been maintained to the reasonable satisfaction of the District Council

PROVIDED THAT:-

(a) if the District Council fails to inspect the relevant Open Space within 28 Working Days of invitation from the Owners; or

(b) fails to issue a Final Certificate within 28 Working Days of the inspection where no remedial works have been identified

then the Final Certificate shall be deemed to have been issued at the end of those specified periods; and

(c) the inspection procedure identified in this Schedule shall be repeated until such time as the District Council issue a Final Certificate or a Final Certificate shall be deemed to have been issued in relation to the relevant Open Space

9 At the expiration of the Maintenance Period referred to in paragraph 8 above, which shall be the later of 12 months and any such further period required to make good any defects in accordance with paragraph 8, above the Owners shall transfer the Open Space to a Management Company in accordance with this Deed and shall be subject to such rights as the Owners shall reasonably reserve for the benefit of the rest of the Development in respect of any Service Installations and with covenants that:

9.1 the Open Space shall not be used otherwise than as an area of open space and for outdoor recreation subject to the rights set out in paragraph 7 of this Schedule; and

9.2 the Management Company shall maintain the Open Space on the Development in accordance with the Open Space Management Plan as approved in writing by the District Council for the lifetime of the Development.

10. The Owners shall maintain the Open Space on the Development in accordance with the Open Space Management Plan as approved in writing by the District Council pursuant to the Open Space Management Plan until such time as the Open Space is Transferred to the Management Company subject to the rights of the Owner in paragraph 7 and the Owners shall procure in transfer to the Management Company an obligation to maintain to the same standard as set out in the Open space Management Plan for the lifetime of the Development.

PART 2

2. PLAY AREA

The Owners covenant with the District Council as follows:

1. Not to erect any Dwellings on the Play Area nor to use the Play Area other than for a Play Area
2. To submit to the District Council for approval (such approval not to be unreasonably withheld or delayed) the Play Area Detailed Specification prior to the construction of any Dwellings comprised in the Development
3. To construct and deliver the Play Area in accordance with the Play Area Detailed Specification as approved in writing by the District Council in accordance with paragraph 2 of Part 2 of this Schedule prior to the Occupation of the [50%] of the Dwellings within the Development or as otherwise agreed in writing by the District Council.
4. Following completion of construction of the Play Area the Owners shall serve notice in writing on the District Council inviting it to inspect the constructed Play Area and to issue a Certificate of Practical Completion confirming that the Play Area has been constructed to its reasonable satisfaction and if the Council chooses to inspect them :
 - 4.1 On inspection the District Council will identify to the Owners any reasonably necessary remedial works and the Owner shall complete such remedial works notified to them to the reasonable satisfaction of the District Council as soon as reasonably practicable; and
 - 4.2 Upon completion of the remedial works notified pursuant to paragraph 4.1 of Part 2 of this Schedule the Owners shall serve notice in writing on the District

Council inviting it to inspect such remedial works and to issue a Certificate of Practical Completion confirming that the Play Area has been completed to its reasonable satisfaction

5. On expiration of the Maintenance Period the Owners shall:
 - 5.1 serve notice on the District Council in writing inviting it to inspect the Play Area and to issue a Final Certificate confirming that such works have been maintained to its reasonable satisfaction and if the Council chooses to inspect then :
 - 5.2 on inspection the District Council will identify to Owners any reasonably necessary remedial works and the Owners shall complete such remedial works notified to them to the reasonable satisfaction of the District Council as soon as reasonably practicable; and
 - 5.3 upon Completion of any remedial works notified pursuant to Paragraph 5.2 of Part 2 of this Schedule the Owners shall serve notice in writing on the District Council inviting it to inspect such remedial works and to issue a Final Certificate confirming that the Play Area has been maintained to the reasonable satisfaction of the Council.

