

Dated 9 January 2023

ARUN DISTRICT COUNCIL (1)

AND

WEST SUSSEX COUNTY COUNCIL (2)

AND

LANDLINK DEVELOPMENTS 4 LIMITED (3)

AGREEMENT

pursuant to

Section 106 of the Town and Country
Planning Act 1990 relating to land west of
Bilsham Road, Yapton

PLANNING APPLICATION: Y/3/22/OUT



CONTENTS

Clause	Heading	Page
1	INTERPRETATION	4
2	STATUTORY PROVISIONS	20
3	CONDITIONALITY	20
4	COVENANTS TO THE COUNCIL	21
5	COVENANTS BY THE COUNCIL AND COUNTY COUNCIL	21
6	CONFIRMATION OF INTEREST	21
7	INDEX LINKED	22
8	RELEASE	23
9	DETERMINATION OF DEED	24
10	LOCAL LAND CHARGE	24
11	COSTS	24
12	INTEREST ON LATE PAYMENT	24
13	DISPUTES	24
14	NO FETTER OF DISCRETION	26
15	WAIVER	26
16	FUTURE PERMISSIONS	26
17	AGREEMENTS AND DECLARATIONS	26
18	SECTION 73 CONSENTS	27
19	NOTICES	27
20	CANCELLATION OF ENTRIES	28
21	VALUE ADDED TAX	29
22	THIRD PARTY RIGHTS	29

23	JURISDICTION	29
	SCHEDULE 1 COVENANTS BY THE OWNER	30
	SCHEDULE 2 AFFORDABLE HOUSING	32
	SCHEDULE 3 COVENANTS BY THE COUNCIL	46
	SCHEDULE 4 COVENANTS BY THE COUNTY COUNCIL	47
	APPENDIX 1 COMMENCEMENT NOTICE	49
	APPENDIX 2 PAYMENT NOTICE	50
	APPENDIX 3 PLAN	51
	APPENDIX 4 APPROVED AFFORDABLE PROVIDERS	52
24	DEFINITIONS.....	1
25	ENABLING PROVISIONS.....	2
26	PROCEDURE	2
27	NOTICES	5
28	TRANSFERS TO OTHER REGISTERED SOCIAL LANDLORDS.....	5
29	MORTGAGEES IN POSSESSION	5
30	DISPUTES	5
31	COSTS	5
32	AGREEMENTS AND DECLARATIONS	5

THIS DEED is dated 9 January 2023

- (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) LANDLINK DEVELOPMENTS 4 LIMITED (Co. Reg. No. 11814489) whose registered office is situated at Ham Farm, Main Road, Bosham, Chichester PO18 8EH (the "Owner");

WHEREAS

- (A) The Council is the Local Planning Authority for the purposes of the Act for the area in which the Site 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 Site is situated and is responsible for the provision of facilities for the education of children within its administrative area and is also the highway authority for the area in which the Site is situated.
- (C) The Council shall be responsible for enforcing this Deed for all purposes.
- (D) The County Council shall be responsible for enforcing this Deed so far as highway matters are concerned.
- (E) The Owner is the freehold owner of that part of the Site registered at the Land Registry under Title Number WSX432433.
- (F) The Owner submitted the Planning Application for the proposed Development and the Council has resolved that subject to the completion of this Deed, Planning Permission will be granted.
- (G) The Owner has agreed to enter into this Deed to give planning obligations to the Council and the County Council upon the terms and subject to the conditions therein.

AGREED TERMS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Deed:

Act means the Town and Country Planning Act 1990 (as amended from time to time);

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 3.9, 3.10 or 8 of Schedule 2 Part 3, 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 Housing means housing provided to eligible households whose needs are not met by the market where eligibility is determined with regard to local incomes and local house prices;

Affordable Housing Commuted Sum means a financial contribution calculated in accordance paragraph 2.9 of Schedule 2 Part 2;

Affordable Housing Disposal means a disposal of the Affordable Dwelling Units and/or land upon which those units are to be constructed to an Affordable Housing Provider whether by transfer of the freehold or the grant of a long lease for a term of at least 125 years and "Dispose" and "Disposed" shall be construed accordingly;

Affordable Housing Mix means the housing mix for the Affordable Housing Units as follows:

- (a) 28 Affordable Rented Units;
- (b) 4 Intermediate Housing Units; and
- (c) 10 First Homes.

Affordable Housing Provider means either one or a combination of:

- (a) a Registered Provider who is on the Council list of Approved Affordable Providers (annexed as Appendix 4); or
- (b) any other provider of Affordable Housing who is approved by the Council in writing; or
- (c) such other body or organisation approved by the Council in writing whose main object is the provision of Affordable Housing; or
- (d) the Council.

Affordable Housing Scheme means a scheme setting out the location tenure type, rent levels and design of each Affordable Housing Unit (or such amended scheme as may be agreed in writing between the Council and the Owner from time to time);

Affordable Housing Unit means the minimum of 30% of the Dwellings that are to be constructed pursuant to the Development as part of the Affordable Housing Scheme and Affordable Housing Mix and "Affordable Housing Units", "Affordable Housing Dwelling"

and "Affordable Housing Dwelling Units" shall be construed accordingly;

Affordable Rent means a rent up to 80% of the estimated market rent for an equivalent property for the size and location, inclusive of service charges, based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors and not higher than the relevant Local Housing Allowance maximum amount set for eligibility for housing benefit;

Affordable Rented Units means a form of Affordable Housing involving homes being available at a rent level up to 65% of local market rent (inclusive of service charge at the time of each letting) which rent may be increased annually by no more than CPI + 1.0% or in the event of any change to legislation in relation to Affordable Rent, such other rent level which may be applicable at the time of each letting. "Affordable Rent Unit" and "Affordable Rent" shall be construed accordingly;

Armed Services Member means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;

Base Rate means the Bank of England standard base rate;

Comet Corner Improvements Contribution means the sum of £226 (two hundred and twenty six pounds) per Dwelling Index Linked and payable by the Owner to the County Council towards the highway improvements to Comet Corner in accordance with paragraph 2 of Schedule 1;

CIL Regulations means the Community Infrastructure Regulations 2010 (as amended);

