DATED 7 October 2022

(1) ARUN DISTRICT COUNCIL

(2) WEST SUSSEX COUNTY COUNCIL

(3) RUSTINGTON GOLF CENTRE LIMITED

(4) RUSTINGTON INVESTMENTS (NO. 1) LIMITED

(5) STORRIER TRADING LIMITED

(6) BDW TRADING LIMITED

Unilateral Undertaking relating to Rustington Golf Centre Golfers Lane Angmering BN16 4NB

(167 Unit Scheme - A/45/22/PL and APP/C3810/W/22/3301932)

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UNILATERAL UNDERTAKING

under Section 106 of the Town and Country Planning Act 1990 in relation to the development at Rustington Golf Centre, Golfers Lane, Angmering BN16 4NB

THIS UNILATERAL UNDERTAKING AND DEED is given on 7th of October 2022

PARTIES

(1) **ARUN DISTRICT COUNCIL**, of Bognor Regis Town Hall, Clarence Road, Bognor Regis, West Sussex PO21 1LD ("**Council**");

(2) **WEST SUSSEX COUNTY COUNCIL**, of WSCC, County Hall, West Street, Chichester, PO19 1RQ ("**County Council**");

(3) **RUSTINGTON GOLF CENTRE LIMITED** a company incorporated and registered in England and Wales with number 02642121 which has its registered office at Littlefield Manor, Golfers Lane, Angmering, Littlehampton, West Sussex, BN16 4NB (the "**First Owner**")

(4) **RUSTINGTON INVESTMENTS (NO. 1) LIMITED** a company incorporated and registered in England and Wales with number 10230859 which has its registered office at Littlefield Manor, Golfers Lane, Angmering, Littlehampton, West Sussex, BN16 4NB (the "**Second Owner**")

(5) **STORRIER TRADING LIMITED** a company incorporated and registered in the Guernsey with registered number 67331 which has its registered office at Anson Court, La Route des Camps, St. Martin Guernsey GY4 6AD (the "Mortgagee");

(6) **BDW TRADING LIMITED**, a company incorporated and registered in England and Wales with number 03018173 which has its registered office at Barratt House Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire, LE67 1UF ("**Developer**").

BACKGROUND

A The Council is the local planning authority for the purposes of s 106 of the 1990 Act for the area within which the Land is situated.

B The County Council is the local highway authority for the area within which the Land is situated.

C The First Owner is the freeholder owner of part of the Land registered at the Land Registry under title number WSX174639 subject to a legal charge dated 19 June 2017 in favour of the Mortgagee and an agreement for sale dated 18 July 2019 in favour of the Developer.

D. The Second Owner is the freehold owner of part of the Land registered at the Land Registry under title numbers WSX392360 and WSX392361 subject to an agreement for sale dated 18 July 2019 in favour of the Developer.

E. The First Owner and the Second Owner are herein referred to as the Owners.

F. The Application is undecided and the Developer lodged an appeal pursuant to section 78 of the 1990 Act.

G. The Developer has agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Undertaking.

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IT IS AGREED:

1. Definitions and Interpretation

1.1. In this Undertaking unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

1990 Act	means the Town and Country Planning Act 1990 (as amended);
Application	means the application for the Development submitted by or on behalf of the Developer to the Council to which the Council has allocated reference number A/45/22/PL;
CIL Regulations	means the Community Infrastructure Levy Regulations 2010 (as amended);
Conditions Precedent	means the conditions contained in clause 4;
Development	means the development of the Land for the for erection of 167 No new homes in a mix of 1-4 bedroom properties (2-4 bedroom homes and 1 bedroom apartments), with associated landscaping, parking, open space, play areas, construction of a new vehicular access from Golfers Lane and all other associated development works in accordance with the Application;
Expert	means an independent and fit person holding professional qualifications appropriate in light of the subject matter of the dispute, to be appointed (in the absence of agreement) by the president (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications.
Implementation	means commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in s 56(4) of the 1990 Act) save that for the purposes of this Undertaking the term shall not include works of demolition, surveys, site clearance, works of archaeological or ground investigation or remediation, the erection of fencing or hoardings, the provision of security measures or lighting, the erection of temporary buildings or structures associated with the Development, the laying, removal or diversion of services, the provision of construction compounds, the temporary display of site notices or advertisements or piling works (and "Implement" and "Implemented" shall be construed accordingly);
Index	means the All-in Tender Price Index as published by the Building Costs Information Service on behalf of the Royal Institution of Chartered Surveyors to include any applicable local or regional weighting or such other index agreed

