

DATED

2022

THE BOROUGH COUNCIL OF WORTHING

- and -

PERSIMMON HOMES (THAMES VALLEY) LTD

- and -

E E REED & CO. (BUILDERS) LIMITED

-and-

WEST SUSSEX COUNTY COUNCIL

**PLANNING OBLIGATION UNDER SECTION 106 AGREEMENT
relating to land NORTH WEST OF GORING RAILWAY STATION
GORING STREET, WORTHING, WEST SUSSEX**

This deed is dated the 2022

PARTIES

- (1) THE BOROUGH COUNCIL OF WORTHING of Town Hall, Chapel Road, Worthing, West Sussex BN11 1HA (“the Council”)
- (2) PERSIMMON HOMES (THAMES VALLEY) Ltd of Persimmon House, Fulford, York, YO19 4FE (company number – 02142835) (“the Developer”)
- (3) WEST SUSSEX COUNTY COUNCIL of County Hall, Chichester, West Sussex PO19 1RQ (“the County Council”);
- (4) E E REED & CO. (BUILDERS) LIMITED of Persimmon House, Fulford, York, YO19 4FE (company number – 00638763) (“the Owner”)

BACKGROUND

- 1 The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area in which the Site is situated.
- 2 The County Council is the local highway authority the county planning authority the education authority and the authority responsible for the provision of the fire service and the library service for the area in which the Site is situated.
- 3 The Owner is the freehold owner of the Site free from encumbrances under title number WSX359197.
- 4 The Developer has submitted the Application to the Council and is proposing to carry out the Development on behalf of the Owner and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 5 The Application was refused by the Council on 11th March 2021 and is now the subject of a section 78 Appeal to be determined by way of Planning Inquiry.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

“1980 Act”	the Highways Act 1980.
“Act”	the Town and Country Planning Act 1990.
“Ancillary Highways Works”	works and measures reasonably required to be carried out by the Owner to mitigate the effects of implementing the Highway Works, which may include (but not limited to)

- [a) a new Toucan crossing facility along the A259 Goring Street and A2032 Littlehampton Road;
- b) a new pedestrian / cycle link in the Site's north-western corner to provide a safe and direct walking route for future households and end-users accessing the PRoW network (i.e. Bridleway 2135 and Footpath 2139) located off the northern side of the A259.]

“Adoptable SUDS”

those parts of the Sustainable Drainage System as shown in principle on the illustrative master plan (drawing CMP-02 Rev P6) and marked ‘SUDS’ at Annex [] or such other area(s) as may be agreed with the Council in writing that is broadly in conformity with those areas

“Application”

the application for outline planning permission submitted to the Council for the Development of the Site and allocated reference number AWDM/1264/20.

“Associated Infrastructure”

Items of infrastructure within the Site that are not comprised within the plots of the individual Dwellings and are outside of any road that is adopted as public highway (but not within a Public Open Space Area or Play Area including private estate roads, street lighting, street furniture (including associated signage), waste bins, fencing, gates, any drainage (including Private SUDS) that will not be publicly adopted

“Building Regulations”

the Building Regulations 2010 (as amended and in force at the date of this Deed);

“Certificate of Practical Completion”

a certificate to be issued by the Owners’ or Developers’ landscape architect (or in the event that any part of the Development is constructed by a party other than the Owners or the Developers then a certificate to be issued by the other party’s landscape architect) evidencing Practical Completion

“CIL Charging Schedule”

Community Infrastructure Levy payable in respect of the Development in accordance with the Revised Charging Schedule for CIL adopted by the Council and implemented on 21 August 2021 under the provisions of the Planning Act 2008 and the CIL Regulations 2010 (as amended)

“Commencement of Development”	the date on which the first material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence and Commences” shall be construed accordingly.
payable to the Council for monitoring	the implementation of planning obligations contained within this Agreement.
“County Council Contributions”	means the Highways Contribution and the Travel Plan Auditing Fee.
“County Council Monitoring Contribution”	means the total sum of £2400 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.
“Development”	the Development of the Site by the Developer as set out in the Application and being a mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses including A1, A2, A3, A4, A5, D1, D2, as proposed to be amended to use classes E, F and Sui Generis) with associated car parking, car parking for the adjacent railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities (Outline with all matters reserved).
“Dwelling”	any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission.
“Ecological Management Plan”	A plan setting out measures to ensure a net biodiversity net gain can be achieved and detailing enhancement measures and a future management regime for the Public Open Space Area.
“HA 1980”	means the Highways Act 1980

“Highways Agreement”	an agreement made under section 38 and/or section 278 of the HA 1980 as otherwise agreed between the Owner and the County Council.
“Highways Certificate of Practical Completion”	a certificate issued by the County Council under the relevant Highways Agreement or such other certificate as may be issued pursuant to the Highways Agreement to evidence that the Highway Works [(or part of the Highway Works)] have been completed.
“Highways Contribution”	Means the sum of £30,000 (Thirty Thousand Pounds) (index linked) to accommodate further highways improvements within the Boroguh of Worthing required as a consequence of the Development and to include but not limited to the provision of real time passenger information at Goring Street and Ferring, War Memorial, bus stops
“Highways Drawing”	the Drawing(s) numbered [REFERENCE NUMBER(S)] attached to this agreement at Annex 1 and signed by or on behalf of the parties and such other drawings as may be approved from time to time by the County Council acting reasonably either as amendments to the Highways Drawing(s) or as part of the detailed design for the Highway Works.
“Highways Practical Completion”	completion of the Highway Works [(or part of the Highway Works)] that enables the Highway Works to be used for the purpose for which they were designed, save for any minor defects and Practically Complete shall be construed accordingly.
“Highways Works”	the works described in Annex 1 and shown in principle on the Highways Drawing(s), which works are required to make good a deficiency in infrastructure provision arising from the Development, and any detailed design subsequently approved by the County Council together with such other Ancillary Works as the County Council may require.
“Highway Works Scheme”	schemes to be submitted to the County Council for approval detailing and for the provision of the Highway Works for approval;
“Index Linked”	means index linked in accordance with the provisions of clause 12