Commencement of Development	means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the Act (and the phrase " Commence Development " shall be construed accordingly) but disregarding for the purposes of this Deed and for no other purpose, the following operations: site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; and erection of any fences, signage and hoardings around the Site;
Commencement Notice	means notice in the form annexed to this Deed at Appendix 1;
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 3.3 of Schedule 2 of Part 3 applies the Eligibility Criteria (Local);
County Council Monitoring Fee	means the total sum of £600 (six hundred pounds) payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Deed over the lifetime of the Development;
Default Interest Rate	means 4% per annum above the Base Rate applicable at the Specified Date or the actual date on which the relevant obligation under this Deed is paid whichever is the higher;
Development	means the development of the Site by the hybrid application comprising of full application for Phase 1 for 30 No. residential dwellings, new access from Bilsham Road, public open space, landscaping, sustainable urban drainage and associated works; and Outline planning application for further phases of up to 110 No. dwellings and associated infrastructure (with all matters reserved);
Development Standard	means a standard to fully comply with the following:-

- (a) "Technical housing standards – nationally described space standards" published by the Department for Communities and Local Government in March 2015;
- (b) all national construction standards and planning policy relating to design which published by the Secretary of State or by the Council as at the date of this Deed;
- (c) Part 2 of Secured by Design standards published by Police Crime Prevention Initiatives Limited;
- (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings);

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 3.14 of Schedule 2, Part 3;
- (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 "Dispose", "Disposed" and "Disposing" shall be construed accordingly;

Dwelling	means any residential dwelling (including a house, flat or bungalow) permitted to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly;
Eligibility Criteria (National)	means criteria which are met in respect of a purchase of a First Home if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National);
Eligible Criteria (Local)	means criteria (if any) published by the Council at the date of the relevant disposal of a First Home which are met in respect of a disposal of a First Home if: (a) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (Local) (if any); and (b) any or all of criteria (i) (ii) and (iii) below are met: (i) the purchaser meets the Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connection Criteria); and/or (ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member and/or (iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker;

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 4 of Schedule 2, Part 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 3.14 of Schedule 2, Part 2;
Financial Contribution Trigger	means a trigger contained within this Deed applicable to the Comet Corner Improvement Contribution;
First Home	means a Dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and 'First Homes' shall be construed accordingly;
First Homes 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 3.14 of Schedule 2, Part 3;

First Time Buyer means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;

Homes England means the Homes and Communities Agency trading as Homes England as established under the Housing and Regeneration Act 2008;

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 (Local) means such local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the First Home;

Income Cap (National) means eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home;

Index means:

- (a) in relation to the Council 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;

(b) in relation to the County Council 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 of the Royal Institute of Chartered Surveyors between the date of consultation (10th May 2022) and the date that payment of the relevant contribution is due to the County Council;

Index Linked means indexation (which may increase or decrease) in accordance with clause 7.3 below;

Interest Bearing Account means an interest bearing account with a major clearing bank which attracts a rate of interest and which is on terms which would be acceptable to a reasonably prudent local authority;

Intermediate Housing means Affordable Housing homes for sale and rent provided at a cost above Social Rent but below open market levels the form of which shall be agreed with the Council;

Intermediate Housing Units means the Affordable Housing Unit(s) that are only available to be used and Occupied exclusively as Intermediate Housing;

Intermediate Rented Units means Affordable Housing for rent and provided at a cost above Social Rent but below open market levels;

Key Worker means:

such categories of employment as may be published by the Council from time to time as the "First Homes Key Worker criteria" and is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Key Worker" criteria which shall apply to that disposal;

Local Connection Criteria means such other location 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;

Local Housing Allowance means the allowance used to assess housing benefit entitlement for people on a low income renting from a private landlord in the vicinity;

Market Housing Unit means each and every Dwelling (other than an Affordable Housing Unit) to be constructed pursuant to the Development and "Market Housing Units", "Market Housing", "Market Dwelling" and "Market Dwellings" shall be construed accordingly;

Market Value means open market value assessed in accordance with the Appraisal and Valuation Manual of the RICS (the Red Book);

Monitoring Fee means the sum of £1,650.00 (one thousand six hundred and fifty pounds) payable to the Council in accordance with paragraph 4 of Schedule 1 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;

Mortgagees means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring a First Home;

National Highways Contribution	means the sum of £96,109 (ninety six thousand one hundred and nine pounds) (which constitutes £467 (four hundred and sixty seven pounds) per dwelling) Index Linked in accordance with the formula set out and payable by the Owner to the Council for the purpose of A27 improvement schemes between the Crossbush Junction and Nyton Road Junction, Arundel in accordance with paragraph 3 of Schedule 1;
Nominations Agreement	means a nomination agreement entered into by an Approved Body with the Council in respect of the Affordable Dwellings containing provisions substantially in the form set out in the Appendix 5 to this Deed;
Nomination Rights	means the right of the Council to nominate occupiers to the Affordable Dwelling Units in accordance with paragraph 2.9.3 of Schedule 2 Part 2 to this Deed;
NPPF	means the National Planning Policy Framework in force at the time that this Deed is completed or at the time any appeal is determined;
Occupation	means occupation of the Development for the purposes of the Planning Permission for the beneficial use of the Dwellings and for the avoidance of doubt excludes occupation for fitting out and use of the Dwellings for show homes or marketing purposes and reference to "Occupied", "Occupy", "Occupiers" and "First Occupation" shall be construed accordingly;
Operative Date	means the date the Development is Commenced;
Payment Notice	means a notice in the form annexed to this Deed as Appendix 2;
Phase	means each and any phase of development identified on a phasing plan approved in writing by the Council pursuant to a condition of the Planning Permission or a Reserved Matters Approval and "Phases" shall be construed accordingly;

