

Dated:

2021

**Deed under section 106 of the
Town and Country Planning Act 1990**

between

(1) TELE-PROPERTY INVESTMENTS LIMITED

(2) ASHFORD BOROUGH COUNCIL

with unilateral undertakings to

(3) THE KENT COUNTY COUNCIL

relating to land at

Wye College land and buildings Site Wye 3 Olantigh Road Wye Kent

Planning Application Number: 19/01327/AS (Full)

Appeal: APP/E2205/W/20/3259462 (Appeal B)

DS54-0861

Terry Mortimer Solicitor
Corporate Director of Legal and Democracy
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
TN23 1PL

THIS DEED IS DATED THE DAY OF 2021

AND IS MADE BETWEEN:

- (1) **TELE-PROPERTY INVESTMENTS LIMITED** (incorporated in the British Virgin Islands under company number 1882116) whose registered office address is Craigmuir Chambers Road Town Tortola VG1110 British Virgin Islands and whose principal address in England is 140 London Wall London EC2Y 5DN ("**the Freeholder**" "**the Appellant**" "**the Developer**"); and
- (2) **ASHFORD BOROUGH COUNCIL** of Civic Centre, Tannery Lane, Ashford, TN23 1PL ("**the Council**");

with unilateral undertakings to

- (3) **THE KENT COUNTY COUNCIL** of Sessions House, County Hall, Maidstone ME14 1XQ ("**the County Council**")

INTRODUCTION

- (A) The Freeholder is registered at the Land Registry under title number TT43354 as proprietor of the freehold title to the Site
- (B) The Council is a local planning authority for the purposes of section 106 of the Act for the area within which the Site is situated.
- (C) The County Council is a local planning authority the local highway authority the education authority the library authority and the authority responsible for the provision of social services for the area in which the Site is situated.
- (D) The Developer submitted the Planning Application for the Development to the Council. On 24 September 2020 the Council's Planning Committee resolved that it was unable to issue a formal decision on the Planning Application and the Appellant has lodged an appeal under reference APP/E220/W/20/3259462 which is set to be heard by the Planning Inspectorate under the Inquiry procedure ("the Appeal")
- (E) The Council considers it expedient in the interests of the proper planning of its area and having regard to the development plan and all other material considerations that provision should be made for regulating or facilitating the Development in the manner set out in this deed in the event that the Appellant's Appeal is upheld

- (F) Subject to the provisions of clause 2.5 below, the parties are satisfied that in the event that the Appeal is upheld that the planning obligations secured by this deed are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the Development in compliance with regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)
- (G) The parties have accordingly agreed to enter into this deed to secure the planning obligations contained in this deed with the intention that the obligations should be binding not only upon the parties but also upon their successors in title and any person claiming or deriving title through under or in trust for them as otherwise specified in this deed in the event that the Appeal is upheld.

NOW THIS DEED WITNESSES as follows:

1. Definitions and Interpretation

1.1 In this deed the following words and expressions shall unless the context otherwise requires have the following meanings:

the Act	the Town and Country Planning Act 1990 (as amended);
Commencement of Development	the carrying out of a material operation as defined in section 56(4) of the Act pursuant to a Planning Permission (irrespective of non-compliance with any condition of a Planning Permission) but excluding any works of demolition site clearance (including removal of existing landscaping), archaeological investigations, ground investigations for the purpose of assessing ground conditions, remedial action in respect of any contamination or other adverse ground conditions, site survey works, temporary access construction works, the temporary display of site notices or advertisements or the erection of any temporary means of enclosure, hoardings or fences (and the phrase " Commence the Development " shall be construed accordingly);
Development	the residential development of forty (40) dwellings with associated access road, car park and open space carried out pursuant to the Full Permission in accordance with the Planning Application or any variation under section 73 of

	the Act or any non-material modification under section 96A of the Act;
Dwelling	one of the forty (40) dwellings to be constructed on the Site pursuant to the Planning Permission (irrespective of any non-compliance with any condition);
Initiation	the beginning of the Development by the carrying out of a material operation as defined in section 56(4) of the Act pursuant to the Planning Permission (irrespective of non-compliance with any condition of the Planning Permission) and the phrase "Initiate" shall be construed accordingly;
Inspector	the inspector appointed by the Secretary of State to determine the Appeal;
Interest	interest at a rate equal to four percentage (4%) points above the Bank of England base rate from time to time;
Occupy	to first occupy or permit the first occupation of a Dwelling or building forming part of the Development for any purpose but not including occupation by personnel engaged in construction fitting out finishing or decoration of that Dwelling or building nor occupation for marketing purposes nor occupation in relation to site and building security operations and " Occupation " " Occupier " and " Occupied " shall be construed accordingly;
Owner	the Freeholder;
Parish Council	Wye with Hinxhill Parish Council of Unit 2B Briar Close Bramble Lane Wye Ashford Kent TN25 5HB;
Planning Application	the application for planning permission for the Development submitted to the Council by the Developer and given reference number 19/01327/AS;
Planning Permission	the full planning permission subject to conditions to be granted by the Secretary of State (or their appointed Inspector) pursuant to the Appeal ("Full Permission") (in the event that the Appellant's Appeal is upheld) or any variations of those conditions under section 73 of the Act;

Practical Completion	the issue of a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect and the phrase " Practically Complete/d " shall be construed accordingly;
Secretary of State	the Secretary of State for Housing and Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers given for the Appeal;
Section 106 Monitoring Officer	the Council's Section 106 compliance officer for the time being or duly appointed agent;
Site	the part of the land known as land at Wye College Olantigh Road Wye Ashford the freehold to which is registered at the Land Registry under title TT43354 and shown edged red on the Site Plan;
Site Plan	the plan 'Location Plan drawing 001 revision C (March 2019)' appended to this deed;
Working Day	any day which is not a Saturday, Sunday, the period 24 December to 1 January, Good Friday or a statutory bank holiday in England

1.2 Reference in this deed to any recital, clause, paragraph or schedule is, unless the context otherwise requires, a reference to the recital, clause, paragraph or schedule in this deed so numbered.

