

DATED 13 October

2024

MID SUSSEX DISTRICT COUNCIL (1)

AND

WEST SUSSEX COUNTY COUNCIL (2)

AND

ASHILL REGEN LIMITED (3)

AND

CANDID FINANCE LIMITED (4)

PLANNING OBLIGATION

BY WAY OF AGREEMENT

pursuant to Section 106 of the

Town and Country Planning Act 1990 (as amended)

relating to land at West Hoathly Brickworks, Hamsey Road, Sharpthorne, East Grinstead, RH19

4PD

Kevin Toogood
Assistant Director, Legal Services
Mid Sussex District Council
'Oaklands' Oaklands Road
Haywards Heath
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CONTENTS

1. INTERPRETATION AND DEFINITIONS.....	2
2. LEGAL BASIS	21
3. CONDITIONALITY	21
4. COVENANTS TO THE DISTRICT COUNCIL	21
5. COVENANTS TO THE COUNTY COUNCIL	22
6. COVENANTS BY THE DISTRICT COUNCIL	22
7. COVENANTS BY THE COUNTY COUNCIL.....	22
8. MORTGAGEE'S CONSENT	22
9. RELEASE	22
10. LOCAL LAND CHARGE.....	22
11. THE DISTRICT COUNCIL AND COUNTY COUNCIL'S COSTS.....	23
12. INTEREST ON LATE PAYMENT	23
13. OWNERSHIP	23
14. NO FETTER OF DISCRETION.....	23
15. WAIVER.....	23
16. AGREEMENTS AND DECLARATIONS.....	23
17. NOTICES.....	25
18. THIRD PARTY RIGHTS	26
19. DISPUTES.....	26
20. DELIVERY.....	27
21. GOVERNING LAW	27
FIRST SCHEDULE.....	28
SECOND SCHEDULE	37
THIRD SCHEDULE.....	48
FOURTH SCHEDULE.....	50
FIFTH SCHEDULE.....	52

THIS DEED is dated the 15th day of October 2024

BETWEEN

- (1) **MID SUSSEX DISTRICT COUNCIL** of Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS ("the District Council")
 - (2) **WEST SUSSEX COUNTY COUNCIL** of County Hall, Chichester, West Sussex, PO19 1RQ ("the County Council")
 - (3) **ASHILL REGEN LIMITED** (Co Regn No 13525416) whose registered office is situated at Aissela, 46 High Street, Esher, Surrey, England, KT10 9QY and also of Scott House, Suite 1, The Concourse, London SE1 7LY ("the Owner")
 - (4) **CANDID FINANCE LIMITED** (Co. Regn. No. 13265321) of Unit 3-4, Teddington Business Park, Station Road, Teddington TW11 9BQ ("The Mortgagee")
- (the "Parties")

BACKGROUND

- (A) The Owner is the freehold owner of the Land with title absolute.
- (B) The Land is subject to a registered charge dated 14 October 2022 in favour of the Mortgagee
- (C) The Land is within a Designated Rural Area
- (D) The District Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (E) The County Council is the local authority responsible for education, library and highways infrastructure in the area in which the Land is situated.
- (F) The Owner has made the Application to carry out the Development.
- (G) As the Development is located within the 7km zone of influence surrounding the SPA, the Development generates a need for a financial contribution towards the Joint SAMM Strategy and the SANG Strategy in accordance with Policy DP17 of the District Plan and having regard to the Habitats Regulations which would not be generated but for the Development
- (H) As required by the Habitats Regulations, the District Council, as competent authority, has undertaken a Habitats Regulations Assessment of the implications of the project for the SPA in view of that site's conservation objectives. The District Council concludes the Development with mitigation would not have an adverse effect on the integrity of the SPA and considers that suitable contributions towards the Joint SAMM Strategy and the SANG Strategy are therefore required
- (I) The District Council, having regard to the provisions of the District Plan including Policy DP20 (Securing Infrastructure), Policy DP31 (Affordable Housing), the Supplementary Planning Document, the Affordable Housing SPD and all other material considerations, resolved at its meeting of the 21st March 2024 that Planning Permission should be granted for the

Development subject to the prior completion of this Deed and to the conditions to which the Planning Permission is expressed to be subject.

- (J) The District Council and the County Council having regard to the Supplementary Planning Document and the Affordable Housing SPD determine the obligations contained in this Deed are necessitated by virtue of this Application.
- (K) The Owner and the Mortgagee have agreed to enter into this Deed to give the following obligations in the manner hereinafter appearing and agree that the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) are met.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. INTERPRETATION AND DEFINITIONS

- 1.1. In this Deed the following expressions shall unless the context otherwise requires have the following meanings:

Act	means the Town and Country Planning Act 1990 as amended;
Additional First Homes Contribution	means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 11.8, 11.9 and 13 of Part One of the SECOND SCHEDULE, the lower of the following two amounts: (a) 30% of the proceeds of sale; and (b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs that are payable by the First Homes Owner to the Mortgagee (First Homes) under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Home other than as a First Home.
Affordable Housing	means housing to include Social Rented Units, Affordable Rented Units and First Homes provided to specified eligible households whose needs are not met by the market. Affordable Housing shall: (a) meet the needs of eligible households who the District Council could reasonably expect to occupy this Development having regard to its

Allocation Scheme and the Local Connection Criteria including availability at a cost low enough for them to afford (or at rent levels previously approved by the Responsible Officer for Housing in writing), 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 subject to any such recycling of the subsidy being in accordance with the requirements of Homes England;

Affordable Housing Land	means that part of the Land shown edged red and blue on the Affordable Housing Plan upon which the Affordable Housing Units are to be constructed;
Affordable Housing Plan	means the plan showing the Affordable Housing Land and the Affordable Housing Units appended to this Deed at APPENDIX 3B;
Affordable Housing Scheme	means the scheme set out in Part Two of the SECOND SCHEDULE to this Deed containing the proposals approved by the Responsible Officer for Housing for the provision of the Affordable Housing Units which scheme shall in any event comply with the Affordable Housing SPD;
Affordable Housing SPD	means the document entitled Affordable Housing Supplementary Planning Document adopted by the District Council on the 25 th July 2018;
Affordable Housing Units	means Twenty Four (24) Social or Affordable Rented Units and Nine (9) First Homes together with at least 62 associated car parking spaces comprising a minimum of one parking space per one and two bedroom Dwellings and a minimum of two parking spaces per three bedroom Dwellings and a minimum of 2 parking spaces per four bedroom dwellings and gardens / amenity land which are to be constructed on the Affordable Housing Land pursuant to the Planning Permission and which are to be occupied as Affordable Housing by a Nominee or Other Eligible Person in accordance with the Affordable Housing Scheme, the Local Connection Criteria (Social or Affordable Rented Units) and the Nomination Agreement in the case of the Social or Affordable Rented Units and the Eligibility Criteria (National) and the Eligibility Criteria (Local) and the Local Connection Criteria (First Homes) in the case of the First Homes and Affordable Housing Unit is any part of the Affordable Housing Units capable of separate occupation;

Affordable Rented Unit(s)	means an Affordable Housing Unit which is rented housing let by registered providers of social housing to households who are eligible for social rented housing and shall be subject to rent controls that require a rent of no more than eighty per cent (80%) of the local market rent (including service charges and a Service Charge 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 by the Responsible Officer for Housing) exceed the maximum amount of Local Housing Allowance applicable for the size of the relevant Affordable Housing Unit and which is Occupied pursuant to a Tenancy and Affordable Rented shall be construed accordingly;
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. The Local Connection Criteria will be detailed in the Nomination Agreement and the site is in a Designated Rural Area;
All Requisite Consents	means all requisite consents orders agreements authorisations licences and permissions required to implement a scheme/the Scheme;
Application	means the application for full planning permission for the Development which was validated by the District Council on 29.3.23 and allocated reference DM/23/0827;
Armed Services Member	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
Ashdown Forest SAMM Contribution	means the financial contribution of One Hundred and Twenty Six Thousand, Three Hundred and Sixty Pounds (£126,360) calculated in accordance with the Joint SAMM Strategy subject to adjustment in accordance with the provision of paragraph 4.1 of the FIRST SCHEDULE;

Biodiversity Net Gain	means a 20% net gain in biodiversity at the time when the Development on the Land is completed, calculated based on the difference between: (1) the Pre-Development Biodiversity Value; and (2) the Post-Development Biodiversity Value as evidenced by the BNG Metric
Biodiversity Excess Gain	means the percentage of the Biodiversity Net Gain in excess of 20% at the time when the Development on the Land is completed, calculated based on the difference between: (1) the Pre-Development Biodiversity Value; and (2) the Post-Development Biodiversity Value as evidenced by the BNG Metric
BCIS Index	means the All-in Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the County Council may specify;
BNG Certificate of Practical Completion	means the certificate of practical completion to be issued by the District Council confirming that the habitat enhancements set out in the Biodiversity Gain Plan on the On Site Biodiversity Areas have been completed to its reasonable satisfaction, and "practically completed" shall be construed accordingly
BNG Metric	means the statutory metric published by DEFRA from time to time for measuring the biodiversity value or relative biodiversity value of habitat or habitat enhancement
BNG Monitoring Fee	means the sum of Thirty Eight Thousand Pounds (£38,000) to be paid to the District Council towards the costs of monitoring the BNG Plan
BNG Plan	means a plan to be approved by the District Council which sets out the detail of how the Biodiversity Net Gain will be delivered, managed, maintained and monitored
Chargee	means a mortgagee or chargee of a Registered Provider (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 Social or Affordable Rented Units;
Chargee's Duty	means the tasks and duties set out in paragraph 8 of Part One of the SECOND SCHEDULE;
Commence- ment Date	means the date on which the Commencement of the Development begins;
Commence- ment of the Development	means the carrying out of a material operation pursuant to the Application as defined in section 56(4) of the Act save that the carrying out of any works of demolition, works of site clearance, ground investigation and site survey works, ecological works, construction of boundary fencing or hoardings, archaeological investigation, site decontamination or remediation works, laying or diverting of sewers and other services, the erection of advertisements and site notices shall not be considered to be Commencement of Development and all references to Commence , Commenced and Commencement shall be construed accordingly;
Commence- ment Notice	means the written notice confirming the Commencement Date referred to in clauses 4.1 and 5.1 and served in accordance with clause 17;
Community Buildings Contribution	means the financial contribution of Seventy Two Thousand Seven Hundred and Nine Pounds (£72,709) subject to adjustment in accordance with the provision of paragraph 2.1 of the FIRST SCHEDULE;
Compliance Certificate	means the certificate issued by the District Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 11.2 of Part One of the SECOND SCHEDULE applies the Eligibility Criteria (Local);
County Council Contributions	means the Primary Education Contribution, the Secondary Education Contribution, the Sixth Form Contribution, the Library Contribution and the Travel Plan Monitoring Contribution;
County Council Monitoring Contribution	means the total sum of two thousand three hundred and forty pounds (£2,340) payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Deed over the lifetime of the Development