Plan	means the plan attached at Appendix 3;
Planning Application	means the application registered by the Council on 14 January 2022 with reference number Y/3/22/OUT for the Development;
Planning Condition	means any condition subject to which the Planning Condition is granted;
Planning Obligations	means the obligations, conditions and stipulations set out in Schedule 1 and Schedule 2 and "Planning Obligation" shall be construed accordingly;
Planning Permission	means the planning permission to be granted pursuant to the Planning Application;
Practical Completion	means the stage reached when the construction of a First Home is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied;
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;
Provide	in the case of Affordable Housing Units, means: a) Practically Completed b) Ready for First Occupation c) In a Serviced Condition; and d) A binding contract has been entered into with a Registered Provider to transfer the unencumbered freehold of the Affordable Housing Units and their curtilages (or in the case of any Affordable Dwellings which are flats or apartments the

grant transfer shall be of a leasehold interest of at least 125 years free from encumbrances).

to design and construct to Practical Completion such units for habitation in accordance with the Design and Quality Standards of the Homes England or any replacement standards (or equivalent standards published by any replacement or successor body) to the reasonable satisfaction of the Approved Body and "Provide" and "Provided" shall be construed accordingly;

Qualifying Occupier means a person who qualifies for Affordable Housing within Schedule 2 to this Deed and including residents of the district of Arun who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income;

Qualifying Trigger means any trigger contained within this Deed including a Financial Contribution Trigger that attracts the County Council Monitoring Fee because its implementation and/or adherence requires monitoring by the County Council;

Reasonable Endeavours means those reasonable steps which a prudent and determined person or company acting in his or its best interests and anxious to achieve the stated objective would take (save where this Deed otherwise indicates);

Registered Provider means an Affordable Housing Provider as provided for in the Housing and Regeneration Act 2008 and which is registered with the Regulator of Social Housing and which has been approved by the Council (such approval not to be unreasonably withheld or delayed) PROVIDED ALWAYS that if Registered Provider shall have ceased to exist or have been superseded then the expression shall be taken to mean such nearest equivalent body whose objectives include the provision of low cost housing for renting or shared ownership by local people as the Council may reasonably approve for the purposes of this Deed (such approval not to be unreasonably withheld or delayed);

Regulator of Social Housing/Regulator	means the organisation empowered to regulate Registered Providers under the Housing and Regeneration Act 2008, in line with the Legislative Reform (Regulator of Social Housing) (England) Order 2018, or any successor body having functions currently exercised by the Regulator;
Reserved Matters Approval(s)	means approval by the Council of one or more matters reserved for approval by the Planning Permission;
RICS	means the Royal Institute of Chartered Surveyors;
RP Mortgagee	means any mortgagee or chargee of the Affordable Housing Provider 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;
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 to which the Planning Permission and/or to which such planning permission granted pursuant to Section 73 of the Act was granted subject to;
Serviced Condition	means in relation to land to be used for the Affordable Housing Units, the remediation of the land fit for its end use and the provision of roads, sewers, gas, water, electricity and telecommunications to the boundary in accordance with a scheme which the Owner shall submit to the Council;

Shared Ownership Lease means a lease in the form or substantially in the form of the Homes England model form from time to time or in such other form as shall be approved by the Council such approval not to be unreasonably withheld or delayed;

Shared Ownership Lessee means a lessee of a Shared Ownership Unit;

Shared Ownership Unit means Affordable Housing provided by a Registered Provider in accordance with Schedule 2 and let on a shared equity basis in accordance with the Housing Allocations Policy pursuant to a shared ownership lease in the form of the Homes England model lease for shared ownership where:

- (a) the initial percentage of equity sold is between 10% and 75% which shall be calculated with the intention that Shared Ownership Units are affordable to those in housing need with regard to local incomes and local house prices; and
- (b) rent on unsold equity is initially set at no more than 2.5%;
- (c) charges for services are levied in accordance with the good practice guidance issued by the Regulator of Social Housing;

Site means land to the west of Bilsham Road, Yapton against which this Deed is enforceable and as shown edged red on the Plan;

Social Rent means the housing owned and managed by a transferee for which guideline target rents are determined through the National Rent Regime;

Specified Date means the date upon which a Planning Obligation arising under this Deed is to be carried out or is due to be performed;

Travel Plan	means a travel plan which seeks to encourage residents to consider and make use of the various transport options available to them for local journeys;
Travel Plan Monitoring Contribution	means the sum of £3,500 (three thousand five hundred pounds) Index Linked payable by the Owner to the County Council towards the ongoing monitoring of the Travel Plan in accordance with paragraph 1 of Schedule 1;
VAT	means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;
Working Day	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to this Deed or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.7 References to clauses and schedules are to the clauses and schedules of this Deed.
- 1.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2 STATUTORY PROVISIONS

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

3 CONDITIONALITY

- 3.1 Clauses 2, 3, 6, 7, 12, 14, 21, 22 and 23 of this Deed shall take effect on the date hereof.
- 3.2 The remainder of this Deed is conditional on the grant and issue of the Planning Permission and Commencement of Development.
- 3.3 In the event that the Planning Application or any Planning Condition is subject to an appeal then each Planning Obligation in this Deed is also conditional upon:
- (a) The Secretary of State or the planning inspector deciding the appeal being satisfied that it is:
- (i) Necessary to make the Development acceptable in planning terms; and
 - (ii) Directly related to the Development; and
 - (iii) Fairly and reasonably related in scale and kind to the Development; and
 - (iv) Complies, in all other respects with Regulation 122 of the CIL Regulations.
- (b) In the event 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 Deed 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 Deed 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.

4 COVENANTS TO THE COUNCIL

- 4.1 The Owner covenants and agrees with the Council and or County Council (as applicable) with the intent to bind the Site only:
- (a) To give the Council and the County Council written notice of the date of Commencement of Development within 7 (seven) Working Days of it occurring in the form set out in the Commencement Notice at Appendix 1;
 - (b) All payments due under this Deed shall be forwarded to the Council or the County Council (as applicable) and shall have attached to them a copy of the Payment Notice duly completed in the form annexed at Appendix 2;
 - (c) To carry out the Development in a manner consistent with the provisions of the Planning Permission unless otherwise agreed with the Council; and
 - (d) To perform the covenants, restrictions and obligations contained in this Deed and in the Schedules to this Deed.

5 COVENANTS BY THE COUNCIL AND COUNTY COUNCIL

- 5.1 The Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 3.
- 5.2 The County Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 4.

