

DATED:

2026

(1) ~~TANDRIDGE~~HE DISTRICT COUNCIL OF TANDRIDGE

(2) SURREY COUNTY COUNCIL

(3) MARCUS LLEWYLN REGINALD DUNCAN-KING and OLIVER REGINALD JOHN DUNCAN-KING and
QUINTUS MAGNUS JAMES DUNCAN-KING

(4) SIGMA HOMES LIMITED

PLANNING OBLIGATION BY DEED OF AGREEMENT

under section 106 of the Town and Country Planning Act 1990

relating to

Land at Mount Avenue, Chaldon, Surrey CR3 5BB

Tandridge District Council Planning Application Reference: 2025/771

Planning Inspectorate Appeal Reference: 6006497

CONTENTS

[]

Commented [HK1]: Complete at end

THIS DEED OF AGREEMENT is made on

2026

BETWEEN:-

- (1) **THE ANDRIDGE DISTRICT COUNCIL OF TANDRIDGE** of Council Offices, 8 Station Road East, Oxted, Surrey RH8 0BT (the "**District Council**");
- (2) **SURREY COUNTY COUNCIL** of Woodhatch Place, 11 Cockshot Hill, Woodhatch, Reigate, Surrey RH2 8EF (the "**County Council**");
- (3) **MARCUS LLEWYN REGINALD DUNCAN-KING** of 279 Coulsdon Road, Caterham CR3 5QR and **OLIVER REGINALD JOHN DUNCAN-KING** of 4 Ashwells, Penn, High Wycombe HP10 8DT and **QUINTUS MAGNUS JAMES DUNCAN-KING** of Rudmevej 113, Rudme-Herringe, Ringe, 5750, Denmark (the "**Owner**"); and
- (4) **SIGMA HOMES LIMITED** (company registration number 08031459) whose registered office is at Ashbourne House, The Guildway, Old Portsmouth Road, Guildford, Surrey GU3 1LR of 44-46 Springfield Road, Horsham RH12 2PD (the "**Appellant**")

(together "the **Parties**")

WHEREAS:-

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The County Council is the local highway authority for the area in which the Site is situated.
- (C) The Owner is the freehold owner of the part of the Site within title numbers SY684663 and SY684661.
- (D) The Application was submitted to the District Council by the Appellant and was not determined by the District Council within the statutory determination period.
- (E) The Appeal has been lodged with the Secretary of State by the Appellant against the non-determination of the Application by the District Council.
- (F) The Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed with the intention that the covenants and obligations contained in this Deed may be enforced by the District Council, the County Council or the Owner (as the context provides).

IT IS AGREED as follows:-

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings (unless the context otherwise requires):

"Act"	means the Town and Country Planning Act 1990 (as amended);
"Affordable Housing Dwellings"	as defined in Schedule 5;

Commented [CD2]: For clarity I would prefer to have their registered office address here.

"Appeal"	the appeal against the District Council's non-determination of the Application assigned reference 6006497
"Application"	means the application for outline planning permission <u>for the Development submitted to validated by the District Council on 6th August 2025 for the Development</u> and allocated reference number 2025/771 for: Erection of 30 dwellings (50% affordable) with associated works including provision of vehicular and pedestrian access, landscaping, drainage, and other associated infrastructure (Outline application with all matters reserved except access, layout and scale). (Updated highways information received 01.10.2025);
"Commencement of Development"	means the carrying out of any material operation (as defined in section 56(4) of the Act) pursuant to the Planning Permission other than (for the purposes of this Deed and for no other purpose) operations consisting of: site clearance; demolition works; archaeological investigations; ecological investigations and/or surveys; investigations for the purpose of assessing ground conditions and site survey work; remedial work in respect of any contamination or other adverse ground conditions; earthworks and/or the diversion of and laying of services (for construction purposes only); interim landscaping works; erection of any temporary means of enclosure including erection of any gates fences or hoardings; erection of security camera; provision of temporary site access and temporary internal roads or the temporary display of site notices or advertisements and the terms "Commence" "Commencement" "Commenced" and "Commencing" shall be construed accordingly;
"County Council Monitoring Fee"	means the sum of £[] ([]) POUNDS toward the County Council's cost of monitoring and reporting upon compliance with the relevant planning obligations as set out in this Deed;
"Development"	means the development of the Site pursuant to the Planning Permission;
"District Council Monitoring Fee"	means the sum of £689[] ([]) <u>SIX HUNDRED AND EIGHTY-NINE</u> POUNDS toward the District Council's cost of monitoring and reporting upon compliance with the relevant planning obligations as set out in this Deed;
"Dwelling"	means a residential building/house constructed or proposed to be constructed on the Site pursuant to the Planning Permission