1.3 Headings where they are included are for convenience only and are not intended to influence the interpretation of this deed.

1.4 Words importing the singular meaning include the plural meaning and vice versa where the context so admits.

1.5 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 interchangeably in that manner.

1.6 Wherever 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 unless there is an express provision otherwise.

1.7 Save as is otherwise provided, references to any party shall include the successors in title to that party and any person deriving title through or under that party and in the case of the Council and the County Council the successors to their respective statutory functions.

1.8 Words undertakings and covenants requiring a person not to do any act matter or thing ('negative requirement') or otherwise imposing a restriction or prohibition on the development, use or occupation of land include an obligation not to assist, facilitate, encourage, cause, permit or suffer any infringement of the negative requirement, restriction or prohibition.

1.9 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act of Parliament 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 of Parliament or deriving validity from it.

2. Legal Basis and Enforceability

2.1 This deed will be registered as a local land charge and is entered into pursuant to section 106 of the Act, section 1 of the Localism Act 2011 and all other statutory and other enabling powers.

2.2 The terms of this deed create planning obligations binding on the Owner for the purpose of section 106 of the Act and sections 278/38 of the Highways Act 1980 and are enforceable by the Council in full and in part by the County Council (as appropriate) as local planning authorities.

2.3 This deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission or their mortgagee except as otherwise may be provided in the schedules to this deed.

2.4 The obligations contained in this deed shall not be binding upon or enforceable against any statutory undertaker or other person in respect of any part of the Site or any interest in it acquired for the sole purpose of the supply of electricity, gas, water, drainage, telecommunications services or public transport services.

2.5 The undertakings, covenants and obligations on the part of the Owner in this deed shall not apply and shall not be enforceable by the Council or the County Council if the Inspector or the Secretary of State states clearly in the decision letter

that the obligations, or any of them, are unnecessary or otherwise fail to meet the statutory tests set out in regulation 122 of the Community Infrastructure Regulations 2010 (as amended) PROVIDED THAT if any obligations are determined by the decision maker to be unnecessary or otherwise fail to meet the statutory tests it shall not affect the lawfulness of the balance of the covenants and obligations in the deed which shall continue to be enforceable

3. Third parties

Nothing in this deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.

4. Owner's and Council's covenants

4.1 The Owner agrees with the Council and undertakes to the County Council as set out in the schedules to this deed.

4.2 The Council covenants with the Owner and the County Council as set out in the schedules to this deed.

5. Confirmation of interests

The Owner confirms and warrants to the Council and the County Council that apart from the parties to this deed there are no other persons with any interest (legal or equitable) in the Site or any part thereof including any leasehold interest.

6. Conditions precedent

6.1 This deed is conditional upon:

6.1.1. the grant of the Full Permission, and

6.1.2. the Initiation of the Development

save in respect of any obligations in this deed expressly requiring compliance or which shall come into effect immediately upon completion of this deed.

Duration

7.1 This deed shall cease to have effect, in so far only as it has not already been complied with, if the Full Permission is quashed, revoked or otherwise withdrawn or, without the consent of the Owner, it is modified by any statutory procedure or expires before the carrying out of a material operation as defined in section 56(4) of the Act pursuant to the Planning Permission (irrespective of non-compliance with any conditions of the Planning Permission).

7.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this deed after parting with his entire interest in the Site or his interest in that part of the Site on which the breach occurs, but without prejudice to liability for any subsisting breach arising before parting with that interest.

8. Other planning permissions

8.1 Nothing in this deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this deed.

8.2 If there is a conflict between the terms of this deed and any conditions attached to the Planning Permission which cannot be resolved by interpretation then the latter shall take precedence

9. Change of Ownership

The Owner agrees with the Council and undertakes to the County Council to give the Council and the County Council prompt written notice of any change in ownership of any of its interests in the Site (save in respect of a disposal of an individual Dwelling) occurring before all the obligations under this deed have been discharged such notice to contain 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.

10. Notices

10.1 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this deed shall be deemed to have been validly served or given if delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing.

10.2 A notice or communication shall be served or given:

10.2.1 on the Freeholder/Appellant/Developer/Owner at 140 London Wall London EC2Y 5DN and its registered office from time to time or such other address as shall be notified in writing to the Council and the County Council from time to time, marked for the attention of the company secretary and

10.2.2 on the Council at the address set out above or such other address as shall be notified in writing to the parties from time to time marked for the attention of the Section 106 Monitoring Officer

10.2.3 on the County Council at the address set out above or such other address as shall be notified in writing to the parties from time to time, marked for the attention of General Counsel.

11. Approvals

Any approval in writing given by the Council or the County Council under this deed or for the purposes of this deed shall not be or deemed to be approval for any other purposes whatsoever (nor shall approval by one constitute approval by the other)

12. Jurisdiction and legal effect

12.1 This deed and its validity shall be governed by and interpreted in accordance with the law of England and the parties exclusively submit to the jurisdiction of the courts of England in respect of this deed.

12.2 In so far as any clause or clauses of this deed are found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this deed.

12.3 The parties to this deed agree that no waiver (whether expressed or implied) by the Council 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 from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default

12.4 The Owner undertakes with the County Council that no waiver (whether expressed or implied) by the County Council 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 County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default

12.5 Nothing contained or implied in this deed shall prejudice or affect the rights powers duties and obligations of the Council both as the local planning authority and in the exercise of its functions rights powers duties and obligations of the Council under all public and private statutes bylaws orders and regulations may be fully and effectually exercised as if the Council were not party to this deed.

13. Interest and VAT

13.1 If any payment due under this deed is paid late, Interest shall be payable from the date payment is due to the actual date of payment and the sum of the Interest shall be paid on the actual date of payment.