6 CONFIRMATION OF INTEREST

- 6.1 The Owner hereby warrants and confirms that apart from the parties hereto there are no other persons with a legal estate or beneficial interest in the rents and profits or proceeds of sale of the Site or any part thereof.

6.2 Until the covenants, restrictions and obligations in schedule 1 and 2 have been complied with, the Owner will give to the Council and the County Council; within 7 (seven) Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Site:

(a) the name and address of the person to whom the disposition was made; and

(b) the nature and extent of the interest disposed of

PROVIDED THAT this obligation shall not apply to any conveyance, transfer, lease, assignment, mortgage or other disposition of an individual Dwelling or to a statutory undertaker acquiring an interest in the for the purposes of its undertaking.

7 INDEX LINKED

7.1 All financial contributions payable to the Council shall be Index Linked.

7.2 Where reference is made to an index (including the RPI Index and the BCIS Index) and that index ceases 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 Deed) 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 the case may be) shall advise the Owner in writing.

7.3 The Owner agrees with the Council that any sum payable by the Owner and referred to in Schedule 1 and Schedule 2 shall be increased by the application of the following formula:

$$A = B \times (C \text{ divided by } D)$$

Where:

A is the sum actually payable on the Specified Date

B is the original sum mentioned in this Deed

C is the BCIS Index for the month two months before the Specified Date

9 DETERMINATION OF DEED

- 9.1 If the Planning Permission is quashed revoked or otherwise withdrawn or expires within the meaning of sections 91, 92 and 93 of the Act or is revoked or modified in accordance with sections 97 to 100 inclusive of the Act without the consent of the Owner this Deed shall cease to have effect (but without prejudice to the rights of either party against the other in respect of any antecedent breach) with the exception of clause 11.

10 LOCAL LAND CHARGE

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

11 COSTS

The Owner shall pay to the Council on or before the date of this Deed:

- 11.1 the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this Deed; and
- 11.2 the County Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this Deed and the County Council Monitoring Fee.

12 INTEREST ON LATE PAYMENT

- 12.1 If any sum or amount has not been paid to the Council or to the County Council by the Specified Date, the Owner shall pay the Council or to the County Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis from the Specified Date until actual payment.

13 DISPUTES

- 13.1 The Parties shall use their reasonable endeavours to resolve any dispute, controversy or claim arising out of or relating to this Deed, including but not limited to any question regarding its breach, existence, validity or termination or the legal relationships established by this Deed, within 28 (twenty eight) days of the dispute arising.

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

C/D is equal to or greater than 1

- 7.4 The Owner agrees with the County Council that any sum payable by the Owner and referred to in Schedule 1 shall be increased by the application of the following formula:

$A = B \times C \div D$ is equal to or greater than 1

D

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

B is the original sum mentioned in this Deed

C is the BCIS Index at the date payment falls due

D is the BCIS Index at the date of consultation (10th May 2022)

and Indexation shall be construed accordingly;

8 RELEASE

- 8.1 No person shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with all of its interest in the Site, or parting with its interest in that part of the Site to which the relevant covenant, restriction or obligation relates, save in respect of any breach subsisting prior to parting with such interest.
- 8.2 Save in respect of the obligations relating to Affordable Housing set out in Schedule 2, this Deed shall not be enforceable against any owner or occupier of any Dwelling provided as part of the Development or any statutory undertaker acquiring an interest in the Site for the purposes of its undertaking or against their mortgagees, chargees or person deriving title from them.
- 8.3 Save in respect of the obligations relating to Affordable Housing set out in Schedule 2, this Deed shall not be enforceable against any Registered Provider who acquires an interest in the Site or against their mortgagees, chargees or person deriving title from them.

- 13.2 Failing the resolution of any such dispute, disagreement or difference within 28 (twenty eight) days of the same arising it may be referred for determination in accordance with the provisions of this clause 12 on the reference of any of the Parties to the dispute.
- 13.3 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 by the President for the time being of RIC or their deputy.
- 13.4 In the case of any legal requirement or interpretation or other matter regarding this Deed 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.
- 13.5 The determination of the Expert (including any determination as to the responsibility for the payment of their 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.
- 13.6 The terms of reference of any Expert appointed to determine a dispute, disagreement or difference shall include the following:
- (a) the Expert shall call for representations from all Parties within 21 days of a reference to them under this Deed and require the Parties to exchange representations within this period;
 - (b) the Expert shall allow the parties to the arbitration 14 days from the expiry date of the period referred to in clause 13.6(a) above to make counter representations;
 - (c) any representations or counter representations received out of time may be disregarded by the Expert;
 - (d) the Expert shall provide the Parties with a written decision (including their reasons) within 28 days of the last date of receipt of counter representations and the Expert shall be entitled to call for such independent expert as they shall think fit;

- (e) Expert's costs and the costs of any independent expert advice called for by the Expert shall be included in the award;
- (f) unless this Deed has already been terminated each of the respective Parties shall in every case continue to comply with its obligations under this Deed regardless of the nature of the dispute for resolution pursuant to this clause 13.6(g) (but without prejudice to the rights and obligations of the respective Parties in relation to the termination of the Deed).

14 NO FETTER OF DISCRETION

- 14.1 Nothing herein contained or implied shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

15 WAIVER

- 15.1 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the obligations terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said obligations terms or conditions or from acting upon any subsequent breach or default in respect thereto by the Owner.

16 FUTURE PERMISSIONS

- 16.1 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.

17 AGREEMENTS AND DECLARATIONS

- 17.1 The parties agree that nothing in this Deed constitutes a planning permission or an obligation to grant planning permission and nothing in this Deed grants planning permission or any other

approval, consent or permission required from the Council in the exercise of any other statutory function.

- 17.2 Where the agreement, approval, consent or expression of satisfaction is required from the Council under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

18 SECTION 73 CONSENTS

- 18.1 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 Planning 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:

- 18.2 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;
- 18.3 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; and

19 NOTICES

- 19.1 Any notice or other communication to be given under this Deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service; or
- (c) by commercial courier.