6. At the expiration of the Maintenance Period referred to in paragraph 5 above, which shall be the later of 12 months and any such further period required to make good any defects, as required in accordance with the terms of this Part 2 the Owners shall Transfer the Play Area to the Management Company pursuant to the Play Area Detailed Specification for the long term management subject to such rights as the Owners shall reserve for the benefit of the rest of the Development in respect of any Service Installations and with covenants that:
 - 6.1 the Management Company shall maintain the Play Area on the Development in accordance with the Play Area Detailed Specification as approved in writing by the District Council;
 - 6.2 the Management Company shall maintain the Open Space on the Development in accordance with the Open Space Management Plan as approved in writing by the District Council for the lifetime of the Development;

7. The Owner shall maintain the Play Area on the Development in accordance with the

Play Area Detailed Specification as approved in writing by the District Council pursuant to the Play Area Detailed Specification until such time as the Play Area is Transferred to the Management Company subject to the rights of the Owners in paragraph 7 of Part 1 of the Third Schedule and the Owners shall procure in transfer to the Management Company an obligation to maintain to the same standard as set out in the Play Area Detailed Specification for the lifetime of the Development.

FOURTH SCHEDULE
OWNER'S COVENANTS
SuDS

The Owners covenant with the District Council:

1. Not to erect any Dwellings on the SuDS nor to use the SuDS other than for the purpose of drainage.
2. To submit to the District Council for approval in writing (such approval not to be unreasonably withheld or delayed) a Detailed Specification of the SuDS prior to the construction of any Dwellings comprised in the Development
3. To construct and deliver the SuDS in accordance with the Detailed Specification of the as approved by the District Council in accordance with paragraph 2 of this Schedule.
4. To complete the SuDS prior to first Occupation of the Dwellings within the Development in accordance with the Detailed Specification of the SuDS as approved in writing by the District Council in accordance with paragraph 2 of this Schedule or as otherwise agreed in writing by the District Council.
5. Following completion of the SuDS the Owners shall serve notice in writing on the Council inviting it to inspect the completed SuDS and to issue a Certificate of Practical Completion confirming that the SuDS has been completed to its reasonable satisfaction and if the Council chooses to inspect then:
 - 5.1 on inspection the District Council will identify to the Owners any reasonably necessary remedial works and the Owner shall complete such remedial works notified to them to the reasonable satisfaction of the District Council as soon as reasonably practicable; and
 - 5.2 upon completion of any remedial works notified pursuant to paragraph 5.1 of this Fourth Schedule the Owners shall serve notice on the District Council inviting it to inspect such remedial works and to issue a Certificate of Practical Completion confirming that the SuDS has been completed to its reasonable satisfaction.

6. on Completion of the SuDS they shall be maintained by the Owners to the reasonable satisfaction of the District Council for the Maintenance Period during which time any defects should be made good within that Maintenance Period as soon as thereafter as practicable.
7. On expiration of the Maintenance Period the Owners shall:
 - 7.1 serve notice on the District Council in writing inviting it to inspect the SuDS and to issue a Final Certificate confirming that such works have been maintained to its reasonable satisfaction and if the Council chooses to inspect them ;
 - 7.2 On inspection the District Council will identify to Owners any reasonably necessary remedial works and the Owner shall complete such remedial works notified to them to the reasonable satisfaction of the District Council as soon as reasonably practicable; and
 - 7.3 upon Completion of any remedial works notified pursuant to paragraph 7.2 of this Schedule the Owners shall serve notice in writing on the District Council inviting it to inspect such remedial works and to issue a Final Certificate confirming that the SuDS has been maintained to the reasonable satisfaction of the District Council.
8. Within 28 days of the end of the Maintenance Period to transfer the SuDS to the Management Company for the long term management subject to such rights as the Owners shall reserve for the benefit of the rest of the Development with a covenant that:
 - 8.1 the SuDS shall not be used otherwise than for drainage; and
 - 8.3 the Management Company shall maintain the SuDS in accordance with the Detailed Specification as approved in writing by the District Council subject to the rights of the Management Company as the successor in title to the Owners in paragraph 9 below..
9. The Owner shall maintain the SuDS on the Development in accordance with Detailed Specification as approved in writing by the District Council until such time as the SuDS is transferred to the Management Company.

