DATED THIS 18 DAY OF February 2020

(1) ARUN DISTRICT COUNCIL

(2) WEST SUSSEX COUNTY COUNCIL

(3) ANTHONY JOHN CLAY

(4) DOMUSEA (STRATEGIC) LIMITED

Agreement pursuant to Section 106 of the
Town and Country Planning Act 1990
relating to Clays Farm North End Road
Yapton
Planning ref: Y/62/18/OUT

Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF
DX 57406 LITTLEHAMPTON
Ref: CMS 7255

ARUN DISTRICT COUNCIL Y/62/18/OUT

THIS DEED is dated 18 February 2020

(1) **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF **("the Council")**

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

(3) **ANTHONY JOHN CLAY** of 15 the Quarterdeck, Kings Parade, Bognor Regis, West Sussex PO21 2FZ **("the Owner")**

(4) **DOMUSEA (STRATEGIC) LIMITED** incorporated and registered in England and Wales with company number 10867653 whose registered office is Devonshire House Manor Way Borehamwood WD6 1QQ **("the Applicant")**

BACKGROUND

(A) The Council is the local planning authority, and the local authority responsible for housing, public open space, equipped play space and sport and recreation facilities for the area in which the Property is situated.

(B) The County Council is the local highway authority and the local authority responsible for providing education, libraries and fire and rescue services for the area in which the Property is situated.

(C) The Owner is the freehold owner of the Property HM Land Registry comprised in the title numbers WSX22432

(D) The Planning Application was made by the Applicant to the Council to develop the Property.

(E) The Applicant is also the registered proprietor of the charge dated 18 December 2017 referred to in entry number C1 of the charges register of the Title number WSX22432 and has agreed to enter into this deed to give its consent to the terms of the deed.

(F) This agreement is made as a Deed.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed:

1.1 Definitions:

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Affordable Housing: means any form of housing identified within legislation the National Planning Policy Framework or a ministerial statement as meeting the requirements of affordable housing planning obligation under section 106 of the Act (or any successor thereto) and may include but is not limited to:

- social rented housing
- affordable rented housing
- shared ownership housing
- intermediate housing (including intermediate rent, shared equity and low cost homes for sale)

Affordable Housing Scheme: means the scheme which is to include a plan and accommodation schedule showing the location dwelling type and tenure mix of the Affordable Housing Units to be submitted to the Council by the Owner and approved by the Council in accordance with paragraph 1.1 of the First Schedule

Affordable Housing Standard: means the Homes England building standard applicable at the date of the Commencement of Development or equivalent or replacement successor Standard adopted by the successor body to Homes England

Affordable Housing Units: means a minimum of 30% of all of the residential dwelling units which are on the Property which are to be provided as Affordable Housing in accordance with the terms of the First Schedule, the Planning Permission and Affordable Housing Standard, for the avoidance of doubt, this may be used in the singular or the plural

Affordable Housing Provider: means either one or a combination of:

- a registered provider of Affordable Housing registered under the Housing and Regeneration Act 2008 with Homes England who is either on the Council list of Approved Affordable Providers (annexed as **Appendix C**) or other registered provider who is either specifically approved by the Council or who may be added to the list of Approved Housing Providers or
- any other provider of Affordable Housing who is approved by the Council in writing; or
- such other body or organisation approved by the Council in writing whose main object is the provision of Affordable Housing.

Affordable Rented Units: means units provided and let with rent which is no more than 80% of the market rent inclusive of any service charges 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 if each letting. "Affordable Rent Unit" and "Affordable Rent "shall be construed accordingly

Base Rate: means the base rate from time to time of Barclays Bank plc

CIL: means the levy introduced by Part 11 of the Planning Act 2008

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 TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works; site clearance; ground investigations; site survey works; site remediation works; temporary access construction works; archaeological investigation; erection of any fences and hoardings around the Property; and installation of pipes, lines, wires, cables and other equipment in, under or over the Property. **Commence** and **Commences** shall be construed accordingly

Commencement Date: means the date Development Commences

Common Parts: means all parts of the Property that are not intended to become adopted and maintainable at the public expense including but not limited to landscaped areas footpaths estate roads and land to be used as public open space from time to time provided or designated by the Management Company for the common or general use by or for the benefit of occupiers tenants or licensees of the Property and where appropriate their respective employees, agents and licensees and all others from time to time authorised by the Management Company

County Council Contributions: means the Education Contribution, the Library Contribution and the Fire and Rescue Services Contribution

CPI Index: means the Consumer Price Index published from time to time by the Office of National Statistics

Default Interest Rate: means 4% per annum above the Base Rate

Development: means the development of the Property authorised by the Planning Permission

Education Contribution: means the Primary Education Contribution, the Secondary Education Contribution and the Sixth Form Education Contribution

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Estate Roads: means the roads, footways, footpaths and cycle ways that will be offered for adoption under Section 38 of the Highways Act 1980 and those to remain private

Fire and Rescue Contribution: means a sum to be calculated and paid to the County Council in accordance with paragraph 3 of the Second Schedule being a contribution towards the provision of fire service infrastructure (excluding fire hydrants) in the vicinity of the Land to serve additional needs of the community generated by the Development and to be used towards the new anti-ventilation and UHP (ultra-high pressure) equipment which allows the fire service to control access and smoke penetration within the Southern area serving the parish of Yapton and such sum shall not be subject to indexation in accordance with Clause 7 of this Deed

First Occupation: means beneficial occupation for any use for which the Development was designed other than occupation for the purposes of construction, fitting out or marketing

Index Linked: means any figures which are index linked and adjusted in accordance with Clause 7 of this agreement

Intermediate Unit: means homes for sale and rent provided at a cost above social rented housing but below open market levels and that fall within the definition of Affordable Housing the form of which is to be Shared Ownership Units or such other products as may be agreed with the Council and which may include shared equity loans and discount market sale housing

LAP: means a Local Area for Play for children of early school age which is to be provided in accordance with Arun District Council Supplementary Planning Guidance on Open Space and Recreation Standards (October 2000) or its successor Supplementary Planning Document.