“Interest”	interest at % per cent above the base lending rate of Bank of England applicable at the actual date of payment.
“Landscape Specification Spreadsheet”	means the Landscape Specification And Commuted Sums spreadsheet CSA/2566/14 Rev F appended to this Agreement as Annex 2
“Maintenance Contribution”	in respect of each Public Open Space Area and Play Area shall mean the commuted maintenance sum relating thereto payable to the Council as set out in the table contained in Part 3 of Schedule 6 and a proportion of the Replacements Allowance , subject to such adjustments as may be required as a result of the details approved pursuant to reserved matters applications, planning conditions and the details approved pursuant to Schedules 4 and 5 which adjustments shall be calculated in accordance with the formula shown in the Landscape Specification Spreadsheet;
“Maintenance Period”	the period of 12 months from the date of the Certificate of Practical Completion or such other period as may be approved as part of the Management and Maintenance Proposals.
“Maintenance Specification”	a specification to be approved by the Council itemising the type and frequency of maintenance to be carried out to the Public Open Space Area and the Play Area and where applicable the Associated Infrastructure;
“Management and Maintenance Proposals”	detailed proposals for the management and maintenance of an area of Public Open Space and the Play Areas and where applicable the Associated Infrastructure, including the proposed Maintenance Period (and including where applicable, the Maintenance Specification, where applicable the Maintenance Contribution or where applicable the particulars of any Management Company to be involved in the management and maintenance of such area or facility (which shall include a copy of the memorandum and articles of association of the Management Company)) and the financial arrangements proposed to be put in place in order to fund the future management and maintenance thereof which may include one or more of arrangements for the payment of a service charge, a

cash deposit, lump sum endowment or other security mechanisms such as bonds for a limited period.

- (i) “Management Company” means a management company which shall be a not for profit organisation and of which each owner of the Dwellings shall be invited to be a member and that is incorporated for the purpose of collecting an income and/or maintenance fees or similar from the owners of the Dwellings and which shall be responsible for the management and maintenance of the Associated Infrastructure and where the Owners so elect pursuant to paragraph 7 of Schedule 9 shall be responsible for the management and maintenance of the Public Open Space Areas, the Play Area in relation to which such an election is made or such other organisation as may be first agreed by the Council in writing

“Nesting Birds Management Plan”	A plan setting out the Owners plans for ensuring that off-site mitigation measures to be put in place in relation to nesting birds to be secured on the land edged blue to the north of the Site, as indicated at the plan at Annex [], or such other area as agreed with the Council.
“Occupation” and “Occupied”	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
“Off-Site Mitigation Commuted Sum”	the sum of [£] calculated in accordance with []
“Open Space Calculator”	means the Council’s adopted open space cost calculator appended at Annex []
“Open Space Requirements”	The Council’s adopted Open Space Study and Open Space Calculator from time to time in force adopted at the point of submission of reserved matters.
“Plan”	the plan attached to this Deed at the First Schedule
“Planning Permission”	the outline planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Second Schedule.

“Play Area”	the play area that will be provided in accordance with the Play Area Scheme and in the area marked indicatively on plan ;CMP-02 Rev P6 attached at []
“Play Area Contribution”	a contribution for the provision of off-site play equipment or allotments calculated in accordance with the Council’s adopted Open Space Requirements if appropriate provision is not made on Site
“Play Area Scheme”	<p>a scheme to be submitted by the Owners and/or the Developers and to be approved by the Council in respect of the Play Area setting out:</p> <ul style="list-style-type: none"> (a) the precise boundaries of the Play Area; and (b) the detailed plans and specification for the construction, laying out, servicing and planting of the Play Area in accordance with the Play Area Specification; (c) the Management and Maintenance Proposals;
“Play Area Specification”	the outline specification for the Play Area: Specification document [], at Annex 3 to this Agreement, or as otherwise agreed with the Council
“Practical Completion”	the issue of a Certificate of Practical Completion by the Owner’s landscape architect or in the event that any part of the Development is constructed by a party other than the Owner the issue of a Certificate of Practical Completion by the other party’s landscape architect and “Practically Completed” shall be construed accordingly
“Private SUDS”	all those parts of the SUDS within the Development that are not part of the Adoptable SUDS
“Public Car Park for Goring Station”	The provision of a car park for the public using Goring Railway Station
“Public Open Space Area”	those areas of public open space within the Development which are to be provided generally in accordance with the agreed Public Open Space Scheme, including any Noise Bunds, fences, gates, benches, litter bins and dog waste bins footways or cycleways (including any bridges or structures over which such footpaths or cycleways may run within those areas but excluding any which are to be offered for adoption by the highway authority pursuant to Section 38 of the Highways Act 1980) and including the Adoptable SUDS within such area or areas;

“Public Open Space Phasing Plan”	a plan to identify which Public Open Space Areas will be delivered with or within the Development to be agreed with the Council prior to the Commencement of Development;
“Public Open Space Scheme”	<p>a scheme to be submitted by the Owners and/or Developers and to be approved by the Borough Council in respect of each Public Open Space Area prior to the Commencement of the Development setting out:</p> <ul style="list-style-type: none"> (a) the Public Open Space Phasing Plan (b) the precise boundaries of each Public Open Space Area; (c) the detailed plans and specification for the construction, laying out, servicing and planting of the Public Open Space Area in accordance with the Public Open Space Specification; (d) (where applicable) details of any connections into existing public rights of way and where applicable such structures as may need to be provided to cross any verge or ditches to make those connections; and (e) the Management and Maintenance Proposals;
“Public Open Space Specification”	the public open space specification to be agreed in writing between the Owner, Developer and the Council prior to Commencement of the Development.
“Public Open Space Works”	means the works to be undertaken to provide the Public Open Space Areas and Play Area as approved pursuant to a Public Open Space Scheme;
“Replacements Allowance”	a cost allowance for the replacement of trees and/or shrubs as applicable calculated in accordance with the formula illustrated in the Landscape Specification Spreadsheet and payable as applicable as part of the Maintenance Contribution for each Public Open Space Area
“Requisite Consents”	all planning permissions, consents, approvals, licences, certificates and permits (whether public or private) as may be necessary to lawfully carry out the Public Open Space Works and the Adoptable

SUDS and any agreements as may be required to secure the provision, maintenance and public use of the footpath connections to the Public Open Space Areas (if there are any)

“Site” the land against which this Deed may be enforced, and being land north west of Goring Railway Station, Goring Street, Worthing, West Sussex as shown edged red on the Plan and registered at the Land Registry under title number WSX359197

“Sustainable Drainage System (“SUDS”)” a gravity based surface water drainage system serving the Development including any component parts such as infiltration, conveyance and attenuation features, pipes and supporting structures, gillies, trapped gullies, oil interceptors, inlets, outlets and access chambers the details of which shall be approved at reserved matters stage

“Travel Plan Auditing Fee” means the sum of £5,000 (five thousand Pounds)

“Travel Plan” means a travel plan prepared by Milestone Transport Planning and titled Residential Travel Plan in respect of the Development attached as Annex 6 subject to any amendments agreed in writing by the County Council from time to time

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.
- 2.7 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated.
- 2.8 A reference to writing or written includes email.
- 2.9 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.
- 2.10 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 2.11 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.
- 2.12 The headings and contents list are for reference only and shall not affect construction.