Deed	means this Deed
Default Interest Rate	means 4% per annum above the Base Rate of the Bank of England and Interest shall be construed accordingly;
Designated Rural Area	means an area designated under the Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the South East) Order 1997 as a protected area
Development	means the development of the Land by the demolition of existing structures and redevelopment of the Site to provide 108 residential dwellings (Class C3) and associated works, including the provision of an on-site SANG, access, landscaping, parking and associated works as set out in the Application and authorised by the Planning Permission;
Discount Market Price	means a sum which is the Market Value discounted by at least 30%;
Disposal	means a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than: (a) a letting or sub-letting in accordance with paragraph 11 of Part One of the SECOND SCHEDULE (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner (c) an Exempt Disposal and " Disposed " and " Disposing " shall be construed accordingly;
District Council Contributions	means the Ashdown Forest SAMM Contribution, the Formal Sport Contribution, the Community Buildings Contribution, the Health Contribution and the Local Community Infrastructure Contribution;
District Plan	means the Mid Sussex District Plan 2014-2031 adopted by the District Council on 28 th March 2018;
Dwelling	means any dwelling (including a house, flat or maisonette) to be constructed pursuant to the Planning Permission and Dwellings shall be construed accordingly;

Eligibility Criteria (National)	means criteria which are met in respect of a disposal of a First Home if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National).
Eligibility Criteria (Local)	means criteria published by the District Council at the date of the relevant disposal of a First Home which are met in respect of a disposal of a First Home if: (a) the purchaser meets the Local Connection Criteria (First Homes) (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connection Criteria (First Homes)); or (b) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member
Exempt Disposal	means the Disposal of a First Home in one of the following circumstances: (a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner (b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner (c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order; (d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 12 Of Part One of the Second Schedule shall apply to such sale) Provided that in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 11 of Part One of the SECOND SCHEDULE;
Financial Contribution Trigger	means a trigger contained within this Deed applicable to the County Council Contributions;

First Disposal	means the initial Disposal by the owner of a First Home to an owner/occupier or the District Council as applicable
First Home	means a Dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its First Disposal does not exceed the Price Cap and First Homes shall be construed accordingly. First Homes shall be provided and retained as First Homes in perpetuity subject to the terms of this Agreement. First Homes shall not be visually distinguishable from the Market Dwellings based upon their external appearance. The internal specification of the First Homes shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings but, subject to that requirement, variations to the internal specification of the First Homes shall be permitted;
First Homes Owner	means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than: (a) the Owner (not being an individual owner/occupier) ; or (b) another developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for occupation as a First Home; or (c) a tenant or sub-tenant of a permitted letting under paragraph 11 of Part One of the SECOND SCHEDULE;
First Time Buyer	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;
First Occupation Date	means the date on which the Occupation of any Dwelling begins;
First Occupation Notice	means the written notice confirming the First Occupation Date referred to in clauses 4.2 and 5.2 and served in accordance with clause 17;

Formal Sport Contribution	means the financial contribution of One Hundred and Twenty Three Thousand Four Hundred and Fifty Nine pounds (£123,459) Index Linked
Habitat Regulations	means Part 6 of The Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) (as amended);
Health Contribution	means the financial contribution of One Hundred and Sixty Three Thousand, Nine Hundred and Sixty Three Pounds (£163,963) Index Linked
Highway Works	means i) the junction improvement works as shown in principle of drawings 2022-6607-11(P1) and ii) the access works as shown in principle of drawings 2022-6607-0009 (P3) or other such drawings as may be agreed in writing by the County Council
Homes England	Means the executive non-departmental public body known as Homes England which replaced the Homes and Communities Agency (HCA) and as the context so requires, the functions conferred by the HCA on the Regulator of Social Housing as established by the Legislative Reform (Regulator of Social Housing) (England) Order 2018 and shall include any successor regulatory body for social housing and/ or the functions conferred by the HCA on Homes England or any successor organisation or body;
Income Cap (National)	means eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home;
Index Linked	means (a) in relation to the District Council Contributions, that the District Council Contributions payable under this Deed shall be increased in accordance with the following formula: $\text{Amount Payable} = \text{Relevant Amount} \times (A/B)$ Where: Relevant Amount = the payment to be RPI Indexed A = the figure for the RPI Index which applied when the RPI Index was last published prior to the date that the Relevant Amount is paid under this Deed B = the figure for the RPI Index which applied when the RPI Index was last published prior to the date hereof

(b) in relation to the County Council Contributions, that the County Council Contributions payable by the Owner under this Deed shall be increased by the application of the following formula:

$$A = B \times \frac{C}{D} \text{ where } C/D \text{ is equal to or greater than } 1$$

where A is the sum actually payable on the date of payment

B is the original sum mentioned in this Deed

C is the BCIS Index at the date payment falls due

D is the BCIS Index at the date of consultation being 14th August 2023

and **Indexation** shall be construed accordingly;

Joint SAMM Strategy	means the Joint Strategic Access Management and Monitoring Strategy published by the District Council and dated 19 th March 2020 or any successor strategy;
Land	means the land against which this Deed may be enforced known as West Hoathly Brickworks, Hamsey Road, Sharpthorne, East Grinstead (RH19 4PB) which is registered at HM Land Registry under title number WSX 443057 and is shown for identification purposes only edged red on the Plan;
LEAP	means the local equipped area for play shown on the Open Space Plan
Library Contribution	means the financial contribution of Forty Five Thousand Nine Hundred and Twenty Six pounds (£45,926) Index Linked and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the costs of providing the additional library infrastructure required to accommodate the extra demands for library services that would be generated by the Development and to be used towards additional facilities at East Grinstead Library
Local Community Infrastructure Contribution	means the financial contribution of Eighty Two Thousand Nine Hundred and Ninety Two pounds (£82,992) Index Linked

Local Connection Criteria (Social & Affordable Rented Units)	means the criteria included in the Nomination Agreement;
Local Connection Criteria (First Homes)	means either (a) or (b) below: (a) criteria which are met by a person who satisfies one or more of (i) and (ii) below: (i) is ordinarily resident within the Mid Sussex District Council's administrative area and has been for a continuous period of not less than 12 consecutive months prior to exchange of contracts for the relevant First Home; and/or (ii) who has a close family association with the Mid Sussex District Council's administrative area by reason of a parent or child who is ordinarily resident within the Mid Sussex District Council's administrative area. (b) such other local connection criteria as may be published by the District Council from time to time as its "First Homes Local Connection Criteria" and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria" which shall apply to that disposal;
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;
Management Entity	means the body or bodies with appropriate experience of the management of public open spaces nominated by the Owner and approved in writing by the District Council for the long term organisation management and maintenance of the Open Space and LEAP
Management Plan	means the management plan in relation to the Open Space and LEAP to be submitted and approved pursuant to paragraph 8.1 of the First Schedule

Management Specification	means the specification Open Space and LEAP to be submitted and approved pursuant to paragraph 8.1 of the First Schedule
Market Housing Units	means any Dwellings to be constructed on the Land pursuant to the Planning Permission which are general market housing for sale on the open market and which are not Affordable Housing Units;
Market Value	means the open market value as assessed by a Valuer of Dwelling as confirmed to the Council by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation
Mortgagee (First Homes)	means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Home;
National Space Standard	means the nationally described standard as set out in the document entitled 'Technical housing standards – nationally described space standard', March 2015 issued by the Department for Communities and Local Government (as amended from time to time) or such other successor replacement national space standard;
Nomination Agreement	means an agreement between the District Council and the Registered Provider under which the District Council exercises its right to nominate prospective occupiers for the Social or Affordable Rented Units in accordance with Part VI of the Housing Act 1996 section 159 and which agreement shall provide for the District Council to have the right to nominate 100% of the prospective occupiers of the Social or Affordable Rented Units on the first letting of a tenancy and (unless otherwise agreed in writing by the Responsible Officer for Housing) shall provide for the District Council to have the right to nominate 100% of the prospective occupiers of the Social or Affordable Rented Units on any reletting substantially in the form annexed hereto at APPENDIX 2;

Nominee means a person who is selected by the District Council and whose name is taken from the Mid Sussex Housing Register originally established under section 162 of the Housing Act 1996 or such other procedure as may be implemented by the District Council; The Local Connection Criteria will be detailed in the Nomination Agreement and the site is in a Designated Rural Area;