LEAP: means a Local Equipped Area for Play provided in accordance with Arun District Council Supplementary Planning Guidance on Open Space and Recreation Standards (October 2000) or its successor Supplementary Planning Document.

Library Contribution: means a sum to be calculated and paid to the County Council in accordance with paragraph 2 of the Second Schedule being a financial contribution towards the costs of providing the additional library infrastructure required to accommodate the extra demands for library services that would be generated by the Development and to be used towards additional stock at Arundel Library and such sum shall not be subject to indexation in accordance with Clause 7 of this Deed

Management Company: means a management company incorporated by the Owner to hold the freehold interest in the Common Parts

Monitoring Fee: means a contribution of £3000 (Three Thousand Pounds) towards the Council's costs in monitoring compliance with this deed.

National Planning Policy Framework or NPPF: means the National Planning Policy Framework dated February 2019 or as updated

NHS Contribution: means the sum of £41,957 Index Linked payable to the Council in accordance with paragraph 3 of the First Schedule for managing the "on the day demand" at The Croft or alternative site, to assist with the creation of a new integrated community hub facility at the Croft Medical Centre on Barnham Road Eastergate.

Nomination Agreement: means a nomination agreement entered into by an Affordable Housing Provider with the Council in respect of the Affordable Housing Units containing provisions substantially in the form set out in the Appendix B to this Agreement

Nomination Rights: means the right of the Council to nominate occupiers to the Affordable Housing Units in accordance with the First Schedule to this Agreement

Open Market Units: means all those residential units to be constructed on the Property pursuant to the Planning Permission which are not Affordable Housing Units

Open Space Contribution: means the Open Space Maintenance Commuted Sum and **Play Area Maintenance Contribution**

Open Space: means those areas of open space and amenity space including local areas of play (LAP) and local equipped areas of play (LEAP) to be provided within the Development the approximate location of which is to be shown on the Plan or such other areas as the Council may approve in writing to be laid out in accordance with the Open Space Scheme approved by the Council

Open Space Maintenance Commuted Sum: means the sum of £13.51 per m^2 of the Open Space excluding any LAPs and LEAPs to be paid by the Owner to the Council if the Open Space is transferred to the Council in accordance with Paragraph 2 of the First Schedule (for the avoidance of doubt it is agreed that the Owner may appoint an independent measurer to measure the area of the Open Space and the independent measurer's determination of the area of the Open Space shall be final and binding on the parties)

a. **Open Space Scheme:** means a scheme to be submitted to the Council prior to Commencement of the Development setting out a maintenance and management plan for any Open Space to be provided at the Development,

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including details of whether the areas in question are to be transferred to or managed by an Owner, a Management Company or some other body or organisation

b. details of the circumstances in which the Open Space may be closed to the public for maintenance, management , health and safety, and other reasons

c. the Open Space Specification to include both a LAP and a LEAP.

Open Space Specification: means the specification for the Open Space to be approved by the Council as part of the Open Space Scheme which is in turn approved by the Council in accordance with the provisions in paragraph 2.1.1 of the First Schedule (for the avoidance of doubt it is agreed that the Owner

may appoint an independent measurer to measure the area of the Open

Space and the independent measurer's determination of the area of the Open

Space shall be final and binding on the parties)

Plan: means the plan attached at Appendix A

Planning Application: means the application for full planning permission under reference number Y/62/18/OUT which was refused on 28 June 2019 and granted on appeal.

Planning Permission: means the planning permission to be granted by the Council in respect of the Planning Application

Play Area Maintenance Contribution: means the sum of £24,000.00 to be paid by the Owner to the Council if the Open Space is transferred to the Council in accordance with Paragraph 2 of the First Schedule for the maintenance of any LAPs and LEAPs.

Primary Education Contribution: means the sum to be calculated and paid to the County Council in accordance with paragraph 1 of the Second Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and to be used towards internal alterations and reconfiguration to accommodate additional pupils and increase classroom provision at Yapton C of E Primary School or its successor and such sum shall not be subject to indexation in accordance with Clause 7 of this Deed

Property: means land known as Clays Farm North End Road Yapton shown for identification purposes only edged red on the Plan and registered at HM Land Registry with absolute title under title number WSX22432

Protected Tenant: means any tenant or leaseholder who:

(i) has exercised any statutory right to buy in respect of a particular Affordable Housing Unit; or

(ii) is the leaseholder of a Intermediate Unit and has subsequently purchased from the freeholder all the remaining equitable shares in that Intermediate Unit so that the said tenant or leasehold owns the entire Intermediate Unit

Rented Units: means Social Rented Units and/or Affordable Rented Units let in accordance with guidance issued by Homes England and the National Planning Policy Framework. "Rent Unit" and "Rent "shall be construed accordingly

Secondary Education Contribution: means the sum to be calculated and paid to the County Council in accordance with paragraph 1 of the Second Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for secondary education services that would be generated by the Development and to be used towards additional facilities at St Philip Howard Catholic High School and such sum shall not be subject to indexation in accordance with Clause 7 of this Deed

Sixth Form Education Contribution: means the sum to be calculated and paid to the County Council in accordance with paragraph 1 of the Second Schedule being a financial contribution towards the cost of providing the additional education infrastructure to accommodate the extra demands for sixth form education services that would be generated by the Development and to be used towards additional facilities at St Phillip Howard Catholic High School Sixth Form and such sum shall not be subject to indexation in accordance with Clause 7 of this Deed

Shared Ownership Lease: means a shared ownership lease for a term of years of at least 125 years in the form regulated by the Homes England from time to time and which shall accord with the requirements and be consistent with any model shared ownership lease from time to time established by the Homes England

Specified Date: means the date on which the payment is actually made

Social Rented Units means units provided and let by an Affordable Housing Provider at target social rent.

