

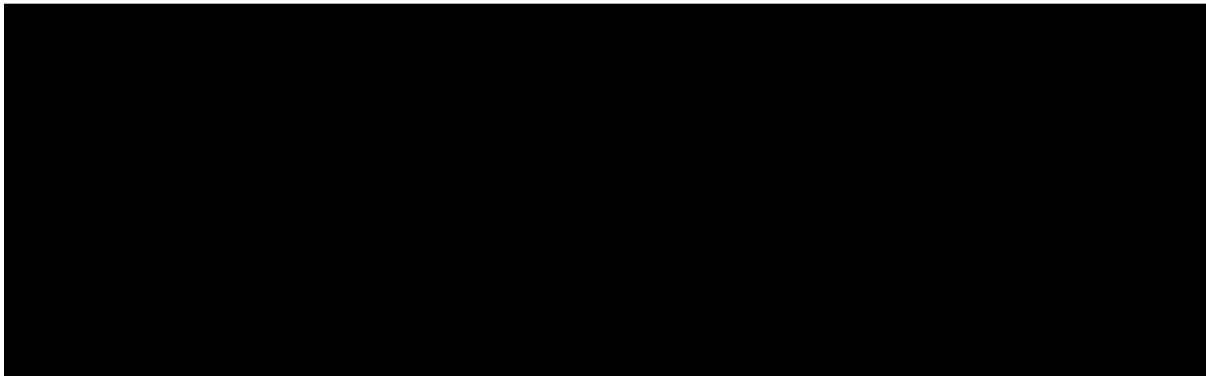
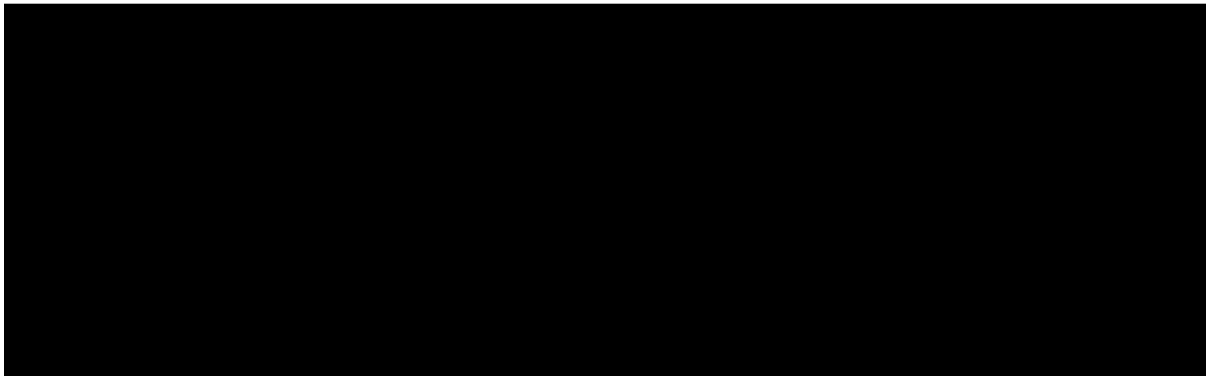
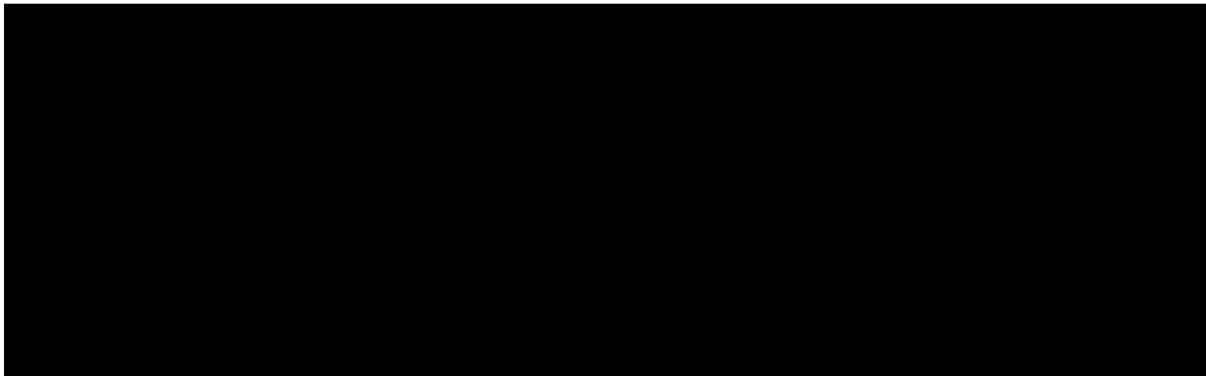
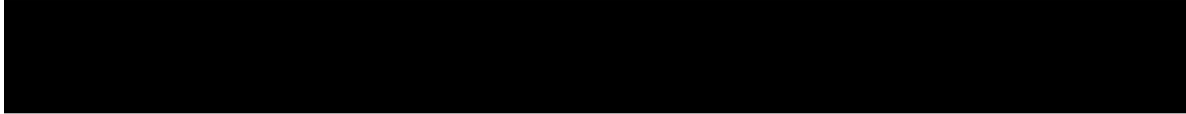
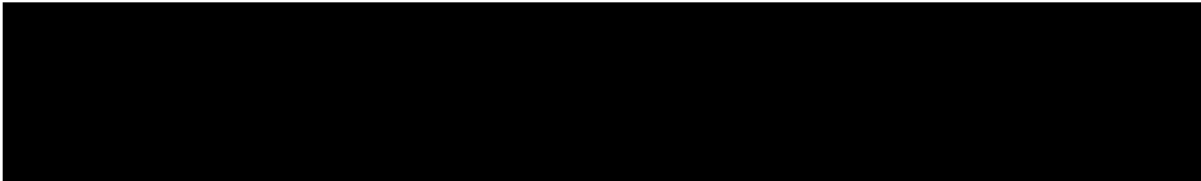
Planning Application Reference:	LU/257/07
Document Type:	Section 106 Agreement
Date of Agreement:	6th February 2008