NPPF means the National Planning Policy Framework published on 19th December 2023 and which shall include any revised version published from time to time or any replacement document setting out the government's planning policies for England

Occupation means occupation 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 **Occupied** and **Occupy** shall be construed accordingly;

Occupancy Requirement

No of bedrooms per Affordable Housing Unit	Occupancy (No. of persons)	Minimum Floor Area 1 storey (excluding staircases & hallways in the case of duplex flats/coach houses/maisonettes/FOGS)	Minimum Floor Area 2 Storey	Minimum Floor Area 3 Storey
1	2	50m ²	58m ²	
2	4	70m ²	79m ²	
3	5		93m ²	99m ²
3	6		102m ²	108m ²
4	6		106m ²	112m ²

On Site Biodiversity Areas means the areas within the Land to be laid out to provide habitat enhancements for the purposes of achieving the Biodiversity Net Gain in accordance with the BNG Plan and subsequently managed, maintained and monitored in accordance with the BNG Plan

Open Space means the open space, play areas and woodland shown on the Open Space Plan

Open Space Plan means the drawing annexed to this Deed at APPENDIX 8

Other Eligible Person	means a person selected by a Registered Provider in accordance with the Nomination Agreement and who is in need of Affordable Housing and in the case of First Homes means a person who shall meet the Eligibility Criteria (National) and unless paragraph 11.2 of Part One of the SECOND SCHEDULE applies the Eligibility Criteria (Local);
Path Link	means a new footpath within the Land to be provided which will provide a connection in the northern corner of the Site from the public footpath 2WH over the route shown between points "A" and "B" as shown on drawing number 134285 annexed to this Deed at APPENDIX 6
Path Link Scheme	means a scheme to be approved by the District Council that shall include the details of: - the path connection from the Development to public footpath 2WH - the layout, materials and drainage of the Path Link - the provisions relating to the timetable for implementation and future maintenance and management of the Path Link - the signposting/marketing of the Path Link
Payment Notice	means a payment notice in the form attached at APPENDIX 4;
Plan	means the red line boundary plan annexed to this Deed at APPENDIX 3A;
Planning Permission	means the planning permission granted by the District Council pursuant to the Application substantially in the draft form annexed at APPENDIX 1
Post-Development Biodiversity Value	means: (1) the projected value of the on site habitat at the time when BNG Certificate of Practical Completion has been issued; (2) the value of any Offsite Biodiversity Gain; and in each case calculated by reference to the BNG Metric
Pre-Development Biodiversity Value	means the biodiversity value of the on site habitat prior to the Development as detailed in the assessment annexed to this Deed at Appendix 5

Practical Completion	means the issue of a certificate of practical completion by the Owner or their architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party or their architects;
Price Cap	means the amount for which the First Home is sold after the application of the Discount Market Price which on its First Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State;
Primary Education Contribution	means the financial contribution of Four Hundred and Forty Nine Thousand and Eight Hundred and Forty Seven pounds (£449,847) Index Linked and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the costs of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and to be used towards additional facilities at West Hoathly Primary School
"PROW Work"	means the provision of the works set out in Appendix 11 to be carried out on existing public rights of ways FP1WH, BW43WH and FP3770 in accordance with as shown on the PROW Works Plan and to be delivered in accordance with paragraph 1 of the Third Schedule
"PROW Works Plan"	means the plan showing the PROW Works annexed to this Deed at Appendix 12;
"PROW Works Scheme"	means a scheme in respect of the PROW Works to be delivered in accordance with Paragraph 1 of the Third Schedule of this Agreement;
Qualifying Trigger	means in relation to this Deed including a Financial Contribution Trigger;
Registered Provider	means a provider of social housing as defined in part 2 of the Housing and Regeneration Act 2008 who is registered with the Regulator of Social Housing pursuant to Section 116 of that Act and who is approved in writing by the Responsible Officer for Housing

Regulator of Social Housing	The body responsible for regulating Registered Providers, as set out in the Housing and Regeneration Act 2008;
Responsible Officer for Housing	means the District Council's Assistant Chief Executive or such person as the District Council may nominate in her place from time to time;
RPI 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;
SANG (West Hoathly)	means the 11.74 ha of SANG comprised in the Development
SANG Excess Capacity	means 6ha of the SANG (West Hoathly) (including six car parking spaces) not required to mitigate the impact of the Development
SANG Contribution	means a sum of no less than £752,500 to be agreed between the Owner and the District Council or (if not agreed) as determined by an Expert to be paid to the SANG Management Entity (including part of the Service Charge) in accordance with the terms of the SANG Management Plan and SANG Specification and to be used for the management and maintenance of the SANG (West Hoathly) for 100 years
SANG Land	means 5.74ha of the SANG (West Hoathly) together with a 2.5 km circular walk which is required to mitigate the impact of the Development in accordance with DP17 of the Mid Sussex District Plan 2018 and which mitigates the suitable alternative natural green space requirement arising from the Development
SANG Landscape Masterplan	means the drawing with title "SANG Landscape Masterplan" at Appendix 9 of this Deed

SANG Management Entity	means the body or bodies with appropriate experience of the management of suitable alternative natural greenspace nominated by the Owner and approved in writing by the District Council as part of the SANG Specification for the long term organisation management and maintenance of the SANG (West Hoathly)
SANG Management Plan	means the approved plan setting out the timetable for the delivery of the SANG (West Hoathly) and its ongoing management and maintenance for a period of 100 years annexed to this Deed at Appendix 7
SANG Specification	means a detailed specification (including a plan) of the SANG (West Hoathly) broadly in accordance with the SANG Landscape Masterplan and the SANG Management Plan and shall include: i) Details of the funding arrangements for the SANG (West Hoathly) to ensure that it is adequately funded ii) Details of the proposed SANG Contribution, included how this may be partially funded by the Service Charge (if proposed) iii) Details of how the SANG Contribution will be spent and safeguarded substantially in accordance with the details set out in the SANG Technical Note or as otherwise agreed with the Council iv) The identity of the SANG Management Entity
SANG Technical Note	means the technical note setting out potential options for the management and funding of the SANG West (Hoathly) annexed to this Deed an Appendix 13
SANG Visitor Monitoring Contribution	means the financial contribution of Twenty Five Thousand One Hundred and Sixty Four pounds (£25,164) Index Linked
SDLT	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;
Secondary Education Contribution	means the financial contribution of Four Hundred and Eighty Four Thousand One Hundred and Forty Two pounds (£484,142) Index Linked and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the costs of providing the additional education infrastructure required to accommodate the extra demands for

secondary education services that would be generated by the Development and to be used towards additional facilities at Imberhome School

Secretary of State means the Secretary of State for Housing, Communities and Local Government from time to time appointed and includes any successor in function

Service Charge means an annual charge imposed on each freehold or leasehold interest (as the case may be) in respect of a Dwelling for the purposes of the maintenance and management of any retained SANG (West Hoathly) open space and roads and verges and otherwise on terms to be approved by the District Council and **Service Charges** shall be construed accordingly;

Sixth Form Education Contribution means the financial contribution of One Hundred and Thirteen Thousand Four Hundred and Thirteen pounds (£113,413) Index Linked and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for sixth form education services that would be generated by the Development and to be used towards additional facilities at Imberhome School Sixth Form

Social Rented Unit means an Affordable Housing Unit which is rented housing owned and managed by local authorities and private registered providers, for which guideline target rents (including service charges and a Rentcharge where applicable) are determined through national rent regime or provided under equivalent rental arrangements as agreed in writing with the District Council or with Homes England and the rent levels (including service charges and rentcharges where applicable) shall not at any time (unless otherwise agreed in writing by the Responsible Officer for Housing) exceed the maximum amount of Local Housing Allowance applicable for the size of the relevant Affordable Housing Unit and which is Occupied pursuant to a Tenancy and **Social Rented** shall be construed accordingly

SPA means the Ashdown Forest Special Protection Area (being a designated European site under the Habitats Regulations);

Supplementary Planning Document	means the document entitled Development Infrastructure and Contributions Supplementary Planning Document adopted by the District Council on the 25 th July 2018;
Tenancy	means an assured tenancy 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;
Travel Plan	means the travel plan prepared by RGP dated July 2023 attached as Appendix 14 subject to any amendments agreed in writing by the County Council from time to time;
Travel Plan Co-ordinator	means the person appointed by the Owner responsible for securing the implementation of the Travel Plan;
Travel Plan Monitoring Contribution	means the financial contribution of THREE THOUSAND FIVE HUNDRED POUNDS (£3,500) payable to the County Council for monitoring the delivery of the Travel Plan over the lifetime of the Development
Transfer	means the legal transfer of a freehold interest or the grant of a lease of not less than 125 years in the relevant part of the Land and Transferred shall be construed accordingly;
Valuer	means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity;
Wheelchair Accessible Unit	means an Affordable Housing Unit which must meet the requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) for wheelchair accessible dwellings as contained in Category 3 – wheelchair user dwellings of Schedule 1 of the Buildings Regulations 2010 as amended as identified as "Wheelchair Accessible" in Part Two of the Second Schedule
Working Day	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England;

1.2. Clause and schedule headings shall not affect the interpretation of this Deed.

- 1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4. A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8. References to clauses and Schedules are the clauses and Schedules of this Deed.
- 1.9. Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 1.10. References to the District Council, the County Council, the Mortgagee and the Owner shall include the successors in title and assigns of each party including any local authority successor.
- 1.11. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. LEGAL BASIS

- 2.1. This Deed is made pursuant to section 106 of the Act, section 1 of the Localism Act 2011, section 111 of the Local Government Act 1972 and all other enabling powers.
- 2.2. The obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner and the Mortgagee with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.
- 2.3. The obligations contained in this Deed are enforceable by the District Council and the County Council in accordance with section 106 of the Act.