TCPA 1990: means the Town and Country Planning Act 1990

Unit: means a residential unit to be constructed on the Property pursuant to this Permission and "Units" shall be construed accordingly

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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 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.

1.8 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.

1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.

1.10 A reference to **writing** or **written** excludes faxes and e-mail

1.11 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.

1.12 References to clauses and Schedules are to the clauses and Schedules of this deed.

1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.14 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.15 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 constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 and, Section 1 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 TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns. To the extent that they fall outside of the scope of Section 106 of the TCPA 1990 the covenants and obligations herein are entered into by the parties pursuant to Sections 111 of the Local Government Act 1972, Section 1 Localism Act 2011 and all other enabling powers.

2.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council and the County Council (as appropriate) in accordance with section 106 of the TCPA 1990.

3. CONDITIONALITY

3.1 With the exception of clauses 2, 3, 10, 11, 13, 16, 17, 19, 20, 21, 22 24 and 25 (which take effect immediately), this deed is conditional upon the later of:

(a) the grant and issue of the Planning Permission; and

(b) the Commencement of Development.

3.2 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

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(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.

3.3 In the event that the Council or the County Council adopt a charging schedule under the CIL Regulations prior to Planning Permission being granted, the Owner shall be released from any of the obligations in this deed that relate to an item or project included on the Council and/or County Council's relevant list of infrastructure that is to be funded by CIL.

4. THE OWNER COVENANTS

4.1 The Owner covenants with the Council so as to the bind the Property to observe and perform the covenants, restrictions and obligations contained in First Schedule.

4.2 The Owner covenants with the County Council so as to bind the Property to perform the obligations as set out in Second Schedule.

4.3 The Owner covenants with the Council to give at least 7 Working Days written notice to the Council and the County Council of the Commencement Date, First Occupation of the 1st Open Market Unit and First Occupation of fifty percent (50%) of the Open Market Units

5. COVENANTS BY THE COUNCIL

5.1 The Council covenants with the Owner and County Council to observe and perform the covenants, restrictions and obligations contained in Third Schedule.

6. THE COUNTY COUNCIL'S COVENANTS

6.1 The County Council covenants with the Owner and Council to observe and perform the covenants, restrictions and obligations contained in Fourth Schedule.

7. INDEXATION

7.1 Unless there is an express provision to the contrary the Owner agrees with the County Council and Council that any sum payable by the Owner and referred to in First Schedule and Second Schedule

shall be increased by the application of the following formula: A = (B x C) divided by D

A is the sum actually payable on the Specified Date

B is the original sum mentioned in this deed

C is the CPI Index for the month two months before a Specified Date

7.2 D is the CPI Index for the month two months before the date that Planning Permission is grantedWhere reference is made to an index (including the CPI Index) and that index ceased to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this 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 applicable) shall advise the Owner in writing.

8. EXCLUSION OF LIABILITY

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 Property or such part of the Property to which the breach relates, except in respect of any breach subsisting prior to parting with such interest.

8.2 No person shall be liable for any breach of any part of the covenant, restrictions or obligations contained in this Deed which relate to a part of the Property in which it does not have an interest.

8.3 This Deed shall not be enforceable against any occupier or tenant of any Unit constructed pursuant to the Planning Permission, or their mortgagees, nor against those deriving title from them.

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8.4 Any legal charge entered into in respect of the Property or any part of the Property after this Deed has been completed shall take effect subject to this Deed PROVIDED THAT the mortgagee under such a legal charge shall have no liability under this Deed unless it causes the breach after it becomes a mortgagee in possession of the land comprised in the legal charge and the mortgagee shall not be liable for any breach of this Deed that occurs prior to the mortgagee taking possession of the land.

9. DETERMINATION OF DEED

9.1 The obligations in this deed shall cease to have effect if the Planning Permission:

(a) expires before the Commencement of Development;

(b) is varied, withdrawn or revoked other than at the request of the Owner; or

(c) is quashed following a successful legal challenge;

(d) is modified by any statutory procedure;

10. LOCAL LAND CHARGE

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

11. COSTS

11.1 The Applicant shall pay to the Council and the County Council on or before the date of this deed:

(a) the Council's reasonable and proper legal costs of up to £2,000 (including VAT) together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this deed.

(b) the County Council's reasonable and proper legal costs of up to XXXX (including VAT) together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this deed.

12. INTEREST ON LATE PAYMENT

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

13. OWNERSHIP

13.1 The Owner warrants that no person other than the Owner and Applicant has any legal or equitable interest in the Property.

13.2 Until the covenants, restrictions and obligations in First Schedule have been complied with, the Owner will give to the Council within 5 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 Property:

(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 the Owner shall not be required to give notice of any change of ownership or disposal or grant of an interest in any Unit at the Property constructed pursuant to the Planning Permission.

13.3 Until the covenants, restrictions and obligations in the Second Schedule have been complied with, the Owner will give to the County Council within 5 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 Property:

(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 the Owner shall not be required to give notice of any change of ownership or disposal or grant of an interest in any Unit at the Property constructed pursuant to the Planning Permission.

14. REASONABLENESS

14.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or the County Council under the terms of this deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.

15. CANCELLATION OF ENTRIES

15.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged the Council will issue a written confirmation of such performance or discharge.

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15.2 Following the performance and full satisfaction of all the terms of this agreement or if this deed is determined pursuant to clause 9 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.

16. DISPUTES

16.1 In the event that there shall be any dispute between the parties to this Deed in respect of any matter arising under the terms of this Deed and which dispute the parties are unable to resolve any of the parties may refer the matter to an expert (Expert) (being a person as described below) for determination SAVE THAT in no case shall any point be referred to the Expert which is a point that is in or relates to any matter in the Planning Permission itself (where the Council's determination shall be final).