“Due Date”	means the date on which any sum payable hereunder is required to be paid or if any sum is to be paid before an event the day before that event occurs but otherwise is the date hereof;
“Expert”	means an independent and suitable person holding appropriate professional qualifications of at least ten (10) years post qualification experience appointed in accordance with the provisions of clause 8 of this Deed to determine a dispute;
“Index-Linked”	means the relevant sum shall be increased in the same proportion as the percentage increase in the All in Tender Price Index between the quarterly index figure immediately preceding the date of this Deed and the quarterly index figure for the quarter immediately preceding the date of actual payment;
“Interest”	means interest at 4% per annum above the base lending rate of Lloyds Bank plc from time to time and compounded annually;
“Occupation”	means occupation of the Site for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the terms “Occupy” and “Occupied” shall be construed accordingly;
“Plan”	means the plan appended to this Deed at Schedule 7;
“Planning Permission”	means the planning permission which may be granted pursuant to the Appeal in relation to the Application or such subsequent variation thereof pursuant to a Qualifying Permission;
“Qualifying Permission”	means a planning permission granted by the District Council (or granted on appeal) pursuant to section 73, section 73A, or section 73B (if subsequently enacted) of the Act permitting any variation of the Development or subject to conditions which differ from the conditions of the Planning Permission or approval of a non-material amendment pursuant to section 96A of the Act and for the avoidance of doubt includes any subsequent variations to such permissions;
“Reserved Matters Application”	means an application for reserved matters approval pursuant to the Planning Permission;
“Reserved Matters Approval”	means an approval of a Reserved Matters Application;
“Secretary of State”	the Secretary of State for the Ministry of Housing, Communities & Local Government including any successor in function for the

	purposes of the Appeal and (where the context provides in this Deed) any inspector appointed by him to determine the Appeals
"Site"	means the land which is the subject of the Application shown edged red on the Plan and as described at paragraph 1.1 of Schedule 1;
"Working Day"	means any day (other than a Saturday, a Sunday, any public or bank holiday in England, or any day which is on or between 27 and 31 December) in any calendar year.

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph, Schedule or recital, such reference (unless the context otherwise requires) is a reference to a clause, paragraph, 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 interchangeably in that manner.
- 2.4 "**Including**" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "**include**" shall be construed accordingly.
- 2.5 Words denoting an obligation on a party to do any act or matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of that restriction.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act of Parliament 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 of Parliament or deriving validity from it.
- 2.7 Reference to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and the County Council the successors to their respective statutory functions and any duly appointed employee or agent of the District Council and the County Council or such successor.
- 2.8 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons and where more than one party enters into any obligation or liability those parties are jointly and severally liable.
- 2.9 The headings and contents list are for reference only and shall not affect construction.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the Act and are enforceable by the District

Council and the County Council as planning authorities against the Owner as specified in this Deed.

- 3.3 To the extent that any of the covenants, restrictions and requirements contained in this Deed are not planning obligations within the terms of section 106 of the Act they are entered into pursuant to section 111 Local Government Act 1972, section 1 Localism Act 2011 and all other enabling powers.
- 3.4 In the event that a Qualifying Permission is granted then, unless the District Council and/or the County Council (as applicable) agree and confirm to the Owner in writing that a new deed is required under section 106 and/or section 106A(1)(a) of the Act in relation to the Qualifying Permission, the covenants and provisions of this Deed shall be deemed to apply to the Qualifying Permission and to any development carried out pursuant to the Qualifying Permission and the definition of Planning Permission shall be construed accordingly.

4. CONDITIONALITY

4.1 This Deed is conditional upon:-

- (a) the Appeal being allowed (so as to grant the Planning Permission), and
- (b) Commencement of Development,

save for the provisions of clause 8.1 which shall take effect immediately upon completion of this Deed, and clauses 1 to 7, 8.2 and 8.3 and 9 to 21 of this Deed which shall come into effect on the grant of Planning Permission.