NB: Above text in bold to be included in free text field.

Check thoroughly for **telephone numbers/email addresses & signatures** and block.
Check **maps** for signatures and block.

Please return original to s106 Monitoring Officer

This Agreement is dated 06 February 2008 and is made between:

- [1] McCarthy & Stone (Developments) Limited (Company Registration Number 770529) whose registered office is at Homelife House 26/32 Oxford Road Bournemouth BH8 8EZ ["the Applicant"]
- [2] 
- [3] 
- [4] 
- [5] HSBC Trust Company (UK) Limited care of Probate Service Centre PO Box 290 Sheffield South Yorkshire S1 2UJ acting as executor of Iris Elizabeth Avery ("the Fourth Owner")
- [6] 
- [7] 
- [8] The Chichester Diocesan Fund and Board of Finance (Incorporated) of 211 New Church Road Hove East Sussex BN3 4ED ("CDBF")
- [9] The Royal Bank of Scotland Plc (Scottish Company Registration Number 90312) of Woodland Place Pinetrees Road Norwich NR7 9EJ ("the First Mortgagee")
- [10] Northern Rock Plc (Company Registration Number 3273685) of Northern Rock House Gosforth Newcastle Upon Tyne NE3 4PL ("the Second Mortgagee")
- [11] Arun District Council of Arun Civic Centre Maltravers Road Littlehampton West Sussex BN17 5LF ["ADC"]

1 Background

Dated: 06 February 2008

Between:

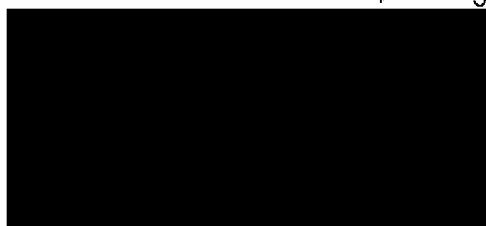
- [1] McCarthy & Stone (Developments) Limited
 - [2] David Frank Fellows & June Elizabeth Fellows
 - [3] David Batchelor & Sarah Elizabeth Batchelor
 - [4] Susan Mary Arthur
 - [5] HSBC Trust Company (UK) Limited
 - [6] Shirley Marina Worsfold
 - [7] The Reverend Roger Caswell
The Chichester Diocesan Fund and Board of Finance (Incorporated)
 - [8] The Royal Bank of Scotland Plc
 - [9] Northern Rock Plc
 - [10] Arun District Council
-

AGREEMENT

under Section 106 of the Town & Country Planning Act 1990
and other powers
Land at 32, 33, 34 Fitzalan Road and 14, 16, 18 Church Street, Littlehampton BN17 6PX

I hereby certify that this copy is a true
and complete copy of the original
Dated this

6 day of February 2008



- 1.1 The First Owner is the registered proprietor under title number WSX69067 of the land at 14 Church Street Littlehampton BN17 5PX shown for identification purposes only coloured green on the attached plan ("the First Land") free from encumbrances.
- 1.2 The Applicant has entered into a contract dated 28 July 2006 with the First Owner for the purchase of the First Land
- 1.3 The Second Owner is the registered proprietor under title number WSX155747 of the land at 16 Church Street Littlehampton BN17 5PX shown for identification purposes only coloured orange on the attached plan ("the Second Land") subject to a legal charge in favour of the First Mortgagee dated 5 October 2004.
- 1.4 The Applicant has entered into a contract dated 28 July 2006 with the Second Owner for the purchase of the Second Land
- 1.5 The Third Owner is the registered proprietor under title number WSX30281 of the land at 18 Church Street Littlehampton BN17 5PX shown for identification purposes only coloured brown on the attached plan ("the Third Land") free from encumbrances.
- 1.6 The Applicant has entered into a contract dated 21 August 2006 with the Third Owner for the purchase of the Third Land
- 1.7
 - 1.7.1 Arnold Arthur Avery and Iris Elizabeth Avery are the registered proprietors of the land registered under title number WSX89067 being land at 32 Fitzalan Road Littlehampton BN17 5ET shown for identification purposes only coloured purple on the attached plan ("the Fourth Land") subject to a legal charge in favour of the Second Mortgagee dated 27 April 2001.
 - 1.7.2 Arnold Arthur Avery died on 11 May 2007 and Iris Elizabeth Avery became solely and beneficially entitled to the Fourth Land.
 - 1.7.3 Iris Elizabeth Avery died on 28 September 2007 and the Fourth Owner is the executor of the estate of Iris Elizabeth Avery
- 1.8 The Applicant entered into a contract dated 24 May 2006 with Arnold Arthur Avery and Iris Elizabeth Avery for the purchase of the Fourth Land

- 1.9 The Fifth Owner is the registered proprietor under title number WSX93507 of the land at 33 Fitzalan Road Littlehampton BN17 5ET shown for identification purposes only coloured yellow on the attached plan ("the Fifth Land") free from encumbrances.
- 1.10 The Applicant has entered into a contract dated 24 May 2006 with the Fifth Owner for the purchase of the Fifth Land
- 1.11 The Sixth Owner is the proprietor of the land at 34 Fitzalan Road Littlehampton BN17 5ET by virtue of a Conveyance dated 1 September 1959 shown for identification purposes only coloured blue on the attached plan ("the Sixth Land") free from encumbrances.
- 1.12 The Applicant has entered into a option agreement dated 14 January 2008 with the Sixth Owner and CDBF for the purchase of the Sixth Land
- 1.13 ADC is the local planning authority and shall be responsible for the enforcement of the obligations contained herein.
- 1.14 The Applicant has by planning application ("the Application") number LU/257/07 dated 11 July 2007 applied to ADC for planning permission to develop the land shown edged red on the attached plan ("the Land") by the erection of 56 extra care sheltered apartments for persons satisfying the criteria set out in Clause 3.1 including house manager's office communal facilities car parking and landscaping, and such Application is now the subject of the Appeal
- 1.15 The First Mortgagee and the Second Mortgagee agree to enter into this Agreement in the manner hereinafter appearing