13.2 Any payment under this deed shall be given in accordance with the terms of this deed and shall be exclusive of any value added tax properly payable.

14. Legal Fees

On completion of this deed the Appellant will pay to the Council and the County Council its reasonable legal costs related to this deed.

15. Position of future mortgagee

Any person or body acquiring the benefit of a legal charge over the Site shall have no liability under this deed unless it takes possession of the Site or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

16. Forward Funding and Repayment

If the Council or the County Council forward-funds any project facility infrastructure or other expenditure from its own resources and/or enters into a commitment to a third party to repay any similar forward-funding provided by that third party (whether in cash and/or in kind) in anticipation of receipt of any relevant contribution or payment under the provisions of this deed then on such receipt the Council or the County Council may credit such contribution or payment (including any indexation element and/or interest received thereon) to its own resources and/or repay such third party accordingly and in either case the receipt shall be treated as being immediately expended by the Council or the County Council for the purpose for which the forward-funding was expended

IN WITNESS whereof the parties hereto have executed this deed as a deed and delivered it the day and year first before written

Schedule 1 Notices and Monitoring

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Commencement Notice	a notice of the Owner's intention to Commence Development on a specified date no earlier than four (4) weeks and no later than six (6) weeks after the date of service of the notice
Index	the All In Tender Price Index as published by the Build Cost Information Service on behalf of the Royal Institute of Chartered Surveyors or any other successor organisation
Monitoring Fee	the sum of one thousand pounds (£1000) towards monitoring and reporting upon compliance with the provisions of this deed

2. Owner's covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

Progress of the Development

- 2.1. To serve the Commencement Notice on the Council and the County Council prior to the Commencement of Development
- 2.2. Not unless otherwise agreed in writing with the Council Commence Development before the Commencement Notice is served on the Council and the County Council and the date specified in the Commencement Notice has arrived
- 2.3. To give the Council and the County Council notice in writing of:
 - 2.3.1. the date of Occupation of twenty five percent (25%) of the Dwellings
 - 2.3.2. the date of Occupation of fifty percent (50%) of the Dwellings

2.3.3. the date of Occupation of seventy five percent (75%) of the Dwellings

2.3.4. the date of Occupation of one hundred percent (100%) of the Development

2.4. to give the notices specified in 2.3.1 to 2.3.4 no later than ten (10) Working Days of the date of Occupation specified in 2.3.1 to 2.3.4

Monitoring Fee

2.5 to pay a Monitoring Fee in full to the Council prior to the Commencement of Development

2.6 Not to Commence Development until it has paid a Monitoring Fee in full to the Council

2.7 to pay a further Monitoring Fee upon each anniversary of the date of the Commencement of the Development until the anniversary in the year the Development is Practically Completed

2.8 to pay the Monitoring Fee due and payable under paragraphs 2.5 and 2.7 increased to the date of payment using the following formula:

$$\text{most recently published index figure for Index when the payment is due} \div \text{index figure last published for that Index before 16}^{\text{th}} \text{ September 2020}) \times \text{Monitoring Fee (or portion if appropriate)}$$

Schedule 2 Adult Social Care Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Adult Social Care Contribution	the sum of five thousand eight hundred and seventy five pounds and twenty pence (£5,875.20) (Dwellings x £146.88) to be applied in the event of receipt towards the provision of extra care accommodation in the Council's administrative area
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner agrees with the Council and undertakes with the County Council as follows:

- 2.1. To pay the Adult Social Care Contribution to the Council in the following instalments:
 - 2.1.1. Fifty percent (50%) of the Adult Social Care Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of the Dwellings and
 - 2.1.2. the balance of the Adult Social Care Contribution in full to the Council prior to the Occupation of fifty percent (50%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than twenty five percent (25%) of the Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

- 2.3. Not to Occupy or permit the Occupation or more than fifty percent (50%) of the Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council
- 2.4. To pay the Adult Social Care Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Adult Social} \\ \text{Care} \\ \text{Contribution} \\ \text{(or portion as} \\ \text{appropriate)} \end{array}$$

- 2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Adult Social Care Contribution has been paid in full to the Council it will pass or commit to pass the Adult Social Care Contribution to the County Council in full

3.2 in the event that the Adult Social Care Contribution paid under paragraph 2.1 of this schedule 2 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Adult Social Care Contribution not committed to be passed to the County Council upon the written request of the payer following the expiry of that ten (10) year period to the person/s who paid the Adult Social Care Contribution

Schedule 3 Serviced Plots and Affordable Housing

1. Definitions

1.1 In this schedule the following words shall unless have the following meaning in addition to the definitions provided in clause 1 of this deed:

Affordable Housing Land	those parts of the Site set aside for the Shared Ownership Units together with such rights and easements over the Site to provide access to the Shared Ownership Units and such entrance ways corridors parking and storage areas and other ancillary areas as are necessary for their enjoyment
Design Brief	an assessment of the design parameters within which a self or custom build property will need to adhere to in each Serviced Plot, taking into account the form and scale of development proposed as part of the wide application
Designated Protected Area	the Parish Council area protected by Regulation 7 and schedule 11, Part 5 – Kent of the Housing (Right to Enfranchise) (Designated Protected Area) (England) Order 2009

<p>Marketing Strategy</p>	<p>the marketing strategy related to the Serviced Plots including</p> <ul style="list-style-type: none"> (a) the location of the Serviced Plots; (b) the timing of when the Serviced Plots will be available for purchase (c) the design parameters which apply to each Serviced Plot, as stipulated in the Design Brief (d) evidence that the Serviced Plots will be available for purchase at a reasonable cost to encourage the delivery of Self-Build and Custom Build Dwellings (e) the broad terms of sale for the Serviced Plots with suitable guidance to potential purchasers and an indication as to what the arrangements will be needed between the parties to ensure the timely transfer of the Serviced Plots (f) the methodology to support the proposed marketing strategy for the Serviced Plots including the publications, websites or spaces that will be used to advertise the Serviced Plots (g) evidence of soft testing of the marketing strategy for the Serviced Plots (h) an indication of the actions to be undertaken should suitable marketing demonstrate that some or all of the Serviced Plots are not subsequently required for Self Build and Custom Build Housing
<p>Open Market Dwellings</p>	<p>the thirty six (36) Dwellings permitted under the Planning Permission excluding the Shared Ownership Units and the Self Build and Custom Build Housing on the Serviced Plots</p>