16.2 The Expert shall be a person with knowledge and expertise in the subject matter of dispute and in the event that the parties cannot agree the identity of the person to be appointed as Expert pursuant to this clause within fifteen (15) working days of one party's nomination to the other party of that party's decision to refer the matter to an Expert either party may seek nomination of an Expert by the President for the time being of the appropriate professional body (whos nomination shall be binding on the parties).

16.3 The costs of the Expert shall be in the award of the Expert.

16.4 The Expert shall (save with the agreement of both parties) be restricted to settling disputes.

16.5 The decision of the Expert (other than in the case of manifest error) shall be binding on the parties.

16.6 The provisions of this clause 16 do not apply in the case that dispute or difference arising in connection with any matter covered by this deed to the extent that the same is a dispute or difference as to a matter or law or concerning the interpretation of this deed.

17. NO FETTER OF DISCRETION

17.1 Nothing contained or implied in this deed shall prejudice or affect the rights discretions powers duties and obligations of the Council or the County Council under all statutes by laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

18. WAIVER

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

19. FUTURE PERMISSIONS

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

20. AGREEMENTS AND DECLARATIONS

20.1 The parties agree that:

(a) nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and

(b) 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.

21. NOTICES

21.1 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.

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

(a) to the Council: Arun Civic Centre Maltravers Road, Littlehampton, West Sussex BN17 5LF marked for the attention of the Planning Department and quoting the Planning Application number.

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(b) to the County Council at 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 15 The Quarterdeck Kings Parade Bognor Regis West Sussex PO21 2FZ

(d) to the Applicant at Devonshire House Manor Way Borehamwood WD6 1QQ quoting the Planning Application Number.

or as otherwise specified by the relevant party by notice in writing to each other party.

21.3 Any notice or other communication given in accordance with clause 21.1 and clause 21.2 will be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address 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

21.4 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.A notice or other communication given under this deed shall not be validly given if sent by email.

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

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. VALUE ADDED TAX

23.1 Each amount stated to be payable by the Council or the Owner to the other under or pursuant to this deed is exclusive of VAT (if any).

23.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

24. GOVERNING LAW

24.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

25. MISCELLANEOUS

25.1 Insofar as any clause or clauses of this deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this deed.

26. FUTURE TCPA 1990 SECTION 73 CONSENTS

26.1 Subject to clauses 26.2 to 26.5 below, 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;

26.2 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;

26.3 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;

26.4 the provisions of this clause 26 shall not apply to any section 73 consent which necessitates or requires amendments to the substantive terms or obligations of or contained within this deed; and

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26.5 the Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any section 73 consent if the Council (acting reasonably) considers it necessary to do so.

FIRST SCHEDULE				
The Owner's Covenants with the Council				
The Owner covenants with the Council as follows:				
1	**AFFORDABLE HOUSING**			
	1.1	That a minimum 30% of the Units shall be provided as Affordable Housing Units to be provided in accordance with the Affordable Housing Scheme		
		1.1.1 Tenure is to be 75% Rented Units and 25% Intermediate Units housing with Shared Ownership Lease		
	1.2	Not to commence construction of any Units at the Development until the Affordable Housing Scheme has been submitted to and approved by the Council		
	1.3	To construct the Affordable Housing Units at the Development in accordance with the approved Affordable Housing Scheme		
	1.4	Subject to the provisions of this paragraph 1 the Affordable Housing Units shall not be occupied other than as Affordable Housing which, for the avoidance of doubt, shall include Protected Tenants and their successors in title.		
	1.5	Subject to the following provisions of this paragraph 1 the Owners shall not cause or permit the First Occupation of more than fifty percent (50%) of the Open Market Units at the Development prior to entering into a contract or contracts for the transfer of the Affordable Housing in the Development to an Affordable Housing Provider or Providers or paid to the Council an Affordable Housing Commuted Sum in accordance with Paragraph 1.7 and 1.8 below		
	1.6	Subject to the following provisions of this paragraph 1 the Owners shall not cause or permit the First Occupation of more than fifty percent (50%) of the Open Market Units at the Development prior to all Affordable Housing being completed and ready for First Occupation		
	1.7	**Mechanics of Transfer**		
		1.7.1	First offer (First Offer)	
			1.7.1.1	A contract for the sale of land; and
			1.7.1.2	A draft transfer which shall include the provisions set out in paragraph 1.10 below shall be offered to an Affordable Housing Provider.
		1.7.2	The First Offer shall remain open for acceptance for no less than three (3) months ("First Offer Period") from the date of the First Offer being made.	
		1.7.3	Second offer (Second Offer)	
			1.7.4.1	In the event that the First Offer made in accordance with paragraph 1.7.1 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

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			Provider ("Second Offer") not later than one (1) month after the expiry of the First Offer Period.
		1.7.4.2	The Second Offer shall consist of the same terms as the First Offer subject to revisions necessitated by the lapse of time and shall remain open for acceptance for no less than three (3) months ("Second Offer Period") from the date of the Second Offer being made.
Commuted Sum Payable If First And Second Offer Not Implemented			
1.8	In the event that the Second Offer is not accepted within the Second Offer Period than the Owner may:		
	1.8.1	on or before the First Occupation of not more than fifty percent (50%) of the Open Market Units topay to the Council a commuted sum (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 1 insofar as it relates to the Affordable Housing Units and the Affordable Housing Units may be sold on the open market as Open Market Units;	
	1.8.2	shall not cause or permit the First Occupation of more than fifty percent (50%) of the Open Market Units unless the Affordable Housing Commuted Sum has been paid to the Council	
1.9	The Affordable Housing Commuted Sum shall be calculated in accordance with the following formula: X multiplied by Y = the Affordable Housing Commuted Sum		
Where:			
	X=	£80,000; and	
	Y=	the number of Affordable Housing Units which will not be provided on the Property as part of the Development in accordance with the terms of this Agreement.	
Nomination Rights			
1.10	To procure that the Affordable Housing Provider grants 100% Nomination Rights to the Council to the First Occupation of the Rented Units PROVIDED THAT if the Council do not accept such offer then the Affordable Housing Provider shall in seeking to allocate the Rented Units have regard as far as possible to the following criteria:		
	1.10.1	any family association in the District of Arun in accordance with any relevant housing allocation policy;	
	1.10.2	Any period of ordinary residence in the District of Arun not immediately before the date on which any Affordable Housing Unit becomes vacant;	
	1.10.3	Any employment opportunity in the District of Arun;	
	1.10.4	Any other connection with the District of Arun	
	but for the avoidance of doubt the satisfaction of such criteria hereof shall be determined by the Affordable Housing Provider.		