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	between the parties between the date hereof and the date of actual payment and "Index Linked (BCIS)" shall be construed accordingly;
Indexed	means increased in accordance with clause 11;
Land	means the land edged red on the Plan;
Occupation	means occupation for the purposes permitted by the Permission but does not include occupation for the purposes of fitting out, decoration, marketing, staff training or site security (and "Occupy" and "Occupying" shall be construed accordingly);
Permission	means planning permission (subject to conditions) to be granted by the Secretary of State for the Development;
Plan	means the plan attached to this Undertaking titled Location Plan and numbered PLN-1-1111 Rev B;
Residential Units	means the units of residential accommodation provided as part of the Development and "Residential Unit" shall be construed accordingly;
Secretary of State	means the Secretary of State for Levelling Up, Housing & Communities, or any other minister or authority for the time being entitled to exercise the powers under ss 74, 77 and 79 of the 1990 Act, and shall include any planning inspector appointed to exercise such function on his behalf;
Working Day(s)	means a day other than a Saturday or Sunday or public holiday in England.

1.2. References in this Undertaking to the "First Owner" and the "Second Owner" shall include their respective successors in title to the Land and their assigns.

1.3. References in this Undertaking to the "Council" shall include any successor to its functions as local planning authority.

1.4. References in this Undertaking to the "County Council" shall include any successor to its functions as local highway authority.

1.5. References in this Undertaking to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force and references to a statute include statutory instruments and regulations made pursuant to it.

1.6. The clause headings in this Undertaking are for convenience only and do not form part of the Undertaking.

1.7. References to clauses paragraphs schedules appendices or recitals shall (unless the context otherwise requires) be references to clauses paragraphs schedules appendices or recitals in this Undertaking.

1.8. References to the singular shall include the plural and vice versa.

1.9. Where any covenants in this Undertaking are given by or for the benefit of more than one party they are given by or for the benefit of them jointly and severally.

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Rev	Date	Drawn	Checked
-	29/05/21	MJW	
FIRST ISSUE			
A	01/06/21	PH	
DRAWING TITLE AMENDED			
B	25/06/21	MJW	
PRELIMINARY STAMP REMOVED.			

Legend

Application Boundary

Project:
LAND AT GOLFERS LANE
RUSTINGTON GOLF CENTRE
RUSTINGTON

Drawing Title:
LOCATION PLAN

BARRATT

carlton design partnership

1:1000 @A1 0 10 20 30 40 50m

Drg No: PLN-1-1111 Rev: B

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1.10. Where a party includes more than one person, any obligations of that party will be joint and several.

2. Obligations and statutory powers

2.1. This Undertaking is entered into by unilateral undertaking and is a planning obligation for the purposes of s 106 of the 1990 Act and it is acknowledged by the parties that the obligations contained within it are binding on the Land and are enforceable by the Council as local planning authority and the County Council as the highway authority against the Owners and against their successors in title and assigns in respect of their interests in each and every part of the Land.

3. Land bound

3.1. The Land is bound by the obligations in this Undertaking.

3.2. (Other than paragraph 5 of Part B) none of the obligations in this Undertaking shall bind owners or occupiers of any Residential Units provided they own or occupy such units for their own occupation nor any statutory undertaker or public authority which acquires any part of the Land or an interest in it for the purposes of its statutory functions.

4. Conditionality

The obligations in this Undertaking are unless otherwise specified conditional upon:

4.1. the grant of the Permission by the Secretary of State and the Secretary of State's decision letter containing a clear statement (whether in express terms or by expressly adopting a recommendation to that effect) that he has placed weight upon each planning obligation as a reason for granting Permission in accordance with Regulation 122 of the CIL Regulations PROVIDED ALWAYS if no reference is made to a particular obligation in the Secretary of State's decision letter that obligation shall be considered to be a reason for granting Permission for the purposes of the aforementioned Regulations and PROVIDED FURTHER THAT if any Planning Obligation is determined by the Secretary of State not to constitute a reason for granting Permission because it either fails to satisfy the requirements of Regulation 122 of the CIL Regulations or falls within the scope of Regulation 123 of the CIL Regulations, then that Planning Obligation (but no other part of this Undertaking) shall have no further force or effect and shall not be enforceable against any of the parties giving this Undertaking or their respective successors in title; and

4.2. Implementation of the Permission.

5. Release and lapse

5.1. The Owners and the Mortgagee shall not be liable for a breach of any of their obligations under the terms of this Undertaking or obligations relating to any part of the Land, after they shall have parted with all of their interests in the Land or the part in respect of which the breach arises (as the case may be) other than in respect of any breach by them at the time when it held such an interest.