3. CONDITIONALITY

This Deed shall come into effect immediately upon completion of this Deed save for the provisions of clauses 4 *Covenants to the District Council*, 5 *Covenants to the County Council*, 6 *Covenants by the District Council*, 7 *Covenants by the County Council* and 12 *Interest on late payment* which are conditional upon the grant of Planning Permission.

4. COVENANTS TO THE DISTRICT COUNCIL

The Owner covenants with the District Council:

- 4.1. to give the Commencement Notice to the District Council not less than 10 Working Days before the Commencement Date; and

- 4.2. to give the First Occupation Notice to the District Council not less than 10 Working Days before the First Occupation Date; and
- 4.3. to observe and perform the covenants, restrictions and obligations contained in this Deed including the Schedules hereto.

5. COVENANTS TO THE COUNTY COUNCIL

The Owner covenants with the County Council:

- 5.1. to give the Commencement Notice to the County Council not less than 10 Working Days before the Commencement Date; and
- 5.2. to give the First Occupation Notice to the County Council not less than 10 Working Days before the First Occupation Date; and
- 5.3. to observe and perform the covenants, restrictions and obligations contained in this Deed including the Schedules hereto.

6. COVENANTS BY THE DISTRICT COUNCIL

The District Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in the FOURTH SCHEDULE.

7. COVENANTS BY THE COUNTY COUNCIL

The County Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in the FIFTH SCHEDULE.

8. MORTGAGEE'S CONSENT

- 8.1. The Mortgagee consents to the completion of this Deed and declares that from the date of this Deed its interest in the Land shall be bound by the terms of this Deed
- 8.2. The Mortgagee shall not be personally liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

9. RELEASE

- 9.1 No person shall be liable for any breach of any of this Deed after parting with all of its interest in the Land, except in respect of any breach subsisting prior to parting with such interest.

10. LOCAL LAND CHARGE

This Deed is a local land charge and shall be registered as such by the District Council

11. THE DISTRICT COUNCIL AND COUNTY COUNCIL'S COSTS

- 11.1. The Owner 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 and the sum of five thousand pounds (£5000.00) as a contribution towards the District Council's costs of monitoring the implementation of this Deed.
- 11.2. The Owner shall pay to the County Council on or before the date of this Deed the County Council's reasonable legal costs together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed and the County Council Monitoring Contribution.

12. INTEREST ON LATE PAYMENT

If any sum or amount has not been paid to the District Council and / or County Council by the date it is due, the Owner shall pay the District Council and / or County Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

13. OWNERSHIP

- 13.1. The Owner warrants that no person other than the Owner has any legal or equitable interest in the Land.
- 13.2. The Owner agrees to give the District Council and the County Council immediate written notice of any change in ownership of any of its interests in the Land 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 Land or unit of occupation purchased by reference to a plan.

14. NO FETTER OF DISCRETION

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

15. WAIVER

No failure or delay by the District Council or the County Council to exercise any right or remedy provided under this Deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

16. AGREEMENTS AND DECLARATIONS

The parties agree that:

- 16.1. nothing in this Deed constitutes a planning permission or an obligation to grant planning permission;
- 16.2. insofar as any clause or clauses of this Deed are held (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;
- 16.3. 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 Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development;
- 16.4. this Deed shall cease to have effect (insofar only as it has not already been complied with) if
- 16.4.1 the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development; (which for the purposes of this clause shall mean the carrying out of a material operation pursuant to the Application as defined in section 56(4) of the Act);
- 16.5. nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed;
- 16.6. if the Owner fails to give the notice required by clauses 4.1 4.2; 5.1 and 5.2 above then the District Council shall be entitled in its absolute discretion to determine the Commencement Date and shall give notice to the Owner of the District Council's determination;
- 16.7. Subject to the proviso to this clause, in the event that any new planning permission(s) are granted by the District Council after the date of this Deed in relation to an application to remove and/or vary condition(s) attached to the Planning Permission pursuant to Section 73 of the Act ("Section 73 Consent"):
- 16.7.1 the obligations in this Deed (including the Schedule(s) hereto) shall relate to and bind any subsequent Section 73 Consent and the Land without the automatic need to enter into any subsequent deed of variation/supplemental deed to this Deed or new obligation pursuant to Section 106 of the Act; and
- 16.7.2 the definitions of Application, Planning Permission and Development (other than for the purposes of the Background) in this Deed shall be construed to include reference to (respectively) any application(s) under Section 73 of the Act, any Section 73 Consent granted thereunder and any development permitted by such subsequent Section 73 Consent; and
- 16.7.3 any Section 73 Consent shall include a condition/informative substantially in the following form:
- "The obligations under the planning obligation by way of Agreement dated [] pursuant to the previous application [] will be equally applied to and satisfy the requirements necessitated under this application []".

16.7.4 it is hereby agreed and declared by the parties hereto that nothing in this clause shall fetter the discretion of the District Council in determining any applications under Section 73 of the Act and the appropriate planning obligations required in connection with the determination of the same and the District Council reserves the right to insist upon the completion of any subsequent deed of variation / supplemental deed to this Deed or new obligation pursuant to Section 106 of the Act in connection with any Section 73 applications if the District Council considers it desirable to do so.

- 16.8 All financial contributions due under the terms of this Deed shall be accompanied by a fully completed Payment Notice.
- 16.9 The obligations contained in this Deed shall not be binding on any statutory undertaker which has acquired part of the Land for purposes connected to their statutory functions necessary for the Development provided always that such statutory undertaker shall not themselves carry out any part of the Development.
- 16.10 The obligations in this Deed shall not be binding upon any person whose interest in the Land is restricted to being an individual purchaser of any individual Market Housing Unit and their successors in title or their mortgagee provided always that such individual purchaser, including their successors in title or their mortgagee, shall not themselves carry out any part of the Development.
- 16.11 Except for the obligations restricting the Occupation and regulating the use of the Social or Affordable Rented Units contained in paragraphs 6 and 7.1 of Part One of the Second Schedule and the obligations restricting the Occupation and regulating the use of First Homes in paragraphs 10, 11 and 12 of Part One of the Second Schedule, the obligations in this Deed shall not be binding upon any person whose interest in the Land is restricted to being an individual owner or tenant or occupier of any individual Affordable Housing Unit and their successors in title or their mortgagee.
- 16.12 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council and/or the County Council under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

17 NOTICES

- 17.1 Any notice required by this Deed shall be in writing and addressed to the Section 106 Monitoring Team of the District Council at the address of the District Council given herein and to the Planning Services Monitoring and Records Team of the County Council at the address of the County Council given herein.
- 17.2 Any notice 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:
- (a) by first class post deemed served two Working Days after posting;

- (b) 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;
- (c) through a document exchange deemed served on the first Working Day after the day on which it would normally be available for collection by the addressee.

18 THIRD PARTY RIGHTS

It is agreed that nothing in this Deed shall be construed as expressly providing a right for any third party within the meaning of the Contract (Rights of Third Parties) Act 1999 and nothing in this Deed is intended to confer on any third party (whether referred to herein by name class description or otherwise) any benefit or any right to enforce any provision of this Deed.

19 DISPUTES

19.1 If in connection with this Deed there shall arise a claim or dispute or difference (including unreasonable delay in providing approval, authority, consent or direction or some other decision or payment required by this Deed) the relevant parties shall first attempt to negotiate a solution.

19.2 If matters remain unsolved (as evidenced by the service of a written notice by one party on the other(s)) the parties shall refer the matter as follows:

19.2.1 where the difference or dispute relates to the construction or interpretation of this Deed, be referred to the determination (as an expert and not as an arbitrator) of an independent leading conveyancing/planning counsel agreed upon by the parties in dispute but in default of such agreement appointed by the President of the Law Society of England and Wales on the application of any of the parties in dispute ("an Expert");

19.2.2 where the difference or dispute relates to the carrying out of works or construction be referred to the determination (as expert and not as an arbitrator) of an independent Chartered Surveyor or Civil Engineer as appropriate being a partner or director practising in a leading firm of surveyors or civil engineers based in the South East of England or London and experienced in the matter in dispute agreed upon by the parties in dispute but in default of that agreement appointed by the President of the Royal Institution of Chartered Surveyors or the Institution of Civil Engineers as appropriate on the application of any of the parties in dispute ("an Expert") PROVIDED that where a contract for the relevant works has been let and provides that the dispute or difference under it shall be referred to arbitration or the court any such dispute or difference which may arise between the parties in connection with those works shall be determined likewise.

- 19.3 If the parties in dispute shall fail to agree on the nature of the difference or dispute between them then any of them may apply to the President of the Law Society to appoint an independent solicitor being a partner in a leading firm of solicitors practising in the South East of England or London to decide (as expert and not as arbitrator) in relation to any such matter which of Clauses 19.2.1 or 19.2.2 hereto is applicable.
- 19.4 Except as aforesaid any expert appointed pursuant to Clauses 19.2.1 or 19.2.2 or any other person shall:
- (a) on their appointment serve written notice thereof on the parties in dispute;
 - (b) consider any written representations by or on behalf of those parties which are received by them within twenty working days of such service and immediately forward a copy of the written representation of one party to the other party;
 - (c) allow both parties to the dispute an opportunity of commenting in writing on the other party's representations within twenty working days of receipt by the other party thereof;
 - (d) have an unfettered discretion to determine the reference to them;
 - (e) serve notice of their determination as soon as they have made it;
 - (f) give full and clear reasons for their decision;
 - (g) be paid their proper fee and expenses in connection with such reference by the parties in dispute in equal shares or in such shares as they may determine and their determination shall be final and binding on the parties in dispute (save in the case of manifest error) PROVIDED THAT if any such expert shall die become insolvent or of unsound mind or if either of the parties in dispute shall serve on them written notice in their opinion they have unreasonably delayed making their determination they shall be ipso facto discharged and be entitled only to their reasonable expenses prior to such discharge and another person shall be appointed in their place as such expert.
- 19.5 The provisions of this clause shall not affect the ability of the District Council and/or the County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

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.