Registered Provider of Social Housing	a provider of social housing registered with the Regulator of Social Housing and who has signed a nominations agreement with the Council.
Regulator of Social Housing	the body known as the Regulator of Social Housing whose registered office is Level 1A – City Tower Piccadilly Plaza Manchester M1 4BT or any successor body
Self-Build & Custom Build Housebuilding	building by an individual or association of individuals or persons working with or for individuals of associations of individuals to build or complete houses to be occupied as homes by those individuals and ' Self-Build & Custom Build House Builder ' shall be construed accordingly
Serviced Plots	the two (2) plots with access to the public highway, electricity, water and waste water suitable for Self-Build & Custom Build Housebuilding referred to in the Marketing Strategy
Shared Ownership Lease	a lease in the form or substantially in the form of the Homes and Communities Agency's (or successor to its statutory function) model lease from time to time or such other form as shall be approved in writing by the Council
Shared Ownership Units	the two (2) Dwellings (2 x 2-bed) identified as plots 8 and 9 on the 'proposed site plan drawing 004 Revision 1 (March 2019) appended to this deed

2. Provision of Serviced Plots

The Owner covenants with the Council as follows:

2.1 To submit the Design Brief and the Marketing Strategy to the Council for its approval prior to the Initiation of the Development

2.2 Not to Initiate Development unless and until the Owner has obtained the Council's approval in writing for the Design Brief and the Marketing Strategy (not to be unreasonably delayed or refused)

2.3 to actively market the Serviced Plots in accordance with the approved Design Brief and Marketing Strategy for no fewer than twelve (12) calendar months from the date of the approval of the Design Brief and the Marketing Strategy at the Owner's own cost, unless the Council agrees otherwise in writing

2.4 to submit written details of the marketing exercise undertaken under paragraph 2.3 of this schedule and such other evidence as reasonably required by the Council at the end of the marketing exercise under paragraph 2.3 of this schedule within ten (10) Working Days of a written request by the Council

2.5 to procure that the Serviced Plots are disposed to a Self-build & Custom Housebuilder no later than three (3) months prior to the anticipated date of Occupation of the last Open Market Dwelling, or if supported by the marketing exercise undertaken under paragraph 2.3, the Owner to construct and Practically Complete houses to be occupied as homes (Use Class C3) on all or part of the Serviced Plots (as appropriate) at the Owner's own cost and as the Council acting reasonably agrees in writing with the Owner no earlier than the end of the marketing exercise undertaken under paragraph 2.3 of this schedule

3. Provision of Affordable Housing

The Owner covenants with the Council as follows:

3.1 To construct and Practically Complete the Shared Ownership Units

3.2 Subject to paragraph 3.3 below not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Open Market Dwellings until:

3.2.1 All of the Shared Ownership Units have achieved Practical Completion and have been made ready for residential Occupation and a National Home Building Council certificate (or equivalent acceptable to the Council) has been issued for them; and

3.2.2 The freehold transfer of the Affordable Housing Land has been offered to a Registered Provider of Social Housing on reasonable terms (including for this purpose the Council)

3.3 To obtain the Council's written approval (not to be unreasonably withheld or delayed) of a list of no more than ten (10) Registered Providers of Social

Housing to whom the Owner proposes to offer the Affordable Housing Land/Shared Ownership Units to and of the proposed terms and timing of the transfer of the Shared Ownership Units after the Commencement of Development prior to marketing the Affordable Housing Land/Shared Ownership Units pursuant to paragraph 3.4 below

3.4 to market the Affordable Housing Land/Shared Ownership Units on the approved terms and timings to an approved Registered Provider of Social Housing for a single continuous period of four (4) months, such period to commence in accordance with the approved terms and timings and to provide the Council with written evidence of all material correspondence and documentation related to the marketing exercise/s

3.5 to use reasonable endeavours to agree heads of terms and thereafter enter into contract with an approved Registered Provider of Social Housing for the Affordable Housing Land/Shared Ownership Units as soon as reasonably possible once first marketed pursuant to paragraph 3.4 of this schedule 3

3.6 if despite the use of reasonable endeavours the Owner has been unable to identify an approved Registered Provider of Social Housing ready able and willing to enter into a contract to take a transfer of the Affordable Housing Land/Shared Ownership Units on reasonable terms, and

3.6.1 the Council (acting reasonably) is satisfied that the Affordable Housing Land/Shared Ownership Units has/have been adequately marketed in accordance with the approved terms and timings in paragraphs 3.3 to 3.5 of this schedule 3; and

3.6.2 if the Owner has paid a sum in lieu of on-site-provision (index-linked as appropriate), such sum to be the difference in value between the open market value of the Affordable Housing Land/Shared Ownership Units subject to the restrictions in paragraph 4 of this schedule 3 and the open market value of the Affordable Housing Land/Shared Ownership Units with the schedule 3 covenants released pursuant to paragraph 5.4 of this schedule 3, such sum to be used by the Council towards the provision of alternative affordable housing in the Council's administrative area THEN the Owner shall be entitled to use and Occupy the Affordable Housing Land/Shared Ownership Units as it sees fit and sell the Affordable Housing Land/Shared Ownership Units free of these schedule 3 covenants and restrictions

4 Shared Ownership Unit

The Owner covenants with the Council as follows:

- 4.1 Not to Occupy or permit the Occupation of any Shared Ownership Unit other than:-
 - 4.1.1 by a leaseholder of a Registered Provider of Social Housing; and
 - 4.1.2 under a Shared Ownership Lease which includes the following terms:
 - 4.1.2.1 initial purchase in the range of twenty five percent to seventy five percent (25%-75%) equity dependent upon the ability of the purchasers to obtain finance;
 - 4.1.2.2 rent for the outstanding equity at an average over all the Shared Ownership Units taken together of two point seven five percent (2.75%) (but with a maximum for any individual Shared Ownership Unit of three percent (3%)) of the value of the outstanding equity and thereafter increasing in accordance with the Homes and Communities Agency's guidance for rental increases on shared ownership homes;
 - 4.1.2.3 the ability but no obligation to purchase additional shares of equity of ten percent (10%) or more at any one time at a valuation to be independently determined up to one hundred percent (100%)
- 4.2 Where a Shared Ownership Unit is full or part grant funded affordable housing to procure that the prior written approval by the Homes and Communities Agency and or Homes England (as appropriate) is secured by the Registered Provider of Social Housing to waive any Designated Protected Area grant condition/s applicable to the Affordable Housing Land within the Development
- 4.3 To market the Shared Ownership Units through the local "Help to Buy" agent (or the agent for any successor arrangement) prior to the first disposal of the Shared Ownership Units.

5 Exclusions

The obligations in this schedule are subject to the following:

- 5.1 The Council shall not enforce the obligations in this schedule against:
 - (a) Any mortgagee or chargee of the Registered Provider of Social Housing or any receiver (including an administrative receiver)

appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator of the Affordable Housing Land (or part thereof) ("**Chargee**");

- (b) Any person (other than a Registered Provider of Social Housing) deriving title from a Chargee;

PROVIDED THAT any such Chargee:

- (i) shall have first given written notice to the Council that a power of sale had become exercisable in respect of the Affordable Housing Land (or part thereof); and
- (ii) shall have used reasonable endeavours over a period of twelve (12) weeks from the date the Council received written notice to complete the transfer of the Affordable Housing Land (or part thereof) to a Registered Provider of Social Housing or to the Council.

For the avoidance of doubt, if the transfer to the Registered Provider of Social Housing or the Council has not been completed within twelve (12) weeks from the date the Council received the written notice set out in 5.1(b)(i), the Chargee (and any person deriving title from them, except for a Registered Provider of Social Housing) shall be entitled to dispose of that part of the Affordable Housing Land free from the obligations in this schedule which shall cease to apply to that land/building(s).

Nothing in this paragraph 5.1 requires the Chargee to act contrary to its legal duties or to sell that land for less than the amount due and outstanding in relation to the Affordable Housing Land (or part thereof) under the terms of the relevant security documentation up to the date the Chargee disposes of that land (including all accrued principal monies, interest, costs and expenses).

- 5.2 In the event that a mortgagee or chargee of a leaseholder of the Shared Ownership Unit or any receiver (including an administrative receiver) appointed by such mortgagee or chargee ("**the Leasehold Chargee**") seeks to enforce its security in relation to the Shared Ownership Unit it shall EITHER:

- (a) (i) give written notice to the Council that a power of sale has become exercisable in respect of the lease of that Shared Ownership Unit and that the Leasehold Chargee shall be exercising the right to staircase to one hundred percent (100%) ownership under the lease of that Shared Ownership Unit; and
- (ii) then exercise the right to staircase to one hundred percent (100%) ownership under the lease of that Shared Ownership Unit and sell it free from the obligations in this schedule which shall cease to apply to that Shared Ownership Unit pursuant to paragraph 5.3.

OR:

- (b) (i) give written notice to the Council that the power of sale of the lease of the Shared Ownership Unit has become exercisable; and
- (ii) use reasonable endeavours to complete the disposal of the lease of that Shared Ownership Unit to a person who qualifies for occupation of a Shared Ownership Unit under the Council's current arrangement for the occupation of such a unit ("**Qualifying Occupant**") within a period of twelve (12) weeks from the date the Council received the written notice under paragraph 5.2(b) (i); and
- (iii) If the Leasehold Chargee has not completed the transfer of the lease of the Shared Ownership Unit to a Qualifying Occupant within twelve (12) weeks from the date the Council received the written notice in paragraph 5.2 (b) (i) the Leasehold Chargee (and any person deriving title from them, except a Qualifying Occupant who has exchanged contracts with the Leasehold Chargee within the twelve (12) week period referred to) shall be entitled to dispose of the lease of that Shared Ownership Unit free from the obligations in this schedule which shall cease to bind the proprietor of the lease to that Shared Ownership Unit.

Nothing in this paragraph 5.23 requires the Leasehold Chargee to act contrary to its legal duties.

5.3 The covenants ceasing to apply to a Shared Ownership Unit where the leaseholder (or the Leasehold Chargee enforcing its security) has staircased to one hundred percent (100%) ownership under a lease.

- 5.4 The covenants ceasing to apply to a Shared Ownership Unit where the paragraph 3.6 conditions to this schedule 3 have been satisfied in full and the paragraph 3.6.2 payment received by the Council

Schedule 4 Allotments Contribution

1. Definitions

1.1 In this schedule the following words shall unless have the following meaning in addition to the definitions provided in clause 1 of this deed:

Allotments Contribution	the sum of twelve thousand nine hundred and sixty pounds (£12,960) comprising the sum of ten thousand three hundred and twenty pounds (£10,320) capital costs (Dwellings x £258) and two thousand six hundred and forty pounds (£2,640) maintenance costs (Dwellings x £66) to be applied in the event or receipt towards the provision of improved fencing (including rabbit), 'Grass guard' type surfacing for all-year round user parking areas, improved access and construction of raised beds for wheelchair users, water supply provision and conservation allotment plot mapping and boundary marking and other land management measures at Beanfield and/or Churchfield allotments and/or towards the extension of Beanfield allotment ("Allotments Purpose")
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