5.2. It is further agreed that this Undertaking shall lapse and be of no further effect if:

5.2.1 the Permission shall expire without having been Implemented; or

5.2.2 the Permission shall be withdrawn, varied or revoked otherwise than with the consent of the Developer; or

5.2.3 the Permission is quashed following a successful legal challenge.

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5.3. Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Undertaking.

6. Local land charge

6.1. This Undertaking is a local land charge and the Council shall register it as such as soon as practicable after the completion of this Undertaking.

6.2. Following the performance and satisfaction of all the obligations contained in this Undertaking the Council shall forthwith cancel all the entries made in the register of local land charges in respect of this Undertaking.

7. No fetter on discretion

Nothing in this Undertaking shall fetter or prejudice the Council's statutory rights powers discretions and responsibilities (save where legally or equitably permitted) under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

8. Severability

It is agreed that if any part of this Undertaking is declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the offending provision(s) will be severed from the Undertaking and the remainder of this Undertaking shall continue in full force and effect.

9. Contracts (Rights of Third Parties) Act 1999

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Undertaking shall be enforceable by a third party who is not a party to the Undertaking and the terms of the Undertaking may be varied by a deed agreed between the parties without the consent of any third party being required.

10. Notices

10.1. The address for any notice or other written communication is as specified above in the case of each party hereto (but for Council whose address for the purposes of this paragraph 10 is Arun District Council - The Civic Centre Maltravers Road LITTLEHAMPTON BN17 5LF marked for the attention of the Director of Planning) or (at the option of the recipient) such address as may be specified for service from time to time provided that the same is within the United Kingdom or (at the option of the party giving notice or other communication) the last-known place of abode or business in the United Kingdom of the recipient.

10.2. Any notice or other written communication to be served or given by one party upon or to any other under the terms of this Undertaking shall be deemed to have been validly served or given if delivered by recorded delivery post or other service which provides for delivery on the next business day or by hand to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing.

10.3. Unless the time of actual receipt is proved a notice demand or communication sent by the following means is to be treated as having been served:

10.3.1. In the case of electronic mail in the absence of evidence of a delay at the time the message was sent

10.3.2. In the case of first class recorded post at the time delivery was signed for

10.3.3. In the case of delivery by hand at the time delivery was made.

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10.4. If a notice demand or any other communication is served after 4.00 pm on a Working Day or on a day that is not a Working Day it is to be treated as having been served on the next Working Day.

11. Indexation of financial contributions

Where any financial contribution in this Undertaking is to be "Indexed" then the amount of the contribution after application of the Index shall be calculated according to the formula:

Amount after indexation = A x B/C

Where:

A = the amount of the financial contribution as set out in this Undertaking;

B = the Index at the date at which the amount is due to be paid; and

C = the Index at the date of this Undertaking.

12. Interest on late payments

Any payment due from the Owners under this Undertaking which is not paid on the due date shall be payable with interest calculated at the rate of two per cent above the base lending rate from time to time of Barclays Bank plc from the due date until date of payment.

13. Mortgagee Protection

Subject to the provisions of Part B of Schedule 1 (insofar as they relate to a Chargee as defined in Part B of Schedule 1), a mortgagee of the Land (including the Mortgagee) will not incur any liability for any breach of the obligations contained in this Undertaking unless and until it becomes a mortgagee in possession of the Land or appoints a receiver or administrative receiver under a security and then only in respect of any breaches that occur while it is a mortgagee in possession of the Land or while a receiver or administrative receiver is appointed under a security (as the case may be).

14. VAT

All consideration set out in this Undertaking is exclusive of VAT (unless the contrary is expressly stated).

15. Dispute resolution

15.1. In the event of any dispute or difference arising between the parties arising out of this Undertaking such dispute or difference may be referred to the Expert.

15.2. In the absence of agreement between the parties as to the appointment or suitability of the expert to be appointed pursuant to clause 15.1, or as to the appropriate professional body, within ten Working Days after any party has given to the other parties to the dispute a written request to concur in the professional qualifications of the expert to be appointed pursuant to clause 15.1 then that question shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of any party to the dispute or difference. Such solicitor shall act as an expert and his decision shall be final and binding on the parties save in the case of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.

15.3. The Expert shall act as an expert and not as an arbitrator.

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15.4. The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 46 Working Days from the date of his appointment to act.

15.5. The Expert shall be required to give notice to each of the said parties inviting them to submit to him within ten Working Days of his appointment written submissions and supporting material and shall afford to each of the said parties an opportunity to make counter submissions within a further 15 Working Days in respect of any such submission and material. The Expert's decision shall be given in writing within 20 Working Days from receipt of any counter submissions or in the event that there are no counter submissions within 21 Working Days of receipt of the written submissions and supporting material with reasons and in the absence of manifest material error the Expert's decision shall be final and binding on the said parties.

