

DATED 24th February 2023

(1) ARUN DISTRICT COUNCIL

(2) WEST SUSSEX COUNTY COUNCIL

(3) OWNER

(4) MORTGAGEE

24.2.2023

Agreement pursuant to Section 106 of The Town and Country Planning Act
1990 relating to Land at 2-10 The Hatters Inn, Queensway, Bognor Regis
PO21 1QT

Application Reference: BR/294/21/PL

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

DX: 57406 Littlehampton
Legal Ref: LS/9388

THIS DEED is dated

24th February

2023

PARTIES:

- (1) **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton BN17 5LF ("the Council");
- (2) **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, PO19 1RQ ("the County Council");
- (3) **REGENT PROPERTY HOLDINGS LIMITED** incorporated and registered in England and Wales with company number 05734344 whose registered office is at 93 Aldwick Road, Bognor Regis, West Sussex PO21 2NW ("the Owner")
- (4) **CDW FINANCE LIMITED** incorporated and registered in England and Wales with company number 10367091 whose registered office is at 1 Manor Court, Barnes Wallis Road, Segensworth, Fareham, Hampshire PO15 5TH ("the Mortgagee")

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and the authority responsible for the provision of housing, leisure and recreation services.
- (B) The County Council is a planning authority for the area in which the Property is situated and the authority for the provision of education, library services, fire and rescue services and is the Local Highway Authority.
- (C) The Council shall be responsible for enforcing this Agreement for all purposes.
- (D) The County Council shall be responsible for enforcing this Agreement so far as education, library services, fire and rescue and highways matters are concerned.
- (E) The Owner is the registered proprietor with Title Absolute of the Property registered at HM Land Registry under Title Number SX273829.
- (F) The Owner has made the Planning Application BR/294/21/PL which has been refused by the Council and has appealed the Council's decision.
- (G) This Deed is intended to create planning obligations for the purposes of Section 106 of the Act.
- (H) The Owner has agreed to enter into this Agreement to give planning obligations to the Council and the County Council upon the terms and subject to the conditions herein.
- (I) The Mortgagee has agreed to enter into this Agreement to give its consent to the terms set out herein.

NOW THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

In this Deed:

- 1.1 Words Importing the masculine include the feminine and vice versa
- 1.2 Words importing the singular include the plural and vice versa
- 1.3 Words importing persons include companies and corporations and vice versa
- 1.4 Any reference to a clause or schedule or plan is to a clause schedule or plan in to or attached to this deed
- 1.5 Any reference to a colour or letter is to a colour or letter on the plan attached to this deed
- 1.6 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it
- 1.7 References to any party to this deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their functions as local planning authority and local housing authority.
- 1.8 The headings are for reference only and shall not affect construction

2. DEFINITIONS

It is hereby agreed between the parties set out in this Deed that the following expressions have the following meanings:

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- 1.8 The headings are for reference only and shall not affect construction

2. DEFINITIONS

It is hereby agreed between the parties set out in this Deed that the following expressions have the following meanings:

“Act” means the Town and Country Planning Act 1990 as amended;

“Access Management Contribution” means the sum of £871.00 per dwelling to a total of £37,453.00 towards the cost of delivering measures to avoid, or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development.

“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 4.8, 4.9 or 6 of Schedule 2, 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 and expenses that are payable by the First Homes Owner to the Mortgagee 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 Dwellings"

means a Dwelling to be provided as Affordable Housing together with rights and easements over the Property to provide access to the Dwelling and such entrance way corridors parking areas and other ancillary areas as are necessary for the enjoyment of such a Dwelling including car parking in accordance with Schedule 1.

"Affordable Housing"

means the Affordable Housing Units at the Development comprising First Homes, Affordable Rented Housing and Intermediate Housing provided to eligible households whose needs are not met by the market and which should meet the needs of eligible households, including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices and shall include provision for the home 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;

"Affordable Mix"

Housing

means the unit mix of Affordable Housing Units at the Development which shall be agreed by the Council;

"Affordable Scheme"

Housing

means a scheme to be submitted by the Owner and approved by the Council which will include (unless otherwise agreed in writing with the Council's Housing Officer):

- (a) the location of the Affordable Housing Units;
- (b) the accommodation mix of the Affordable Housing Units, and
- (c) the tenure mix of the Affordable Housing Units

which may be amended from time to time with the written agreement of the Council;

"Affordable Units"	Housing	means the minimum of 30% of the Dwellings that are to be provided as Affordable Housing comprising a minimum of: (a) 9 Affordable Rented Housing Units; (b) 3 First Homes; and (c) 1 Intermediate Housing Unit; (or such other tenure mix as may be agreed with the Council) and such units shall be provided in accordance with the Affordable Housing Mix unless otherwise agreed with the Council
"Affordable Housing"	Rented	means rented housing let by a Registered Provider to eligible households at rent which is no higher than 90% (including service charges where applicable) of the Local Housing Allowance;
"Affordable Housing Units"	Rented	means 67% of the Affordable Housing Units that are to be provided as Affordable Rented Housing unless otherwise agreed with the Council;
"Application"		means an application in respect of the Land for the Development and given Council reference BR/294/21/PL
"Armed Member"	Services	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;
"Avisford Park Recreation Ground Contribution"		means the following sums towards the improvement and maintenance of facilities at Avisford Park, Bognor Regis: (1) £4571.00 towards the cost of the improvement of the grass playing surface of the football ground; (2) £19,240.00 towards the cost of maintenance for a period of 20 years of the grass playing surface;

	(3) £11,874 for improvements to ancillary facilities at Avisford Park, Bognor Regis.
"BCIS Index"	means the All in Tender Price Index published by the Building Costs Information Service on behalf of the Royal Institution of Chartered Surveyors (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;
"Bognor Regis Rugby Club Contribution"	means the following sums towards the improvement and maintenance of facilities at Bognor Regis Rugby Club: (1) £1497.00 towards the cost of the improvement of the grass playing surface; (2) £6,400.00 towards the cost of maintenance for a period of 20 years of the grass playing surface; (3) £3,688.00 for improvements to ancillary facilities at the Bognor Regis Rugby Club.
"CIL Regulations"	means the Community Infrastructure Regulations 2010 (as amended)
"Cluster"	shall mean a group of Affordable Dwellings which does not have contiguous boundaries with another group of Affordable Dwellings.
"Commencement of Development"	means the carrying out of a material operation as defined in Section 56(4) of the Act which is not a Preparatory Operation and "Commencement" , "Commenced" and "Commences" shall be construed accordingly;
"Commencement Date"	means the date on which the Commencement of the Development occurs;
"Commencement Notice"	means the written notice confirming the Commencement Date referred to in Clause 6.1.1 and served in accordance with Clause 6.3;
"Compliance Certificate"	means the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 4.2 of Schedule 2 applies the Eligibility Criteria (Local) in the form at Appendix 4