3 LEGAL BASIS

- 3.1 This Deed constitutes a planning obligation for the purpose of Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and any other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner and Developer under this Deed create planning obligations pursuant to Section 106 of the Act and are entered into by the Owner and the Developer with the intention that they bind the interests held by those persons in the Site and their respective successors and assignees.
- 3.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council and County Council in the case of covenants made with them in accordance with section 106 of the Act.
- 3.4 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

4 CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 8.1, 11, 15, 16 and 17 which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner agrees with the Council to observe and perform the covenants, restrictions and obligations contained in schedules 3, 4, 5, 6 & 7.
- 5.2 The Owner agrees to give not less than 14 Working Days written notice to the Council and the County Council of the intended Commencement of the Development.
- 5.3 The Owner and Developer covenants with the County Council so as to bind the Site to observe and perform the covenants, restrictions and obligations contained in the Eighth Schedule.

6 THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owner to observe and perform the covenants, restrictions and obligations as set out in the Ninth Schedule.

7 THE COUNTY COUNCIL'S COVENANTS

- 7.1 The County Council covenants with the Owner to observe and perform the covenants, restrictions and obligations as set out in the Ninth Schedule.

8 MISCELLANEOUS

- 8.1 The Owner shall pay to the Council and County Council on completion of this Deed the reasonable and proper legal costs together with all disbursements incurred in the negotiation, preparation, execution and registration of this Deed.
- 8.2 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.
- 8.3 This Deed shall be registrable as a local land charge by the Council and shall be registered as such.
- 8.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner or Developer from the Council or County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 8.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall at the Owner's request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.6 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.

8.7 The obligations in this Deed shall cease to have effect (insofar only as it has not already been complied with) if before the Commencement of the Development the Planning Permission

- a) expires;
- b) is quashed following a successful legal challenge;
- c) is revoked or otherwise withdrawn; or
- d) is (without the consent of the Owner) modified by any statutory procedure.

8.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

8.9 This Deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them (or their respective mortgagees) or land held by any of the statutory utilities for their operational purposes..

8.10 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) granted (whether or not on appeal) either before or after the date of this Deed.

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

9 CIL

9.1 In the event that CIL becomes payable in respect of any part of the Development not already included with the Council's CIL Charging Schedule or in the event that a further CIL Charging Schedule comes in to effect which increases the amount of CIL payable in respect of the Development or any part thereof the Council or the County Council as the case may be and the Owners shall be entitled to renegotiate the level and range of contributions payable by the Owners under this Agreement having regard to the level of CIL payable in respect of the Development.

9.2 The terms of this Agreement shall be adjusted in accordance with the outcome of the negotiations under clause 9.1 and any overpayment of contributions shall be subject to repayment by the Borough Council or the County Council as the case may be.

9.3 Any dispute relating to the negotiations under clause 9.1 or any adjustment or repayment shall be determined in accordance with clause 15.

10 WAIVER

No waiver (whether expressed or implied) by the Council or 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 or the County Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11 CHANGE IN OWNERSHIP

The Owner agrees with the Council and the County Council to give the Council and County Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan provided that the Owner shall not be required to give notice to the Council or the County Council of any change of ownership affecting a completed Dwelling.

12 INDEX LINKED

12.1 In the case of the Council Contributions the Owner agrees with the Council that any sum payable by the Owner and referred to in the Third and Fourth Schedules shall be increased by the application of the following formulae:

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

Where

A	is the sum actually payable on the Specified Date
B	is the original sum mentioned in this Agreement
C	is the General Index of Retail Prices (All items) for the month two months before the Specified Date
D	is the General Index of Retail Prices (All items) for the month two months before the date of this Agreement

C/D is equal to or greater than 1

12.2 In the case of the County Council Contributions the Owner agrees with the Council that any sum payable by the Owner and referred to in the [Third and Fourth] Schedules shall be increased by the application of the following formulae:

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

Where

A	is the sum actually payable on the Specified Date
B	is the original sum mentioned in this Agreement

C is the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors for the quarter preceding the Specified Date

D is the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors for the quarter preceding the date of this Agreement

C/D is equal to or greater than 1

13 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

14 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

15 DISPUTE PROVISIONS

Any dispute or difference arising between the parties hereto shall be dealt with as follows:-

- 15.1 in the case of any difference or dispute arising out of the provisions of paragraphs 2 and 3 of the Third Schedule ("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 the Royal Institution of Chartered Surveyors or his deputy;
- 15.2 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 President of the Bar or his deputy; and
- 15.3 any matter referred to an independent Chartered Surveyor or Counsel shall be decided by such person as an expert (and not as an arbitrator) who shall permit one representation and one counter-representation (each in writing) by each party to the dispute and his determination shall be in writing and final and binding on the parties and the costs of such determination shall be paid as the expert shall direct but if he does not direct shall be borne equally between the Owner and the Council or the County Council (as the case may be) provided that in all cases the expert shall direct the costs be borne by the Owner where the expert considers the Council or the County Council's case (as the case may be) is reasonable.

16 DEVELOPERS CONSENT

The Developers consent to the completion of this Agreement and acknowledge that the obligations in this Agreement shall bind the Site and declare that they shall be bound by the terms of this Agreement in the event that the Developers acquire a legal estate in the Site or any part of the Site.

17 JURISDICTION

17.1 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 interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England.

18 DELIVERY

18.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

The common seal of Worthing Borough Council
was affixed to this document in the presence of:
Authorised signatory

The common seal of West Sussex County Council
was affixed to this document in the presence of:
Authorised signatory

Executed as a deed by E E
Reed & Co (Builders) Ltd
acting by [] a
director in the presence of:

.....
[SIGNATURE OF WITNESS]

.....
[SIGNATURE OF DIRECTOR]
Director

[NAME, ADDRESS [AND
OCCUPATION] OF WITNESS]

OR

Executed as a deed by
Persimmon Homes (Thames
Valley) Ltd acting by [NAME
OF DIRECTOR] a director, in
the presence of:

.....

[SIGNATURE OF DIRECTOR]

Director

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND
OCCUPATION] OF WITNESS]

FIRST SCHEDULE

[Site Plan]

SECOND SCHEDULE

[Planning Permission]

THIRD SCHEDULE

The Owner's Covenants with the Council Affordable Housing

The following additional Definitions are to apply in relation to this Third Schedule of the Deed.