21 GOVERNING LAW

This Deed shall be governed by 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 year first before written.

FIRST SCHEDULE
COVENANTS BY THE OWNER TO THE DISTRICT COUNCIL

1. Formal Sport Contribution

- 1.1. To pay to the District Council prior to Occupation the Formal Sport Contribution and such sum shall be Index Linked.
- 1.2. Not to Occupy the Development unless and until the Formal Sport Contribution and any Indexation and Interest payable under this Deed have been paid to the District Council.

2. Community Buildings Contribution

- 2.1. To pay to the District Council prior to Occupation the Community Buildings Contribution and such sum shall be Index Linked.
- 2.2. Not to Occupy the Development unless and until the Community Buildings Contribution and any Indexation and Interest payable under this Deed has been paid to the District Council.

3. Local Community Infrastructure Contribution

- 3.1. To pay to the District Council prior to Occupation the Local Community Infrastructure Contribution and such sum shall be Index Linked.
- 3.2. Not to Occupy the Development unless and until the Local Community Infrastructure Contribution and any Indexation and Interest payable under this Deed has been paid to the District Council.

4. Ashdown Forest SAMM Contribution

- 4.1. To pay to the District Council prior to the Commencement Date the Ashdown Forest SAMM Contribution and such sum shall be Index Linked.
- 4.2. Not to Commence the Development unless and until the Ashdown Forest SAMM Contribution and any Indexation and Interest payable under this Deed has been paid to the District Council.

5. Health Contribution

- 5.1. To pay to the District Council prior to the Commencement Date the Health Contribution and such sum shall be Index Linked.
- 5.2. Not to Commence or cause or allow the Commencement of the Development unless and until the Health Contribution and any Indexation and Interest payable under this Deed has been paid to the District Council.

6. Path Link

The Owner covenants with the District Council:

- 6.1. Prior to Commencement of Development to submit the Path Link Scheme to the District Council for its approval (such approval not to be unreasonably withheld or delayed and approval to be deemed in the event that no substantive response is received from the District Council within 20 working days of submission)
- 6.2. following approval (or deemed approval) pursuant to paragraph 6.1 above) of the Path Link Scheme by the District Council to provide the Path Link in accordance with the Path Link Scheme as approved and in any event prior to Occupation of 75% of the Dwellings or as otherwise agreed in writing with the District Council .
- 6.3. not to Occupy any more than 75% of the Dwellings until the Path Link has been provided in accordance with the approved Path Link Scheme or as otherwise agreed in writing with the District Council.
- 6.4. once the Path Link has been laid out in accordance with the Path Link Scheme to manage and maintain the Path Link in accordance with the respective approved schemes and public permissive access shall thereafter be allowed to the Path Link for the lifetime of the Development in common with the rights of all persons having rights over the same including the Owner and the individual purchasers or occupiers of the Dwellings.
- 6.5. not to develop the land over which the Path Link is to be constructed in such a way as would affect the use of the Path Link once completed.
- 6.6. that the Path Link shall not be made subject to any rules and regulations governing access and use to control the use and activities on the Path Link unless such rules and regulations have been first approved in writing by the District Council.
- 6.7. to denote the existence and location of the Path Link in their sales brochures of for the Dwellings

7. SANG

- 7.1. Prior to Commencement of Development to submit the SANG Specification to the District Council for approval and not to allow or permit the any works associated with the delivery

and laying out of the SANG (West Hoathly) until the SANG Specification has been approved by the District Council

- 7.2. To pay to the District Council prior to first Occupation the SANG Visitor Monitoring Contribution and such sum shall be Index Linked
- 7.3. Not to cause or allow first Occupation of the Development unless and until the SANG Visitor Monitoring Contribution and any Indexation and Interest payable under this Deed has been paid to the District Council.
- 7.4. Prior to first Occupation:
 - 7.4.1. To complete and open for use the SANG (West Hoathly) in accordance with the SANG Specification and to notify the District Council in writing when the SANG (West Hoathly) has been completed and opened for use by the public;
 - 7.4.2. To complete a Transfer of the SANG Land and a lease of the SANG Excess Capacity to the SANG Management Entity such transfer and lease to contain the following provisions:
 - 7.4.2.1. In relation to any lease, it shall be for a period of at least 100 years
 - 7.4.2.2. A requirement on the SANG Management Entity to maintain the SANG (West Hoathly) in accordance with the provisions of the approved SANG Management Plan and SANG Specification in perpetuity;
 - 7.4.2.3. A requirement that the SANG (West Hoathly) shall only be used as suitable alternative natural green space and shall be open and remain unobstructed to members of the general public for a period of at least 125 years
 - 7.4.2.4. A requirement in favour of the District Council that in the event that any of the requirements of the SANG Management Plan and/or SANG Specification have not been complied with to the reasonable satisfaction of the Council (upon the District Council notifying the SANG Management Entity and the Owner of that lack of compliance with a reasonable period for rectifying such) if that lack of compliance has not been remedied to the satisfaction of the District Council within the period required by the District Council then the District Council may enter upon the SANG (West Hoathly) and carry out any works necessary to secure such compliance and recover any costs necessarily incurred in carrying out those works from the SANG Management Entity ;
 - 7.4.2.5. If required to enable the Management Entity to manage and maintain the Open Space and the LEAP, the granting to the Management Entity of all necessary rights to carry out works, to complete maintenance or undertake upgrading works to the Open Space and LEAP together with all necessary

rights of access in on over or under the SANG (West Hoathly) for the purposes of the same;

- 7.5. Not to Occupy or cause or permit to be Occupied any Dwelling unless and until the provisions of paragraphs 7.3 , 7.4.1 and 7.4.2 have been complied with.
- 7.6. Upon completion of the transfer and lease referred to a paragraph 7.4.2 above the Owner covenants with the District Council to pay the SANG Contribution to the SANG Management Entity and the Owner covenants with the District Council not to Occupy or cause or permit to be Occupied any Dwelling unless and until the SANG Contribution has been paid to the SANG Management Entity
- 7.7. The Owner shall maintain the SANG (West Hoathly) in accordance with the SANG Management Plan and the SANG Specification until such time as the transfer and grant of a lease pursuant to the paragraph 7.4.2 above following which the responsibility for the maintenance of the SANG (West Hoathly) shall be transferred to the SANG Management Entity as owner and lessee.
- 7.8. The Owner may agree with third party developers to allocate the SANG Excess Capacity or part thereof as is required to mitigate the suitable alternative natural green space requirements of third party developments within the administrative area of the District Council only
- 7.9. In the event that the Owner allocates the SANG Excess Capacity or part thereof to any other party pursuant to clause 7.8 it shall provide written notice to the Council upon the completion of such allocation confirming
- 7.9.1. the details of the third party development including the address and planning application reference;
- 7.9.2. the amount of SANG Excess Capacity being allocated; and
- 7.9.3. the remaining amount of SANG Excess Capacity.
- 7.10. The Owner shall provide written notice to the Council each time it agrees terms for the proposed allocations of SANG Excess Capacity.

8. Retained open space, play areas, woodlands, etc

Open Space Land and the LEAP

- 8.1 Not to Commence the Development until the Owner has submitted the Management Specification and the Management Plan to the District Council and has obtained the District

Council's written approval of such details (such approval not to be unreasonably withheld or delayed and approval to be deemed in the event that no substantive response is received from the District Council within 20 working days of submission)

- 8.2 Thereafter to provide the LEAP and the Open Space Land in accordance with the Management Specification and to procure the management of the LEAP and the Open Space Land in accordance with the Management Plan.
- 8.3 To notify the District Council when the LEAP and the Open Space Land or each part has been completed and to invite the District Council to
 - 8.3.1 inspect the LEAP and the Open Space Land to ascertain if they have been provided in accordance with the Management Specification and upon such inspection to pay an inspection fee ("the Inspection Fee") of £1000 and
 - 8.3.2 to issue a Certificate of Practical Completion confirming that the LEAP and the Open Space Land or part of it has been completed to the District Council's reasonable satisfaction and in accordance with the Management Specification
- 8.4 If the District Council identifies necessary remedial works in relation to the LEAP and the Open Space Land or part of it the Owner shall complete such remedial works to the reasonable satisfaction of the District Council as soon as reasonably practicable.
- 8.5 Upon completion of any remedial works, the Owner shall serve notice on the District Council inviting it to inspect the remedial works and inviting it to issue a Certificate of Practical Completion confirming that such works have been completed to the District Council's reasonable satisfaction.
- 8.6 The District Council shall within fourteen (14) Working Days of receipt of a notice pursuant to paragraph 8.3 or 8.5 inspect the relevant LEAP and the Open Space Land and shall issue a Certificate of Practical Completion in respect of those works either forthwith or (if in the reasonable opinion of the District Council there are remedial works to be carried out) following the completion by the Owner of any remedial works to the relevant LEAP and the Open Space Land.
- 8.7 Following the issue of the Certificate of Practical Completion, the Owner shall manage, maintain and insure the LEAP and the Open Space Land or part of it in accordance with the Management Specification and the Management Plan at its expense until its Transfer to the Management Company.

8.8 Not to Occupy or cause or allow to be Occupied any more than 75% of the Dwellings until the LEAP and the Open Space Land have been provided in accordance with the Management Specification and the Management Plan and the Certificate of Practical Completion has been issued, and they are ready for and open to use by the public.