4.2 In the event that the Secretary of State determines in their Appeal decision letter that:

- (a) a planning obligation contained in this Deed (or relevant part of a planning obligation) is not a material consideration in the granting of the Planning Permission pursuant to the Appeal; or
- (b) a planning obligation contained in this Deed (or relevant part of a planning obligation) is incompatible with any one or more of the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and accordingly attaches no weight to that obligation in determining the Appeal,

then that planning obligation (or the relevant part of that planning obligation) shall cease to have effect and the Owner shall not be required to comply with that obligation (or that part of that obligation) AND FOR THE AVOIDANCE OF DOUBT this shall not affect the lawfulness or enforceability of any other covenants and obligations within the remainder of this Deed which shall continue in full force and continue to be enforceable AND it shall not be necessary to vary this Deed in order that its terms have the effect and enforceability as determined within the said decision letter.

5. OWNER'S COVENANTS

- 5.1 The Owner covenants with the District Council to observe and perform the obligations as set out in Schedule 5.
- 5.2 The Owner covenants with the County Council to observe and perform the obligations as set out in Schedules 4 and 6.

6. THE DISTRICT COUNCIL AND THE COUNTY COUNCIL COVENANTS

- 6.1 The District Council covenants with the Owner to observe and perform or cause to be observed and performed its obligations in this Deed as set out in Schedule 2 and those imposed on it throughout this Deed.
- 6.3 The County Council covenants with the Owner to observe and perform or cause to be observed and performed its obligations in this Deed as set out in Schedule 3 and those imposed on it throughout this Deed.
- 6.4 The obligations on the part of the District Council in this Deed are entered into with the intent that they shall be enforceable not only against the District Council but also against any of the District Council's statutory successors.
- 6.6 The obligations on the part of the County Council in this Deed are entered into with the intent that they shall be enforceable not only against the County Council but also against any of the County Council's statutory successors.

7. DISPUTE RESOLUTION

- 7.1 If there is any dispute between any of the Parties in respect of any matter arising out of this Deed which cannot be resolved by prior agreement between the parties in dispute, such dispute may be determined in accordance with this clause 7 and any party to the dispute may at any time request an Expert to be appointed to resolve the dispute.
- 7.2 The Expert shall be appointed jointly by the parties in dispute and, in the absence of such agreement within two (2) weeks of service of the notice pursuant to clause 7.1, be appointed by the president for the time being of the organisations listed in this clause 7.2 (a) to (e) as applicable within two (2) weeks of an application being made by one of the parties and the president's decision as to the Expert shall be final and binding on the parties to the dispute, provided that.
 - (a) if such dispute relates to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;
 - (b) if such dispute relates to matters requiring a specialist chartered civil engineer or specialist transport advice, the President of the Institution of Civil Engineers to nominate the Expert;
 - (c) if such dispute relates to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert;
 - (d) if such dispute relates to Affordable Housing the Expert shall be nominated by the President of the Royal Town Planning Institute; and
 - (e) in all other cases, the President of the Law Society to nominate the Expert as they think appropriate.
- 7.3 The Expert shall invite written representations (and, if the Expert determines, further written representations by way of rebuttal) from each of the parties to the dispute and shall make his final determination by notice in writing within one (1) month of his appointment PROVIDED THAT if the Expert fails to do so, then any of the parties in dispute may apply to the relevant president for the time being for a substitute to be appointed in which case the same procedure shall be repeated.
- 7.4 The findings of the Expert shall be final and binding on the parties in dispute except in the case of manifest, material error.
- 7.5 The Expert shall act as an expert and not as an arbitrator.

- 7.6 The costs of the dispute shall be payable by the parties in dispute in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the parties in dispute.
- 7.7 Nothing in this clause 7 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.
- 7.8 Nothing in this clause 7 shall restrict the parties' ability to seek legal redress in the courts or otherwise for any breach of this Deed.

8. LEGAL COSTS AND MONITORING

- 8.1 Prior to the completion of this Deed, the Applicant shall pay to the District Council and the County Council their respective reasonable legal costs of and in connection with this Deed.
- 8.2 The Owner shall not Commence until it has paid the County Council Monitoring Fee to the County Council.
- 8.3 The Owner shall ~~pay to not Commence until it has paid the District Council Monitoring Fee to the District Council on completion of this Deed.~~

Commented [CD3]: Our monitoring team start monitoring immediately after completion so they will not agree to this.