15.6. The Expert may award the costs of the dispute resolution in such proportions as he sees fit but in the absence of an express award to this effect the costs of the dispute resolution shall be borne by the parties to the dispute in equal shares.

16. Waiver

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

17. Change in ownership

The Owners agree with the Council to give the Council and the County Council written notice within 20 Working Days of any change in ownership of its interest in the Land occurring before all the obligations under this Undertaking have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchase by reference to a plan PROVIDED THAT this obligation shall not apply to the disposition of individual Residential Units.

18. Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

This Undertaking has been executed as a deed and delivered on the date stated at the beginning of this Undertaking.

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SCHEDULE 1

OWNERS' COVENANTS

Part A: Notifications

1. The Owners covenants with the Council to notify the Council of the occurrence of the following:

1.1 Implementation of Development.

Part B: Affordable Housing

1. Definitions

In this Part of Schedule 1 unless the context otherwise requires the following terms shall have the following meanings:

Affordable Housing	means social rented, affordable rented and intermediate subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;
Affordable Housing Scheme	means a scheme to be submitted by the Owners to the Council detailing the Affordable Housing Units to be provided as part of the Development which shall include the following: (a) a plan illustrating the distribution of Affordable Housing Units across the Land; (b) the name of the proposed Registered Provider; (c) a schedule of accommodation including the floor space of each Affordable Housing Unit (m2) and number of bedrooms; (d) the arrangements by which the Affordable Housing Units are to be provided before all of the Market Residential Units have been practically completed; (e) details of the rents to be charged in respect of the Affordable Housing Units that are to be let at a rent; (f) the details of the arrangements with the Registered Provider for the identification, short-listing and

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nomination of Qualifying Persons by the Council to the Affordable Housing Units whether on First Letting or on any subsequent re-letting as the case may be;

(g) in respect of any Intermediate Housing Units, a marketing plan that outlines the specific actions that will be taken by the Owners to identify Qualifying Persons who (in order of priority) are resident in social housing within the Parishes; resident within the Parishes or who work within the Parishes and have an interest in purchasing an Intermediate Housing Unit; and the timescales in which those actions will be taken.

Affordable Housing Units — means 30% of the total number of Residential Units to be provided as 67% Affordable Rented Units, 25% First Homes and 8% Intermediate Housing Units in the following mix:

First Homes

11 x 2-bed

1 x 3-bed

Affordable Rented

6 x 1 bed flat

17 x 2 bed house

9 x 3 bed house

2 x 4 bed house

Intermediate

4 x 2 bed house

Affordable Rented Units — means housing let by local authorities or Registered Providers to households who are eligible for social rented housing and which is subject to rent controls that require a rent of no more than 80% of the local market rent (including services charges where applicable) as defined in the National Planning Policy Framework;

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Chargee	mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver")) of the whole or any part of the Affordable Housing Units;
First Homes	has the meaning set out in Part C of this Schedule 1;
First Letting or First Sale	means the first occasion when an Affordable Housing Unit is available for letting or where applicable, for sale, to a Qualifying Person;
Intermediate Housing Units	means housing at a cost above Social Rented Units but below market levels and which should remain at an affordable price for future eligible households and which may include shared equity products other low cost homes for sale and intermediate rental as defined in the National Planning Policy Framework;
Market Residential Units	means any Residential Units which are not Affordable Housing Units;
Parishes	means the parishes within the council's administrative area;
Qualifying Person	means in relation to the Affordable Rented Units a person nominated by the Council, who is an individual who is (unless otherwise agreed with the Council) registered on the Council's Housing Register and is in Housing Need;
Registered Provider	means either a registered social landlord as defined in the Part 1 of the Housing Act 1996 who is registered with the Regulator pursuant to section 3 of the Housing Act 1996 and has not been removed from that register pursuant to section 4 of Housing Act 1996 or a provider of social housing as defined in section 80 of the Housing and Regeneration Act 2008 who is registered with the Regulator pursuant to section 111 of the Housing and Regeneration Act 2008 and has not been removed from the register or the Council;
Regulator	means the body known as the Regulation Committee of Homes England, also known

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	as the Regulator of Social Housing, or any successor organisation or body which regulates Registered Providers;
Social Rented Units	means (as defined in the National Planning Policy Framework) housing owned by local authorities or Registered Providers for which guideline target rent is determined through the national rent regime.

2. Not to commence the construction of any Residential Units until the Affordable Housing Scheme has been submitted to and approved by the Council.