2.1. To pay the Allotments Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of the Dwellings

2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council

2.3. To pay the Allotments Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \times \begin{array}{l} \text{Allotments} \\ \text{Contribution} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Allotments Contribution paid has not been committed in full towards the Allotment Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Allotments Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Allotments Contribution not committed to be applied towards the Allotments Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the final instalment of the Allotments Contribution

Schedule 5 Cemetery Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Cemetery	Churchfield Burial Ground, Wye
Cemetery Contribution	the sum of eighteen thousand four hundred pounds (£18,400) comprising the sum of eleven thousand three hundred and sixty pounds (£11,360) capital costs (Dwellings x £284) and seven thousand and forty pounds (£7,040) maintenance costs (Dwellings x £176) to be applied in the event of receipt towards the creation of direct and accessible access, a new garden of remembrance, hard and soft landscaping, signage, seating and related works at the Cemetery (including the cost of the preparation of any necessary landscape design and management plan) ("Cemetery Purpose")
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Cemetery Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of the Dwellings

2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council

2.3. To pay the Cemetery Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \right) \times \begin{array}{l} \text{Cemetery} \\ \text{Contribution} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Cemetery Contribution paid has not been committed in full towards the Cemetery Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Cemetery Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Cemetery Contribution not committed to be applied towards the Cemetery Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the final instalment of the Cemetery Contribution

Schedule 6 Children’s and Young People’s Play Space Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Children’s and Young People’s Play Space Contribution	the sum of fifty two thousand four hundred and eighty pounds (£52,480) comprising the sum of twenty five thousand nine hundred and sixty pounds (£25,960) capital costs (Dwellings x £649) and the sum of twenty six thousand five hundred and twenty pounds (£26,520) maintenance costs (Dwellings x £663) to be applied in the event of receipt towards (i) the acquisition of additional land adjacent to The Lady Joanna Thornhill Endowed Primary School playing field, clearance, design and implementation of infrastructure works and the installation of play equipment and/or (ii) the installation and maintenance of an all-weather surfaced area in the vicinity of the play equipment and/or (iii) improvements and maintenance to the existing play facilities (0 – 13 years) at the village hall recreation ground (“Children’s and Young People’s Play Space Purpose”)
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner’s Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay Children's and Young People's Play Space Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council
- 2.3. To pay the Children's and Young People's Play Space Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \times \begin{array}{l} \text{Children's and} \\ \text{Young} \\ \text{People's Play} \\ \text{Space} \\ \text{Contribution} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Children's and Young People's Play Space Contribution paid has not been committed in full towards the Children's and Young People's Play Space Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Children's and Young People's Play Space Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Children's and Young People's Play Space Contribution not committed to be applied towards the Children's and Young people's Play Space Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the final instalment of the Children's and Young People's Play Space Contribution

Schedule 7 Community Learning Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Community Learning Facility	Ashford Adult Education Centre Ashford Gateway Plus Church Road Ashford Kent TN23 1AS
Community Learning Contribution	the sum of one thousand three hundred and seventy eight pounds (£1378) (Dwellings x £34.45) to be applied in the event of receipt towards the provision of IT equipment at the Community Learning Facility
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

- 2.1. To pay the Community Learning Contribution to the Council in the following instalments:
 - 2.1.1. Fifty percent (50%) of the Community Learning Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of the Dwellings and
 - 2.1.2. the balance of the Community Learning Contribution in full to the Council prior to the Occupation of fifty percent (50%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than twenty five percent (25%) of the Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

- 2.3. Not to Occupy or permit the Occupation of more than fifty percent (50%) of the Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council
- 2.4. To pay the Community Learning Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \right) \times \begin{array}{l} \text{Community} \\ \text{Learning} \\ \text{Contribution} \\ \text{(or portion as} \\ \text{appropriate)} \end{array}$$

2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Community Learning Contribution has been paid in full to the Council it will pass or commit to pass the Community Learning Contribution to the County Council in full

3.2 in the event that the Community Learning Contribution paid under paragraph 2.1 of this schedule 7 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Community Learning Contribution not committed to be passed to the County Council upon the written request of the payer following the expiry of that ten (10) year period to the person/s who paid the Community Learning Contribution

Schedule 8 Public Rights of Way Contribution

1. Definitions

In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Public Rights of Way	the right of way AE112 between the church yard and the junction with footpath AE110 and the right of way AE109 and both shown for identification purposes by red lines on the drawing 'AE112 and AE109 (2/12/20)' appended to this deed
Public Rights of Way Contribution	the sum of twelve thousand six hundred and eighty eight pounds (£12,688) to be applied in the event of receipt towards surface improvements to the Public Rights of Way
Index	shall means the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Public Rights of Way Contribution in full to the Council prior to the Occupation of fifty percent (50%) of Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than fifty percent (50%) of Dwellings until the payment referred to in paragraph **Error! Reference source not found.** has been paid in full to the Council
- 2.3. To pay the Public Rights of Way Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified} \\ \text{in this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Public Rights} \\ \text{of Way} \\ \text{Contribution} \end{array}$$

2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Public Rights of Way Contribution has been paid in full to the Council it will pass or commit to pass the Public Rights of Way Contribution to the County Council in full

3.2 in the event that the Public Rights of Way Contribution paid under paragraph 3.1 of this schedule 8 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Public Rights of Way Contribution not committed to be passed to the County Council upon the written request of the payer following the expiry of that ten (10) year period to the person/s who paid the Public Rights of Way Contribution

Schedule 9 Informal Natural Green Space Contribution (Off-Site)