2. Interpretation

In this Agreement:

- 2.1 Words importing the masculine include the feminine and vice versa.
- 2.2 Words importing the singular include the plural and vice versa.
- 2.3 Words importing persons include companies and corporations and vice versa.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually.
- 2.5 Any reference to a clause or schedule or plan is to one attached to this Agreement.
- 2.6 Any reference to a colour or letter is to be on the plans attached to this Agreement.
- 2.7 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.
- 2.8 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the ADC the successors to their respective functions.
- 2.9 "the Act" means the Town & Country Planning Act 1990
- 2.10 "Affordable Housing" means housing to be provided within the administrative area of ADC for those who are unable to access the general housing market by reason of level of income
- 2.11 "Affordable Housing Contribution" means the sum of Nine Hundred and Twenty Four Thousand Seven Hundred and Eighty Eight Pounds (£924,788) which sum shall be index linked to the Retail Prices Index from the date of the issue of planning permission until the date of payment.
- 2.12 "agreed" or "approved" means agreed or approved in writing and given for the purpose of this Agreement.
- 2.13 "the Appeal" means the appeal submitted by the Applicant to the Secretary of State for the Environment under appeal reference number APP/C3810/A/07/2058762/NWF
- 2.14 "the Development" means the development of the Land proposed by the Application or permitted by planning permission granted pursuant to the Appeal or carried out substantially in accordance with such planning permission.
- 2.15 "First Occupation" means the first occupation of a dwellinghouse at the Development

2.16 "the Owners" means the First Owner the Second Owner the Third Owner the Fourth Owner the Fifth Owner and the Sixth Owner together

3. The Applicant's and the Owners' Covenants

Subject to clause 3.4 hereof the Applicant and the Owners covenant as follows:-

3.1 Not to permit any unit of residential accommodation forming part of the Development (other than any guest suite) to be occupied by any person or persons other than :-

3.1.1 a single resident who has attained the age of 60 years unless the survivor of persons mentioned at 3.1.2

3.1.2 joint residents one of whom has attained the age of 55 years

unless otherwise approved in writing by ADC

3.2.1 To pay to ADC the Affordable Housing Contribution prior to commencement of the Development.

3.2.2 Not to commence the Development before the Affordable Housing Contribution is paid to ADC

3.3 To pay to ADC its reasonable legal costs incurred in preparing and entering into this Agreement

3.4 The Owners shall cease to have any liability under this clause once they have parted with ownership of the Land and shall in any event have no liability to make any payments pursuant to 3.2.1 and 3.3.

4. The Council's Covenants

ADC shall use the Affordable Housing Contribution towards the provision of Affordable Housing within the administrative area of ADC within a period of 5 years from the date of receipt of it by the ADC and in the event of any part of the Affordable Housing Contribution not being used by the ADC within this period it shall be returned to the Applicant or the Owners or whichever party has paid the Affordable Housing Contribution together with interest thereon calculated on a daily base rate of the Bank of Scotland as may be adjusted from time to time

5. The Applicant's Covenant

The Applicant covenants with the Owners and CDBF and their respective successors in title to indemnify the Owners and CDBF against all costs and payments required to be paid to ADC in accordance with clause 3 hereof and against all costs liabilities demands payments and charges arising from any breach (either directly or indirectly) of clauses 3.1 and 3.2.2.

6. Enabling Provisions

This Agreement is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, and all other enabling powers.