3. The Owners shall not Occupy more than 30% of the Market Residential Units until 50% of the Affordable Housing Units have been constructed and made ready for occupation and transferred to a Registered Provider either freehold or leasehold for a term of not less than 125 years.

4. The Owners shall not Occupy more than 60% of the Market Residential Units until 100% of the Affordable Housing Units have been constructed and made ready for occupation and transferred to a Registered Provider either freehold or leasehold for a term of not less than 125 years.

5. The Affordable Housing Units shall not be used for any purpose other than for Affordable Housing.

6. The Owners shall procure that any transfer of Affordable Housing Units to a Registered Provider will contain the following provisions:

   6.1. The grant by the Owners of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of those Affordable Housing Units.

   6.2. A reservation of all rights of access and passage of services and other rights reasonably necessary for the benefit of the remainder of the Residential Units on the Land.

7. The Affordable Housing Units shall not be transferred (other than by way of a transfer of a freehold interest of an Affordable Housing Unit to an occupier of an Intermediate Housing Unit who has acquired 100% of the equity in that Intermediate Housing Unit or an occupier of a Social Rented Unit and/or an Affordable Rented Unit who has exercised the right to buy or acquire) to any person other than a Registered Provider.

8. The Affordable Housing Units shall not be first Occupied until the Registered Provider enters into a Nominations Agreement with the Council substantially in the form set out in Appendix 1, under which the Council is given an opportunity to nominate 100% of the first occupiers from its housing list for the Affordable Housing Units on First Letting or First Sale and 75% of first re-letting or re-sale (as the case may be).

9. The restrictions contained in this Schedule affecting the Affordable Housing Units shall not be binding on:

   9.1. A Chargee or Receiver or any persons or bodies deriving title through such Chargee or a Receiver PROVIDED THAT:

      9.1.1. Such Chargee or Receiver shall only exercise any power of sale under a mortgage or charge over any Affordable Housing Unit in the

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event of default by the Registered Provider or owner or tenant of an Affordable Housing Unit;

9.1.2. such Chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Unit(s) and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Unit(s) to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

9.1.3. if such disposal has not completed within the three month period, the Chargee or Receiver shall be entitled to dispose of the Affordable Housing Unit(s) free from the affordable housing provisions in this Undertaking which provisions shall determine absolutely;

9.2. any occupant of an Affordable Housing Unit who has exercised a statutory right to buy or acquire under the Housing Act 1996 or otherwise or any person other than a Registered Provider deriving title under that occupant or their mortgagees;

9.3. a leaseholder of an Affordable Housing Unit who has exercised their right to staircase ownership up to 100% ownership or any persons deriving title through such leaseholder or their mortgagees;

9.4. a mortgagee of an occupant or leaseholder in the event that a mortgagee of an occupant or leaseholder seeks to dispose of an Affordable Housing Unit pursuant to its power of sale exercised pursuant to default of the terms of the mortgage; and

9.5. a purchaser of a single Market Residential Unit(s) and his successors in title or his mortgagee.

Part C: First Homes

1. Definitions

In this Part of Schedule 1 unless the context otherwise requires the following terms shall have the following meanings:

Affordable Housing	has the meaning set out in Part B of this Schedule 1
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
Discount Market Price	means a sum which is the Market Value discounted by at least 30%

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Dwelling	has the same meaning as given to "Residential Unit" in this Undertaking
Eligibility Criteria (National)	means criteria which are met in respect of a purchase 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 (if any) published by the 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'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 (Local) (if any); and (b) any or all of criteria (i) (ii) and (ii) below are met: (i) the purchaser meets the Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connection Criteria); and/or (ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member and/or (iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker it being acknowledged that at the date of this Agreement the Council has not prescribed any Eligibility Criteria (Local) in respect of the disposal of a First Home.
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

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	which on its first Disposal does not exceed the Price Cap
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; 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 3 of this Part C
First Time Buyer	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
Income Cap (Local)	means such local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the First Home it being acknowledged that at the date of this Undertaking the Council has not set an Income Cap (Local)
Income Cap (National)	means: a) in the case of a First Home situated within the administrative area of any London Borough Council (including the City of London), ninety thousand pounds (£90,000); and b) in the case of any other First Home, 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
Key Worker	means a person employed or with a confirmed job offer in one of the following categories of employment: a) public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters

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and military personnel, social care and childcare workers; or

b) such other categories of employment as may be published by the Council from time to time as the "First Homes Key Worker criteria" and 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 "Key Worker" criteria which shall apply to that disposal.