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Informal Natural Green Space Contribution	the sum of thirty thousand three hundred and sixty pounds (£30,360) comprising the sum of seventeen thousand three hundred and sixty pounds (£17,360) capital costs (Dwellings x £434) and thirteen thousand pounds (£13,000) maintenance costs (Dwellings x £325) to be applied in the event of receipt towards the provision of additional Informal Natural Green Space/s within the Parish Council area ("Informal Natural Green Space Purpose")
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Informal Natural Green Space Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council
- 2.3. To pay the Informal Natural Green Space Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \right) \times \begin{array}{l} \text{Informal} \\ \text{Natural Green} \\ \text{Space} \\ \text{Contribution} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Informal Natural Green Space Contribution paid has not been committed in full towards the Informal Natural Green Space Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Informal Natural Green Space Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Informal Natural Green Space Contribution not committed to be applied towards the Informal Natural Green Space Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the final instalment of the Informal Natural Green Space Contribution

Schedule 10 Library Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Library	Wye Library 6 Upper Bridge Street Wye Kent TN25 5AF
Library Contribution	the sum of two thousand two hundred and eighteen pounds (£2,218) (Dwellings x £55.45) to be applied in the event of receipt towards the provision of additional book stock at the Library for the new borrowers generated by the Development
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

- 2.1. To pay the Library Contribution to the Council in the following instalments:
 - 2.1.1. Fifty percent (50%) of the Library Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of the Dwellings and
 - 2.1.2. the balance of the Library Contribution in full to the Council prior to the Occupation of fifty percent (50%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than twenty five percent (25%) of the Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

- 2.3. Not to Occupy or permit the Occupation of more than fifty percent (50%) of the Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council
- 2.4. To pay the Library Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Library} \\ \text{Contribution} \\ \text{(or portion as} \\ \text{appropriate)} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Library Contribution has been paid in full to the Council it will pass or commit to pass the Library Contribution to the County Council in full

3.2 in the event that any of the Library Contribution paid under paragraph 3.1 of this schedule 8 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Library Contribution not committed to be passed to the County Council following the expiry of that ten (10) year period to the person/s who paid the Library Contribution

Schedule 11 Public Art Contribution

1. Definitions

1. 1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Project	art in any media whose form function and meaning is created for the general public and which is visually and physically accessible to the public within the Parish Council administrative area
Public Art Contribution	the sum of thirteen thousand five hundred and thirty six pounds (£13,536) (Dwellings x 2.4 x £141) to be applied in the event of receipt towards the cost of conceptualising, commissioning and delivery of a Project ("Public Art Purpose")
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Public Art Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council

2.3. To pay the Public Art Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \right) \times \text{Public Art} \\ \text{Contribution}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Public Art Contribution paid has not been committed in full towards the Public Art Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Public Art Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Public Art Contribution not committed to be applied towards the Public Art Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the Public Art Contribution

Schedule 12 Primary School Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Primary School Contribution	the sum of two hundred and seventy five thousand nine hundred and fifty seven pounds and twenty pence (£275,957.20) comprising the sum of one hundred and eighty one thousand four hundred pounds (£181,400) (Dwellings x £4535) to be applied in the event of receipt towards the provision of the new Conningbrook Primary School pursuant to the hybrid permission 19/00025/AS subject to conditions or any variations of those conditions under section 73 of the Act and any linked planning obligation deed, or any or such other facility as the County Council shall in its absolute discretion determine and the sum of ninety four thousand five hundred and fifty seven pounds and twenty pence (£94,557.20) (Dwellings x £2,363.93) to be applied in the event of receipt towards the acquisition of land for the provision of a new two (2) form entry primary school at Conningbrook Park, Kennington pursuant to the hybrid permission 19/00025/AS subject to conditions or any variations of those conditions under section 73 of the Act and any linked planning obligation deed
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors

	or any successor organisation
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2. Owner’s Covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

2.1. To pay the Primary School Contribution to the Council in the following instalments:

2.1.1. Fifty percent (50%) of the Primary School Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of all Dwellings and

2.1.2. the balance of the Primary School Contribution in full to the Council prior to the Occupation of fifty percent (50%) of all Dwellings

2.2. Not to Occupy or permit the Occupation of more than twenty five percent (25%) of all Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

2.3. Not to Occupy or permit the Occupation of more than fifty percent (50%) of all Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council

2.4. To pay the Primary School Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 increased by an amount equivalent to the increase in the Index until the date on which such sum is paid using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Primary} \\ \text{School} \\ \text{Contribution} \\ \text{(or portion as} \\ \text{appropriate)} \end{array}$$

2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Primary School Contribution has been paid in full to the Council it will pass or commit to pass the Primary School Contribution to the County Council in full

3.2 in the event that any Primary School Contribution paid under paragraph 2.1 of this schedule 12 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Primary School Contribution not committed to be passed to the County Council upon the written request of the Owner following the expiry of that ten (10) year period to the person/s who paid the Primary School Contribution

Schedule 13 Secondary School Contribution (extension)

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Secondary School	The Norton Knatchbull School Hythe Road Ashford Kent TN24 0QJ
Secondary School Contribution	the sum of one hundred and sixty four thousand six hundred pounds (£164,600) (Dwellings x £4115) to be applied in the event of receipt towards the expansion of the Secondary School
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

- 2.1. To pay the Secondary School Contribution to the Council in the following instalments:
 - 2.1.1. Fifty percent (50%) of the Secondary School Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of all Dwellings and
 - 2.1.2. the balance of the Secondary School Contribution in full to the Council prior to the Occupation of fifty percent (50%) of the Dwellings
- 2.2. not to Occupy or permit the Occupation of more than twenty five percent (25%) of all Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

- 2.3. not to Occupy or permit the Occupation of more than fifty percent (50%) of the Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council
- 2.4. To pay the Secondary School Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Secondary} \\ \text{School} \\ \text{Contribution} \\ \text{(or portion of} \\ \text{as appropriate)} \end{array}$$

- 2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Secondary School Contribution has been paid in full to the Council it will pass or commit to pass the Secondary School Contribution to the County Council in full

3.2 in the event that any Secondary School Contribution paid under paragraph 2.1 of this schedule 13 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Secondary School Contribution not committed to be passed to the County Council upon the written request of the Owner following the expiry of that ten (10) year period to the person/s who paid the Secondary School Contribution