Definitions

"Affordable Housing"	shall have the same meaning as in Annex 2 of NPPF - that is to say social rented, affordable rented, and intermediate housing provided to eligible households whose needs are not met by the open market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative Affordable Housing provision.
"Affordable Housing Contribution"	means the sum of [] pounds (£) (index linked) towards the cost of the provision of the agreed affordable housing off-site within the district / borough provided that where the Affordable Housing has been provided in part but no transfer to an RP has been effected for the remainder in accordance with this Deed the sum payable at paragraph 3.5.2 shall be the sum calculated by the Council in accordance with its adopted Affordable Housing Supplementary Planning Document (SPD) and acting reasonably or determined by a Chartered Surveyor in accordance with clause 16.1 in the event the sum is disputed.
"Affordable Housing Units"	40% of the Dwellings on the Site of a type and in a location to be agreed in writing between the Owner, Developer, the relevant Registered Provider and the Council prior to first Occupation of any Market Housing Units and any dispute or difference between the Owner, Developer, the relevant Affordable Housing Registered Provider and the Council regarding the location, tenure or mix of such Dwellings shall be settled or determined pursuant to clause 15 of this Deed "Affordable Housing"
"Affordable Rent Unit"	an Affordable Housing Unit which is to be offered to a Qualifying Occupier for rent at the Affordable Rent Unit Charge
"Affordable Rent Unit Charge"	the rent payable in respect of an Affordable Rent Unit which shall not exceed the published Local Housing Allowance (from time to time or 80% of Market Rent whichever is greater
"Chargee"	any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative

	receiver) appointed pursuant to the Law of Property Act 1925
"First Occupation"	means the first beneficial occupation for any use for which the Development was designed other than occupation for the purposes of construction or fitting out and reference to "First Occupier" shall be construed accordingly
"Homes England"	means Homes England or anybody undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act)
"Intermediate Housing/Affordable Shared Ownership unit"	an Affordable Housing Unit which is to be offered to a Qualifying Occupier for shared ownership in accordance with the terms of the Shared Ownership Lease; .
"Market Housing Units"	that part of the Development which is general market housing for sale at the Open Market Value and which is not Affordable Housing
"NPPF"	means the National Planning Policy Framework published by the Department for Communities and Local Government
"Open Market Value"	market value as defined in the RICS Valuation Professional Standards (the Red Book) 2014
"Qualifying Occupiers"	means persons who can satisfy the definition of those qualifying for Affordable Housing and including residents of the Worthing Borough who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income in accordance with the Standard Nominations Agreement or as otherwise agreed between the Registered Provider and the Council.
"Registered Provider" or "RP"	means a registered social landlord registered as a Registered Provider by Homes England
"Shared Ownership Lease"	a lease of an Intermediate/Affordable Shared Ownership Unit granted on first disposal to a Qualifying Occupier at a premium whereby on first purchase of the equitable interest in the Affordable Shared Ownership Unit, a minimum of 25% (twenty five per cent) or such alternative percentage as may be mandated from time to time by Homes England and a maximum of 75% (seventy five per cent) of Open Market Value is acquired upon completion of such

lease; and which allows an annual rent to be charged on the remainder of the equitable interest not exceeding 2.75% of the value of such remainder and which lease shall include arrangements enabling the lessee to purchase further shares in an Affordable Shared Ownership Unit by instalments until 100% ownership is achieved.

“Social Rent”

means housing owned by local authorities and private registered providers for which guideline target rents are determined through the national rent regime or housing owned by others and provided under equivalent rental arrangements as stated herein and as agreed with the local authority or with Homes England

“Standard Nominations Agreement”

means the Standard Nominations Agreement in force between the Council and its Registered Provider development partners at the time of transfer as shown in Annex 5 (with such variations as may be agreed between the Council and the Registered Providers);

The Owner COVENANTS with the Council as follows:

Affordable Housing

1. The Development shall provide Affordable Housing based on current local and national planning policy standards on the Site [or provide for an off-site contribution in lieu of on-site provision if a RP cannot be found to deliver the onsite Affordable Housing units.

2. Obligation to provide Affordable Housing

- 2.1 To construct the Affordable Housing Units within the Development in accordance with the Planning Permission and to provide the Affordable Housing Units in accordance with the terms set out in paragraph 3 of this Schedule and:

2.1.1 procure that the Affordable Housing Units are physically completed in a workmanlike manner with due care and skill and to the standard required by Building Regulations; and

2.1.2 not permit First Occupation of more than 50% of the Market Housing Units until:

(a) all of the Affordable Housing Units have been constructed and made ready for residential occupation and written notification of such has been received by the Council; and

(b) long leases (of at least 125 years) have been granted or the freehold interest of all the Affordable Housing Units have been transferred to the Registered Provider and on terms granting the RP all rights of access and passage of services and other rights reasonably

necessary for the beneficial enjoyment of the Affordable Housing Units;

2.2 save where paragraph 3.6.2 and/or 3.7 apply, the Owner shall, with effect from the date on which the Affordable Housing Units are physically completed, not allow or permit such units to be occupied other than by Qualifying Occupiers 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 them.

3. Terms of Transfer of Affordable Housing

3.1 The Owner shall make an offer to a RP to purchase the Affordable Housing Units (that shall not be used other than for Social Rent, Affordable Rent Unit and Intermediate Housing Affordable/Shared Ownership Unit as set out in the definition of Affordable Housing Units) (“the First Offer”) and such offer shall remain open for acceptance for no less than 3 months (“the First Offer Period”) from the date of the offer being made.

3.2 In the event that the First Offer made in accordance with the above is not accepted within the First Offer Period then the Owner shall make a second offer to the Council or its nominee to purchase the Affordable Housing Units (“the Second Offer”) not later than one month after the expiry of the First Offer Period and such offer shall consist of the same terms and conditions as the First Offer subject to revisions necessitated by lapse of time and shall remain open for acceptance for no less than 3 months (“the Second Offer Period”) from the date of the Second Offer being made.