7. Commencement

7.1 This Agreement shall come into effect upon the grant of planning permission by the Inspector pursuant to the Appeal but the obligations in Clause 3.1 shall become effective only on commencement of the Development in accordance with Section 56 of the Act.

7.2 On commencement of the Development the Applicant will give to ADC notice in writing of that commencement in the form of the Commencement Notice annexed to this Deed at Schedule 1 addressed to ADC's Head of Planning Services.

8. Payment Notice

All payments due under this Deed will be sent to the payee with a duly completed Notice in the form of Schedule 2.

9. General

The parties agree that:

9.1 nothing in this Agreement constitutes or constitutes an obligation to grant planning permission

9.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from ADC in the exercise of any other statutory function

- 9.3 nothing in this Agreement fetters or restricts the exercise by ADC of any of their powers
- 9.4 the obligations contained in Clause 3 and 4 are planning obligations for the purpose of Section 106 of the Act
- 9.5 this Agreement constitutes a deed
- 9.6 this Agreement is enforceable by ADC
- 9.7 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999
- 9.8 This Agreement shall apply to the Development as authorised by the planning permission issued pursuant to the planning application or to the Development after variation or renewal of the planning permission from time to time
- 9.9 This Agreement is a Local Land Charge and shall be registered as such

10. **Consent**

The First Mortgagee and the Second Mortgagee consent to the Second Owner and the Fourth Owner respectively entering into the covenants contained herein and acknowledge that from the date of this Deed the Land shall be bound by the obligations contained herein AND FURTHER it is agreed that the First Mortgagee and the Second Mortgagee shall not be liable to observe the obligations contained herein unless it shall enter onto the Land or any part thereof as a mortgagee in possession

SCHEDULE 1

Commencement Notice Pursuant to Planning Obligation Described Below

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

Dated this ____ day of ____ 200

Signed _____

On Behalf Of: _____

To:	[1] Head of Planning Services, Arun District Council, Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF [DX: 57406] Littlehampton
FROM:	
DEVELOPMENT AT:	
NATURE OF DEVELOPMENT:	
PLANNING PERMISSION DATE & REFERENCE	
PLANNING OBLIGATION DATE & PARTIES	
START DATE:	

SCHEDULE 2

Payment Notice

Payment of Monies due under a Section 106 Planning Obligation.

Failure to use this form may mean problems with acknowledgment of payment and may prejudice your ability to prove compliance with the planning obligation.

If ADC is Payee :	If WSCC is Payee :
Head of Planning Services Arun District Council Arun Civic Centre Maltravers Road Littlehampton West Sussex BN 17 5LE	County Planning Officer West Sussex County Council County Hall Chichester West Sussex PO19 1RO

Please answer all the questions. It may

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	
[d]	Date upon which contribution is due	
[e]	Amount of contribution enclosed	

EXECUTED AS A DEED BY

McCARTHY & STONE (DEVELOPMENTS) LIMITED

Acting by two Directors or a Director and its Secretary:

Director

Director/Secretary

EXECUTED AS A DEED BY

DAVID FRANK FELLOWS and

JUNE ELIZABETH FELLOWS

in the presence of:

EXECUTED AS A DEED BY

DAVID BATCHELOR and

SARAH ELIZABETH BATCHELOR

in the presence of:

EXECUTED AS A DEED BY

SUSAN MARY ARTHUR

in the presence of:

EXECUTED AS A DEED BY

HSBC TRUST COMPANY (UK) LIMITED

acting by its authorised signatories

EXECUTED AS A DEED BY
SHIRLEY MARINA WORSFOLD
in the presence of:

EXECUTED AS A DEED BY
THE REVEREND ROGER CASWELL
as Incumbent of the benefice of
St Mary the Virgin Littlehampton
in the presence of:

The Common Seal of
THE CHICHESTER DIOCESAN FUND & BOARD OF FINANCE
was hereunto affixed in the presence of :

Chairman

Secretary

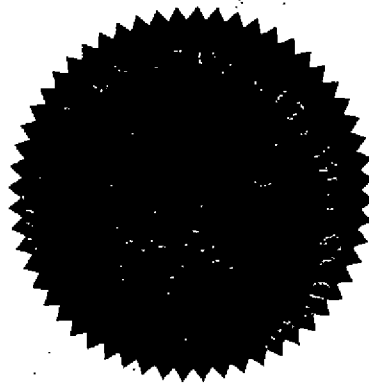
EXECUTED AS A DEED BY
THE ROYAL BANK OF SCOTLAND PLC
in the presence of:

Authorised Signatory

EXECUTED AS A DEED BY
NORTHERN ROCK PLC
in the presence of:

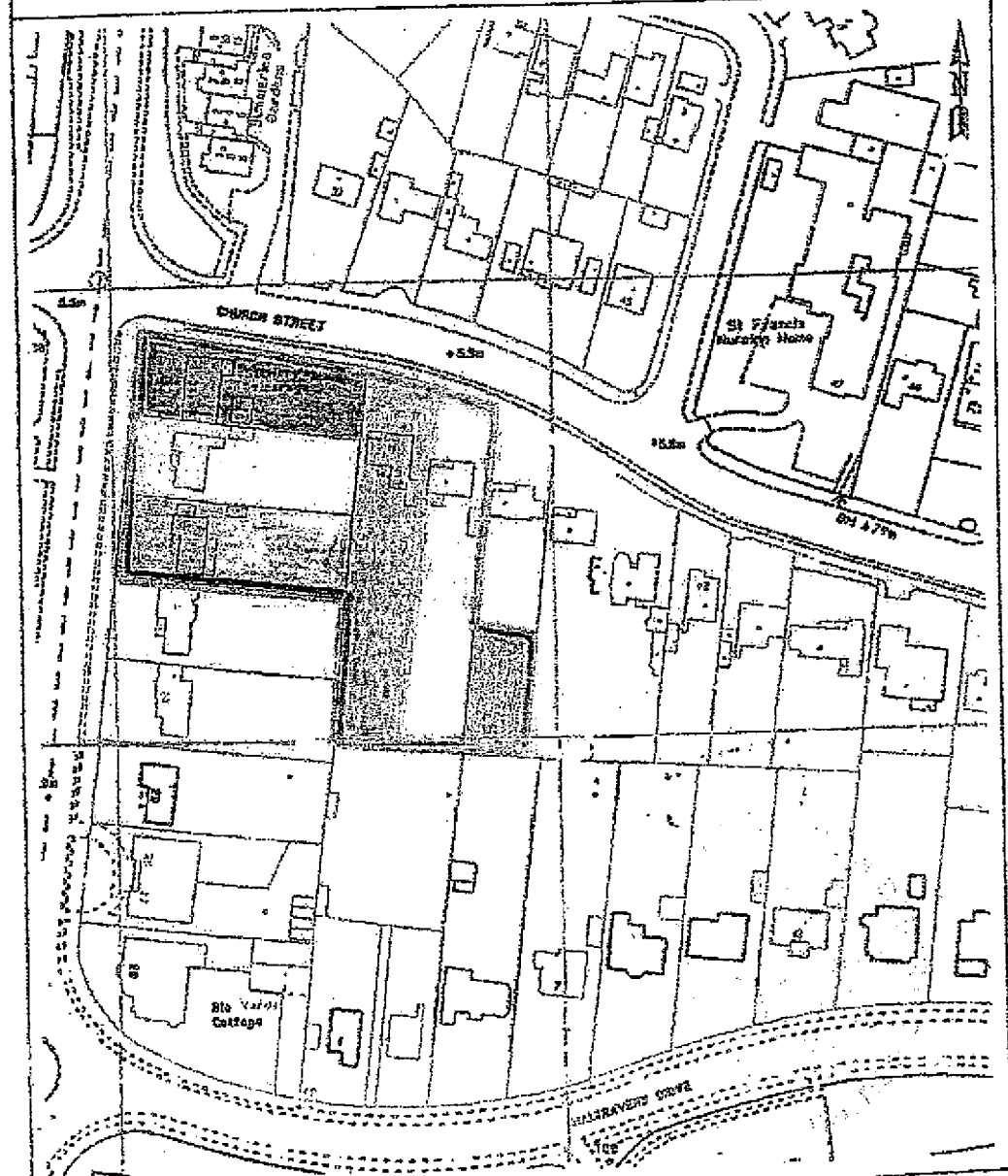
Authorised Signatory

SEALED with the COMMON SEAL
of ARUN DISTRICT
in the presence of;



Seal Book No:
Authorised Signatory.

FIGURE I-5



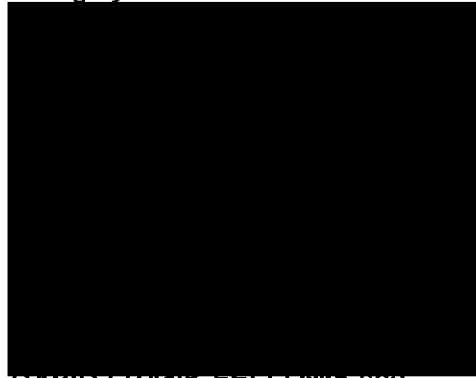
NATIONAL GRID PLAN 1995
Scale 1:1250

Reproduced from the 1995, 1:1250 Ordnance Survey map with the permission of Ordnance Survey
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EXECUTED AS A DEED BY

McCARTHY & STONE (DEVELOPMENTS) LIMITED

Acting by two Directors or a Director and its Secretary:



DAVID FRANK FELLOWS and

JUNE ELIZABETH FELLOWS

in the presence of:

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SARAH ELIZABETH BATCHELOR

in the presence of:

EXECUTED AS A DEED BY

SUSAN MARY ARTHUR

in the presence of:

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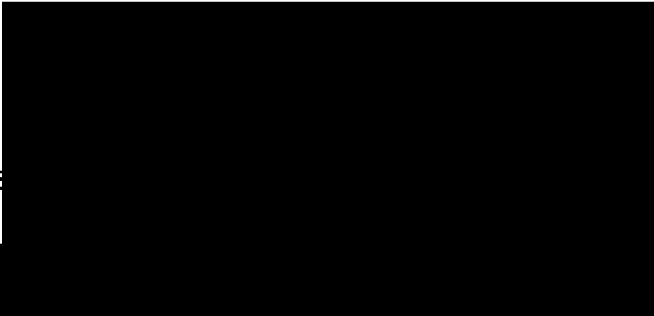
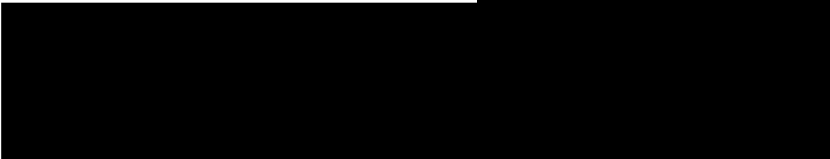
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Director/Secretary

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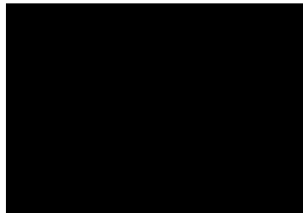
Director/Secretary

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HSBC TRUST COMPANY (UK) LIMITED
acting by its authorised signatories



**AUTHORISED
SIGNATORY**

**AUTHORISED
COUNTER
SIGNATORY**

760831

EXECUTED AS A DEED BY
SHIRLEY MARINA WORSFOLD

EXECUTED AS A DEED BY
THE REVEREND ROGER CASWELL
as Incumbent of the benefice of
St Mary the Virgin Littlehampton
In the presence of:

The Common Seal of
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was hereunto affixed in the presence of :

Chairman

Secretary

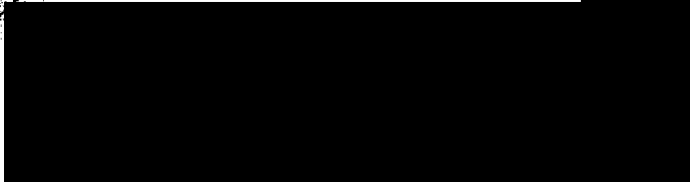
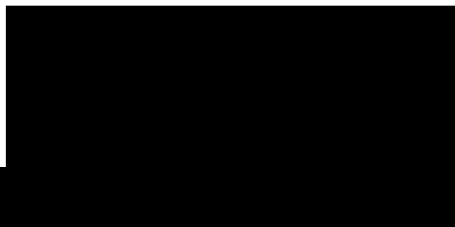
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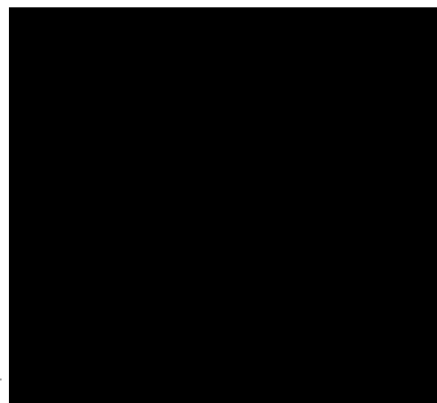
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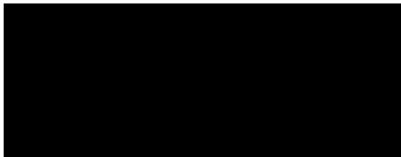
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Authorised Signatory

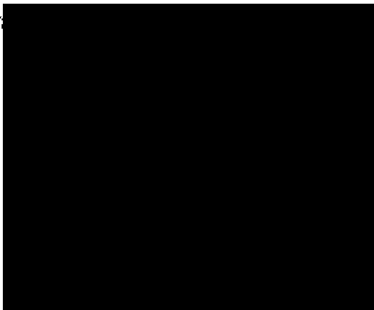


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in the presence of:

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as Incumbent of the benefice of
St Mary the Virgin Littlehampton
in the presence of:



The Common Seal of
THE CHICHESTER DIOCESAN FUND & BOARD OF FINANCE
witnessed by the presence of:



Chairman

Secretary

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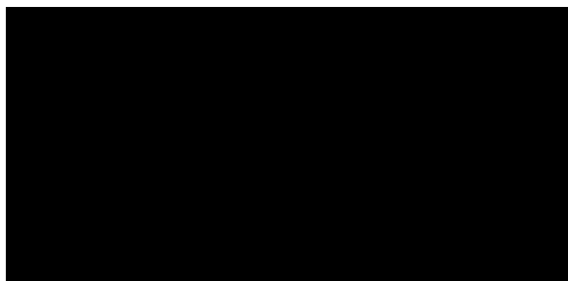
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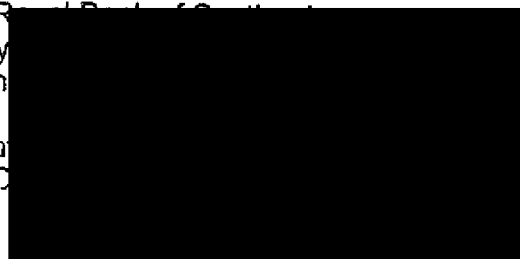
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was hereunto affixed in the presence of :

Chairman

Secretary



Signed and delivered as a
deed for and on behalf of
The R...
plc by
attorn



Signa
The C

EXECUTED AS A DEED BY
NORTHERN ROCK PLC
in the presence of:

Authorised Signatory