9. NOTICES

- 9.1 Any notice required to be given under this Deed shall be in writing and shall be deemed to have been properly served at the time of delivery if delivered by hand (subject to clause 9.2 below) or at the time delivery was signed for if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party, or as specified by notice in writing to the other parties and if by post it shall be deemed to be delivered the second Working Day after posting:
- (a) for the District Council, the notice should be addressed to [redacted];
 - (b) for the County Council, the notice should be addressed to [redacted];
 - (c) for the Owner, the notice should be sent FAO the relevant individuals named at the start of this Deed and sent to the address(es) given at the start of this Deed;
 - (d) for the Appellant, the notice should be sent FAO the Company Director of the entity named at the start of this Deed and sent to the address given at the start of this Deed;
- 9.2 If a notice, demand or any other communication is served after 4.00 pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.
- 9.3 For the avoidance of doubt, where proceedings have been issued in the Courts of England, the provisions of the Civil Procedure Rules shall be complied with in respect of the service of documents in connection with those proceedings rather than the provisions of clauses 9.1 and 9.2 above.
- 9.4 Any notice or notification to be given pursuant to this Deed shall be in writing and shall, unless otherwise agreed in writing by the District Council or the County Council (as the case may be), be delivered by hand or sent by post.

Commented [CD4]: Amit which contact should we put here?

10. MISCELLANEOUS

- 10.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 (other than by the successors in title or assigns of the parties and any successor to the District Council's or the County Council's functions).

- 10.2 This Deed shall be registrable as a local land charge by the District Council in the Register of Local Land Charges and registered on the District Council's.
- 10.3 Following the District Council and the County Council being notified in writing and the District Council and the County Council being satisfied that the performance and satisfaction of all the obligations contained in this Deed (as confirmed in writing), or if this Deed is determined pursuant to clause 18, the District Council shall note this in the Register of Local Land Charges in respect of this Deed and cancel all entries made in their respective Register of Local Land Charges in respect of this Deed.
- 10.4 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 and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality.
- 10.5 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 or that part of the Site to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 10.6 This Deed shall not be enforceable against:
- (a) any owner-occupiers or tenants of any of the Open Market Dwellings (as defined in Schedule 5) constructed pursuant to the Planning Permission nor their mortgagees or those deriving title from them;
 - (b) except for the requirements of paragraph 3 of Schedule 5 any owner-occupiers or tenants of an Affordable Housing Dwelling nor against those deriving title from them;
 - (c) any future chargee or mortgagee from time to time who shall have the benefit of a charge or a mortgage of or on any part or parts of the Site (other than of individual Dwellings), or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person deriving title has entered into possession of the Site or part thereof to which such obligation relates;
 - (d) any statutory undertaker or other person who has acquired or who acquires an interest in the Site for the sole purpose of providing services to the Site nor any mortgagee or chargee of any such statutory undertaker or other person;
 - (e) any Registered Provider (as defined in Schedule 5 of this Deed and save for the Owner where the Owner is acting as a Registered Provider) of an Affordable Housing Dwelling other than in respect of the obligations set out in paragraphs 3 to 5 of Schedule 5 of this Deed.
 - (f) any mortgagee or chargee in possession of any Affordable Housing Dwelling or any receiver or manager (including administrative receiver) duly appointed by any such mortgagee or chargee to the intent that any such mortgagee or chargee or receiver (including an administrative receiver) may deal with or dispose of the Affordable Housing Dwellings free from the covenants and obligations set out in this Deed and that any successors in title shall not be bound by it.
- 10.7 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 Permissions granted (whether or not on appeal) after the date of this Deed.

Commented [CD5]: Doesn't make sense.

11. WAIVER

No waiver (whether expressed or implied) by the District Council or the County 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 or the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12. NO FETTER

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the District Council or the County Council in the exercise of their respective functions in any capacity.

13. NOTIFICATIONS

The Owner agrees with the District Council and the County Council:

- (a) to give (as applicable) the District Council and separately the County Council written notice within fifteen (15) Working Days of any change in ownership of any of interest 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(s) of occupation purchased by reference to a plan PROVIDED THAT this obligation does not apply to:-

- (i) [the sale of individual Dwellings on the Development;
- (ii) the sale or disposal of any non-residential building forming part of the Development; or
- (iii) any disposal of any part or parts of the Site to any public utility company or statutory undertaker for the sole purpose of providing utility services to the Site; and

- (b) not less than 5 Working Days before the anticipated date of each of the following events to notify the District Council and separately the County Council in writing of such anticipated date:

- (i) Commencement of the Development;
- (ii) Commencement of each Reserved Matters Area;
- (iii) Practical Completion of construction of the Development;
- (iv) Practical Completion of construction of Development within each Reserved Matters Area;
- (v) first Occupation of the Development;
- (vi) the Occupation of the Dwelling which results in 50% of the Dwellings being Occupied;
- (vii) Occupation of the 1st Dwelling in each Reserved Matters Area;
- (viii) Occupation of the final Dwelling to be Occupied]

Commented [HK6]: Complete towards the end, when triggers settled.