3.3 In the event that either the First Offer or the Second Offer is accepted by an RP (or the Council or its nominee as the case may be), the Owner shall use reasonable endeavours for a period of not less than 3 months from the date of acceptance of such offer to enter into a binding contract with the RP (or the Council or its nominee as the case may be) for the disposal of the Affordable Housing Units (that shall not be used other than for Social Rent, Affordable Rent Unit and Intermediate Housing Affordable/Shared Ownership Unit)

3.4 In the event of:

3.4.1 the Second Offer not being accepted within the Second Offer Period; or

3.4.2 either the First Offer or the Second Offer being accepted but the Owner being unable to conclude a binding contract with the RP (or the Council or its nominee as the case may be) for the disposal of the Affordable Housing Units (that shall not be used other than for Social Rent, Affordable Rent and Intermediate Housing) within 3 months of the date of acceptance of such offer

then the Owner will pay to the Council the Affordable Housing Contribution in respect of any unsold Affordable Housing Units, such payment to be made within 3 months of expiration of the Second Offer Period and from the date of such payment to the Council the Affordable Housing Units shall be released from the obligations set out in this paragraph 3 and may be sold on the open market by the Owner as Market Housing Units.

3.5 In the event that either the First Offer or the Second Offer is accepted by an RP (or the Council's nominee), the Owner will procure that the RP (or the Council's nominee) grants nomination

rights to the Council in accordance with the Council's Standard Nominations Agreement prior to the First Occupation of the Affordable Housing Units but in the event that this cannot be agreed with the RP then to procure that the RP prior to First Occupation shall in seeking to allocate the Affordable Housing Units have regard to the following criteria:

- 3.5.1 any family association in the said administrative area in accordance with relevant housing allocation policies;
- 3.5.2 any period of ordinary residence in the said administrative area not immediately before the date on which any unit of accommodation becomes vacant;
- 3.5.3 any employment opportunity in the locality;
- 3.5.4 any other connection with the locality

but so that for the avoidance of doubt the satisfaction of such criteria hereof shall be determined by the body responsible for the allocation of the Affordable Housing Units from time to time.

3.6 It is agreed and declared that:

- 3.6.1 nothing in this Agreement shall be construed as imposing or otherwise implying any obligation on the part of the Council to grant or make available any public subsidy or other financial support (or to assist the Owner or the Developer in obtaining such public subsidy or other financial support) in respect of the Affordable Housing Units
- 3.6.2 the provisions of Clause 2.2 above shall cease to bind any of the Affordable Housing Units if in relation to that Affordable Housing Unit:
 - a. a statutory right to acquire it under 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 leaseholder (or its mortgagee) has stair-cased his ownership under the lease to 100 percent; and
- 3.6.3 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).

3.7 In the event that any Affordable Housing Unit is the subject of a legal charge or mortgage and there is a default under any legal charge or mortgage of the Affordable Housing Unit then the Chargee shall be entitled to exercise its power of sale free from the restrictions set out in this paragraph 3.4 provided that the Chargee shall first have followed the procedure set out below:

- 3.7.1 the Chargee shall give written notice ("the Sale Notice") to the Council of its intention to exercise its power of sale;
- 3.7.2 at the same time as giving the Sale Notice the Chargee shall make an offer ("the Offer") to sell the Affordable Housing Unit to the Council for an amount to be agreed or determined in accordance with paragraph 3.7.3 ("the Purchase Price");

- 3.7.3 The Council and the Chargee shall use reasonable endeavours to agree the Purchase Price within two weeks of receipt by the Council of the Offer which shall represent the open market value of the Affordable Housing Unit but subject to all or any tenancies of the Affordable Housing Unit as may be subsisting at the date of the Sale Notice and disregarding the provisions of paragraph 1.3.2 AND in default of such agreement the Purchase Price shall be determined on the same basis of valuation by an independent surveyor (“the Surveyor”) experienced in valuing residential land and property who shall act as an expert and whose costs shall be borne by the Council and the Chargee in equal shares and the Surveyor shall be appointed in default of agreement between the parties on the application of either party by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors (or successor organisation) and the Surveyor’s determination shall be binding on both parties such determination to be made within one week of the application by the Council and the Chargee.
- 3.7.4 The Council will notify the Chargee in writing within six weeks of the Purchase Price being agreed or determined in accordance with paragraph 3.7.3 whether or not (a) it wishes to purchase the Affordable Housing Unit at the Purchase Price or (b) it does not wish to purchase the Affordable Housing Unit but wishes to arrange for the transfer of the Affordable Housing Unit in consideration of the Purchase Price to a Registered Provider or (c) it does not wish to purchase the Affordable Housing Unit and does not wish to arrange for the transfer of the Affordable Housing Unit in consideration of the Purchase Price to a Registered Provider.
- 3.7.5 If the Council notifies the Chargee within the time specified within paragraph 3.7.4 that it wishes to accept the Offer or if the Council gives written notice to the Chargee that arrangements can be made in accordance with paragraph 3.7.4 for the transfer of the Affordable Housing Unit in consideration of the Purchase Price to a Registered Provider then in either case:
- (a) the Chargee shall co-operate with the Council and use reasonable endeavours to secure the transfer; and
 - (b) the transfer by the Chargee to the Council or to a Registered Provider shall be completed within one month of receipt of the notice from the Council referred to in paragraph 3.7.4 (“the Completion Period”)
- 3.7.6 If the Chargee does not wish to exercise its power of sale at any time after giving the Sale Notice or at any time the Council does not wish to continue with the rights to secure a transfer for its own benefit or to a Registered Provider that party shall give to the other not less than seven days’ written notice of its intention to discontinue.
- 3.7.7 If:
- (a) the Council fails to give notification to the Chargee within any of the time limits specified above; or
 - (b) the Council having complied with the time periods specified above but the transfer to either the Council or to a Registered Provider shall not be completed within the Completion Period; or

- (c) the Council has served notice of its intention to discontinue any transfer under paragraph 3.7.6 or
- (d) the Purchase Price is not determined within the time periods specified in paragraph 3.7.3; or
- (e) the Council confirms it does not wish to purchase the Affordable Housing Unit or arrange for a transfer of the Affordable Housing Unit to a Registered Provider

then the Chargee shall be under no obligation to sell the Affordable Housing Units either to the Council or to a Registered Provider and shall be entitled to exercise its powers of sale and dispose of the Affordable Housing Units without any of the provisions of this paragraph 3 binding the purchaser or purchasers of the Affordable Housing Units or any part thereof or any successor in title hereto.

- 3.7.8 the Council shall in formulating or promoting any arrangements referred to in these provisions give consideration to protecting the interests of the Chargee in respect of monies outstanding under its charge.