9.9 The LEAP and the Open Space Land shall not be used other than for those purposes in perpetuity.

9.10 The LEAP and the Open Space Land shall be retained and managed thereafter in accordance with the Management Plan.

9 The Management Entity

9.1 Prior to Occupation of any part of the Development to incorporate the Management Entity and to procure that:-

9.1.1 the Management Entity is a private company limited by guarantee and

9.1.2 the Management Entity's articles set out that all purchasers of Market Dwellings and First Homes on the Development and the Registered Provider shall be members of the Management Entity and

9.1.3 the Management Entity's objects shall include taking a transfer of the land on which the LEAP and the Open Space Land, and any retained roads and verges are situated and setting the level of maintenance charge or Service Charge and recovering the same;

and submit a copy of the certificate of incorporation and the Management Entity's articles to the District Council for approval (not to be unreasonably withheld or delayed PROVIDED THAT approval shall be deemed to have been given if no substantive response is received within 20 working days of submission).

9.2 Not to Occupy any part of the Development unless and until:

9.2.1 the obligation in paragraph 9.1 of this Schedule has been satisfied; and

9.2.2 either the District Council has provided written approval of the details as, required by paragraph 9.1 of this Schedule or deemed approval has been given pursuant to the terms of paragraph 9.1 .

9.3 To procure that the form of transfer or long lease of each Market Dwelling and First Home and the Registered Provider shall incorporate such covenant and restriction mechanism in relation to obligations to be entered into by the relevant transferee or lessee as may be necessary to ensure that all persons having a freehold or (in the case of flats or maisonettes)

a long leasehold interest in a Market Dwelling, a First Home on the Land and a Registered Provider will be required (i) to be a member of the Management Entity and to pay to the Management Entity and the SANG Management Entity (if applicable) a fair and reasonable Service Charge

- 9.4 To include within any Transfer of the LEAP and the Open Space Land or part thereof to the Management Entity covenants by the Management Entity to manage, maintain and insure the LEAP and the Open Space Land in accordance with the Management Plan.
- 9.5 The LEAP and the Open Space Land shall be open and remain open to the public in accordance with the Management Specification and the Management Plan and shall not be used for any purpose other than recreation leisure and community use by the public except that public access to the LEAP and the Open Space Land may be restricted on one day per year (or such longer time as may be reasonably necessary (but kept to a minimum)) and when works need to be carried out in which case public access may be restricted only for as long as is necessary to complete such works.

10 BIODIVERSITY NET GAIN

THE OWNER'S COVENANTS

10.1 The Owner covenants with the District Council that the BNG Plan in respect of the On Site Biodiversity Areas shall be implemented in full in accordance with the requirements of the approved details or any variation agreed in writing between the Owner and the District Council from time to time.

11 MANAGEMENT AND MAINTENANCE OF THE ON SITE BIODIVERSITY AREAS

11.1 The Owner covenants with the District Council:

- 11.1.1 to submit for approval a BNG Plan prior to the Occupation of 75% of the Development on the Land, which approval shall not be unreasonably withheld or delayed;
- 11.1.2 not to Occupy or permit or allow any Occupation more than 75% of the Dwellings on the Land until the BNG Plan is approved in writing by the District Council and the costs of £300 for such approval has been paid to the District Council;
- 11.1.3 to maintain, manage and monitor the On Site Biodiversity Areas in accordance with the approved BNG Plan for a period of 30 years (the "**Covenant Period**") commencing from the date on which the BNG Certificate of Practical Completion has been issued (the "**Covenant Start Date**")

11.1.4 following the implementation of the habitat enhancements set out in the BNG Plan for the On Site Biodiversity Areas the Owner shall serve notice on the District Council inviting it to inspect the On Site Biodiversity Areas and pay to the District Council the inspection costs of £1000 and the District Council shall issue the BNG Certificate of Practical Completion confirming that the On Site Biodiversity Areas have been completed to its reasonable satisfaction, and:

- (a) if the District Council chooses to inspect the On Site Biodiversity Areas and identifies necessary remedial works in order to reasonably and properly implement those elements of the BNG Plan, the Owner shall complete such remedial works to the reasonable satisfaction of the District Council; and
- (b) upon completion of any remedial works, the Owner shall serve notice on the District Council inviting it to inspect the remedial works identified pursuant to paragraph 11.4(a) and pay to the District Council the further inspection costs of £1000 and the District Council shall issue a BNG Certificate of Practical Completion;

PROVIDED THAT if the District Council fails to inspect the On Site Biodiversity Areas within 20 (twenty) Working Days of receipt of the notice of invitation from the Owners or fails to issue a BNG Certificate of Practical Completion within 20 (twenty) Working Days of the inspection where no remedial works have been identified, then the BNG Certificate of Practical Completion shall be deemed to have been issued at the end of those specified periods PROVIDED FURTHER THAT the inspection procedure identified in paragraphs 11.4(a) and (b) (including payment by the Owners of inspection costs of £1000 on each occasion the District Council inspects the On Site Biodiversity Areas) shall be repeated until such time as the Council issues a BNG Certificate of Practical Completion or a BNG Certificate of Practical Completion shall be deemed to have been issued in relation to the On Site Biodiversity Areas and PROVIDED FURTHER THAT in the event of any dispute between the parties the Expert shall determine whether a BNG Certificate of Practical Completion is deemed to have been issued;

11.1.5 to submit to the District Council a report on the outcomes of the monitoring undertaken pursuant to paragraph 11.1.3 above at the following intervals:

- (a) two year anniversary of the Covenant Start Date;
- (b) five year anniversary of the Covenant Start Date;
- (c) ten year anniversary of the Covenant Start Date;
- (d) fifteen year anniversary of the Covenant Start Date

- (e) twenty year anniversary of the Covenant Start Date;
- (f) twenty five year anniversary of the Covenant Start Date;
- (g) thirty year anniversary of the Covenant Start Date

- 11.1.6 that if any monitoring report submitted pursuant to paragraph 11.1.5 identifies that remedial and/or corrective measures are required to any of the On Site Biodiversity Areas in order to ensure that they meet the standards set out in the approved BNG Plan then such measures shall be undertaken by the Owner in accordance with timescales agreed with the District Council (such agreement not to be unreasonably withheld or delayed) PROVIDED THAT the District Council shall be deemed to have agreed the timescales proposed by the monitoring report and/or Owner where the District Council has not refused agreement within 20 (twenty) Working Days after the date when the proposed dates were received by the District Council.
- 11.1.7 The Owner may from time to time submit an updated BNG Plan to the District Council for approval and shall pay to the District Council its costs of £300 for each approval, which approval shall not be unreasonably withheld or delayed, and the District Council shall be deemed to have approved an updated BNG Plan where it has not refused approval within 20 (twenty) Working Days after the date when it was received by the District Council.
- 11.1.8 To pay the District Council the BNG Monitoring Fee prior to the issue of the BNG Certificate of Practical Completion and the Council shall not be required to issue the BNG Certificate of Practical Completion unless and until it has received the BNG Monitoring Fee
- 11.1.9 The Owner may agree with third party developers to allocate any such amount of the Biodiversity Excess Gain or part thereof as is required to meet the biodiversity net gain requirements of third party developments

SECOND SCHEDULE
COVENANTS BY THE OWNER TO THE DISTRICT COUNCIL
PART ONE: AFFORDABLE HOUSING

1. Affordable Housing

- 1.1 To provide the Affordable Housing Units in accordance with this Deed, the Affordable Housing Scheme and the Planning Permission and for the avoidance of doubt, a minimum of 30% of the total number of Dwellings comprised within the Development shall be Affordable Housing Units split 25% First Homes and 75% Social or Affordable Rented Units unless otherwise agreed in writing by the Responsible Officer for Housing.
- 1.2 Not to cause or allow the Commencement of the Development until the following has occurred:
- 1.2.1 the Responsible Officer for Housing has approved in writing the identity of the Registered Provider with responsibility for the delivery of the Social or Affordable Rented Units ; and
- 1.2.2 the Owner has entered into an unconditional and binding contract to Transfer the Social or Affordable Rented Units and associated Affordable Housing Land to the Registered Provider; and
- 1.2.3 the Owner has provided the Responsible Officer for Housing with a certified copy of the contract referred to in paragraph 1.2.2.

2 Restrictions on occupation

- 2.1 No more than 50% of the Market Housing Units shall be Occupied until all of the Social or Affordable Rented Units and First Homes have been constructed in accordance with the Planning Permission and made ready for residential occupation and written notice of such has been received by the Responsible Officer for Housing .
- 2.2 No more than 50% of the Market Housing Units shall be Occupied until the Social or Affordable Rented Units and associated land have been Transferred to the Registered Provider.

3 Provision of Information

To keep the Responsible Officer for Housing informed of progress of any negotiations to dispose of the Social or Affordable Rented Units and to promptly provide the Responsible Officer for Housing with such information and supporting evidence as she may reasonably request.

4 Provisions relating to the standards of the Affordable Housing

- 4.1 That the Affordable Housing Units shall comply with the Occupancy Requirement and shall be constructed to a standard required to meet: -

- 4.1.1 any mandatory standards in relation to design, construction and accessibility required by Homes England; and
 - 4.1.2 the standards set out in the Affordable Housing SPD; and
 - 4.1.3 the National Space Standard and
 - 4.1.4 the specific requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) of Schedule 1 of the Building Regulations 2010 as amended for the Wheelchair Accessible Units
- which are current at the date of the Planning Permission

and all First Homes shall also be constructed to no less than the standard applied to the Market Housing Units

5 Provisions relating to Affordable Housing to be transferred to a Registered Provider

- 5.1 That the Transfer of the Social or Affordable Rented Units to a Registered Provider(s) approved by the Responsible Officer for Housing shall be at a price reflecting the provision of serviced land at nil value and an assumption of nil public subsidy.
- 5.2 The Owner covenants with the District Council that the Transfer of the Social or Affordable Rented Units pursuant to paragraph 5.1 shall contain the following:
 - 5.2.1 the grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Social or Affordable Rented Units and associated Land;
 - 5.2.2 a reservation of all rights of access and passage of services and rights of entry and rights of support reasonably necessary for the purpose of the Development (including its construction);
 - 5.2.3 such other terms as the Owner agrees with the Registered Provider.

6 Nomination Rights

That none of the Social or Affordable Rented Units shall be Occupied until the Owner (being a Registered Provider) has entered into a Nomination Agreement with the District Council provided always (for the avoidance of doubt) a Nomination Agreement must be entered into in respect of all of the applicable Social or Affordable Rented Units. The Local Connection Criteria will be detailed in the Nomination Agreement and the site is in a Designated Rural Area.

7 Use of the Social or Affordable Rented Units

- 7.1 Subject to paragraphs 7.2 and 8 below that from the date of Practical Completion of the Social or Affordable Rented Units they shall not be used or Occupied for any purpose other than as Affordable Housing in accordance with the Affordable Housing Scheme and the Nomination Agreement.
- 7.2 The covenant set out in paragraph 7.1 shall not be binding on or enforceable against:

7.2.1 Any Chargee and any successors in title thereto provided that the Chargee shall have first complied with the Chargee's Duty;

PROVIDED THAT if any successor in title to the Chargee (as referred to in paragraph 7.2.1.) is a Registered Provider or any other provider of affordable housing the provisions of paragraph 7.1 shall thereupon become enforceable against the said Registered Provider or other provider of affordable housing and their successors in title subject as provided herein.

8 Chargee Clause

8.1 Prior to seeking to dispose of the Social or Affordable Rented Units (or any one or more of them) and the associated Land (or any part thereof) pursuant to any default under the terms of its mortgage or charge ("the Charged Property") the Chargee shall give prior written notice including evidence and written confirmation of the default (the "Chargee's Notice") to the District Council of its intention to dispose and:

8.1.1 the Chargee shall use reasonable endeavours over a period of three (3) months from the date of service of the Chargee's Notice on the District Council to complete a disposal of the Charged Property in such a way so as to safeguard it as Affordable Housing in line with paragraph 8.2 for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation relating to the Charged Property including all accrued principal monies and interest due and reasonable costs relating to the said security documentation; and

8.1.2 if such disposal has not completed within the three (3) month period the Chargee shall, subject to the proviso set out in paragraph 7.2 of this Part One of the Second Schedule, be entitled to dispose of the Charged Property free from the affordable housing provisions contained in the Second Schedule to this Agreement which provisions shall determine absolutely; and

8.2 In the event of a default under any security referred to in paragraph 8.1 or in other circumstances warranting the intervention of Homes England nothing in this Deed shall prevent the transfer of the Social or Affordable Rented Units or any one or more of them (as the case may be) to another Registered Provider or alternative affordable housing provider (in either case approved in writing by the Responsible Officer for Housing) or to the District Council subject to the Social or Affordable Rented Units and associated Land remaining bound by the provisions of this Deed.

9 Notices

Without prejudice to the provisions of paragraphs 1 to 8 the Owner and any Chargee shall comply with any statutory requirements as contained in Part 2 of the Housing and Regeneration Act 2008 and must notify the District Council immediately in writing in the event of service of any notice order or direction served made or given under Part 2 of the Housing and Regeneration Act 2008.

10 Designated Rural Area

To comply at all times with all legal and statutory obligations relating to the Designated Rural Area and all requirements as may be made by Homes England from time to time insofar as such apply to affordable housing within a Designated Rural Area

11 First Homes DELIVERY MECHANISM

11.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:

11.1.1 the Eligibility Criteria (National); and

11.1.2 the Eligibility Criteria (Local) subject to the provisions of Paragraph 11.2

11.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months after Practical Completion of the said First Home) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local), paragraph 11.1.2 shall cease to apply.

11.3 Subject to paragraphs 11.6 to 11.10, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee (First Homes)

11.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

11.4.1 The District Council has been provided with evidence that:

11.4.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 11.2 applies meets the Eligibility Criteria (Local)

11.4.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and

11.4.1.3 the transfer of the First Home includes:

a) a definition of the "District Council" which shall be Mid Sussex District Council⁽¹⁾

b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraph 11, 12 and 13 of Part One of the Second Schedule of the S106 Agreement a copy of which is attached hereto as the Annexure."

c) a provision that the Property is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions

d) a copy of the First Homes Provisions in an Annexure

11.4.2. The District Council has issued the Compliance Certificate and the District Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 11.3 and 11.4.1 have been met

11.5 On the First Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"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 by Mid Sussex District Council of Oaklands Road, Haywards Heath, West Sussex RH16 1SS or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

11.6 The owner of a First Home (which for the purposes of this clause shall include the Owner (as a developer) and any First Homes Owner not just the first First Homes Owner may apply to the District Council to Dispose of it other than as a First Home on the grounds that either:

11.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 11.1 and 11.2 (and in the case of a First Disposal the six (6) months shall be calculated from a date no earlier than six (6) months after Practical Completion of the said First Home) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 11.3 and 11.4.1; or

11.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 11.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship,

11.7 Upon receipt of an application served in accordance with paragraph 11.6 the District Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price,

11.8 If the District Council is satisfied that either of the grounds in paragraph 11.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 11.6 that the relevant Dwelling may be Disposed of:

11.8.1 to the District Council at the Discount Market Price; or

11.8.2 (if the District Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 11.10 which shall cease to apply on receipt of payment by the District Council where the relevant Dwelling is disposed of other than as a First Home.

11.9 If the District Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 11.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 11.6 serve notice on the owner of the First Home setting out the further steps it requires the owner of the First Home to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner of the First Home has been unable to Dispose of the Dwelling as a First Home he or she or they may serve notice on the District Council in accordance with paragraph 11.6 following which the District Council must within 28

days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

11.10 Where a Dwelling is Disposed of other than as a First Home or to the District Council at the Discount Market Price in accordance with paragraphs 11.8 or 11.9 above the owner of the First Home shall pay to the District Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

11.11 Upon receipt of the Additional First Homes Contribution the District Council shall:

11.11.1 within 28 working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 11.5 where such restriction has previously been registered against the relevant title

11.11.2 apply all monies received towards the provision of Affordable Housing

11.12 Any person who purchases a First Home free of the restrictions in Paragraph 11 and 12 of Part One of the Second Schedule of this Deed pursuant to the provisions in paragraphs 11.9 and 11.10 shall not be liable to pay the Additional First Homes Contribution to the District Council.

12. FIRST HOMES USE

12.1 Each First Home shall be used only as the main residence of the First Homes Owner or any First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 12.2 – 12.5 below.

12.2 A First Homes Owner or any First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the District Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

12.3 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the District Council and the District Council consents in writing to the proposed letting or sub-letting. The District Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
 - b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
 - c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
 - d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.
- 12.4 A letting or sub-letting permitted pursuant to paragraph 12.2 or 12.3 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 12.5 Nothing in this paragraph 12 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

13. FIRST HOMES MORTGAGEE EXCLUSION

- 13.1 The obligations in paragraphs 11-12 of this Deed in relation to First Homes shall not apply to any Mortgagee (First Homes) or any receiver (including an administrative receiver appointed by such Mortgagee (First Homes) or any other person appointed under any security documentation to enable such Mortgagee (First Homes) to realise its security or any administrator (howsoever appointed (each a "Receiver")) of any individual First Home or any persons or bodies deriving title through such Mortgagee (First Homes) or Receiver PROVIDED THAT:
- 13.1.1 such Mortgagee (First Homes) or Receiver shall first give written notice to the District Council of its intention to Dispose of the relevant First Home; and
 - 13.1.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee (First Homes) or Receiver to the District Council the Mortgagee (First

Homes) or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 13.1.3.

13.1.3 following the Disposal of the relevant First Home the Mortgagee (First Homes) or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs pay to the District Council the Additional First Homes Contribution.

13.1.4 following receipt of notification of the Disposal of the relevant First Home the District Council shall:

13.1.4.1 forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 11.5; and

13.1.4.2 apply all such monies received towards the provision of Affordable Housing .