1.11	To procure that any transfer of Affordable Housing Units to an Affordable Housing Provider will contain the following provisions:		
	1.11.1	The grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of those Affordable Housing Units;	
	1.11.2	A reservation of all rights of access and passage of services and other rights reasonably necessary for the benefit of the remainder of the Units on the Property; and	
	1.11.3	The imposition of such covenants as the Owner shall reasonably require and are consistent with the sale of any Open Market Unit.	
	1.11.4	A Condition 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 Nomination Agreement with the Council in terms of the draft in Appendix B	
1.12	the Owner and the Council hereby agree that		
	1.12.1	The provisions of this paragraph 1 shall not be binding on a mortgagee or a chargee (or any receiver including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or administrator (howsoever appointed) including a housing administrator (each a Receiver) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or receiver PROVIDED THAT 1.12.1.1such mortgagee or chargee or Receiver 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 registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principle monies interest and costs and expenses 1.12.1.2if such disposal has not completed within the three (3) month period the mortgagee chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the provision of this paragraph 1 which provisions shall determine absolutely	
	1.12.2	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 1.13 the disposal of any interest in the Affordable Housing Units by the Chargee in the exercise of its power of sale will not be prevented	

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	1.13	the Owner covenants with the Council:	
		1.131	in the event of the Owners become aware that the Affordable Housing Provider has received notification from any Chargee 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
		1.13.2	in the event of the Owners become aware of any notice, order or direction having been served, made of given under the Housing Act 1996 Schedule 1 Part IV that relates to the Affordable Dwellings, to notify the Council of this as soon as reasonably practicable.

2	**PROVISION OF PUBLIC OPEN SPACE**		
2.1	The Owners covenant with the Council that		
	2.1.1	Prior to the Commencement of Development to submit the Open Space Scheme, to the Council for approval.	
	2.1.2	Prior to First Occupation of the 1st Open Market Unit to obtain the written agreement of the Council to the Open Space Scheme.	
	2.1.3	Shall not cause or permit the First Occupation of the 25th Open Market Unit until the Open Space has been provided and laid out in accordance with the Open Space Specification.	
	2.1.4	Shall not cause or permit First Occupation of the 25th Open Market Unit until the Owner has notified the Council in writing as to whether it has elected to transfer the Open Space to:	
		2.1.4.1	a Management Company or such other third party which may be approved by the Council in writing, or
		2.1.4.2	the Council (and if so elects, the Completion Date for this transfer)
	2.1.5	If the Owner under paragraph 2.1.4 above elects to transfer the Open Space to the Council, within 2 months of completion of the Open Space the Owner shall pay to the Council the Open SpaceContribution	
	2.1.6	If the Owner elects under paragraph 2.1.4 to transfer the Open Space to the Management Company, it shall effect the transfer of the Open Space upon the earlier of (a) First Occupation of the final Unit; or (b) within 2 months of completion of the Open Space	

3	**NHS Contribution**	
3.1	The Owners covenant with the Council that	
	3.1.1	Prior to First Occupation of the 10th Open Market Unit to pay to the Council the NHS Contribution which is Indexed Linked
	3.1.2	Not to cause or allow First Occupation of the 10th Open Market Unit before the NHS Contribution has been paid by the Council which is Indexed Linked
4	**Monitoring Fee**	
	4.1	To pay to the Council on Commencement of Development the Monitoring Fee

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SECOND SCHEDULE

The Owner's Covenants with the County Council

SECOND SCHEDULE		
The Owner's Covenants with the County Council		
1	**EDUCATION CONTRIBUTION**	
	1.1	Prior to First Occupation of the 10th Open Market Unit to pay to the County Council the Education Contribution.
	1.2	Not to cause or allow First Occupation of the 10th Open Market Unit before the Education Contribution has been paid to the County Council.
	1.3	The Education Contribution shall be calculated by reference to the following formula: (DfE figure (Primary) x TPR = Primary Education Contribution) + (DfE figure (Secondary) x TPR = Secondary Education Contribution) + (DfE figure (Sixth Form) x TPR = Sixth Form Education Contribution) = Education Contribution where: Note: x = "multiplied by ..." DfE Figure = Department for Education (DfE) Primary/ Secondary /Sixth Form school building costs per pupil place as adjusted for the West Sussex area applicable at the date when the Education Contribution is paid (which currently for the financial year 2019/2020 is £18,370 for Primary, £33,538 for Secondary, £30,019 for Sixth Form), updated as necessary by the Royal Institute of Chartered Surveyors Building Costs Information Service All-In Tender Price Index. Total Places Required (number of school places the Development will generate) = Average Child Product (ACP) x Year Groups ACP = The estimated additional number of school age children likely to be generated by the Development calculated by reference

to the total number of Housing Units, less any allowance for Affordable Housing Units (Arun District is 100% for social rented/affordable rent but for all other forms of affordable tenure no discount is applied), as approved by a subsequent reserved matters planning application. The County Council use the latest published occupancy rates from the census statistics published by the Office for National Statistics. The current occupancy rates are given below as a guideline only:

Dwelling Size		Occupancy House	Occupancy Flat
1 bed	=	1.5	1.3
2 bed	=	1.9	1.9
3 bed	=	2.5	2.4
4+ bed	=	3.0	2.8

To determine an overall population increase the following factors are applied.