FOURTH SCHEDULE

Public Open Spaces and infrastructure

The Owner Covenants with the Council as follows;

- 1 The Owners shall:
 - 1.1 submit a Public Open Space Scheme and Ecological Management Plan for the approval of the Council for all of the Public Open Space Areas (which shall where any Public Open Space Area includes a Play Area incorporate a Play Area Scheme) and obtain any Requisite Consents prior to the Commencement of Development and shall not Commence Development or cause allow or procure the Commencement of Development unless and until the Public Open Space Scheme has been approved by the Council in writing and any Requisite Consents have been obtained.
 - 1.2 unless otherwise agreed by the Council not Occupy more than 50% of the Dwellings within the Site until the laying out and planting of each Public Open Space Area in accordance with the approved Public Open Space Scheme has been Practically Completed, and unless otherwise agreed in writing with the Council; give the Council not less than one month's prior notice of the intention of the Owners' landscape architect to issue a Certificate of Practical Completion in respect of each Public Open Space Area and to extend to the Council a written invitation to make an inspection of each Public Open Space Area jointly with the Owners' landscape architect and any other party nominated by the Council and to make observations and written representations thereon; and
 - 1.3 maintain thereafter each Public Open Space Area in accordance with the Maintenance Specification approved by the Council for the Maintenance Period to the reasonable satisfaction of the Council and make good any defects and replace all dead species as may reasonably be required by the Council until such time as the Public Open Space Area is transferred to the Council or the Management Company.
 - 1.4 with effect from the issue of the Certificate of Practical Completion for each Public Open Space Area the Owners
 - (a) shall not use cause or allow that Public Open Space Area to be used other than as for its intended purpose and in accordance with the approved Public Open Space Scheme; and
 - (b) shall procure that members of the public generally have full and free access to that Public Open Space Area subject to the Owners being entitled to restrict access in order to carry out such maintenance and repair as may be necessary in accordance with the Public Open Space Scheme or with the consent of the Council.
 - 1.5 observe and perform the obligations in relation to the transfer of each Public Open Space Area contained in Schedule 6 or paragraph 2.1 of this Schedule as relevant.

- 1.6 maintain any Associated Infrastructure in accordance with the Maintenance Specification to the reasonable satisfaction of the Council.
- 2 Where the Owners and the Council have agreed that the Public Open Space Areas and/or Play Area shall be transferred to a Management Company pursuant to Schedule 6 the Owners shall;
 - 2.1 not Occupy the Development unless and until:
 - 2.1.1 the details of the Management and Maintenance Proposals have been approved in writing by the Council; and
 - 2.1.2 the Management Company has been incorporated in accordance with those approved details.
 - 2.2 shall not transfer the freehold of (or grant a leasehold interest in) a Dwelling unless and until
 - 2.2.1 there shall be included in the transfer deed of the freehold or leasehold interest relating to that Dwelling a requirement that the transferee or grantee (as the case may be) shall pay an annual service charge to the Management Company;
 - 2.2.2 procure that the annual service charge shall be set (and thereafter maintained) at a level that allows the Management Company to carry out its duties but does not result in a disproportionate profit for the Management Company; and
 - 2.2.3 apply to the Land Registry to enter a restriction on the title of each Dwelling transferred requiring that on any subsequent transfer of the Dwelling a deed of covenant is given to the Management Company by the new owner of the relevant Dwelling to pay the sums due under the service charge and requiring the restriction to be retained on the title of the Dwelling
- 2.3 not allow the Occupation of any of the Dwellings unless and until all of the requirements detailed in paragraph 2.2.1 -2.2.3 if applicable have been fulfilled in respect of that Dwelling.
3. The Management Company shall from the date on which any Open Space Area and or Play Area is transferred to it manage and maintain the same in accordance with the approved Management and Maintenance Proposals.
4. If at any time there is a breach of the duty of the Management Company to fulfil its obligations pursuant to this Deed then the Council may without prejudice to its enforcement powers contained within the Act issue a notice to the Management Company specifying such a breach and requiring such breach to be remedied in a reasonable period of time.

5. In the event that the Management Company fails to remedy a breach in accordance with a notice (such notice to be in accordance with the provisions of clause 9) issued pursuant to paragraph 4 above then the Council shall be entitled to:
 - 5.1 do all such things as are necessary to remedy the breach as set out in such a notice;
 - 5.2 enter onto such parts of the Site as may be necessary to remedy the breach as set out in such notice; and
 - 5.3 recover the reasonable costs it has incurred in remedying such a breach from the Management Company (as the Owner's successor in title), including payment of any Replacement Allowance
6. The Owners hereby grant to the Developers and the Council, and all those authorised by them in perpetuity all necessary rights to carry out and thereafter maintain any works to provide such public footpath connections (if any) as may be required by the Council to be provided in connection with the grant of reserved matters approval for the Development and/or as part of the Public Open Space Scheme.
7. The Owners hereby grant to the Developers and the Council and all those authorised by them all necessary rights to carry out use and maintain any works on that part of the Site which form part of a Public Open Space Scheme or any works in respect of the Adoptable SUDs, including the provision of an outfall thereon.
8. The Owners hereby covenant with the Developers and the Council to permit the public to pass and repass over the land upon which public footpath connections (if any) have been constructed pursuant to paragraph 6 above.
9. The Owners covenant with the Developers and the Council to enter into such further agreements or documents as may be required (if any) to ensure the use of the public footpath connections referred to in paragraph 6 of this Schedule by the public and the use and adoption of Adoptable SUDs on the Site
- 10.

FIFTH SCHEDULE

Play Areas

The Owner Covenants with the Council as follows:

- 1.1 to submit a Play Area Scheme for the approval of the Council for the Play Area prior to Commencement of Development and shall not Commence or cause allow or procure the Commencement of Development unless and until the Play Area Scheme has been approved by the Council in writing;
 - 1.2 unless otherwise agreed by the Council not to Occupy more than 50% of the Dwellings until the Play Area has been provided in accordance with the approved Play Area Scheme and unless otherwise agreed in writing give the Borough Council not less than one month's prior notice of the projected completion date of the Play Area;
 - 1.3 with effect from the issue of the ROSPA Certificate
- (a) not use cause or allow that Play Area to be used other than as for its intended purpose and in accordance with the approved Play Area Scheme; and
- (b) procure that members of the public generally have full and free access to that Play Area;
- 1.4 observe and perform the obligations in relation to the Play Area contained in **Schedule 9**;
 - 1.5 ensure that no Dwelling within 50 metres of the Play Area shall be Occupied unless and until a sign has been erected, in accordance with details to be agreed with the Council, to identify the location of the Play Area and inform new residents when it is to be constructed and the sign shall be permanently maintained until the Play Area is Practically Completed; and
 - 1.6 ensure that any marketing information containing a plan of the Site shall identify the Play Area stating that it is to be an equipped children's play area