**FIFTH SCHEDULE
OWNERS COVENANTS
MANAGEMENT COMPANY**

Prior to the Transfer to a Management Company pursuant to the Open Space Management Plan and the Play Area Detailed Specification then the Owners covenant with the District Council:

1. Prior to Occupation of the Development to establish and engage the Management Company on the terms as agreed in writing with the District Council.
2. The Management Company shall be wholly owned by persons holding a relevant freehold or leasehold interest in the Site and/ or any Dwelling in the Development
3. On:
 - 3.1 the transfer of a freehold interest in a Dwelling; and
 - 3.2 the grant of a long leasehold in a Dwelling that such freehold owner or lessee shall be offered the opportunity to acquire an equal interest in the Management Company as the remaining freehold owners or lessees
 - 3.3 That the Management Company:
 - 3.3.1 shall be under an obligation to clean, maintain and repair as necessary the communal areas referred to and transferred or leased to it or in respect of which it has the benefit of an easement or other right in the Site and ensure the terms of requirements of the the Open Space Management Plan and the Play Area Detailed Specification and the SuDS Detailed Specification as approved in writing by the District Council are fully complied with; and
 - 3.3.2 shall be under an obligation to comply and observe the covenants of the Owners contained within this Deed in relation to the Site; and
 - 3.3.3 shall have the power to levy and collect charges from persons holding a relevant interest in the Dwellings in respect of the cost of performing the obligations referred to in this Schedule together with the cost of arranging insurances and management and such other costs as are usual for a Management Company to recover; and
 - 3.3.4 shall impose in every transfer or lease to the future owners and/ or occupiers of the Dwellings and the Management Company a covenant on behalf of the Management Company to comply with the terms of this

Schedule and a covenant by an owner of that Dwelling not to transfer the interest in the Dwelling without simultaneously procuring that the transferee covenant to become a member of the Management Company and pay the service charges in respect of the Development including the fair and reasonable proportion of the costs of managing and maintaining the Open Space and the Play Area and the SuDs in accordance with the relevant sections of the Second Schedule the Third Schedule and Fourth Schedule hereof.

**SIXTH SCHEDULE
COUNTY COUNCIL'S COVENANTS**

1. PROW IMPROVEMENTS CONTRIBUTION

- 1.1 The County Council hereby covenants with the Owners to use the PROW Improvements Contribution received from the Owner under the terms of this Deed for the purposes specified in this Deed;
- 1.2 The County Council covenants with the Owners that it will pay to the Owner such amount of PROW Improvements Contribution paid by the Owner to the County Council under this Deed which has not been applied or expended in accordance with the provisions of this Deed within ten (10) years of the date of receipt by the County Council of such payment provided that if the County Council has entered into a contract prior to the expiry of the ten (10) year period in respect of matters which relate to the said sum the period shall be extended until the completion of the contract or payment of the final account under the contract whichever is later

2. TRAVEL PLAN CONTRIBUTIONS

- 2.1. The County Council hereby covenants with the Owner to use the Travel Plan Monitoring Contribution received from the Owner under the terms of this Deed for the purposes specified in this Deed
- 2.2. The County Council covenants with the Owners that it will pay to the Owner such amount of Travel Plan Monitoring Contribution paid by the Owner to the District Council under this Deed which has not been applied or expended in accordance with the provisions of this Deed within ten (10) years of the date of receipt by the County Council of such payment provided that if the County Council has entered into a contract prior to the expiry of the ten (10) year period in respect of matters which relate to the said sum the period shall be extended until the completion of the contract or payment of the final account under the contract whichever is later.

SEVENTH SCHEDULE
BIODIVERSITY OFF SETTING CONTRIBUTION AND RECEPTOR SITE PLAN

1.1 The Owners covenants with the District Council as follows:

- (a) to Submit the Biodiversity Offsetting Scheme and the Biodiversity Onsite Compensation Scheme to the District Council and County Council for approval at the date of submission of the first Reserved Matters Application;
- (b) not to commence Development until the Biodiversity Offsetting Scheme and the Biodiversity Onsite Compensation Scheme have been approved in writing by the District Council and County Council;
- (c) to pay the District Council and the County Council's reasonable and proper costs incurred in evaluating and approving the Biodiversity Offsetting Scheme and the Biodiversity Onsite Compensation Scheme;
- (d) to fully implement the approved Biodiversity Offsetting Scheme prior to Occupation of the Development and thereafter to comply with the approved Biodiversity Offsetting Scheme (or any variations to such agreed in writing between the Owner and the District Council and County Council from time to time);
- (e) prior to Occupation to pay:
 - (i) 53% of the of the Biodiversity Offsetting Contribution to the District Council (or Nominee); and
 - (ii) 47% of the Biodiversity Offsetting Contribution to the County Council (or Nominee);
- (f) not to Occupy or permit Occupation or use of the Development unless and until the Biodiversity Offsetting Contribution has been paid in accordance with paragraph 6.1(e)
- (g) to fully implement the approved Biodiversity Onsite Compensation Scheme in accordance with the programme set out therein PROVIDED THAT the approved Biodiversity Onsite Compensation Scheme shall be fully implemented prior to Occupation of more than 75% of the Dwellings and thereafter to comply with the approved Biodiversity Onsite Compensation Scheme (or any variations to such agreed in writing between the Owner and the District Council and County Council from time to time);