Schedule 14 Strategic Parks Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Strategic Parks	Conningbrook Lakes Country Park Julie Rose Stadium Willesborough Road Ashford Kent TN24 9QX and the new major open space, sports and recreation facility located to the south west of the Council's administrative area adjoining the Chilmington Green development approved by the hybrid permission 12/00400/AS subject to conditions and any reserved matter approvals or any variations of those conditions under section 73 of the Act and referred to in the linked planning obligation deed dated 27 February 2017 as 'Discovery Park'
Strategic Parks Contribution	the sum of seven thousand seven hundred and twenty pounds (£7720) comprising the sum of five thousand eight hundred and forty pounds (£5,840) capital costs (Dwellings x £146) and the sum of one thousand eight hundred and eighty pounds (£1,880) maintenance costs (Dwellings x £47) to be applied in the event of receipt towards the provision and maintenance of specific hub projects (COM2) at the Strategic Parks ("Strategic Parks Purpose")
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Strategic Parks Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of all Dwellings

2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of all Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council

2.3. To pay the Strategic Parks Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(namely 309.8)} \end{array} \times \begin{array}{l} \text{Strategic} \\ \text{Parks} \\ \text{Contribution} \end{array}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Strategic Parks Contribution paid has not been committed in full towards the Strategic Parks Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Strategic Parks Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Strategic Parks Contribution not committed to be applied towards the Strategic Parks Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the final instalment of the Strategic Parks Contribution

Schedule 15 Voluntary Sector Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Voluntary Sector Contribution	the sum of three thousand four hundred and eighty pounds (£3480) (Dwellings x £87) to be applied in the event of receipt towards groups active within the vicinity of the Development
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council as follows:

- 2.1. To pay the Voluntary Sector Contribution in full to the Council prior to the Occupation of seventy five percent (75%) of all Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than seventy five percent (75%) of the Dwellings until the payment referred to in paragraph 2.1 has been paid in full to the Council
- 2.3. To pay the Voluntary Sector Contribution payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{quarter 3 of 2012} \\ \text{(309.8)} \end{array} \times \text{Voluntary} \\ \text{Sector} \\ \text{Contribution}$$

2.4 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner:

3.1 in the event that

3.1.1 the Voluntary Sector Contribution paid has not been committed in full towards the Voluntary Sector Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development and

3.1.2 following the expiry of that ten (10) year period the Council has received a written request from the person who paid the Voluntary Sector Contribution and

3.1.3 the Council has received written notification from the Owner of the date of Occupation of one hundred percent (100%) of the Development

then the Council will repay the balance of the Voluntary Sector Contribution not committed to be applied towards the Voluntary Sector Purpose within ten (10) years of the date of Occupation of one hundred percent (100%) of the Development to the person who paid the Voluntary Sector Contribution

Schedule 16 Youth Service Contribution

1. Definitions

1.1 In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1 of this deed:

Youth Service Contribution	the sum of two thousand six hundred and twenty pounds (£2,620) (Dwellings x £65.50) to be applied in the event of receipt towards the provision of additional resources to the youth service operating in the vicinity of the Development
Index	the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors or any successor organisation

2. Owner's Covenants

The Owner covenants with the Council and undertakes with the County Council as follows:

- 2.1. To pay the Youth Service Contribution to the Council in the following instalments:
 - 2.1.1. Fifty percent (50%) of the Youth Service Contribution in full to the Council prior to the Occupation of twenty five percent (25%) of the Dwellings and
 - 2.1.2. the balance of the Youth Service Contribution in full to the Council prior to the Occupation of fifty percent (50%) of the Dwellings
- 2.2. Not to Occupy or permit the Occupation of more than twenty five percent (25%) of the Dwellings until the payment referred to in paragraph 2.1.1 has been paid in full to the Council

- 2.3. Not to Occupy or permit the Occupation of more than fifty percent (50%) of the Dwellings until the payment referred to in paragraph 2.1.2 has been paid in full to the Council
- 2.4. To pay the Youth Service Contribution (or portion of such contribution as appropriate) payable in accordance with paragraph 2.1 index-linked to the date of payment using the following formula:

$$\left(\begin{array}{l} \text{The figure for the Index last} \\ \text{published before the date on} \\ \text{which the payment specified in} \\ \text{this Deed is made} \end{array} \right) \div \begin{array}{l} \text{Index figure for} \\ \text{October 2016} \\ \text{(328.3)} \end{array} \times \begin{array}{l} \text{Youth Service} \\ \text{Contribution} \\ \text{(or portion as} \\ \text{appropriate)} \end{array}$$

- 2.5 In the event that the Index ceases to be published to use the above formula to calculate the indexation increase until such the cessation of such Index, and thereafter to calculate it in a similar manner using such replacement index as the Council considers a comparable index.

3. The Council covenants with the Owner and the County Council:

3.1 that in the event that the Youth Service Contribution has been paid in full to the Council it will pass or commit to pass the Youth Service Contribution to the County Council in full

3.2 in the event that any Youth Service Contribution paid under paragraph 2.1 of this schedule 14 has not passed or committed to be passed in full by the Council to the County Council within ten (10) years of the Occupation of one hundred percent (100%) of the Development then the Council will repay the balance of the Youth Service Contribution not committed to be passed to the County Council upon the written request of the Owner following the expiry of that ten (10) year period to the person/s who paid the Youth Service Contribution

The COMMON SEAL of)
ASHFORD BOROUGH COUNCIL)
was affixed to this deed in the presence of:-)

..... Mayor

..... Solicitor

EXECUTED as a deed by)
TELE-PROPERTY INVESTMENTS LTD)
a company incorporated in the British Virgin Islands)

acting by)
who, in accordance with the laws of that)
territory is acting under the authority of that)
company)

Signature in the name of the company

Signature of)
Authorised signatory