There are 14 persons per 1000 population in each school year group for houses and 5 persons per 1000 population in each school year group for flats (2001 Census data).

Year Groups = There are 7 year groups for Primary (years R to 6) and 5 for Secondary (years 7 to 11). For Sixth Form there are two year groups (years 12 and 13) but a factor of 0.54 is applied to the TPR figure as this is the average percentage of year 11 school leavers who continue into Sixth Form education in West Sussex.

If the Education Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Education Contribution.

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	1.4	

2	**LIBRARY CONTRIBUTION**	
	2.1	Prior to the Commencement of the Development to pay to the County Council the Library Contribution.
	2.2	Not to cause or allow the Commencement of the Development before the Library Contribution has been paid to the County Council.
	2.3	The Library Contribution shall be the calculated by reference to the following formula: L/1000 x AP = Libraries Infrastructure Contribution where: Note: x = "multiplied by"

		/ = "divided by" L= Extra library space in sq.m per 1,000 population x the library cost multiplier applicable at the date the Library Contribution is paid (which currently for the financial year 2019/2020 are 35 sq.m and £5,384 per sq.m respectively).AP (Adjusted Population) = The estimated number of additional persons generated by the Development calculated by reference to the total number of Open Market Units and Intermediate Units , as approved by a subsequent reserve matters planning application. Using the latest published occupancy rates from census statistics published by the Office for National Statistics with the current occupancy rates given as a guideline:

Dwelling Size		Occupancy	
		House	Flat
1 bed	=	1.5	1.3
2 bed	=	1.9	1.9
3 bed	=	2.5	2.4
4+ bed	=	3.0	2.8

	2.4	If the Library Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Library Contribution.
3	**FIRE AND RESCUE CONTRIBUTION**	
	3.1	Prior to the Commencement of the Development to pay to the County Council the Fire and Rescue Contribution.
	3.2	Not to cause or allow the Commencement of the Development before the Fire and Rescue Contribution has been paid to the County Council.

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3.3 The Fire and Rescue Service Contribution shall be calculated by reference to the following formula:

Y x Z = Fire and Rescue Service Contribution where:

Note: x = "multiplied by"

Y = The estimated adjusted increase in population generated by the Development, calculated by reference to the total number of Open Market Units and Shared Ownership Units, less any allowance for Affordable Housing Units (which for Arun District is 100% for social rented/affordable rent but for all other forms of affordable tenure no discount is applied) as approved by a subsequent reserved matters approval. The County Council use the latest published occupancy rates from census statistics published by the Office for National Statistics, with the current occupancy rates given as a guideline:

Dwelling Size		Occupancy	
		House	Flat
1 bed	=	1.5	1.3
2 bed	=	1.9	1.9
3 bed	=	2.5	2.4
4+ bed	=	3.0	2.8

Z = the estimated costs of providing additional Fire and Rescue Infrastructure per head in the Southern Service Division of West Sussex at the time of payment (which, for information, for 2019/20 is £15 for the Southern Division)

3.4 If the Fire and Rescue Service Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Fire and Rescue Service Contribution

4. Estate Roads

4.1 Prior to Commencement of Development to submit to the County Council for approval a plan showing the intended status of the Estate Roads and associated footways, footpaths and cycleways (for the avoidance of doubt those roads, footways and footpaths and cycleways that will be offered for adoption under Section 38 of the Highways Act 1980 and those to remain private). Any plan should also include details of surfacing, materials and construction of the Estate Roads

4.2 In the event that all or part of the Estate Roads are not to be offered for adoption then prior to First Occupation to submit to County Council:

4.2.1 the name and contact details of the person or persons responsible for maintaining the Estate Roads; and

4.2.2 a schedule for approval of the street furniture and a regime of maintenance

4.3 It is agreed with County Council that all Estate Roads that are stated to be privately maintained shall be

4.3.1 constructed to a standard that is suitable for its intended use; and

4.3.2 maintained by the Owner or Management Company at their own expense in good and substantial repair and conditions

4.3.3 Shall not be dedicated by the Owner or Management Company as a public highway or become a (private street) as defined in the New Roads and Street Works Act 1991

4.4 Upon completion of the construction of the Estate Roads not being adopted under a Section 38 Agreement the Owner will provide a report to be prepared and signed by a Chartered Engineer at their own expense to confirm that construction of the privately maintained Estate Roads have been designed and built to a suitable standard for their intended use

4.5 The Owner and any Management Company covenants with County Council:

4.5.1 that the privately maintained Estate Roads shall remain at all times available for use by both residents of the Development and

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members of the public, in the latter case without charge; and

4.5.2 to erect and maintain signs in positions agreed with County Council advising the public that they are permitted to use the privately maintained Estate Roads on foot and by bicycle but that it is not a public highway so as to prevent the dedication of the privately maintained Estate Roads and to prevent any presumption of dedication (whether arising under Section 31 of the Highways 1980 or otherwise).

THIRD SCHEDULE

The Council Covenants

The Council covenants with the Owner as follows:

1	**OPEN SPACE CONTRIBUTION**	
	1.1	Upon receipt of the Open Space Contribution under paragraph 2 of First Schedule it will hold it in a separately identified interest bearing section of the Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed.
	1.2	Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Open Space Contribution to issue to the party that paid the Open Space Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the Council detailing how the Open Space Contribution has been expended by the Council.
	1.3	If or to the extent that any of the Open Space Contribution shall not have been spent by the Council by the end of the period referred to in paragraph 1.2 above the Council shall on such date refund to the party that paid the Open Space Contribution any unexpended part of any of Open Space Contribution together with compound interest on the unexpended part(s) from the date of receipt by the Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
	1.4	If at the end of the period referred to in paragraph 1.2 of this Schedule the Council shall have entered into a contract or other legally binding obligation to expend the Open Space Contribution or part thereof for the purposes specified in paragraph 1.1 then the Council shall not be required to refund any part of the Open Space Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Open Space Contribution in the manner set out in paragraph 1.2 of this Schedule and refund any unexpended part of the Open Space Contribution in the manner set out in paragraph 1.3 of this Schedule
2	**NHS CONTRIBUTION**	
	2.1	Upon receipt of the NHS Contribution under paragraph 3 of First Schedule the Council shall pay the same to the South Coast Commissioning Group for the purposes specified by this Deed.