Commented [CD4]: Does this work? The Biodiversity Onsite Compensation Scheme is surely required to be fully implemented before commencement of development?

- (h) to submit the Biodiversity Onsite Compensation Certificate to the District Council and the County Council prior to Occupation of more than 75% of the Dwellings;
- (i) not to Occupy or permit Occupation or use of more than 75% of the Dwellings unless and until the approved Biodiversity Onsite Compensation Scheme has been implemented in full and the District Council and County Council have received the Biodiversity Onsite Compensation Certificate.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

EXECUTED as a DEED
by District Council of Tandridge
by affixing its common seal
in the presence of:

Authorised Officer

THE COMMON SEAL OF)
SURREY COUNTY COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory/ Solicitor

SIGNED AS A DEED)
by the said **[PENELOPE ANN RISPIN]**)
In the presence of:-)

Witness Signature:

Witness Name and Address:

Witness Occupation

SIGNED AS A DEED)
by the said **ROBERT GEORGE ALEXANDER BALCHIN**)
In the presence of:-)

Witness Signature:

Witness Name and Address:

Witness Occupation

SIGNED AS A DEED)
by the said **JENNIFER MAVIS BALCHIN**)
In the presence of:-)

Witness Signature:

Witness Name and Address:

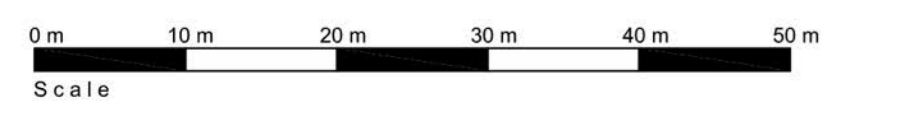
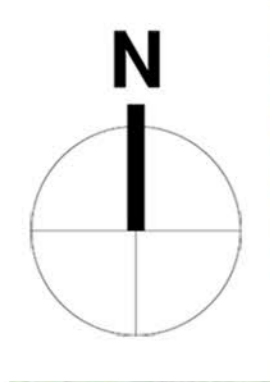
Witness Occupation

SIGNED AS A DEED)
by the said **ROBERT OLIVER CHAPMAN**)
In the presence of:-)

Witness Signature:

Witness Name and Address:

Witness Occupation



WOOLBRO GROUP &
MORRIS INVESTMENTS
Project
LAND WEST OF STATION ROAD,
LINGFIELD

ILLUSTRATIVE LAYOUT

Scale	Author	Drawn	Check	Date
1:500 @ A0	A	JL	TJ	11.02.22
	B	RWS	TJ	15.03.23

Project No	Class	Design No	Status	Rev
2661	C	1005	PL	B

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LEGEND

- Site Boundary
- Area proposed for offsite woodland enhancement (0.44ha)
- Area proposed for offsite grassland enhancement (0.19ha)

Notes:

All enhancement areas under same ownership.

LDĀ DESIGN

PROJECT TITLE
OLD COTTAGE, STATION ROAD, LINGFIELD APEAL

DRAWING TITLE
Site Plan - Offsite Habitat Enhancement

ISSUED BY	Oxford	T:	01865 887 050
DATE	July 2023	DRAWN	SMc
SCALE @A 3	1:2,500	CHECKED	BC
STATUS	Final	APPROVED	BC

DWG. NO. 9091_ECO_1

No dimensions are to be scaled from this drawing.
All dimensions are to be checked on site.
Area measurements for indicative purposes only.

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Sources: Ordnance Survey