19.2 Any notice or other communication to be given under this Deed must be sent to the relevant party as follows:

- (a) to the Council at: Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF for the attention of the Planning Department and quoting the Planning Application number;
- (b) to the County Council at the Monitoring and Records Team, Strategic Planning Division, County Hall, West Street, Chichester, West Sussex, PO19 1RQ quoting the Planning Application Number;
- (c) to the Owner at Ham Farm, Main Road, Bosham, West Sussex PO18 8EH.

19.3 Any notice or other communication given in accordance with this clause will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt PROVIDED THAT if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 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 9.00 am on the next Working Day; or
- (b) if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; or
- (c) if delivered by commercial courier on the date and at the time that the courier's delivery receipt is signed.

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

20 CANCELLATION OF ENTRIES

20.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's reasonable and proper costs) the Council will issue a written confirmation of such performance or discharge.

20.2 Following the performance and full satisfaction of all the terms of this Deed or if this Deed is determined pursuant to clause 10 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this Deed.

21 VALUE ADDED TAX

21.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.

21.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

22 THIRD PARTY RIGHTS

22.1 A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

23 JURISDICTION

23.1 This Deed is governed by and interpreted in accordance with the law of England.

SCHEDULE 1

COVENANTS BY THE OWNER

PART 1

The Owner covenants as follows:

1. TRAVEL PLAN MONITORING CONTRIBUTION

- 1.1. To pay the Travel Plan Monitoring Contribution prior to 10 Working Days of the Commencement of the Development; and
- 1.2. Not to Commence the Development until the Travel Plan Monitoring Contribution has been paid within 10 Working Days.

2. COMET CORNER IMPROVEMENTS CONTRIBUTION

- 2.1. To pay the Comet Corner Improvements Contribution prior to Occupation of the 30th Dwelling; and
- 2.2. Not to Occupy or permit or allow Occupation of more than 30 Dwellings until the Comet Corner Improvements Contribution has been paid.

3. NATIONAL HIGHWAYS CONTRIBUTION

- 3.1. To pay the National Highways Contribution prior to Occupation of the 30th Dwelling in accordance with the following Index Linking formula:

most recent quarterly index figure for the "ROADCON Tender Price Index when the payment is due ÷ 183*) – 1] × Contribution amount

*where 183 is the index figure for the ROADCON Tender Price Index for Quarter 1 of 2016.

If the ROADCON Tender Price Index ceases to be published, a replacement formula shall be adopted which National Highways shall specify acting reasonably.

3.2. Not to Occupy or permit or allow Occupation of more than 30 Dwellings until the National Highways Contribution has been paid.

4. MONITORING FEE

4.1. To pay to the Council the Monitoring Fee prior to the Commencement of the Development.

4.2. Shall not cause or permit the Development to be Commenced until the Monitoring Fee has been paid to the Council

PART 2 – TRAVEL PLAN

The Owner covenants as follows:

1. TRAVEL PLAN

1.1 To submit the Travel Plan to the County Council for approval in writing prior to Occupation of the Development;

1.2 Not to Occupy or allow Occupation of the Development until the Travel Plan has been approved in writing by the Council.

1.3 To implement the Travel Plan prior to Occupation of the Development.

SCHEDULE 2

PART 1 – AFFORDABLE HOUSING

The Owner covenants with the Council as follows:

1 GENERAL

- 1.1 That thirty percent (30%) of the Dwellings shall be Provided as Affordable Housing Units on each Phase in accordance with the Affordable Housing Scheme;
- 1.2 To Provide the Affordable Housing Units in accordance with the Planning Permission, Reserved Matters Approval(s) and an approved Affordable Housing Scheme (subject to any amendments agreed by the Council in writing from time to time);
- 1.3 To ensure that all the Affordable Housing Units are built "tenure blind" in respect of external design and features so that they are broadly materially indistinguishable from the Market Housing;
- 1.4 Not to Commence the construction of any Dwellings on a Phase on which Affordable Housing Units are to be Provided until an Affordable Housing Scheme has been submitted to and approved in writing by the Council;
- 1.5 Not to Occupy or cause or permit the Occupation of more than:
 - (a) 50% of the Market Housing Units (or 50% of the Market Housing Units on a Phase as the case may be) until 50% of the Affordable Housing Units have been completed and not to Occupy or cause or permit the Occupation of more than 50% of the Market Housing Units until the Owner has entered into a legally binding contract with an Affordable Housing Provider for the Disposal of the Affordable Housing Units (either freehold or leasehold) for a period of not less than 125 years on terms which ensure that the Affordable Housing Units are and remain bound by the obligations in this Schedule 2 Part 1 (unless otherwise agreed in writing by the Council)
 - (b) 50% of the Market Housing Units (or 50% of the Market Housing Units on a Phase as the case may be) or such other number of Market Housing Units as may be agreed in writing by the Council unless and until the Affordable Housing Units have been constructed and are ready for Occupation.

Page 32 of 61

- 1.6 Subject to paragraph 1.4 of this Schedule, with effect from the date on which they are completed the Affordable Housing Units shall not be Occupied other than by a Qualifying Occupier and for the avoidance of doubt this restriction shall apply not just to the first Occupier of any of the Affordable Housing Units but to all subsequent occupiers of the Affordable Housing Units.

2 AFFORDABLE HOUSING EXCLUDING FIRST HOMES

- 2.1 For the avoidance of doubt the provisions in this paragraph 2 of Schedule 2 shall apply to the Affordable Housing Units excluding First Homes which are dealt with in paragraph 3 of this Schedule 2 below.
- 2.2 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 Transfer Requirements set out in paragraph 2.5 below prevailing at the time when allocations are made and shall be retained in perpetuity as Affordable Housing save that:
- (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) any Shared Ownership Lessee (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;
 - (e) any RP Mortgagee in possession shall not be bound by this Deed provided that the RP Mortgagee has first complied with paragraph 2.9(e) of this Schedule.

- 2.3 That all the Affordable Housing shall be advertised in accordance with the Council's Housing Allocations Policy to the satisfaction of the Council;
- 2.4 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 CIL Regulations.
- 2.5 **Mechanics of Transfer**
- (a) The Owner shall offer the Affordable Housing Units to an Affordable Housing Provider ("**First Offer**") by provision of:
 - (i) a contract for the sale of land; and
 - (ii) a draft transfer which shall include the provisions set out in paragraph 2.6 below.
 - (b) The First Offer shall remain open for acceptance for no less than two (2) months from the date of the First Offer being made ("**First Offer Period**")
 - (c) In the event that the First Offer made in accordance with paragraph 2.5(a) above is not accepted within the First Offer Period then the Owner shall make a second offer to transfer the Affordable Housing Units to an Affordable Housing Provider ("**Second Offer**") by provision of a contract for the sale of land and a draft transfer which shall include the provisions set out in paragraph 2.6 below.
 - (d) The Second Offer shall consist of the same terms as the First Offer subject to revisions necessitated by the lapse of time;
 - (e) The Second Offer shall be made not later than one (1) month after the expiry of the First Offer Period.
 - (f) The Second Offer shall remain open for acceptance for no less than two (2) months from the date of the Second Offer being made ("**Second Offer Period**").
- 2.6 The Owner covenants with the Council that any transfer of Affordable Housing Units to an Affordable Housing Provider will contain the following provisions:

- (a) The grant by the Owner of all rights and access and passage of services and other rights reasonably necessary to the beneficial enjoyment of those Affordable Housing Units;
- (b) A reservation of all rights and access and passage of services and other rights reasonably necessary for the benefit of the remainder of the Dwellings, estate infrastructure, and public areas on the Site; and
- (c) The imposition of such covenants as the Owner shall reasonably require and are consistent with the sale of any Market Dwellings.

2.7 The Owner covenants with the Council:

- (a) to take all reasonable and prudent steps within its power to avert the repossession of the Affordable Housing Units by any RP Mortgagee or the exercise by any such RP Mortgagee of a power of sale and for these purposes in the event of a default under the security or likely default to cooperate fully with the Council to assist in arranging the transfer of the Affordable Housing Units with sitting tenants to another Affordable Housing Provider or, at the Council's option, to the Council;
- (b) In the event that the Owner becomes aware that the Affordable Housing Provider has received notification from any RP Mortgagee of any breach or alleged breach by the Affordable Housing Provider of any of its obligations under its security, to notify the Council of this as soon as reasonably practicable; and
- (c) In the event that the Owner becomes aware of any notice, order or direction having been served, made or given under the Housing Act 1996 Schedule 1 Part IV that relates to the Affordable Housing Units, to notify the Council of this as soon as reasonably practicable.

2.8 The Owner and the Council hereby agree that subject to and without prejudice to the powers and requirements of the Homes England under the Housing Act 1996 in the event of a default under any security referred to in paragraph 2.7 the Disposal of any interest in the Affordable Housing Dwellings by the RP Mortgagee in the exercise of its power of sale will not be prevented.

2.9 Commuted Sum Payable if First and Second Offer Not Implemented

- (a) In the event that the Second Offer is not accepted within the Second Offer Period then the Owner may on or before the Occupation of 10 of the Market Dwellings pay to the Council the Affordable Housing Commuted Sum whereupon once such sum has been paid to the Council the Owner and any successors in title shall be released from the provisions of this paragraph 2.9(a) insofar as it relates to the Affordable Housing Units and the Affordable Housing Units may be sold on the open market as Market Dwellings

PROVIDED THAT

- (i) The Owner shall have provided the Council with written evidence of their Reasonable Endeavours to dispose of the Affordable Housing Units to an Affordable Housing Provider; and
- (ii) The Council shall, acting reasonably, have confirmed in writing that such Reasonable Endeavours were reasonable or an Expert shall have determined that such Reasonable Endeavours were reasonable; and
- (iii) The Owner shall pay to the Council the Affordable Housing Commuted Sum for each of the Affordable Housing Units in relation to which the First and Second Offers have not been accepted within 20 working days of the end of the Second Offer Period;
- (b) The Affordable Housing Commuted Sum shall be calculated in accordance with the following formula:

$X \text{ multiplied by } Y = \text{the Affordable Housing Commuted Sum}$

Where: $X = £80,000$; and

$Y = \text{the number of Affordable Housing Units which will not be provided on the Site as part of the Development in accordance with the terms of the Deed}$

(c) Nomination Rights

- (i) To procure that the Affordable Housing Provider grants Nomination Rights to the Council to the first Occupation of the Affordable Housing Units PROVIDED

THAT if the Council do not accept such offer then the Affordable Housing Provider shall in seeking to allocate the Affordable Housing Units have regard as far as possible to the following criteria:

- (A) any period of ordinary residence in the District of Arun not immediately before the date on which any Affordable Housing Unit becomes vacant; or
- (B) any family association in the District of Arun in accordance with the Council's Housing Allocations Policy; or
- (C) any employment opportunity in the District of Arun; or
- (D) any other connection with the District of Arun District

but for the avoidance of doubt the satisfaction of such criteria hereof shall be determined by the Affordable Housing Provider.

(ii) To procure that the Affordable Housing Provider shall within 3 months of the legal completion of the transfer, or such other period as may be agreed with the Council in writing, enter into a Nominations Agreement (in like terms to that in the Draft Nominations Agreement in Appendix 5) with the Council.

(iii) The Owner covenants with the Council:

- (A) in the event that the Owner becomes aware that the Affordable Housing Provider has received notification from any RP Mortgagee of any breach or alleged breach by the Affordable Housing Provider of any of its obligations under its security, to notify the Council of this as soon as reasonably practicable;
- (B) in the event that the Owner becomes aware of any notice, order or direction having been served, made or given under the Housing Act 1996 Schedule 1 Part IV that relates to the Affordable Housing Units, to notify the Council of this as soon as reasonably practicable;
- (C) in the event of a default under any security referred to in paragraph 2.7 or in other circumstances warranting the intervention of Homes

England (whether under the Housing Act 1996 or otherwise) nothing in this paragraph 2.9(c)(iii) the transfer of the freehold of the Affordable Housing Units or any part of them to another Affordable Housing Provider will be prevented;

- (D) subject to and without prejudice to the powers and requirements of Homes England under the Housing Act 1996 that in the event of a default under any security referred to in paragraph 2.7 the Disposal of any interest in the Affordable Housing Units by the RP Mortgagee in the exercise of its power of sale will not be prevented.

(d) **Future Provisions**

- (i) Nothing in this Deed shall be construed as imposing or otherwise implying any obligation on the Council to grant or make available any public subsidy or other financial support (or to assist the Owner in obtaining such public subsidy or other financial support) in respect of the Affordable Housing Units;
- (ii) The provisions of this Schedule 2 Part 2 shall cease to bind any of the Affordable Housing Units if in relation to that Affordable Housing Unit:
 - (A) statutory right to acquire pursuant to the Housing Act 1985 or Housing Act 1996 (or any statutory re-enactment amendment or replacement thereof) has been exercised; or
 - (B) it shall have been sold under a Shared Ownership Lease and the Shared Ownership Lessee (or its mortgagee) has staircased his ownership under the lease to 100%
- (iii) In the event of any dispute as to whether any proposed occupier of any Affordable Housing Unit is a Qualifying Occupier, the matter shall be determined by the Council (acting reasonably).

(e) **Mortgagee in Possession Clause**

(i) The Affordable Housing provisions in this Deed shall not be binding on a RP Mortgagee of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such RP Mortgagee PROVIDED THAT:

(A) such RP Mortgagee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used Reasonable Endeavours over a period of three (3) months from the date of the written notice to complete a Disposal of the Affordable Housing Units to another Affordable Housing 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

(B) if such Disposal has not completed within the three month period, the RP Mortgagee shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely

3 AFFORDABLE HOUSING - FIRST HOMES

DEVELOPMENT STANDARD

3.1 All First Homes shall be constructed to:

- (a) the Development Standard current at the date of this Deed or at the time of the relevant Reserved Matters Approval(s); and
- (b) no less than the standard applied to the Market Dwellings.

DELIVERY MECHANISM

3.2 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:

- (a) the Eligibility Criteria (National); and

(b) the Eligibility Criteria (Local) (if any).

3.3 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) (if any), paragraph 3.2(b) shall cease to apply.

3.4 Subject to paragraphs 3.6 to 3.10, 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.

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

(a) The Council has been provided with evidence that:

(i) the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 3.2(b) applies meets the Eligibility Criteria (Local) (if any);

(ii) the Dwelling is being Disposed of as a First Home at the Discount Market Price; and

(iii) the transfer of the First Home includes:

(A) a definition of the "Council" which shall be Arun District Council;

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

"means the provisions set out in clause[s] [] of the S106 Agreement a copy of which is attached hereto as the Annexure." [];

(C) A definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) the Council [and] (2) [and (3)];

(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

Page 40 of 61

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.

(b) 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 3.4 and 3.5(b) have been met.

3.6 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"

3.7 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:

(a) the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 3.2 and 3.3 (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 Practical 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 3.4 and 3.5(a); or

(b) requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 3.7(a) 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.

3.8 Upon receipt of an application served in accordance with paragraph 3.7 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.

3.9 If the Council is satisfied that either of the grounds in paragraph 3.7 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 3.7 that the relevant Dwelling may be Disposed of:

(a) to the Council at the Discount Market Price; or

(b) (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 3.11 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.

3.10 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 3.7 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.7 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 3.7 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.

3.11 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 3.9 or 3.10 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.

3.12 Upon receipt of the Additional First Homes Contribution the Council shall:

(a) within 30 working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 2.6 where such restriction has previously been registered against the relevant title; and

(b) apply all monies received towards the provision of Affordable Housing.

3.13 Any person who purchases a First Home free of the restrictions in this Schedule 2 of this Deed pursuant to the provisions in paragraphs 3.10 and 3.11 shall not be liable to pay the Additional First Homes Contribution to the Council.

USE

3.14 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 3.14(a) – 3.14(d) below.

(a) 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.

(b) 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.

- (c) A letting or sub-letting permitted pursuant to paragraph 3.14(a) or 3.14(b) 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.
- (d) Nothing in this paragraph 3.14 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.

4 MORTGAGEE EXCLUSION

- 4.1 The obligations in clause 3 of this Schedule 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: (a) such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and
- 4.2 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 4(c);
- 4.3 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

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

- (a) forthwith issue a issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 3.6 of this Schedule; and
- (b) apply all such monies received towards the provision of Affordable Housing.

SCHEDULE 3

COVENANTS BY THE COUNCIL

The Council covenants with the Owner as follows:

1 NATIONAL HIGHWAYS CONTRIBUTION

- 1.1 The Council covenants with the Owner that within 21 (twenty one) days of receipt of the National Highways Contribution referred to in paragraph 3 of Schedule 1 the Council will transfer the sum to National Highways.

2 REPAYMENT OF CONTRIBUTIONS

- 2.1 To use all financial contributions received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree.
- 2.2 Save for sums relating to ongoing management and maintenance, in the event of any sum (or part) paid under the terms of this Deed remaining unallocated or unspent for the purposes referred to in this Deed for which sum (or part) was paid for a period of 10 (ten) years from the date of the payment thereof the said sum (or part) together with interest at the Base Rate shall to that extent on demand to the person who made the payment provided that if the Council (or relevant third party) has entered into a contract prior to the expiry of the 10 (ten) year period in respect of matters which relate to the said sum the period shall be extended until the completion of the contract or payment of the final account under the contract whichever is later.
- 2.3 To provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the expenditure of the financial contributions paid by the Owner under this Deed.

SCHEDULE 4

COVENANTS BY THE COUNTY COUNCIL

The County Council covenants with the Owner as follows:

1 INTEREST BEARING ACCOUNT

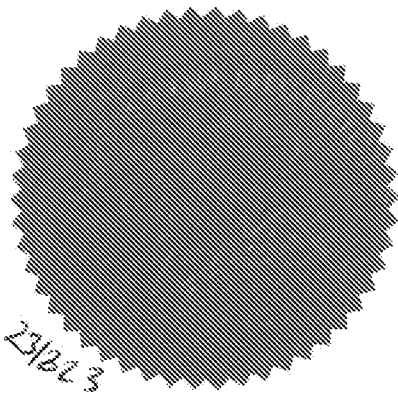
- 1.1 To pay all financial contributions received from the Owner under the terms of this Deed into a separately identified interest-bearing section of the County Council's combined accounts as soon as reasonably practicable.

2 REPAYMENT OF CONTRIBUTIONS

- 2.1 To use all financial contributions received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the County Council shall agree.
- 2.2 Save for sums relating to ongoing management and maintenance, in the event of any sum (or part) paid under the terms of this Deed remaining unallocated or unspent for the purposes referred to in this Deed for which sum (or part) was paid for a period of ten years from the date of the payment thereof the said sum (or part) together with interest at the Base Rate shall to that extent on demand to the person who made the payment provided that if the County Council (or relevant third party) has entered into a contract prior to the expiry of the five year period in respect of matters which relate to the said sum the period shall be extended until the completion of the contract or payment of the final account under the contract whichever is later.
- 2.3 To provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the expenditure of the financial contributions paid by the Owner under this Deed.

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

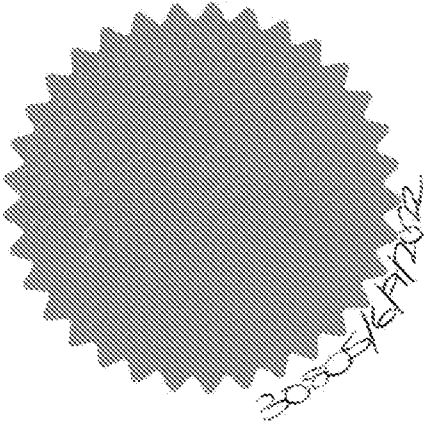
THE COMMON SEAL of
ARUN DISTRICT COUNCIL
was affixed to this document in the presence of:



Authorised signatory

[Redacted]
YWA AHMED
SOLICITOR

THE COMMON SEAL of
WEST SUSSEX COUNTY COUNCIL
was affixed to this document in the presence of:



EXECUTED as a DEED by
LANDLINK DEVELOPMENTS 4 LIMITED
acting by two Directors or
one Director and the Company Secretary

Director

[Redacted]

Director/Company Secretary

[Redacted]

APPENDIX 1

COMMENCEMENT NOTICE

Pursuant to Clause 4.1 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, The Civic Centre, Maltravers Road, Littlehampton BN17 5LF (DX:57406 Littlehampton);

(2) Monitoring and Records Team, Strategic Planning Division of County Hall, Chichester PO19 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



Legend

Hybrid Application Boundary
Other Land Owned By Applicant

BOYLE + SUMMERS
Landscape Architects
40, 42 & 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000

Client Landlink Estates

Project Land West of Bisham Road, Yagton

Title Existing Site Location

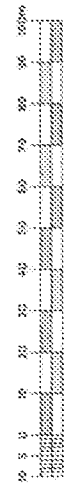
LFY - BSL - ZZ - XX - DR - A 1001 - PL

B/S Ref: 21015 Date: DEC 2021 Scale: 1:1250 Drawn: IC Checked: SR

Tel: 0123 80611432 www.boyleandsummers.co.uk

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PLANNING



30805/6/7/2007

APPENDIX 4

APPROVED AFFORDABLE PROVIDERS

Provider	Contact and email	Address	Tel. No
Clarion Housing Group	Liz Hills, Head of Development (New Projects) [REDACTED]	Upton House, 7 Perrymount Rd, Haywards Heath, RH16 3TN	[REDACTED]
The Guinness Partnership	Claudette Rawlinson, New Business Manager [REDACTED]	33 East Street Havant PO9 1AA	[REDACTED]
The Hyde Group	John Martin [REDACTED]	Telecom House 125 - 135 Preston Road Brighton BN1 6AF	[REDACTED]
Worthing Homes	Damian Haley, Development Manager [REDACTED]	Davison House North Street Worthing BN11 1ER	[REDACTED]
Stonewater	Jacqueline Burton, Development Officer [REDACTED]	Waverley House 115-118 Holdenhurst Road Bournemouth BH8 8DY	[REDACTED]
Saxon Weald	Mona Johansson, Programme Manager [REDACTED]	Saxon Weald House 38-42 Worthing Road Horsham RH12 1DT	[REDACTED]
Hastoe Housing Association		Marina House 17 Marina Place Hampton Wick Kingston-Upon-Thames KT1 4BH	[REDACTED]
Aster Group	Edward Till, Development Manager [REDACTED]		[REDACTED]
Arun District Council	Moh Hussein, Interim Group Head of Residential Services [REDACTED]	Civic Centre, Maltravers Rd, Littlehampton, BN17 5LF	[REDACTED]
National Community Land Trust Network	Any Community Land Trust operating within the District of Arun, which is also a member of this network (NCLTN)	National CLT Network 7-14 Great Dover Street, London, SE1 4YR	[REDACTED]

APPENDIX 5

DRAFT NOMINATIONS AGREEMENT

DATED

20{ }

{1} { }{ }

AND

{2} ARUN DISTRICT COUNCIL

AGREEMENT OF NOMINATION

relating to
rented units at

CONTENTS

Page No.

1	DEFINITIONS	1
2	ENABLING PROVISIONS	2
3	PROCEDURE.....	2
4	NOTICES.....	5
5	TRANSFERS TO OTHER REGISTERED SOCIAL LANDLORDS	5
6	MORTGAGEES IN POSSESSION.....	5
7	DISPUTES.....	5
8	COSTS	5
9	AGREEMENTS AND DECLARATIONS	5

BETWEEN

- (1) {•}{ } of {•}{ }; and
- (2) ARUN DISTRICT COUNCIL of The Civic Centre, Maltravers Road, Littlehampton BN15 7LF.

24 DEFINITIONS

In this Agreement :

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

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

“Nomination List” means the list to be supplied by the Council pursuant to clauses 26.3 and 26.10 (as may be updated from time to time in accordance with clause 26.16).

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

“Rented Units” residential units in the form of houses.

“Subsequent Nominee” means a Nominee to be offered a Tenancy Agreement pursuant to clause 26.10.

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

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

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

- (a) moved to other accommodation either by transfer or decant provided by the RSL;
- (b) moved to other accommodation under a reciprocal arrangement provided by another registered social landlord registered with the Housing Corporation under the Housing Act 1996.