FOURTH SCHEDULE

County Council Covenants

The County Council covenants with the Owner as follows:

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1	**EDUCATION CONTRIBUTION**	
	1.1	Upon receipt of the Education Contribution under paragraph 1 of Schedule 2 it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed.
	1.2	Upon written request on or after ten (10) years of the date of receipt of the Education Contribution to issue to the party that paid the Education Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Education Contribution has been expended by the County Council.
	1.3	If or to the extent that any of the Education Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 1.2 above the County Council shall on such date refund to the party that paid the Education Contribution any unexpended part of any of Education Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
	1.4	If at the end of the period referred to in paragraph 1.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Education Contribution or part thereof for the purposes specified in paragraph 1.1 then the County Council shall not be required to refund any part of the Education Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Education Contribution in the manner set out in paragraph 1.2 of this Schedule and refund any unexpended part of the Education Contribution in the manner set out in paragraph 1.3 of this Schedule
2	**LIBRARY CONTRIBUTION**	
	2.1	Upon receipt of the Library Contribution under paragraph 2 of Schedule 2 it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed.
	2.2	Upon written request on or after ten (10) years of the date of receipt of the Library Contribution to issue to the party that paid the Library Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Library Contribution has been expended by the County Council.
	2.3	If or to the extent that any of the Library Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 2.2 above the County Council shall on such date refund to the party that paid the Library Contribution any unexpended part of any of Library Contribution

		together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
	2.4	If at the end of the period referred to in paragraph 2.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Library Contribution or part thereof for the purposes specified in paragraph 2.1 then the County Council shall not be required to refund any part of the Library Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Library Contribution in the manner set out in paragraph 2.2 of this Schedule and refund any unexpended part of the Library Contribution in the manner set out in paragraph 2.3 of this Schedule.
3	**FIRE AND RESCUE CONTRIBUTION**	
	3.1	Upon receipt of the Fire and Rescue Contribution under paragraph 3 of Schedule 2 it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed.
	3.2	Upon written request on or after ten (10) years of the date of receipt of the Fire and Rescue Contribution to issue to the party that paid the Fire and Rescue Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Fire and Rescue Contribution has been expended by the County Council.
	3.3	If or to the extent that any of the Fire and Rescue Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 3.2 above the County Council shall on such date refund to the party that paid the Fire and Rescue Contribution any unexpended part of any of Fire and Rescue Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
	3.4	If at the end of the period referred to in paragraph 3.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Fire and Rescue Contribution or part thereof for the purposes specified in paragraph 3.1 then the County Council shall not be required to refund any part of the Fire and Rescue Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Fire and Rescue Contribution in the manner set out in paragraph 3.2 of this Schedule and refund any unexpended part of the Fire and Rescue Contribution in the manner set out in paragraph 3.3 of this Schedule.

Appendix A Location Plan

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NOTES.
Dimensions to be checked on site before commencing work, any discrepancies shall be reported to Curtis Leeves Technical Ltd immediately.
Do not scale from these drawings except for planning purposes.
Use figured dimensions only.
Where applicable the drawing is to be read in conjunction with other consultants' drawings.
This drawing is the copyright of Curtis Leeves Technical Ltd. and may not be copied, altered or reproduced in any way, or passed to a third party, without written authority.

Physical Scale 1:1000

0 10m 20m 50m

[redacted]

rev	description	date
status	FOR COMMENT	

[redacted]

CURTIS LEEV[redacted]
01243 378070 [redacted]

client
Domusea Limited

project
Clays Farm
Yapton

[redacted]

date	scale @ A3	drawn	chkd
May 2018	1:1000	IW	MRL
project no. 1827	drawing no. 100		rev P01

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Appendix B Nomination Agreement

Appendix B Nomination Agreement

THIS DEED OF NOMINATION RIGHTS is made the day of 20

BETWEEN

(1) ("the Registered Provider " "RP")

(2) **ARUN DISTRICT COUNCIL** of Arun Civic Centre Maltravers Road Littlehampton West Sussex BN15 7LF

1 DEFINITIONS

In this Deed:

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

1.2 **"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.

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

1.4 **"Property"** means the land at West Sussex shown edged red on the attached plan.

1.5 **"Rented Units"** means residential units in the form of flats/houses.

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

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

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

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

1.9.1 moved to other accommodation either by transfer or decant provided by the RP;

1.9.2 moved to other accommodation under a reciprocal arrangement provided by another registered provider of social housing registered with the Homes England under the Housing and Regeneration Act 2008 (or any successor or equivalent body and/or legislation for the registration of providers of social housing).

1.10 **"Void Notice"** means a written notice given by the RP to the Council (in a form to be agreed between the RP and the Council within five weeks from the date of this Deed) the function of such a notice being the notification to the Council of a Void.

2 ENABLING PROVISIONS

This Agreement is made pursuant to s111 of the Local government Act 1972, and all other enabling powers.

3 PROCEDURE

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

Initial Lets

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

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

3.3 The Council shall within ten Working Days of receipt of a Vacancy Notice serve upon the RP the Nomination List setting out a list of Nominees. The Council is entitled to provide Nominees for all Initial Lets.

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

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

3.4.2 indicate the priority for the housing of the Nominees.