SIXTH SCHEDULE

Transfer and/or Private Maintenance

1. The Owner agrees that they shall as soon as reasonably practicable and prior to the Public Open Space Area Scheme being approved pursuant to Schedule 4 inform the Council whether it intends to transfer the Public Open Space Areas and the Play Area to the Council or the Management Company.
2. Transfer of the Public Open Space Areas and the Play Area to the Council will be at the Council's election PROVIDED THAT in the eventuality that the Council determines that transfer should not be to the Council, the Owner will transfer to the Management Company.
3. In the event the Public Open Space Areas and the Play Area are to be transferred to the Council, the Owners agree and covenant with the Council as follows:
 - 3.1 Subject to any defects being made good as reasonably required by the Council in accordance with paragraph 1.3 of Schedule 4 upon the expiry of the Maintenance Period for each Public Open Space Area to transfer each such Public Open Space Area to the Council for a consideration of £1 (one pound) and on completion of the transfer of any such Public Open Space Area the Owners shall pay the Maintenance Contribution to the Council.
 - 3.2 Upon the issue of a ROSPA Certificate for the Play Area, to transfer the Play Area to the Council for a consideration of £1 (one pound) and on completion of the transfer of the Play Area the Owners shall pay the Maintenance Contribution for the Play Area and provide for the benefit of the Council reasonable and appropriate warranties to the Council from the contractor and from the designer of the Play Area.
 - 3.3 The agreements to transfer any Public Open Space Area and the Play Area to the Council shall be subject to the Law Society's Standard Conditions of Sale (Fifth Edition) so far as they are applicable to a sale by private agreement and are not varied by or inconsistent with the express terms of this Deed and each area of land shall be transferred subject to:
 - 3.3.1 all matters registerable or capable of registration as local land charges (whether before or after the date hereof);
 - 3.3.2 all entries proposals or requirements affecting or relating to the land to be transferred given or made by a Government Department statutory undertaker or other public body or local authority (whether before or after the date hereof);
 - 3.3.3 all rights easements created easements or privileges in the nature of light air drainage way passage and the light use all enjoyed by or over the land to be transferred.
 - 3.3.4 rights of access being retained where necessary for the purposes of maintaining and repairing any drainage features that will be maintained by the Management Company PROVIDED THAT such rights of access shall be retained on the basis that any damage caused to the Public Open Space

Area during the exercise of those rights shall be made good as soon as reasonably practicable after such maintenance and/or repair have been completed

4. Each transfer of each Public Open Space Area or the Play Area to the Council shall:
 - 4.1 be in such form as may otherwise be necessary to meet the requirements of the Land Registry from time to time agreed between the Owners and the Council
 - 4.2 be made with full title guarantee;
 - 4.3 transfer to the transferee the fee simple estate in the land thereby transferred with vacant possession unencumbered save as disclosed prior to the date of this Deed.
5. Subject to paragraph 7 of this Schedule the transfer of each Public Open Space Area and/or the Play Area to the Council may at the option of the Owners be by separate or by a single transfer as may be agreed between the Owner and the Council and it is hereby agreed that each transfer shall not be dependent on any other transfer PROVIDED THAT where a Public Open Space Area is to be transferred to the Council and that Public Open Space Area is adjacent to any other part of the Development where there are any ongoing works, the Owner shall provide details of proposed security fencing or equivalent measures to the Council for its approval and such fencing or equivalent measures shall be erected in accordance with the approved details to the reasonable satisfaction of the Council prior to the transfer of the relevant Public Open Space Area.
6. A transfer of a Public Open Space Areas and/or the Play Area will be subject to the entries on the title in respect of the Site prior to the date thereof save the Council or its nominee shall be permitted to raise requisitions in relation to matters arising after the date of this Deed.
7. The Owners shall insure and keep insured the completed Public Open Space Area and the Play Area against loss or damage by such risks as the Owners may in their absolute discretion determine (the "Insured Risks") to the full reinstatement value thereof (including fees and VAT) until the transfer of the relevant Public Open Space Area or Play Area has completed, and if any part thereof is damaged by any of the Insured Risks the Owners shall subject to obtaining all necessary permissions consents and approvals forthwith apply the insurance monies received (making up any shortfall out of its own monies) in reinstating the Public Open Space Area or Play Area or the parts so damaged or destroyed as soon as is reasonably practicable.
8. The Owners shall be entitled at any time prior to Occupation of 100% of the Dwellings to elect not to dedicate and then transfer all of the Public Open Space Areas and the Play Area to the Council and to transfer all of the Public Open Space Areas and the Play Area to the Management Company instead in which case the provisions of Schedule 4 shall apply. For the avoidance of doubt, the Owners shall not be entitled to make a different election in respect of different Public Open Space Areas, so that all such areas shall be maintained by the same legal person.

9. Following completion of any Associated Infrastructure the Owners shall transfer such Associated Infrastructure to the Management Company.
10. A Public Open Space Area to be transferred to the Council shall not include any Associated Infrastructure unless otherwise agreed in writing by the Council.
11. In the event the Public Open Space Area and/or the Play Area is transferred to the Council, the Council hereby covenants with the Owners for itself and its successors in title and function as follows:
 - 11.1 not to use the Public Open Space Area or the Play Area for any purpose other than public recreation or children's play space;
 - 11.2 to be responsible for the maintenance and management of the Play Area and to maintain appropriate insurances in respect thereof with effect from the issue of a ROSPA Certificate in respect of the Play Area;
 - 11.3 to be responsible for the maintenance and management of the Play Area and to maintain appropriate insurances in respect thereof (unless the Owners have elected to transfer the Play Area to the Management Company pursuant to paragraph 6 of Part 1 of this Schedule 9);
 - 11.4 to accept the transfer of any Public Open Space Area and/or the Play Area which the Owners are required (subject to the right to elect otherwise in paragraph 6 of Part 1 of this Schedule 9) to transfer to the Council under this Deed on the terms and conditions set out in this Deed and thereafter to be responsible for the maintenance and management thereof including any Adoptable SUDs.

SEVENTH SCHEDULE

Off-site mitigation measure for nesting birds.

The Owner covenants with the Council as follows:

1. Off Site Mitigation Provision for Nesting Birds

- 1.1 Prior to the Commencement of the Development the Owner and Developer will provide to the Council for agreement and approval a Nesting Birds Management Plan setting out the Owners proposals in relation to the provision of off-site mitigation measures for nesting birds in order to mitigate the adverse impact of the Development PROVIDED THAT in the absence of the Owner delivering the off-site mitigation measures provided for within the Nesting Birds Management Plan, the Owner will pay to the Council the Off-Site Mitigation Commuted Sum.
- 1.2 The Nesting Birds Management Plan referred at paragraph 1.1 is to be supported by the Ecological Management Plan.
- 1.3 Prior to Occupation of the first Dwelling the Developer is to provide to the Council evidence that the agreed off-site mitigation measures have been implemented in accordance with the management plan or that the Off-Site Mitigation Commuted Sum has been paid to the Council.