14. TITLE WARRANTY

The Owner warrants that no person other than the Owner (being) those persons recorded at Recital (C) of this Deed has any material legal or equitable interest in the Site save as shown within HM Land Registry title registers SY684663 and SY684661 as at the date of this Deed.

15. INTEREST

If any payment due under this Deed is paid late, Interest will be payable on the sum outstanding from the relevant Due Date to the date of payment.

16. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owner shall pay to the District Council and the County Council any value added tax properly payable on any sums paid to the District Council and/or the County Council for works undertaken under this Deed upon presentation of any appropriate value added tax invoice addressed to the Owner.

17. DETERMINATION OF DEED

Save for those clauses relating to any obligations that were complied with or due to be complied with prior to the date of occurrence of any of the events below, the obligations in this Deed (or the obligations pertaining to the Planning Permission shall cease to have effect if:

- (a) the Planning Permission expires before Commencement; or
- (b) at any time the Planning Permission is revoked (pursuant to section 97 of the Act) other than at the request of the Owner or is quashed by any Court or Tribunal of competent jurisdiction as a result of any legal proceedings (and refused upon re-determination); or
- (c) the Planning Permission is otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure so as to render this Deed or any part of it irrelevant, impractical or unviable.

18. DATA PROTECTION

The Parties acknowledge and agree that information as to compliance with obligations pursuant to this Deed (including as to whether or not contributions have been paid) may be passed to:

- (a) persons who make enquiries on such matters and who advise that they or their clients are proposing to acquire an interest in the Site and it is acknowledged that the recipients of such information may then disseminate it further; and
- (b) any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

19. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

20. DELIVERY

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.

23. COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

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

SCHEDULE 1 - SITE

All that land at Mount Avenue, Chaldon, Surrey CR3 5BB registered at the Land Registry under title numbers SY684663 and SY684661 and shown edged red on the Plan.

SCHEDULE 2
DISTRICT COUNCIL COVENANTS

1. REPAYMENT OF CONTRIBUTIONS

- 1.1 The District Council covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid and for no other purposes.
- 1.2 The District Council covenants with the Owner that following written request from the Owner it will pay to the Owner such amount of any payment made by the Owner to the District Council under the terms of this Deed which has not been expended at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law **PROVIDED THAT** no such request will be made prior to the expiry of ten (10) years of the date of receipt by the District Council of such payment. Any contribution or part of a contribution which the District Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the District Council prior to that date.
- 1.3 The District Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under the terms of this Deed upon a written request by the Owner such request not to be made more than once in any year.

2. DISCHARGE OF OBLIGATIONS

At the written request of the Owner, the District Council shall provide written confirmation of the discharge of any obligation contained in this Deed when satisfied that such obligations have been performed.

3. APPROVALS

Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council under the terms of this Deed, the District Council covenants that such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

SCHEDULE 3
COUNTY COUNCIL COVENANTS

1. REPAYMENT OF CONTRIBUTIONS

- 1.1 The County Council covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.
- 1.2 The County Council covenants with the Owner that following written request from the Owner it will pay to the Owner such amount of any payment made by the Owner to the County Council under the terms of this Deed which has not been expended at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law **PROVIDED THAT** no such request will be made prior to the expiry of ten (10) years of the date of receipt by the County Council of such payment. Any contribution or part of a contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.
- 1.3 The County Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under the terms of this Deed upon a written request by the Owner such request not to be made more than once in any year.

2. DISCHARGE OF OBLIGATIONS

At the written request of the Owner, the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

3. APPROVALS

Where any agreement, consent, approval or expression of satisfaction is required by the Owner from the County Council under the terms of this Deed the County Council covenants that such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

SCHEDULE 4
COUNTY COUNCIL CONTRIBUTIONS (TRO CONTRIBUTION)

1. DEFINITIONS

- 1.1 In this Schedule 4 the following additional definitions shall apply (for the avoidance of doubt any defined term which does not appear below shall be given the meaning ascribed to it in the main body of this Deed or such other part of this Deed as provided for):

“TRO”	a traffic regulation order made pursuant to the Road Traffic Regulation Act 1984 in order to: • formally secure a speed limit reduction to 20mph, along with any (necessary traffic calming measures) between the Site and Caterham on the Hill High Street; • extending the existing/planning 20mph speed limit on Rook Lane (to the west of the Site and currently planned to end just to the east of the junction with Mount Avenue) to the rest of Rook Lane and Chaldon Road, extending to side roads as appropriate and feasible (as determined by the County Council)
“TRO Contribution”	an Index Linked financial contribution toward the making of and application for the TRO in the sum of £3,000 (three thousand pounds)

The Owner covenants with the County Council as follows:

2. TRO Contribution

- 2.1 To pay in in full to the County Council the TRO Contribution prior to the Occupation of any Dwelling;
and
- 2.2 not to Occupy any Dwelling until the TRO Contribution has been paid in full to the County Council.