Local Connection Criteria — 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 local government district of Arun and has been for a continuous period of not less than two consecutive years prior to exchange of contracts for the relevant First Home; and/or

(ii) their place of paid employment is in the local government district of Arun and they have been employed for more than 16 hours per week for the last two years; or

(iii) who has a close family association with the local government district of Arun by reason of a parent/legal guardian, sibling or child, who is ordinarily resident within the local government district of Arun; or

(b) such other local connection criteria as may be published by the 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

ARUN DISTRICT COUNCIL A/45/22/PL

	at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria" which shall apply to that disposal.
Market Dwelling	means any Dwelling which is not a First Home or Affordable Housing
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
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 Four Hundred and Twenty Thousand Pounds (£420,000) if the First Home is situated within the administrative area of any London Borough Council including the City of London or such other amount as may be published from time to time by the Secretary of State
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

2. The First Homes will be provided in accordance with the provisions of Part B Schedule 1.

3. Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Undertaking PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 3.1 – 3.4 below.

   3.1. A 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 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.

   3.2. A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council

ARUN DISTRICT COUNCIL A/45/22/PL

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 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.

3.3. A letting or sub-letting permitted pursuant to paragraph 3.1 or 3.2 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.

3.4. Nothing in this paragraph 3 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.

Part D: Highway Contribution and Travel Plan Audit Fee

1. Definitions

In this Part of Schedule 1 unless the context otherwise requires the following terms shall have the following meanings:

Highway Contribution	means the sum of £97,528 (ninety seven thousand five hundred and twenty eight pounds) (Indexed) which shall be payable in accordance with paragraph 2 of this Part of Schedule 1;
Travel Plan Audit Fee	means the sum of £3,500 payable by the Owners to the County Council in accordance with paragraph 3 of this Part of Schedule 1 towards the costs to be incurred by the County Council in

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auditing the travel plan associated with the Development.

2. **Highways Contribution**

2.1. The Owners shall pay the Highway Contribution to the Council prior to first Occupation of any Residential Units with the intention that the Council transfer the Highways Contribution to Highways England towards further mitigation of the A27 junctions in Arun.

2.2. The Owners shall not Occupy or permit Occupation of any Residential Units until the Highway Contribution has been paid to the Council.

3. **Travel Plan Audit Fee**

3.1. The Owners shall pay the Travel Plan Audit Fee to the County Council prior to first Occupation of any Residential Units.

3.2. The Owners shall not Occupy or permit Occupation of any Residential Units until the Travel Plan Audit Fee has been paid to the County Council.

ARUN DISTRICT COUNCIL A/45/22/PL

APPENDIX 1

Nominations Agreement

ARUN DISTRICT COUNCIL A/45/22/PL

APPENDIX D

DRAFT NOMINATIONS AGREEMENT

DATED **20{ }**

(1) {•}{ }

AND

(2) ARUN DISTRICT COUNCIL

AGREEMENT OF NOMINATION

relating to
rented units at

ARUN DISTRICT COUNCIL A/45/22/PL

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ARUN DISTRICT COUNCIL A/45/22/PL

THIS AGREEMENT OF NOMINATION RIGHTS is made on 20{ }

BETWEEN

(1) **{•}{ }** of {•}{ }; and

(2) **ARUN DISTRICT COUNCIL** of The Civic Centre, Maltravers Road, Littlehampton BN15 7LF.

1 DEFINITIONS

In this Agreement :

"Initial Let" means the first tenancy of such newly constructed and previously unoccupied Rented Unit;

"Nominee" means a person named in the Nomination List who is specified by the Council as being suitable for taking a Tenancy Agreement of a Rented Unit;

"Nomination List" means the list to be supplied by the Council pursuant to clauses 3.3 and 3.10 (as may be updated from time to time in accordance with clause 3.16).

"Property" means the land at shown edged red on the attached plan.

"Rented Units" residential units in the form of houses.

"Subsequent Nominee" means a Nominee to be offered a Tenancy Agreement pursuant to clause 3.10.

"Tenancy Agreement" means an assured Tenancy Agreement in a form prepared by the RSL and containing terms which accord with the form of Tenancy Agreement being used by the RSL from time to time for its general lettings.

"Vacancy Notice" means a written notice given by the RSL to the Council (in a form to be agreed between the RSL and the Council within five weeks from the date of this Agreement) the function of such notice being the notification to the Council by the RSL that the construction and fitting out of the Rented Unit is completed.

"Void" means a Rented Unit which is vacant otherwise than as a result of the tenant having:

(a) moved to other accommodation either by transfer or decant provided by the RSL;

(b) moved to other accommodation under a reciprocal arrangement provided by another registered social landlord registered with the Housing Corporation under the Housing Act 1996.