"County Council Monitoring Fee"	means the sum of 600 payable to the County Council in accordance with paragraph 1.1 of Schedule 4;
"CPI"	means the Consumer Price Index published from time to time by the Office of National Statistics;
"Development"	the development of the Property as described in the Planning Application;
"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 5 of Schedule 2; (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;
"Dwelling"	means a residential dwelling forming part of the Development and "Dwellings" shall be construed accordingly;
"Education Contribution"	means the following sums payable to the County Council towards educational services: (a) £9,417.00 towards additional facilities at Edward Bryant Primary School; (b) £55,490.00 on facilities at the new secondary school in the district of Arun; (c) £2,374.00 on additional facilities for sixth form at Felpham Community College provided that where the Operative Date of the proposed Development shall take place after the 31 March 2023 the Education Contribution shall be increased by an amount equal to the proportionate increase in the All Items Index between the month

preceding the date of this Agreement and the month preceding the Operative Date.

“Eligibility Criteria”

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 is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer)

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;;

“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 6 of Schedule 2 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 5 of Schedule 2;

“Fire Services Contribution”

means the sum of £902.00 to be used towards the supply and installation of additional fire safety equipment and smoke alarms to vulnerable persons' homes in West Sussex Fire Rescue Services Southern Area serving Bognor Regis. provided that where the Operative Date of the proposed Development shall take place after the 31 March 2023 the Fire Services Contribution shall be

increased by an amount equal to the proportionate increase in the All Items Index between the month preceding the date of this Agreement and the month preceding the Operative Date.

"First Homes"	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 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) the freehold a tenant or sub-tenant of a permitted letting under paragraph 5 of Schedule 2;
"First Time Buyer"	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;
"Health Services Contribution"	means the sum of £45,730.00 towards the cost of the provision of the Bognor Regis Medical Centre and GP practices in the area.
"Health and Fitness Contribution"	Means the sum of £5,600.00 towards the cost of additional provision of health & fitness facilities for the West of the District.
"Homes England"	means the Homes and Communities Agency trading as Homes England as established under the Housing and Regeneration Act 2008 or such other body as shall replace it;
"Housing Allocations Policy"	means the prevailing Council policy which sets out eligibility for households on the Council's housing register and the procedure for nominations from

the housing register to Affordable Housing Units when allocations are made;

“Income Cap”

means:

(a) On the first sale of the First Home eighty thousand pounds (£80,000); or

(b) On a second or subsequent sale of a First Home such sum (if any) as may be published by the Council from time to time as the “First Homes Income Cap” for Arun District and is in operation at the time of the relevant disposal of the First Home ;

“Index”

means the “All Items” index figure of the Index of Retail Prices published by the Office for National Statistics or any successor government office, ministry or department

“Index-Linked”

means indexation (which may increase or decrease) calculated in accordance with Clause 9.22 below and for the contributions due to the County Council means such increase to sums payable to the County Council by an amount equal to the proportionate increase in the All In Tender Price Index published by the Building Costs Information Service (BCIS) of the Royal Institute of Chartered Surveyors between the 4th February 2022 and the date that payment of the relevant contribution is due to the County Council;

“Interest”

means interest at the rate of 4% above the Bank of England base rate applicable at the Specified Date which shall be calculated on a day to day basis;

“Intermediate Housing”

means housing for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above, which can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but are not Affordable Rented Housing Units or such other forms of intermediate tenure as are defined as affordable housing under the National Planning Policy Framework as that definition may be amended from time to time;

“Intermediate Housing Units”

means the Affordable Dwelling to be provided as a Shared Ownership Unit being the minimum of 10% of the Affordable Housing Units that are to be

provided as Intermediate Housing unless otherwise agreed with the Council;

“Key Worker”

means such categories of employment as may be designated and published by the Council from time to time as the “First Homes Key Worker criteria” and are 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 it being acknowledged that at the date of this Deed the Council has not designated any categories of employment as Key Worker;

“Local Housing Allowance”

means the rates calculated for the Council's area by the Valuation Office Agency used to calculate housing benefit for tenants renting from private landlords.

“Leisure Contributions”

means the following:

- (a) the Avisford Park Recreation Ground Contribution;
- (b) the Bognor Regis Rugby Club Contribution;
- (c) the Health and Fitness Contribution;
- (d) the Offsite Play Contribution;
- (e) the Public Open Space Contribution;
- (f) the Sports Hall and Flexible Activity Contribution; and
- (g) the Swimming Pool Improvements Contribution.

“Libraries Contribution”

means the sum of £10,688.00 towards the provision of additional facilities at Bognor Regis Library provided that where the Operative Date of the proposed Development shall take place after the 31 March 2023 the Libraries Contribution shall be increased by an amount equal to the proportionate increase in the All Items Index between the month preceding the date of this Agreement and the month preceding the Operative Date.

"Local Connection Criteria"

means local connection criteria as may be designated and published by the Council from time to time as its "First Homes Local Connection Criteria" and which are in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such criteria or 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 it being acknowledged that at the date of this Deed the Council has not designated any criteria as Local Connection Criteria;

"Management Company"

means a limited company or companies registered at Companies House which may already be in existence or which may be formed by the Owners for the purposes of carrying out future maintenance of the Public Open Space (insert other purposes eg SuDS) the details of which have been provided to the Council which satisfy the Council that: -

1. it is incorporated in England and Wales or Scotland;
2. it has a registered office in England or Scotland;
3. its primary objects permit it to maintain and renew the Public Open Space (and other purposes set out);
4. it will be properly funded and able to undertake its management and maintenance obligations.

"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;

"Monitoring Fee"

means a sum of £6150.00 (Six Thousand One Hundred and Fifty Pounds) payable to the Council in accordance with paragraph 1.1 of Schedule 3 in accordance with Regulation 122(2A) of CIL in respect of the cost of monitoring (including reporting under CIL) in relation to the delivery of these Planning Obligations

"Mortgagee"

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;

"Occupation"	means occupation for any purpose for which the Planning Permission has been granted by the Council other than occupation by personnel for the purposes of construction or fitting out or occupation for security, marketing or display and "First Occupation" and " Occupy " and " Occupied " shall be construed accordingly;
"Occupation Date"	means the date on which the first Dwelling is Occupied;
"Occupation Notice"	means the written notice confirming the Occupation Date referred to in Clause 6.1.2;
"Offsite Play Contribution"	means the sum of £74,402.90.00 towards offsite play opportunities at Hotham Park, Bognor Regis
"Open Market Units"	means those Dwellings that are not delivered as Affordable Housing;
"Operative Date"	means the date the Development is commenced
"Pagham Harbour"	means a Special Protection Area, also known as a Natura 2000 site, in Pagham, West Sussex in the District of Arun, identified as being of international importance for the breeding, feeding, wintering, or migration of rare and vulnerable species of birds naturally occurring in the European Union.
"Plan"	means the site plan attached to this deed at Appendix 3;
"Planning Application"	means the application for planning permission registered by the Council for a 3-storey upward extension and redevelopment of the existing 1st and 2nd floor delivering 43 flats registered by Arun District Council under reference number BR/294/21/PL

"Planning Authority"	means the Council and the County Council
"Planning Permission"	means planning permission for the Development granted pursuant to the Planning Application;
"Practically Completed"	means practically complete save for minor snagging items such that it is reasonably fit for Occupation or use (and Completion shall not be achieved unless all the services to and from the Dwelling are connected and operating and it is accessible by both vehicles and pedestrians and they are ready for Occupation) and the words "Practical Completion" and "Practically Complete" shall be construed accordingly;
"Preparatory Operation"	means an operation or item of work of or connected with or ancillary to: (a) archaeological investigation; (b) exploratory boreholes and trial pits; (c) survey of existing structures; (d) demolition; (e) site clearance (including associated temporary works) and/or site preparation; (f) site reclamation and site remediation works; (g) preliminary landscaping; (h) diversion decommissioning and/or laying of services for the supply or carriage of water, sewerage, gas, electricity, telecommunications or other media or utilities; (i) the erection of fences hoardings and scaffolding; and (j) construction of temporary access and service roads; and (k) other works and site establishment preparatory to the commencement of construction including ecological works and temporary extinguishment and closure of public rights affecting the Property and operations permitted by the Town and Country Planning (General Permitted Development) England Order 2015;

"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;
"Property"		means land at 2-10 The Hatters Inn, Queensway, Bognor Regis PO21 1QT as shown edged red on the Plan;
"Public Open Space Contribution"		means the sum of £84,761.60.00 towards offsite open space improvements at the Sunken Gardens in Bognor Regis
"Registered Provider"		means a provider of social housing included in the register of registered providers of social housing maintained by the Regulator under the Housing and Regeneration Act 2008 or as redefined in any amendment replacement or re-enactment of such Act;
"Registered Provider Affordable Housing"		means the Affordable Rented Housing Units and the Intermediate Units;
"Registered Mortgagee"	Provider	means any mortgagee or chargee of the Registered Provider Affordable Housing and any receiver (including an administrative receiver) and manager 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;
"Reserved Applications"	Matters	means the application/s for Reserved Matters Approval made to the Council in respect of each of the reserved matters pursuant to the Planning Permission;
"Reserved Approvals"	Matters	means a reserved matters approval granted by the Council pursuant to a Reserved Matters Application(s) pursuant to the Planning Permission;
"SDLT"		means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;

"Secretary of State"	means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function;
"Section 73 Consent"	means a planning permission granted pursuant to Section 73 of the Act which varies and/or removes any condition subject to which the Planning Permission and/or such planning permission pursuant to Section 73 of the Act was granted;
"Shared Ownership Lease"	means a shared ownership lease for a term of years of at least 125 years in the form regulated by the Homes England from time to time and which shall accord with the requirements and be consistent with any model shared ownership lease from time to time established by the Homes England
"Signed For Delivery"	means post that when received must be signed for by the recipient.
"Specified Date"	means the date upon which an obligation arising under this deed is due to be performed;
"Sports Hall and Flexible Activity Contribution"	means the sum of £17,152.00 towards the following: (a) the provision of additional multi-use sports hall/flexible activity/studio space and drychanging rooms to increase capacity and overall customer experience at Arun Leisure Centre; (b) the provision of additional multi use sports hall/flexible activity/studio space and dry changing to increase the leisure capacity in the West of the district.
"Swimming Pool Improvements"	means the sum of £18,972.00 towards the expansion and reconfiguration of wet side changing rooms at Arun Leisure Centre and/or the provision of wet side changing rooms as part of a new leisure centre for the West of the district.
"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;
"Working Day"	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England;

ENABLING PROVISIONS

- 3.1 This Deed is made pursuant to section 106 of the Act, Section 111 of the Local Government Act 1972, and Section 1 of the Localism Act 2011 and all other enabling powers
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations under Section 106 of the Act and are enforceable by the Council and the County Council as local planning authorities as appropriate against the Owners in accordance with Section 106 of the Act.

4. CONDITIONS PRECEDENT

- 4.1 This Deed shall come into effect upon the date hereof but the provisions in the Schedules shall only take effect upon:
- 4.1.1 the granting of Planning Permission; and
- 4.1.2 the Commencement of Development.
- 4.2 In the event that the Application or Planning Condition is subject to an appeal then each Planning Obligation in this Agreement is also conditional upon:
- 4.2.1 The Secretary of State or the planning inspector deciding the appeal being satisfied that it is:
- 4.2.1.1 Necessary to make the Development acceptable in planning terms;
- 4.2.1.2 Directly related to the Development;
- 4.2.1.3 Fairly and reasonably related in scale and kind to the Development; and
- 4.2.1.4 Complies in all other respects with Regulation 122 of the CIL Regulations
- 4.2.2 In the event that the that the Secretary of State or the planning inspector deciding the appeal expressly states in his Decision Letter that any individual Planning Obligation within the Agreement is not compliant with the CIL Regulations and/or the NPPF or is immaterial to the grant of the Planning Permission and that no weight has been given to the same in reaching his decision then that planning obligation or those planning obligations will cease to have effect and shall be void for the purposes of this Agreement and shall have no effect and the Owner shall not be obliged to comply with the terms of that obligation and the remaining clauses will remain in full force and effect provided that severance is achievable.

5. COVENANTS

- 5.1 The Owner covenants with the Council and the County Council to fully comply with and to perform the obligations contained herein and in the Schedules of this deed in accordance with the requirements and timescales contained therein.

- 5.2 The Council and the County Council covenant with the Owner to fully comply with and to perform the obligations contained herein and in the Schedules of this deed in accordance with the requirements and timescales contained therein.

6. **NOTICES**

- 6.1 The Owner covenants with the Council as follows:

- 6.1.1 Not more than 7 (seven) days after the Development is Commenced the Owner shall serve on the Council and the County Council a Commencement Notice in the form set out in Appendix 1.
- 6.1.2 To give the Occupation Notice to the Council not less than 14 days before the anticipated Occupation Date
- 6.1.3 All payments due under this Agreement shall be forwarded to the payee and shall have attached to them a copy of the Payment Notice duly completed in the form of the draft annexed at Appendix 2.
- 6.1.4 Where this Agreement imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owners shall give the Council or the County Council notice of the Specified Date not more than seven days after such Specified Date;
- 6.1.5 If the Owners fail to give the notices required under this Clause 6.1 the Council or the County Council shall acting reasonably be entitled in their absolute discretion to determine the Specified Date and shall give notice

- 6.2 Any notice certificate or other communication required or permitted to be given hereunder shall be given in writing to the relevant party at the relevant address referred to above or such other address as may be notified in writing to the other party and must be served personally or by registered or recorded delivery post and

- 6.2.1 in the case of the Council the Owner shall address any notice to the Council at: Arun Civic Centre Maltravers Road, Littlehampton BN17 5LF marked for the attention of the Planning Department and quoting the Application number;
- 6.2.2 in the case of the County Council the Owner shall address any notice to: Monitoring and Records Team, Strategic Planning Division, County Hall, West Street, Chichester PO19 1RQ quoting the Application number: BR/294/21/PL;
- 6.2.3 in the case of the Owner at 93 Aldwick Road, Bognor Regis, West Sussex PO21 2NW marked for the attention of Adrian Burrows (Director); and
- 6.2.4 in the case of the Mortgagee at: 1 Manor Court, Barnes Wallis Road, Segensworth, Fareham, Hampshire PO15 5TH marked for the attention of [NAME/POSITION] ;

or at any other such other address as the relevant party shall specify by written notice to the other parties

- 6.3** Any notice certificate or other communication shall be deemed (in the absence of evidence of receipt) to have been received:

6.3.1 If delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that if delivery occurs before 9 am on a Working Day, the notice will be deemed to have been received at 9 am on that day, and if delivery occurs after 5 pm 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 am on the next Working Day

6.3.2 If sent by Recorded Delivery or other next working day delivery service at 9 am on the second Working Day after posting.

- 6.4** Any notice certificate or other communication delivered personally shall be deemed to have been delivered on the day of its despatch if despatched during or prior to normal business hours but otherwise on the next business day thereafter.

- 6.5** A notice or other communication given under this Agreement shall not be validly given if sent by email.

- 6.6** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

7. INTEREST

- 7.1** The Owner covenants with the Council to pay the Interest on sums due to the Council under this deed but not paid on the Specified Date from the Specified Date until actual payment. The rate of interest shall be the Interest Rate.

8. COSTS

- 8.1** The Owner covenants with the Council to pay to the Council on or before the date hereof the Council's reasonable legal costs incurred in preparing and entering into this Deed.

- 8.2** The Owner covenants with the County Council to pay to the County Council on or before the date hereof the County Council's reasonable legal costs incurred in preparing and entering into this Deed.

9. GENERAL

It is hereby agreed and declared that:

- 9.1** the covenants hereto to be observed and performed under this Deed shall be treated as Local Land Charges and registered at the Local Land Charges Registry by the Council for the purposes of the Local Land Charges Act 1975;

- 9.2** to the extent that they fall within the terms of Section 106 of the Act the obligations contained in Clause 5 and the Schedules hereof are planning obligations for the purposes of Section 106 of the Act;

- 9.3 this Deed constitutes a deed;
- 9.4 this Deed is enforceable by the Council and the County Council;
- 9.5 nothing in this deed confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999;
- 9.6 it is hereby agreed by the Owner that failure by the Council or the County Council (as the case may be) at any time to enforce the provisions of this deed or to require performance strictly or otherwise by the Owner of any of the conditions covenants agreements or obligations of this deed or any failure or delay by the Council or the County Council to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation and shall not affect the validity of this deed or any part thereof or the right of the Council or the County Council to enforce any provision and any variation of this deed shall not vitiate the remainder of the deed which shall remain in full force and effect subject to such amendment or amendments;
- 9.7 No waiver (whether expressed or implied) by the Council, the County Council or owner of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council, the County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default;
- 9.8 the Owner hereby consents to the registration of this Deed as a Local Land Charge;
- 9.9 if any provision in this deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired;
- 9.10 reference to any statute or statutory provisions includes a reference to:-
- 9.10.1 that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and
- 9.10.2 all statutory instruments or orders made pursuant to it whether before or after the date of this deed;
- 9.11 this Deed shall be governed by and interpreted in accordance with Laws of England and the Owner submits to the exclusive jurisdiction of the Courts of England;
- 9.12 the obligations in this Deed (with the exception of Clause 10) shall cease to have effect (insofar only as it has not already been complied with) if before the Commencement of Development the Planning Permission:
- (a) expires;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge

but will remain in full force and effect so far as any subsisting Section 73 Consent is concerned;

9.13 the obligations in this Deed shall cease to have effect (insofar only as it has not already been complied with) in so far only as the relevant Section 73 Consent is concerned if before the Commencement of Development the relevant Section 73 Consent:

- (a) expires;
- (b) is varied or revoked other than at the request of the Owner or
- (c) is quashed following a successful legal challenge

but will remain in full force and effect so far as the Planning Permission and any other subsisting Section 73 Consent is concerned;

9.14 no persons shall be liable for any breach of any of the Planning Obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Land, or such part of the Land to which the breach relates, but without prejudice to liability for any subsisting breach arising prior to parting with such interest

9.15 the obligations in this deed shall not be enforceable:

- (a) against individual lessees or purchasers and their successors in title occupying or entitled to occupy Dwellings within the Development; or their mortgagees or chargees and successors in title to such mortgagees or chargees save for
 - (i) the provisions of Schedule 1 which shall bind occupants of the Registered Provider Affordable Housing and
 - (ii) the provisions of Schedule 2 which shall bind a First Homes Owner as set out in that Schedule; or
- (b) against any statutory undertaker whose apparatus may be situated within the Property; or
- (c) against Registered Providers save for the provisions of Schedule 1
- (d) against mortgagees or chargees or their successors in title unless the breach was committed or continuing at a time when the mortgagee is in possession of all or any part of the Property;

9.16 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies to the covenants in this deed;

9.17 references to the Property include any part of it;

9.18 "including" means "including without limitation";

9.19 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;

9.20 nothing in this Deed shall prohibit or limit the right to develop any part of the Property in accordance with any planning permission (other than the Planning Permission or any modification variation or amendment thereof) granted after the date of the Planning Permission;

9.21 subject to the proviso to this Clause if any Section 73 Consent is granted after the date of this deed:

- (a) the obligations in this deed shall relate to and bind such Section 73 Consent; and
- (b) the definitions of Application, Development and Planning Permission (other than for the purposes of Clause 1) shall be construed to include reference to (respectively) the planning application for the Section 73 Consent the development permitted by the Section 73 Consent and the Section 73 Consent itself,

PROVIDED THAT:

- (a) nothing in this Clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same;
 - (b) to the extent that any of the obligations in this deed have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent.
- 9.22 (a) unless there is an express provision to the contrary the Owner agrees with the Council that any sum payable by the Owner and referred to in the Schedules shall be increased by the application of the following formula:

$$A=B \times (C/D)$$

Where:

A is the sum actually payable on the Specified Date

B is the original sum mentioned in this Agreement

C is the Inflationary Index for the month two months before the date that the Specified Date

D is the Inflationary Index for the month two months before the date that the Planning Permission is granted

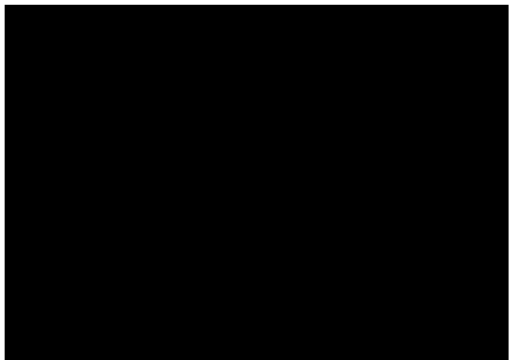
C/D is equal to or greater than 1

- (b) Where reference is made to an index (including the RPI Index and the BCIS Index) and that index ceased to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Agreement) or in the event the index is not replaced to an alternative reasonably comparable basis or index as the

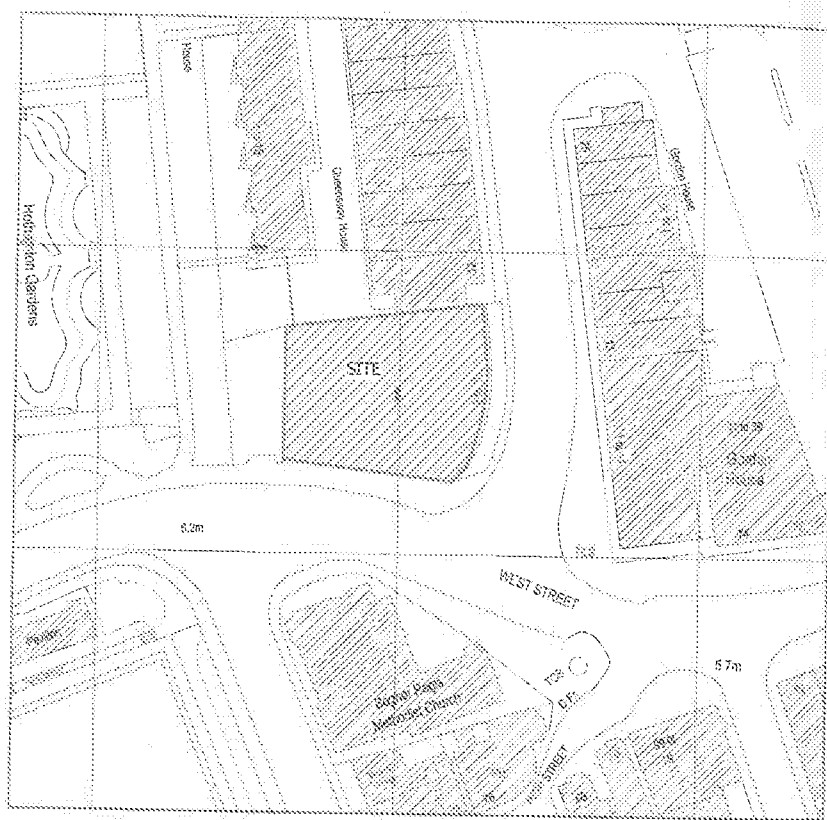
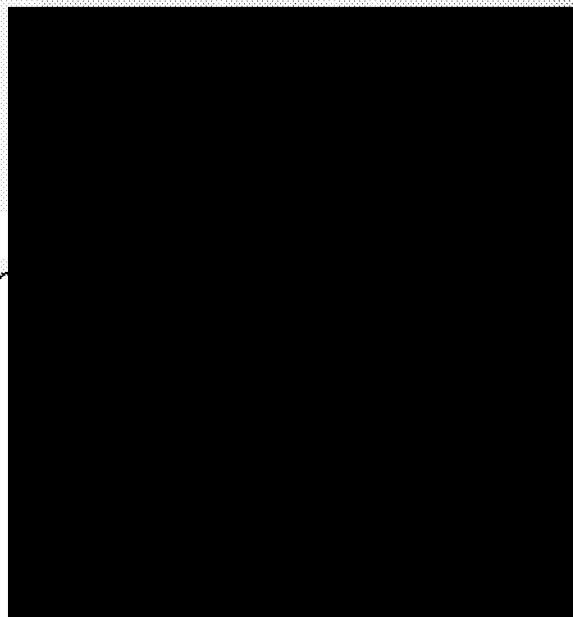
Council or the County Council (as applicable) shall advise the Owner in writing.

10. DISPUTE RESOLUTION

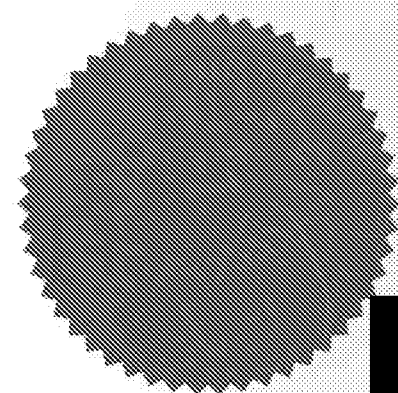
- 10.1** Where any matter the subject of this Agreement shall be in dispute the parties shall use their reasonable endeavours to resolve the same within twenty-eight days of the dispute arising.
- 10.2** Failing the resolution of any such dispute disagreement or difference within twenty-eight days of the same arising it may be referred for determination in accordance with the provisions of this clause 10 on the reference of any of the parties to the dispute.
- 10.3** Any dispute disagreement or difference arising out of the provisions relating to Affordable Housing the same shall be referred to an independent Chartered Surveyor of at least fifteen (15) years standing who shall be nominated in default of agreement between the Owner and the Council or the County Council as appropriate by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy
- 10.4** In the case of any legal requirement or interpretation or other matter regarding this Agreement the same shall be referred to Counsel of at least fifteen (15) years' experience in such matters who shall be appointed in default of agreement between the Owner and the Council or the County Council (as the case may be) by the Chair of the Bar Council or the Vice-Chair of the Bar Council; and
- 10.5** The determination of the expert (including any determination as to the responsibility for the payment of his own costs and those of the parties) shall be final and binding upon the parties and on any persons claiming through or under them and judgement upon the matter may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be.
- 10.6** The terms of reference of any Expert appointed to determine a dispute disagreement or difference shall include the following:
- 10.6.1** The Expert shall call for representations from both parties within 21 days of a reference to him under this Agreement and require the parties to exchange representations within this period;
- 10.6.2** The Expert shall allow the parties to the arbitration 14 days from the expiry date of the period referred to in 10.6.1 above to make counter representations;
- 10.6.3** Any representations or counter representations received out of time may be disregarded by the Expert;
- 10.6.4** The Expert shall provide the parties with a written decision (including his reasons) within 28 days of the last date of receipt of counter representations and he shall be entitled to call for such independent expert as he shall think fit;
- 10.6.5** The Expert's costs and the costs of any independent expert advice called for by the Expert shall be included in the award;



In the presence of



LOCATION PLAN, Sc. 1:1250



4/7/2023

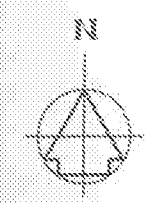


30951/2/3/4/23-02-2023



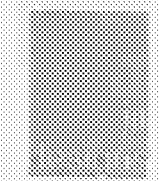
JLR DESIGNS Limited
Typical dimensions only are to be used. All dimensions to be checked on site. Differences between drawings and between drawings and specification or bills of materials to be reported to JLR Designs Ltd. This drawing is prepared for the application for:
1. Planning permission
2. Building Regulation Formwork
on behalf of the architect named herein and for no other purpose.
The copyright of this drawing and design remains JLR Designs Ltd.
All rights are reserved for the architect, they may not be used for any other purpose without the written permission of JLR Designs Ltd.

Revisions:



LEGEND:

AREA OF THE SITE



Suite 2b,
Church House,
94 Felpham Road
Felpham
West Sussex,
PO22 7PG
TEL: 01243 823681

Architectural
Services
Planning
Building Regs
On Site Supervision
Landscape Design

e-mail: info@jlrdesigns.com

Client:

REGENT PROPERTIES

Project:

2-10 QUEENSWAY
BOGNOR REGIS, PO21 1QT

Drawing Title:

LOCATION PLAN

Issue status:

Outline proposals ☐ Production information ☐ Scheme design ☐
Tender drawing ☐ Detail design ☐ Contract drawing ☐

Scale	Drawn:	Checked:	Approved:	Date:
1:1250	I. Bruma	R. Stefanski		23.12.2021
Job No:	Drawing No:	Revision:		
1375	150			

©A3

10.6.6 Unless this Agreement has already been terminated each of the respective parties shall in every case continue to comply with its obligations under this Agreement regardless of the nature of the dispute for resolution pursuant to this clause 10.6 (but without prejudice to the rights and obligations of the respective parties in relation to the termination of the Agreement).

11. CHANGE IN OWNERSHIP

11.1 SAVE FOR dispositions to individual Occupiers of Dwellings the Owner covenants with the Council and the County Council to give the Council and the County Council written notice of any change in Ownership of any of its interests in the Property 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 Property or unit of occupation purchased by reference to a plan.

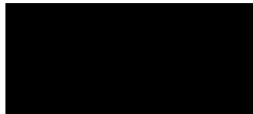
This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED AS A DEED by affixing

the Common Seal of

ARUN DISTRICT COUNCIL

in the presence of

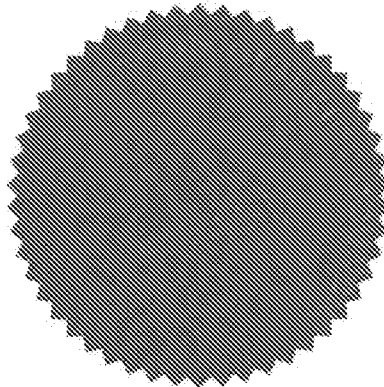


Authorised Signatory

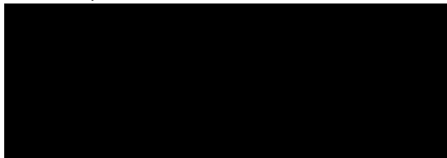
Name: *SOFINA AHMED*

Job Title: *SOLICITOR*

Seal Book Number: *47/2023*



EXECUTED AS A DEED by affixing
the Common Seal of
WEST SUSSEX COUNTY COUNCIL
in the presence of



Authorised Signatory

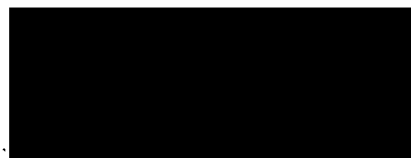
Name:

Job Title:

Seal Book Number:



EXECUTED AS A DEED by RE-
GENT PROPERTY LIMITED acting
by a director



Director signature



Director name



In the presence of:

Witness signature

Witness name:

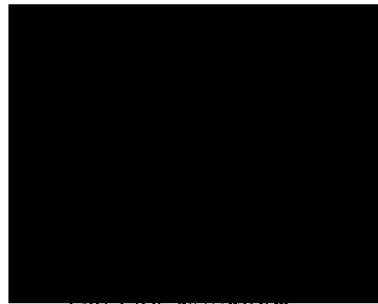
Witness address:

Witness occupation:



THE FARMHOUSE, Oving, CHICHESTER
W.SX PO20 2DD
COMPANY DIRECTOR

EXECUTED AS A DEED by CDW
FINANCE LIMITED acting by a director



Director signature

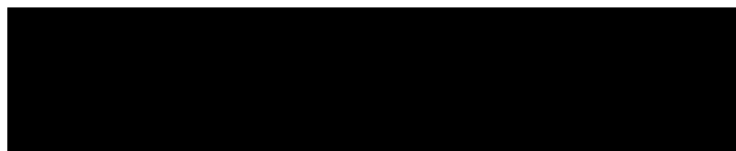
In the presence of:



Witness name:

Witness address:

Witness occupation:



11, SARTONS CLOSE
HAYLING ISLAND
PO11 9PL
(DIRECTOR)

SCHEDULE 1

AFFORDABLE HOUSING GENERAL PROVISIONS

The Owner covenants with the Council as follows:-

1. To submit the Affordable Housing Scheme as part of a Reserved Matters Application in respect of the Planning Permission and not to Commence Development until the Council has approved the Affordable Housing Scheme in writing
2. To implement the approved Affordable Housing Scheme (and any amendment thereto as may be approved by the Council from time to time) and to construct and deliver the Affordable Housing Units in accordance with the approved Affordable Housing Scheme
3. To provide a vehicular and pedestrian access and connections to adequate foul and surface water sewers and water gas electricity and telecommunication service systems to the Affordable Housing Units linking in each case to the estate roads sewers and service systems to be constructed and laid as part of the remainder of the Development and connected to highways and sewers maintainable at the public expense

Registered Provider Affordable Housing

4. Unless otherwise agreed with the Council, not to Occupy any of the Open Market Units of the Development unless and until either:
 - 4.1. the land upon which the Registered Provider Affordable Housing is to be constructed is the subject of a binding contract that provides for its disposal from the Owner to the Registered Provider together with a contract for the construction of the Registered Provider Affordable Housing; or
 - 4.2. the Registered Provider Affordable Housing is the subject of a binding contract for transfer from the Owner to the Registered Provider in a clean condition and fully serviced unless otherwise agreed in writing by the Council.
5. Unless otherwise agreed with the Council not to permit the Occupation of more than 50% of the Open Market Units until 100% of the Registered Provider Affordable Housing has been Practically Completed in accordance with the approved Affordable Housing Scheme.
6. Not to permit the Occupation of more than 50% of the Open Market Units until 100% of the Registered Provider Affordable Housing has been Practically Completed in accordance with the approved Affordable Housing Scheme and a freehold interest or minimum 125-year leasehold interest in the Registered Provider Affordable Housing has been transferred to the Registered Provider in accordance with paragraph 7 below.

7. Within any transfer of any Registered Provider Affordable Housing to the Registered Provider in accordance with paragraph 6 to require or procure the execution by the Registered Provider and delivery to the Council of a deed of nomination substantially (but subject to such amendments as may be agreed between the Registered Provider and the Council) in the form of the Council's template deed of nomination
8. The obligations in this Schedule will not be binding on:
 - 8.1. any owner or occupier who staircases out by acquiring 100% equity share in an Intermediate Unit; or
 - 8.2. a tenant or occupier who acquires the freehold or leasehold interest in an Affordable Rented Housing Unit pursuant to a statutory right to acquire or right to buy; or
 - 8.3. a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver")) of the whole or any part of the Registered Provider Affordable Housing or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
 - 8.3.1. such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Registered Provider Affordable Housing Units and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the Registered Provider Affordable Housing 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
 - 8.3.2. if such disposal has not completed within the 3 (three) month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Registered Provider Affordable Housing free from the obligations in this Schedule which provisions shall determine absolutely
9. For the avoidance of doubt, the provisions in this paragraph 9 of Schedule 1 shall apply to the Affordable Housing Units excluding First Homes which are dealt with in Schedule 2 below.
 - 9.1. For the disposal of the Affordable Housing Units they shall not be used other than for Affordable Housing to be provided to households in accordance with the Council's Housing Allocations Policy prevailing at the time when allocations are made and shall be retained in perpetuity as Affordable Housing save that:

- 9.1.1. an Affordable Housing Unit is occupied in accordance with this paragraph nothing in this Deed shall prevent the occupation of that Dwelling by the spouse partner or dependants of that person or such other category of person entitled to occupy or continue to occupy under prevailing housing legislation;
- 9.1.2. where an Affordable Housing Unit is occupied in accordance with this paragraph by the spouse or partner nothing in this Deed shall prevent the continued occupation of that Dwelling by the survivor of them or such other category of person entitled to occupy or continue to occupy under prevailing housing legislation;
- 9.2. any tenant (including their mortgagees or chargees or successors in title) who has exercised the right to buy pursuant to the Housing Act 1996 or any other statutory provision for the time being in place in respect of a particular Affordable Housing Unit will not be bound by this Deed;
- 9.3. any tenant of a Shared Ownership Lease (including their mortgagees or chargees or successors in title) who subsequently purchases all the remaining shares from the Registered Provider will not be bound by this Deed;
- 9.4. any Registered Provider Mortgagee in possession shall not be bound by this Deed provided that the Mortgagee has first complied with paragraph 8.3 of this Schedule
- 9.5. That all the Affordable Housing shall be advertised in accordance with the Council's Housing Allocations Policy to the satisfaction of the Council;
- 9.6. To notify the Council in writing on each occasion during the period of seven years beginning with the date of Commencement of Development on which an Affordable Housing Unit ceases to be a qualifying dwelling within the meaning of The Community Infrastructure Levy Regulations 2010;
10. That all the Affordable Housing shall be advertised in accordance with the Council's Housing Allocations Policy to the satisfaction of the Council;
11. To notify the Council in writing on each occasion during the period of seven years beginning with the date of Commencement of Development on which an Affordable Housing Unit ceases to be a qualifying dwelling within the meaning of The Community Infrastructure Levy Regulations 2010;

SCHEDULE 2

FIRST HOMES

The Owner covenants with the Council as follows:-

1. OBLIGATIONS

- 1.1 Unless otherwise agreed in writing by the Council, the Owner for and on behalf of itself and its successors in title to the Property with the intention that the following provisions shall bind the Property and every part of it into whosoever's hands it may come covenants with the Council as below save that:

1.1.1 paragraphs 2 and 3 shall not apply to a First Homes Owner;

1.1.2 paragraphs 4 and 5 apply as set out therein but and for the avoidance of doubt where a First Home is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the First Home owned by that First Homes Owner; and

1.1.3 paragraph 6 applies as set out therein.

2. QUANTUM OF FIRST HOMES

- 2.1 No less than 34% of the Affordable Housing Units shall be identified reserved and set aside as First Homes in accordance with the approved Affordable Housing Scheme and shall be provided and retained as First Homes in perpetuity subject to the terms of this Schedule.

3. TYPE AND DISTRIBUTION

- 3.1 The mix of First Homes provided within the Property shall be in accordance with the Affordable Housing Mix and the distribution in an Affordable Housing plan to be agreed by the Council.

4. DELIVERY MECHANISM

- 4.1 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 the Eligibility Criteria.
- 4.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria, paragraph 4.1.2 shall cease to apply.
- 4.3 Subject to paragraphs 4.6 to 4.10, 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.
- 4.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

- 4.4.1 The Council has been provided with evidence that:
- 4.4.1.1 the intended purchaser meets the Eligibility Criteria
 - 4.4.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and
 - 4.4.1.3 the transfer of the First Home includes:
 - a) a definition of the "Council" which shall be as set out at page 2 of this Deed
 - b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in paragraph 4.1 – 4.8 of Schedule 2 of the S106 Agreement a copy of which is attached hereto as the Annexure."
 - c) A definition of "S106 Agreement" in the following terms:

"the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) the Council, (2) Ian Towns and (3) Reside Developments Limited"
 - d) 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
 - e) a copy of the First Homes Provisions in an Annexure

4.4.2 The Council has issued the Compliance Certificate and the 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 4.3 and 4.4.1 have been met.

4.5 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 [Local Authority] of [address] 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"

- 4.6 The owner of a First Home (which for the purposes of this clause shall include the Developer and any First Homes Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:
- 4.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 4.1 and 4.2 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Completion) 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 4.3 and 4.4.1; or
 - 4.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 4.6.1 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.
- 4.7 Upon receipt of an application served in accordance with paragraph 4.6 the 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.
- 4.8 If the Council is satisfied that either of the grounds in paragraph 4.6 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 4.6 that the relevant Dwelling may be Disposed of:
- 4.8.1 to the Council at the Discount Market Price; or
 - 4.8.2 (if the 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 4.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home.
- 4.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 4.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 4.6 serve notice on the owner setting out the further steps it requires the owner 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 has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 4.6 following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.
- 4.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 4.8 or 4.9 above the Owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.
- 4.11 Upon receipt of the Additional First Homes Contribution the Council shall:

4.11.1 within twenty eight working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 4.5 where such restriction has previously been registered against the relevant title;

4.11.2 apply all monies received towards the provision of Affordable Housing.

4.12 Any person who purchases a First Home free of the restrictions this Schedule pursuant to the provisions in paragraphs 4.9 and 4.10 shall not be liable to pay the Additional First Homes Contribution to the Council.

5. USE

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 Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 5.1 – 5.4 below.

5.1 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.

5.2 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 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.

5.3 A letting or sub-letting permitted pursuant to paragraph 5.1 or 5.2 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.

- 5.4 Nothing in this paragraph 5 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.

6. MORTGAGEE EXCLUSION CLAUSE

The obligations in paragraphs 1 - 5 of Schedule 2 to this Deed in relation to First Homes shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee 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 or Receiver PROVIDED THAT:

- 6.1 such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and
- 6.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 6.3;
- 6.3 following the Disposal of the relevant First Home the Mortgagee 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 and expenses pay to the Council the Additional First Homes Contribution; and
- 6.4 following receipt of notification of the Disposal of the relevant First Home the Council shall:
- 6.4.1 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 6.5; and
- 6.4.2 apply all such monies received towards the provision of Affordable Housing.

SCHEDULE 3

COUNCIL FINANCIAL CONTRIBUTIONS

1. The Owner covenants with the Council as follows:-
 - 1.1 To pay the Monitoring Fee to the Council prior to Commencement of Development and not to Commence the Development until it has paid the Monitoring Fee to the Council;
 - 1.2 To pay the following Contributions Index Linked to the Council prior to Commencement of Development and not to Commence Development until it has paid the following Contributions to the Council:
 - 1.2.1 the Access Management Contribution;
 - 1.2.2 the Health Services Contribution; and
 - 1.2.3 The Leisure Contributions.
2. The Council covenants with the Owner as follows:
 - 2.1 To use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid
 - 2.2 To pay to the Owner such amount of any payment made by the Owner to the Council under this Agreement which has not been expended in accordance with the provisions of this Agreement (and any money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within 10 (ten) years of the date of receipt by the Council of such payment together with interest for the period from the date of payment to the date of refund.

SCHEDULE 4

COUNTY COUNCIL CONTRIBUTIONS

1. The Owner covenants with the County Council as follows:-
 - 1.1 To pay the County Council Monitoring Fee prior to Commencement of Development and not to Commence the Development until it has paid the County Council Monitoring Fee to the County Council;
 - 1.2 To pay the following Contributions Index Linked to the County Council prior to Commencement of Development and not to Commence Development until it has paid the following Contributions to the County Council:
 - 1.2.1 the Education Contribution;
 - 1.2.2 the Fire Services Contribution; and
 - 1.2.3 The Libraries Contribution.
2. The County Council covenants with the Owner as follows:
 - 2.1 To use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid
 - 2.3 To pay to the Owner such amount of any payment made by the Owner to the County Council under this Agreement which has not been expended in accordance with the provisions of this Agreement (and any money shall be deemed to be expended if the County Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within 10 (ten) years of the date of receipt by the County Council of such payment together with interest for the period from the date of payment to the date of refund

APPENDIX 1

(Commencement Notice)

Pursuant to Clause _____ in the Agreement described below

I advise you that the Development described below was commenced on the Start Date stated in this Notice.

Dated: this _____ day of _____ 20

Signed: _____

On Behalf of: _____

To: (1) Group Head of Planning, Arun District Council, Arun Civic Centre, Maltravers Road, Littlehampton BN17 5LF (DX:57406 Littlehampton);

(2) Monitoring and Records Team, Strategic Planning Division of County Hall, Chichester P019 1RQ

From:

Development At:

Nature of Development:

Planning Permission Date & Reference:

Planning Obligation Date & Parties:

Start Date:

APPENDIX 2

(Payment Notice)

Payment of Monies due under a Section 106 Planning Obligation / Agreement

Dated: this _____ day of _____ 20

Please answer all the questions:

1. Payment to be made by / on behalf of
2. Land at
3. Agreement dated
4. Planning application reference number (where applicable)
5. Obligation in Agreement:

(a)	clause no.	
(b)	contribution towards	
(c)	amount of contribution due	
(d)	Date upon which contribution is due	
(e)	amount of contribution enclosed	
(f)	amount of monitoring sum	

APPENDIX 3

(Plan)