SCHEDULE 5

AFFORDABLE HOUSING

1. In this Schedule 7 the following additional definitions shall apply (for the avoidance of doubt any defined term which does not appear below shall be given the meaning ascribed to it in the main body of this Deed):

Access	such roads, footpaths and cycleways in the Development and, in the case of any part or parts of leasehold development as flats, such pedestrian access over common parts, stairs, walkways and lifts as may be necessary to facilitate the construction and occupation of the Affordable Housing Dwellings together with all rights and easements over them as may be necessary as aforesaid
Affordable Housing	Affordable housing as defined within Annex 2 of the National Planning Policy Framework published by the Ministry of Housing, Communities and Local Government or any update or replacement thereto
Affordable Housing Dwellings	those Dwellings identified in accordance with the relevant Affordable Housing Scheme and which Dwellings are to be provided for Affordable Housing on the Affordable Housing Land within each Phase and the expression Affordable Housing Dwelling shall be construed accordingly
Affordable Housing Scheme	a written scheme relating to the Affordable Housing Dwellings to be produced for the District Council's approval to include the following details: a) a programme and timetable for the building of the Affordable Housing Dwellings; b) the Affordable Housing Mix (Final); c) the location of the Affordable Housing Land for the Affordable Housing Dwellings; and d) the location, type and level of Services for the Affordable Housing Dwellings including any variations to an initially approved scheme that the District Council and the Owner may subsequently agree in writing including for the avoidance of doubt to the Affordable Housing Mix (Final)
Affordable Housing Scheme (Approved)	the Affordable Housing Scheme approved by the District Council pursuant to paragraph 2.3 of this Schedule or any variations thereto subsequently agreed in writing between the District Council and the Owner
Affordable Housing Land	the land upon which any Affordable Housing Dwellings, their curtilage and any associated vehicular parking provision including

	surface parking spaces, covered and/or enclosed parking structures, are built
Affordable Housing Mix (Default Tenure)	the initial assumed tenure mix of the Affordable Housing Dwellings to be provided which shall be 75% Affordable Rented Housing Units and 25% Shared Ownership Housing Units
Affordable Housing Mix (Final)	the confirmed size, type and tenure mix of the Affordable Housing Dwellings as set out in the relevant Affordable Housing Scheme provided that unless otherwise stated within the relevant Affordable Housing Scheme the tenure mix shall be assumed to be in accordance with the Affordable Housing Mix (Default Tenure)
Affordable Rented Housing	housing available at a rent that does not exceed 80% of the local open market rent (including service charges if any) and in any event should not exceed the published Local Housing Allowance for the relevant property type in the relevant rental market area (allowing for any modifications to a level of allowance as published from time to time by the Government as calculated using the Royal Institution of Chartered Surveyors' approved valuation methods) which rent may be increased annually by no more than such amount as may be in accordance with guidance issued by Homes England and which is to be provided to Eligible Persons
Affordable Rented Housing Units	the Dwellings to be provided as Affordable Rented Housing and Affordable Rented Housing Unit shall be construed accordingly
District	the administrative area of the District Council
Homes England	the body known as Homes England or any successor organisation or body charged with the function of investing in the provision of Affordable Housing within the District Council's administrative area by any Registered Provider
Local Housing Allowance	the rental allowance rate for a property of the size and in the location of the relevant Affordable Housing Dwelling calculated by reference to the tables maintained by the Valuation Office Agency for the area of the District Council (or such equivalent means of calculation that may vary or replace it) as updated from time to time
National Rent Regulatory Framework	the regulatory framework for Social Rented Housing in England from 1 April 2005 published by the Homes and Communities Agency or such other publication that replaces the said framework
Nominations Agreement	means an agreement to be agreed between the Owner/Registered Provider and the District Council to determine the occupancy criteria and priority for the Affordable Rented Units
Projections	eaves, gutters, spouts, downpipes, chimney cappings, foundations, supporting pillars, architraves, pediments, ornaments and stanchions, chutes, cellar lights, and gratings and any similar structures
Registered Provider	means: (i) any person body or entity which is registered as a provider of social housing with the RSH in accordance with section 80(2) and Chapter 3 of Part 2 of the Housing and Regeneration Act 2008 and has not been removed from the