"Void Notice" means a written notice given by the RSL to the Council (in a form to be agreed between the RSL and the Council within five weeks from the

ARUN DISTRICT COUNCIL A/45/22/PL

date of this Agreement) the function of such a notice being the notification to the Council of a Void.

2 ENABLING PROVISIONS

This Agreement is made pursuant to s111 of the Local Government Act 1972 s33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers.

3 PROCEDURE

The parties agree that the following nomination procedure shall apply to the nomination of persons in respect of the Rented Units.

Initial Lets

3.1 The RSL shall give the Council not less than eight weeks written notice of the date when the Initial Let units will be ready for occupation.

3.2 The RSL shall serve on the Council a Vacancy Notice in respect of each Rented Unit not less than four weeks prior to such newly constructed and previously unoccupied Rented Unit becoming available for occupation.

3.3 The Council shall within 10 working days of receipt of a Vacancy Notice serve upon the RSL the Nomination List setting out a list of Nominees.

3.4 The Nomination List to be served by the Council under clause 3.3 shall:

3.4.1 specify the appropriate category of Rented Unit to which it relates; and

3.4.2 indicate the priority for the housing of the Nominees.

3.5 The RSL shall have the right to let the Initial Let in respect of the Rented Units to persons of its own choosing in the event of the Council's failure to serve the Nomination List referred to in clause 3.3 within the period of 10 working days of receipt of the Vacancy Notice.

3.6 The RSL shall within five working days of the date of receipt of the Nomination List referred to in clause 3.3 select a Nominee from the Nomination List in priority order and shall use its reasonable endeavours to arrange viewing of the relevant Rented Unit and offer a Tenancy Agreement to such selected Nominee.

3.7 If the selected Nominee fails to enter into a Tenancy Agreement within three working days of receipt of the RSL's offer of a Tenancy Agreement such selected Nominee shall be deemed to have rejected the RSL's offer and the RSL shall select another Nominee whereupon the procedure set out in clause 3.6 and this clause shall be repeated.

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3.8 In the event of the second selected Nominee failing to accept the RSL's offer of a Tenancy Agreement within the time prescribed by clause 3.7 then the RSL shall make an offer to a third Nominee and the procedure set out in clauses 3.6 and 3.7 shall apply but in the event of such third selected Nominee failing to accept the RSL's offer of a Tenancy Agreement within the prescribed time limits the RSL shall not be bound to make any further offers of accommodation to Nominees in respect of such vacancy of the Rented Unit but shall be entitled to let the Rented Unit to a tenant of its own choosing.

3.9 The RSL's obligations under clauses 3.1 to 3.8 shall cease when all of the Rented Units have been offered to Nominees in accordance with clauses 3.6 to 3.8.

Voids

3.10 Should a Rented Unit become a Void after the Initial Let or the RSL has reasonable cause to believe it will become a Void then and in each case:

3.10.1 the RSL shall serve a Void Notice in respect of the relevant vacant Rented Unit; and

3.10.2 within 10 working days of receipt of the said notice the Council shall serve upon the RSL the Nomination List setting out a list of Subsequent Nominees which shall contain the information referred to in clause 3.4.

3.11 The RSL shall have the right to let the relevant vacant Rented Unit to a person of its own choosing in the event of the Council's failure to serve the Nomination List referred to in clause 3.10 within 10 working days of receipt of the Void Notice.

3.12 Upon receipt of the Nomination List referred to in clause 3.10 the RSL shall follow the procedure mutatis mutandis set out in clauses 3.6 to 3.8.

3.13 The RSL shall not be obliged to follow the procedure set out in clauses 3.10 to 3.12 if it would result in the Subsequent Nominees being nominated for more than 75 per cent of the Rented Units available after the Initial Let and shall have the right to let the relevant vacant Rented Unit to a person of its own choosing.

Provision of information and alteration of lists

3.14 The RSL shall give notification to the Council of the occurrence of the following events within five working days of their occurrence:

3.14.1 a Nominee or Subsequent Nominee failing to view a Rented Unit within 5 working days of an offer being made;

3.14.2 a Nominee or Subsequent Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Agreement;

ARUN DISTRICT COUNCIL A/45/22/PL

3.14.3 a Nominee or Subsequent Nominee accepting an offer of a Tenancy Agreement;

3.14.4 a person accepting an offer of a tenancy from the RSL;

3.14.5 the RSL rejecting a Nominee or Subsequent Nominee in accordance with clause 3.20.

3.15 In the event of a notice being served pursuant to clause 3.14 then the name of such Nominee or Subsequent Nominee shall be removed from the Nomination List.

3.16 Within 10 working days of the Council receiving notice served in accordance with clause 3.14 above save for notice under 3.14.4 the Council shall serve upon the RSL the name and address of a Nominee or Subsequent Nominee to add to the Nomination List such notice to include the information set out in clause 3.4.

3.17 If the Council shall within the period mentioned in clause 3.16 notify the RSL that the Council then has no suitable Nominee or Subsequent Nominee the Council shall advise the RSL of a suitable replacement Nominee or Subsequent Nominee as soon as reasonably practicable.

3.18 The RSL shall have the right to let a Rented Unit to a person of its choosing if the Council's failure to provide a Nominee or Subsequent Nominee creates a Void in respect of that Rented Unit.

3.19 On 1 April, 1 July, 1 October and 1 January in each year the RSL shall serve the Council with details of the letting activities of the Rented Units in a format to be agreed between the RSL and the Council.

3.20 The RSL shall have the right to interview and make enquiries of each Nominee or Subsequent Nominee and by serving written notice upon the Council to that effect to reject any Nominee or Subsequent Nominee if in the reasonable opinion of the RSL the grant of an Assured Tenancy to such Nominee would be in contravention of the RSL's registered rules or its letting criteria.

3.21 The Council shall immediately notify the RSL in writing if any Nominee or Subsequent Nominee is withdrawn from the Nomination List.

3.22 When calculating percentage for the purposes of this Agreement percentage equal to or in excess of 0.5 shall be rounded up and percentages less than 0.5 shall also be rounded up.

3.23 The Council and the RSL agree that the nomination rights contained in this Agreement may be varied from time to time but only by agreement in writing by the parties.

ARUN DISTRICT COUNCIL A/45/22/PL

4 NOTICES

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall have been deemed to have been served two working days after posting.

5 TRANSFERS TO OTHER REGISTERED SOCIAL LANDLORDS

The RSL shall ensure that any registered social landlord to which the Property and Rented Units erected thereon are transferred otherwise than by direction of the Housing corporation under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council.

6 MORTGAGEES IN POSSESSION

The provisions of this Agreement shall not apply to any mortgagee in possession or anyone deriving title therefrom or any individual dwelling in respect of which the right to acquire under the Housing Act 1996 Part 1 Chapter 11 or under any other statutory provisions has been validly exercised.

7 DISPUTES

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by the President for the time being of the chartered Institute of Housing.

8 COSTS

The RSL agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this Agreement.

9 AGREEMENTS AND DECLARATIONS

The parties agree:

9.1 nothing in this Agreement fetters or restricts the exercise by the Council of any of its powers; and

9.2 the obligations contained in this Agreement are covenants for the purpose of s33 of the Local Government (Miscellaneous Provisions) Act 1982.

THIS DOCUMENT HAS BEEN EXECUTED AS A AGREEMENT AND IS DELIVERED and takes effect on the date stated at the beginning of it.

ARUN DISTRICT COUNCIL A/45/22/PL

EXECUTION PAGE

SIGNED as a DEED by)

RUSTINGTON GOLF CENTRE LIMITED)

acting by a director:-)

.....

Director

in the presence of:-

.....

(Full name of witness)

.....

(Signature of witness)

.....

.....

.....

.....

Address

.....

Occupation

ARUN DISTRICT COUNCIL A/45/22/PL

SIGNED as a DEED by)

RUSTINGTON INVESTMENTS (NO. 1) LIMITED)

acting by a director:-)

.....

Director

in the presence of:-

.....

(Full name of witness)

.....

(Signature of witness)

.....

.....

.....

.....

Address

.....

Occupation

ARUN DISTRICT COUNCIL A/45/22/PL

Signed as a deed for **STORRIER TRADING LIMITED** by:

.....

Authorised Corporate A Signatory

In the presence of:

.....

Signature of Witness

.....

Name of Witness

.....

.....

.....

Address

.....

Authorised Corporate A Signatory

In the presence of:

.....

Signature of Witness

.....

Name of Witness

.....

.....

.....

Address

ARUN DISTRICT COUNCIL A/45/22/PL

EXECUTED as a **DEED** by [redacted].... and .... as attorneys pursuant to a Power of Attorney dated 15 October 2021 for and on behalf of **BDW TRADING LIMITED**

[redacted]

[redacted]

LAUREN GOLDSMITH

Name of Witness

BDW Southern Counties
Compton House
The Guildway
Old Portsmouth Road
Guildford GU3 1LR

Address

[redacted]

[redacted]

Signature of Witness

LAUREN GOLDSMITH

Name of Witness

BDW Southern Counties
Compton House
The Guildway
Old Portsmouth Road
Guildford GU3 1LR

Address

ARUN DISTRICT COUNCIL A/45/22/PL