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

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3.6 The RP shall within five Working Days of the date of receipt of the Nomination List referred to in clause 3.3 (or as soon as reasonably practicable thereafter) select a Nominee from the Nomination List in priority order and shall use its reasonable endeavours to arrange viewing of the relevant Rented Unit and offer a Tenancy Agreement to such selected Nominee.

3.7 If the selected Nominee fails to enter into a Tenancy Agreement within five Working Days of receipt of the RP's offer of a Tenancy Agreement (or earlier if the Nominee rejects the offer of a Tenancy Agreement) such selected Nominee shall be deemed to have rejected the RP's offer and the RP shall select another Nominee whereupon the procedure set out in clause 3.6 and this clause shall be repeated.

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

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

Voids

3.10 Subject to clause 3.14 should a Rented Unit become a Void after the Initial Let or the RP has reasonable cause to believe it will become a Void then and in each case:

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

3.10.2 within ten Working Days of receipt of the said notice the Council shall serve upon the RP the Nomination List setting out a list of Subsequent Nominees which shall contain the information referred to in clause 3.4.

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

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

3.13 The RP shall not be obliged to follow the procedure set out in clauses 3.10 to 3.12 (or in clause 3.14 below) if it would result in the Subsequent Nominees being nominated for more than 75 per cent of the Rented Units available after the Initial Let and shall have the right to let the relevant vacant Rented Unit to a person of its own choosing.

3.14 Where the Council operates a Choice Based Letting Scheme the Council and the RP shall each (in respect of the Rented Units) comply fully at all times with the requirements of that scheme and by doing so shall be deemed to have complied with the provisions of clauses 3.10 to 3.12 above.

Provision of information and alteration of lists

3.15 The RP shall give notification to the Council of the occurrence of the following events within five Working Days of their occurrence:

3.15.1 a Nominee or Subsequent Nominee failing to view a Rented Unit within 10 Working Days of an offer being made;

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

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

3.15.4 a person accepting an offer of a tenancy from the RP;

3.15.5 the RP rejecting a Nominee or Subsequent Nominee in accordance with clause 3.20.

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

3.17 Within ten Working Days of the Council receiving notice served in accordance with clause 3.14 above save for notice under 3.14.4 the Council shall serve upon the RP the name and address of a Nominee or Subsequent Nominee to add to the Nomination List such notice to include the information set out in clause 3.4.

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

ARUN DISTRICT COUNCIL Y/62/18/OUT

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

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

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

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

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

4 **NOTICES**

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

5 **TRANSFERS TO OTHER REGISTERED PROVIDERS**

The RP shall ensure that any registered provider of social housing to which the Rented Units are transferred otherwise than by direction of the Regulator for Social Housing under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council.

6 **MORTGAGEES IN POSSESSION**

The provisions of this Agreement shall not apply to nor be binding on any mortgagee, chargee or any receiver of the RP (including an administrative receiver or any administrator (howsoever appointed) including a housing administrator appointed by a mortgagee or chargee or any successor in title to such mortgagee, chargee or receiver or any tenant of an individual dwelling in respect of which the right to acquire under the Housing Act 1996 Part 1 Chapter 11 or under any other similar or equivalent statutory or contractual provisions have been validly exercised.

7 **DISPUTES**

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

8 **COSTS**

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

9 **AGREEMENTS AND DECLARATIONS**

The parties agree nothing in this deed fetters or restricts the exercise by the Council of any of its powers.

THIS DOCUMENT HAS BEEN EXECUTED AS A DEED AND IS DELIVERED and takes effect on the date stated at the beginning

EXECUTED as a **DEED** by

acting by:

Director

Director/Secretary

SEALED with the **COMMON SEAL** of
ARUN DISTRICT COUNCIL in the
presence of:

.....

ARUN DISTRICT COUNCIL Y/62/18/OUT

Appendix C List of Arun District Council Preferred Registered 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, West Sussex, RH16 3TN	[redacted]
The Guinness Partnership	Claudette Rawlinson, New Business Manager [redacted]	33 East Street Havant Hampshire PO9 1AA	[redacted]
The Hyde Group	John Martin [redacted]	Telecom House 125 – 135 Preston Road Brighton West Sussex BN1 6AF	[redacted]
Worthing Homes	Damian Haley, Development Manager [redacted]	Davison House North Street Worthing West Sussex 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 West Sussex RH12 1DT	
Hastoe Housing Association		Marina House 17 Marina Place Hampton Wick Kingston-Upon-Thames Surrey KT1 4BH	
Aster Group	Edward Till, Development Manager [redacted]		
Arun District Council	Satnam Kaur, Group Head of Residential Services [redacted]	Civic Centre, Maltravers Rd, Littlehampton, BN17 5LF	

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

EXECUTED BY AFFIXING with the COMMON SEAL

of ARUN DISTRICT COUNCIL

in the presence of:

ARUN DISTRICT COUNCIL Y/62/18/OUT

Seal Book No: 21 | 2020

AUTHORISED SIGNATORY [redacted]

PRINT NAME SARAH [redacted]

JOB TITLE PROPERTY LAWYER

SEALED with the COMMON SEAL
of WEST SUSSEX COUNTY COUNCIL
in the presence of:

[redacted]

Se[redacted]

Authorised Signatory

26439|40|11|2020

EXECUTED AS A DEED on behalf of
of
Acting through

A Director
in the presence of:

SIGNED and DELIVERED
by ANTHONY JOHN CLAY
as his Deed in the
presence of:

[redacted]

ANT[redacted]

Witness Name: [redacted]

Witness Address: 16 Highland Ave
PO21 2BJ

Witness Occupation: office manager

EXECUTED as a DEED by
DOMUSEA (STRATEGIC) LIMITED
Acting by an authorised signatory
presence of:

[redacted]

Authori[redacted]

Witness Name: [redacted]

Witness Address: 16 Highland Avenue
PO21 2BJ

Witness Occupation:
office manager