		register (including its successors and assigns); or (ii) the District Council ; or (iii) any other provider of Affordable Housing who has first been approved in writing by the District Council
Services		includes electricity, telephone, gas, water, foul drainage, surface water drainage, cable television, and other services running through the Service Installations
Service Installations		includes sewers, drains, culverts, channels, outlets, mains, wire, cables, ducts, flues, soakaways and other conducting media for the supply of Services, substations, regulator valves and all other infrastructure whatsoever for Services all of which shall be laid by the Owner in on over or under the Site
Shared Lease	Ownership	the standard form of lease for shared ownership prescribed by Homes England
Shared Housing	Ownership	Dwellings which are Occupied by persons under a Shared Ownership Lease and which is to be provided to Eligible Persons and as defined by the Localism Act 2011 (or any successor legislation) where those persons have the opportunity to purchase all or substantially all of the equity in the Affordable Housing Dwelling at a later date or such other equity sharing or retention terms from time to time approved by the District Council
Shared Housing Units	Ownership	Dwellings provided as Shared Ownership Housing and Shared Ownership Housing Unit shall be construed accordingly

The Owner covenants with the District Council as follows:

2. Affordable Housing Schemes and Delivery

- 2.1 To provide at least fifty per cent (50%) of the Dwellings across the Development as Affordable Housing.
- 2.2 For the avoidance of doubt the obligations in this Schedule are not intended to prevent the Owner or Registered Provider providing additional Affordable Housing Dwellings in the Development over and above the 50% required to be provided.
- 2.3 To submit a proposed Affordable Housing Scheme as part of the (first) Reserved Matters Application for approval to the District Council and not to Commence Development until the District Council has approved an Affordable Housing Scheme (not to be unreasonably withheld or delayed).
- 2.4 To provide the Affordable Housing Dwellings in accordance with Affordable Housing Scheme (Approved).
- 2.5 To enter into an unconditional contract or contracts (as the case may be) with a Registered Provider for the transfer to such Registered Provider (either by way of freehold transfer or where the Affordable Housing Dwellings comprise flats, apartments or maisonettes by way of lease for a minimum term of 999 years at a nil rent) of the Affordable Housing Land upon the terms set out or referred to in this Deed.

- 2.6 The terms of the contract shall provide for the following:
- 2.6.2 that at the time of its transfer the Affordable Housing Land be transferred together with all Services and Service Installations and Access provided up to at least the boundary of the Affordable Housing Land;
- 2.6.3 that the Affordable Housing Land shall be transferred together with the following rights:
- (i) a right to pass and repass on foot and/or with or without vehicles (as appropriate) for the purpose of access to and egress from the Affordable Housing Land over the Access;
 - (ii) a right of taking passage and running (as appropriate) of Services;
 - (iii) a right to maintain enjoy and use any Services and any Projections over on or under the remainder of the Land so far as may be necessary for any purpose connected with the Affordable Housing Land;
 - (iv) a right to enter upon the remainder of the Land including any Access so far as may be necessary for any purpose connected with the Affordable Housing Land the Service Installations and the Projections; and
 - (v) such necessary rights of support shelter and protection from the Site.
- 2.7 Unless otherwise stated within Affordable Housing Scheme (Approved) not to Occupy or allow or permit Occupation of more than 85% of the Open Market Dwellings until all of the Affordable Housing Dwellings have been completed and transferred to a Registered Provider pursuant to the contract described at paragraphs 2.5 and 2.6 of this Schedule.

3. Use and Occupation

The Affordable Housing Land and the Affordable Housing Dwellings shall not be used or Occupied other than for the purpose of Affordable Housing save as qualified in paragraph 4 and shall not be Occupied unless the Registered Provider has first executed a Nominations Agreement and delivered the same to the District Council.

4. Exclusions

None of the provisions in this Schedule shall apply to or be binding upon:

- (a) a mortgagee or chargee (or any receiver (including an administrative receiver) 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 or any administrator (howsoever appointed) including a housing administrator (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:
- (i) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Dwellings; and
 - (ii) such mortgagee or chargee or Receiver shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Dwellings to another Registered Provider or to the District Council 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 costs and expenses; and
- (iii) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Dwellings free from the provisions of this Schedule which provisions shall determine absolutely
 - (b) a lessee of an Affordable Housing Dwelling let by a Registered Provider under a shared ownership or shared equity lease who has exercised his right to staircase to 100% and its mortgagees, chargees and successors in title;
 - (c) a tenant of a Registered Provider who has exercised a statutory right under the right to acquire provisions of the Housing Act 1996 (or any legislation amending or replacing the same) or right to buy in respect of an Affordable Housing Dwelling and its mortgagees, chargees and successors in title; and
 - (d) any mortgagee or chargee holding a mortgage or legal charge over an individual Shared Ownership Housing Unit if either a power of sale has arisen and become exercisable in favour of the mortgagee or such mortgagee or its receiver enters into possession.