2. Ecological Management Plan

Prior to the Commencement of Development to submit to the Borough Council an Ecological Management Plan in relation to the Public Open Space Areas.

EIGHTH SCHEDULE

The Owner's Covenants with the County Council

1. Highways Works

1.1 Prior to the Commencement of the Development the Owner and the Developer shall:

- a) Agree with the County Council a Construction Management Plan and Highways Work Scheme in relation to the delivery of the Highways Works and to secure the design, construction and completion by the Owner and Developer of the Highway Works and the Highways Works Scheme and their subsequent adoption as publicly maintainable highway in accordance with the Highways Drawings.
- b) enter into a Highways Agreement with the County Council and Council; and
- c) obtain all Necessary Highway Consents and all other Requisite Consents

1.2 Prior to the Occupation of the first Dwelling or such other date agreed with the Council the Owner and/or the Developer shall carry out and Practically Complete the Highway Works in accordance with the Highways Works Scheme at its own expense in accordance with the terms of the Planning Permission, the Highways Agreement and the Necessary Highway Consents.

1.3 Prior to the Occupation of the first Dwelling on the Site to Practical Completion the Highway Works in accordance with the terms of the Planning Permission the Highways Agreement and to the full satisfaction of the County Council

1.5 Not without the consent of the County Council to allow Occupation of the first Dwelling on the Site before the Highway Works shall have been Practically Completed in accordance with the terms of the Planning Permission, the Highway Works Agreement and to the full satisfaction of the County Council.

1.7

2. Travel Plan

2.1 Not to Commence Development unless the Travel Plan Auditing Fee has been paid to the County Council in respect of the costs to the County Council in monitoring the Travel Plan.

2.2 Not to Commence Development unless a Travel Plan Co-ordinator has been appointed. The Owner shall notify the County Council in writing of the name, address, email address and telephone number of the person appointed.

2.3 Not to Occupy or permit the Occupation of any Dwelling unless the requirements and timetable of the Travel Plan have been implemented and complied with

2.4 If within 5 years of Occupation of any Residential Unit, any of the requirements of the Residential Travel Plan are not complied with, in any material respect, the County Council shall notify the Owner of such failure and allow the Owner a reasonable time period in all the circumstances to remedy the failure. If the Owner does not remedy the failure within the reasonable time period, the County Council may:

(a) carry out such works or take such other steps as the County Council reasonably determines to remedy the failure to comply with the requirements of the Travel Plan; and

(b) implement such alternative measures which the County Council reasonably determines to achieve the aims of the Travel Plan.

2.5 The reasonable cost of any works carried out or steps taken shall be payable by the Owner to the County Council on demand.

3. Highways Contribution

3.1 To pay the Highways Contribution to the County Council prior to Occupation of the first Dwelling on the Site.

4. Goring Station Car Park

4.1 The Owner covenants to provide a Public Car Park for Goring Station in accordance with a scheme to be agreed in writing with the Council and which shall contain details for the timing for the delivery of the car park.

4.2 Prior to the first use of the Public Car Park for Goring Station a management plan shall be submitted to and approved in writing setting out details of proposed parking charges and future management including any parking enforcement measures.

NINTH SCHEDULE

The Council and County Council Covenants

The Council and County Council covenant with the Owner as follows:

1 Discharge of obligations

- 1.1 At the written request of the Owner the Council or County Council as the case may be shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

2 Repayment of Contributions

- 2.1 To use all sums received from the Owner/Developer under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.
- 2.2 To pay to the Owner such amount of any payment made by the Owner to the Council or County Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council or County Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within five years of the date of receipt by the Council or County Council of such payment together with Interest for the period from the date of payment to the date of refund.
- 2.3 The Council and County Council shall provide to the Owner such evidence, as the Owner shall reasonably require, in order to confirm the expenditure of the sums paid by the Owner under this Deed.
- 2.4 The County Council shall use reasonable endeavours to enter into the Highways Agreement and any Necessary Highway Consents with the Owner to secure the provision of the Highway Works and their subsequent adoption as publicly maintainable highway within a reasonable time scale

ANNEX 1

Highways Works

1. Site Access inc Station Car park provision as shown on drawing titled Proposed Access Strategy and Numbered 18122-001 Rev C;
2. Improvements to Goring Crossroads as shown drawing titled Proposed Northern Roundabout Mitigation Measures and numbered 18122-002 Rev D;
3. Improvements to Goring Crossroads as shown on drawing titled Proposed Pedestrian and Cycle Enhancements and numbered 18122/006;
4. Improvements to the A259 Roundabout with Goring Way and Aldsworth Avenue as shown on drawing titled Proposed Southern Roundabout Mitigation Measures and numbered 18122-003 Rev B;
5. Improvements to PT infrastructure (Shelter and seating) at Goring Street bus stops;
6. Inclusion of a pedal/cycle link to the north west of the Site as shown on drawing ref 18122/SK11;
7. improvements to A280/A27/Titnore Lane roundabout as shown on i-Transport's drawing number "ITB9105-GA-024 – Proposed Improvement Scheme to A280/A27/Titnore Lane Roundabout;
8. Improvements to the A280/Long Furlong Junction (drawing number to be confirmed in conjunction with National Highways response);
9. Improvements to the surfacing of PROW 2121 and 2121_1;

ANNEX 2

Landscape Specification Spreadsheet

ANNEX 3

Play Area Specification

Public Open Space Specification

ANNEX 4

Standard Nominations Agreement

ANNEX 5

ANNEX 6

Transport Plan

ANNEX 7

Adoptable SUDS Drawing

ANNEX 8

Off Site Mitigation Plan

EXECUTED as a Deed by
ADUR DISTRICT COUNCIL
by the affixing of its Common Seal in the
presence of:

Authorised Signatory

EXECUTED as a Deed by
WORTHING BOROUGH COUNCIL
by the affixing of its Common Seal in the
presence of:

Authorised Signatory

EXECUTED as a Deed by }
WEST SUSSEX COUNTY COUNCIL
by the affixing of its Common Seal in the
presence:

Authorised Signatory

EXECUTED as a Deed by **[OWNER]**
by the affixing of its Common Seal in
the presence of (or if no Common Seal
is impressed then acting by):

Director

Director/Secretary