SECOND SCHEDULE

Part Two

AFFORDABLE HOUSING SCHEME

NUMBER OF DWELLINGS	DWELLING TYPES	TENURE OF DWELLINGS (Social Rented / Affordable Rented / First Homes)	PLOT NUMBERS
3	ONE BED / 2 PERSON FLAT @ a minimum of 50m ² excluding any staircases and hallways or 58m ² including them	Social Rent or Affordable Rent	61,63 and 66 As shown on the Affordable Housing Plan
1	ONE BED / 2 PERSON WHEELCHAIR ACCESSIBLE M4(3)(2)(b) FLAT @ a minimum of 70m ² with its own private garden space	Social Rent or Affordable Rent	62 As shown on the Affordable Housing Plan
2	TWO BED / 4 PERSON FLAT @ a minimum of 70m ² excluding any staircases and hallways or 79m ² including them	Social Rent or Affordable Rent	64 and 65 As shown on the Affordable Housing Plan
12	TWO BED / 4 PERSON HOUSE @ a minimum of 79m ² (2 storey)	Social Rent or Affordable Rent	9,10,13,14,75,76,77,78,79,88,89 and 90 As shown on the Affordable Housing Plan
1	TWO BED / 4 PERSON WHEELCHAIR ACCESSIBLE M4(3)(2)(b) HOUSE @ a minimum of 116 m ² with its own private garden space	Social Rent or Affordable Rent	86 As shown on the Affordable Housing Plan
3	THREE BED / 5 PERSON HOUSE @ a minimum of 93m ² (2 storey) or 99m ² (3 storey)	Social Rent or Affordable Rent	8,15 and 87 As shown on the Affordable Housing Plan
2	FOUR BED / 6 PERSON HOUSE @ a minimum of 106m ² (2 storey) or 112m ² (3 storey)	Social Rent or Affordable Rent	11 and 12 As shown on the Affordable Housing Plan
3	ONE BED / 2 PERSON FLAT @ a minimum of 50m ² excluding any staircases and	First Homes	104, 107 and 108 As shown on the Affordable Housing Plan

	hallways of 58m2 including them		
3	TWO BED / 4 PERSON FLAT @ a minimum of 70m2 excluding any staircases and hallways or 79m2 including them	First Homes	103, 105 and 106 As shown on the Affordable Housing Plan
3	TWO BED / 4 PERSON HOUSE @ a minimum of 79m2(2 storey)	First Homes	21, 22 and 23 As shown on the Affordable Housing Plan

THIRD SCHEDULE
COVENANTS BY THE OWNER TO THE COUNTY COUNCIL

1. PROW Works Scheme

- 1.1 Save for with the consent of the County Council not to Commence the Development until a PROW Works Scheme has been submitted to and approved in writing by the County Council provided that where a PROW Works Scheme is submitted to the County Council which is not approved a revised PROW Works Scheme shall, within 14 days of receipt of notice in writing from the County Council that the previous PROW Works Scheme is not approved, be submitted to the County Council for approval.
- 1.2 Once the County Council has approved a PROW Works Scheme (the "**Approved PROW Works Scheme**") to obtain All Requisite Consents including without limitation entering into a Section 278 Agreement with the County Council.
- 1.3 After All Requisite Consents have been obtained to carry out in full the Approved PROW Works Scheme and to complete the PROW Works to the satisfaction of the County Council.
- 1.4 Not without the consent of the County Council to allow first Occupation of any Dwelling until such PROW Works have been completed to the satisfaction of the County Council.

2. Education Contributions

- 2.1. To pay to the County Council prior to the First Occupation Date the Primary Education Contribution Index Linked
- 2.2. Not to cause or allow First Occupation of the Development to occur until the Primary Education Contribution has been paid to the County Council.
- 2.3. To pay to the County Council prior to the First Occupation Date the Secondary Education Contribution Index Linked
- 2.4. Not to cause or allow First Occupation of the Development to occur until the Secondary Education Contribution has been paid to the County Council.
- 2.5. To pay to the County Council prior to the First Occupation Date the Sixth Form Education Contribution Index Linked
- 2.6. Not to cause or allow First Occupation of the Development to occur until the Sixth Form Education Contribution has been paid to the County Council.

3. Library Contribution

- 3.1. To pay to the County Council prior to the First Occupation Date the Library Contribution Index Linked

- 3.2. Not to cause or allow the First Occupation of the Development to occur until the Library Contribution has been paid to the County Council.

4. **Travel Plan and Travel Plan Monitoring Contribution**

- 4.1. To pay to the County Council prior to first Occupation the Travel Plan Monitoring Contribution Index Linked.
- 4.2. Not to cause or allow the first Occupation of the Development to occur until the Travel Plan Monitoring Fee has been paid to the County Council.
- 4.3. To submit the Travel Plan for approval prior to Commencement of Development
- 4.4. Not to Occupy Development unless a Travel Plan Co-ordinator has been appointed. The Owner shall notify the County Council in writing of the name, address, email address and telephone number of the person appointed
- 4.5. Upon the First Occupation Date the Owner shall implement the approved Travel Plan or amendments (as may be agreed with the County Council in writing) until such time as it is agreed between the Owner and the County Council (in writing) that there is no need for a Travel Plan.

FOURTH SCHEDULE
COVENANTS BY THE DISTRICT COUNCIL

The District Council covenants with the Owner as follows:

1. Expenditure of District Council Contributions

- 1.1. To expend the Formal Sport Contribution on improvements towards formal sports provision, parking and ancillary facilities at North Lane Recreation Ground and/or Hook Lane Recreation Ground and/or Sharphorne New Playground kickabout area.
- 1.2. To expend the Community Buildings Contribution towards improvements and to increase the capacity at West Hoathly Village Hall and/or North Lane Recreation Ground to include pavilion and public toilets and or Sharthorne Hall and or Highbrook Hall.
- 1.3. To expend the Local Community Infrastructure Contribution on improvements to the facilities at Finche Field (including but not limited to the allotments, car park, fencing, footpaths).
- 1.4. To expend the Ashdown Forest SAMM Contribution towards the Joint SAMM Strategy.
- 1.5. To expend or pay to NHS Sussex (or other body with responsibility for health to expend) the Health Contribution towards NHS GP service sites of Modality practices and Moatfield GP surgery which will serve the catchment population of this proposed Development.

2. Repayment of Contributions

- 2.1. If the Community Buildings Contribution and/or the Formal Sport Contribution and/or the Local Community Infrastructure Contribution and/or the Health Contribution have not been expended in accordance with paragraph 1 of this FOURTH SCHEDULE within 10 (ten) years of receipt of the respective contributions in full the District Council shall, if so demanded in writing at the end of the said 10 (ten) year period, refund to the party that paid the relevant contribution(s) any unexpended sum(s) together with interest thereon from the date of receipt of the relevant contribution by the District Council to the date of repayment at the base rate of the Bank of England applicable from time to time calculated on a day to day basis PROVIDED THAT if at the end of the 10 (ten) year period referred to in this paragraph 2.1 of this FOURTH SCHEDULE (or in the case of the Health Contribution the Horsham and Mid Sussex Clinical Commissioning Group or other body with responsibility for health shall have entered into such contract or legally binding obligation) the District Council shall have entered into a contract or other legally binding obligation to expend (or specifically allocated for expenditure by a Cabinet Member or the Cabinet Grants Panel (or such other group as may be constituted for such purpose) of the District Council) the Community Buildings Contribution and/or the Formal Sport Contribution and/or the Health Contribution and/or the Local Community Infrastructure Contribution or parts thereof for the purposes specified in paragraph 1 of this FOURTH SCHEDULE then the District Council shall not be required to refund any part of the Community Buildings Contribution and/or the Formal Sport Contribution and/or the Health Contribution

and/or the Local Community Infrastructure Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment or allocation refund any unexpended part of the said contribution in the manner set out in this paragraph 2.1 of this FOURTH SCHEDULE.

- 2.2. For the avoidance of any doubt the provisions of paragraph 2.1 of this FOURTH SCHEDULE do not apply to the Ashdown Forest SAMM Contribution.
- 2.3. It is further agreed and acknowledged by the parties hereto that the District Council Contributions may be applied towards the costs associated with the professional fee and project management costs to fund the planning and implementation stages of delivering the schemes identified at paragraphs 1.1 to 1.5 of this FOURTH SCHEDULE including the process of obtaining All Requisite Consents.

FIFTH SCHEDULE
COVENANTS BY THE COUNTY COUNCIL

The County Council covenants with the Owner as follows:

1. Education Contributions

- 1.1. To expend the Primary Education Contribution together with any interest accruing thereon only on additional facilities at West Hoathly Primary School
- 1.2. To expend the Secondary Education Contribution together with any interest accruing thereon only on additional facilities at Imberhorne School.
- 1.3. To expend the Sixth Form Education Contribution together with any interest accruing thereon only at additional facilities at Imberhorne School Sixth Form.
- 1.4. It is hereby acknowledge for the avoidance of doubt and without prejudice to paragraphs 1.1-1.3 above that the County Council is authorised (at its discretion) to apply the Primary Education Contribution and/or the Secondary Education Contribution and/or the Sixth Form Education Contribution (or any parts thereof) to compensate the County Council for all work done by the County Council's employees servants agents or contractors (in all cases at fair and proper rates) to include without limitation the processing and obtaining of All Requisite Consents and the supervision and design of the implementation of a scheme and any necessary advertisements.

2. Library Contribution

To expend the Library Contribution together with any interest accruing thereon only on additional facilities at East Grinstead Library and it is hereby acknowledged for the avoidance of doubt and without prejudice to the above that the County Council is authorised (at its discretion) to apply the Library Contribution (or any part thereof) to compensate the County Council for all work done by the County Council's employees servants agents or contractors (in all cases at fair and proper rates) to include without limitation the processing and obtaining of All Requisite Consents and the supervision and design of the implementation of a scheme and any necessary advertisements.

3. Expenditure

- 3.1. If or to the extent the Primary Education Contribution and/or the Secondary Education Contribution and/or the Sixth Form Education Contribution and/or the Library Contribution shall not have been spent within 10 (ten) years of receipt of the respective contributions the County Council shall on such date upon written request refund to the party that paid the contributions any unexpended sum together with interest thereon from the date of receipt of the relevant

contribution to the date of repayment at the base rate of the Bank of England applicable from time to time calculated on a day to day basis.

- 3.2. If at the date referred to in paragraph 3.1 the County Council shall have entered into a contract or other legally binding obligation to expend the Primary Education Contribution and/or the Secondary Education Contribution and/or the Sixth Form Education Contribution and/or the Library Contribution or part thereof for the purposes specified in paragraphs 1.1, 1.2, 1.3 and 2 of this FIFTH SCHEDULE then the County Council shall not be required to refund any part of the Primary Education Contribution and/or Secondary Education Contribution and/or the Sixth Form Education Contribution and/or the Library Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment refund any unexpended part of the said contribution in the manner set out in paragraph 3.1 hereof.