5. Cascade

- 5.1 The Owner and the District Council agree that in the event that the Owner provides reasonable evidence to the District Council that no Registered Provider wishes to take a transfer of the Affordable Housing Dwellings the Owner and the District Council will enter into discussions (both acting reasonably and in good faith) with a view to agreeing the revised provision of Affordable Housing by either:
- (i) alternative tenures/tenure mix to the Affordable Housing Mix (Default) and/or Affordable Housing Mix (Final) (as applicable); or
 - (ii) payment of a commuted sum in lieu of provision of (all or some of) the Affordable Housing Dwellings, such sum to be negotiated between the District Council and the Owner but based on the principle that the sum should be broadly equivalent in value to the quantum of notional on-Site Affordable Housing that it is to be paid in lieu of.
- 5.2 Should a revised provision of Affordable Housing be agreed between the District Council and the Owner pursuant to paragraph 5.1 of this Schedule, then the other provisions of this Schedule shall either (as appropriate) be disapplied or be interpreted to apply to the said revised provision of Affordable Housing (mutatis mutandis).

SCHEDULE 6

OFF-SITE HIGHWAY WORKS

1. DEFINITIONS

- 1.1 In this Schedule 7 the following additional definitions shall apply (for the avoidance of doubt any defined term which does not appear below shall be given the meaning ascribed to it in the main body of this Deed or such other part of this Deed as provided for):

Highway Agreement	an agreement pursuant to (inter alia) section 278 (and where necessary section 38) of the Highways Act 1980 to be entered into by the Owner (at the Owner's expense) with the County Council in relation to the Highway Works and for the avoidance of doubt separate agreements may be entered into with respect to each or any of the specific works comprising the Highway Works
Highway Works	unless otherwise agreed in writing by the Owner and the County Council, the following works: (a) the construction of the proposed access in general accordance with Highway Works Drawing reference 2502094-TS-002; (b) the construction of the proposed pedestrian access to Birchwood Lane in general accordance with Highway Works Drawing reference 2502094-TS-003 (providing a permanent barrier to motor vehicle access to the Site); (c) improvements to bus stops located on Rook Lane close to the junction with Mount Avenue to include shelters, enhanced waiting areas and real time passenger information; (d) works to provide a continuous pedestrian crossing at the Rook Lane junction with Mount Avenue; and (e) works to provide a pedestrian crossing improvement on Rook Lane to provide access to westbound bus services

Highway Works Drawings	the drawings referenced in the Highway Works definition above appended to this Deed at Schedule 7 and "Highways Works Drawing" refers to any one of them
-------------------------------	--

The Owner covenants with the County Council as follows:

2. Highway Works

- 2.1 to enter into a Highway Agreement(s) for the Highway Works with the County Council as soon as reasonably practicable from the date of this Deed;
- 2.2 not to commence the Highway Works until the Owner has entered into the Highway Works Agreement with the County Council;
- 2.3 prior to the Occupation of any Dwelling to undertake and complete the Highway Works to in accordance with the requirements of the relevant Highway Agreement; and
- 2.4 not to Occupy or permit Occupation of any Dwelling unless and until the Highway Works have been carried out and completed in accordance with the requirements of the relevant Highway Agreement.

SCHEDULE 7
PLANS/DRAWINGS/DOCUMENTS

EXECUTION BY THE COUNTY COUNCIL

EXECUTED as a DEED by affixing)

THE COMMON SEAL of SURREY ESSEX)

COUNTY COUNCIL in the presence of:-)

Authorised Signatory)

EXECUTION BY THE DISTRICT COUNCIL

THE COMMON SEAL of THE DISTRICT)
COUNCIL OF ~~EPPING FOREST TANDRIDGE~~ was)
affixed to this DEED in the presence of:)

Authorised Signatory

Witness Signature:
Witness Name:
Witness Address:
Witness Occupation:

EXECUTION BY THE OWNERS

Signed as a Deed by

.....

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by

.....

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by

.....

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Signed as a Deed by

.....

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation: