(1) DUNMOORE (WEST LONDON) LIMITED

(2) BILLINGSHURST MANAGEMENT COMPANY LIMITED

(3) HSBC UK BANK PLC

(4) WEST SUSSEX COUNTY COUNCIL

(5) HORSHAM DISTRICT COUNCIL

DRAFT

AGREEMENT

Pursuant to section 106 of the Town and Country Planning Act 1990 in respect of

Land east of Billingshurst Business Park (Phase 2), Stane Street, Billingshurst, West Sussex RH14 9HN

Lauren Kelly – Head of Legal and Democratic Services
Horsham District Council
Albery House
Springfield Road
Horsham
West Sussex
RH12 2GB

Legal ref: CB/12699
Planning ref: DC/25/1910

THIS AGREEMENT is made as a deed and dated 2026

Between:

(1) **DUNMOORE (WEST LONDON) LIMITED** (Company Regn No. 10250856) whose registered office is at Brightwalton House, Brightwalton, Newbury RH20 7BZ **("the First Owner")**;

(2) **BILLINGSHURST MANAGEMENT COMPANY LIMITED** (Company Regn No.13292403) whose registered office is at Brightwalton House, Brightwalton, Newbury RH20 7BZ **("the Second Owner")**;

(3) **HSBC UK BANK PLC** (Co. Regn No. 9928412) whose registered office is at 1 Centenary Square, Birmingham BN1 1HQ **("the Mortgagee")**;

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

(5) **HORSHAM DISTRICT COUNCIL** of Albery House, Springfield Road, Horsham, West Sussex RH12 2GB **("the District Council")**

together "the Parties"

1. BACKGROUND & RECITALS

Whereas

1.1 The District Council is the local planning authority as defined in the Act for the area within which the Application Site is situated for the purposes of this Agreement and for the purposes of section 106 of the Act and is entitled to enforce the planning obligations it contains.

1.2 The First Owner is the registered proprietor with Freehold Title Absolute of that part of the Application Site registered at HM Land Registry under title number WSX385641 described as, "land lying to the east of Stane Street, Billingshurst".

1.3 The Second Owner is the registered proprietor with Freehold Title Absolute of those parts of the Application Site registered at HM Land Registry under title numbers WSX437298 described as, "Land at Billingshurst Trade Park, Stane Street, Billingshurst, WSX437300 described as, "Land at Stane Street, Billingshurst" and WSX425702 described as, "Estate Common Parts at Billingshurst Trade Park and Billingshurst Business Park, Stane Street, Billingshurst".

1.4 The Mortgagee has the benefit of a Restriction on title number WSX385641 recorded in paragraph 3 of the Proprietorship Register and paragraphs 4, 5 and 6 of the Charges Register comprising a registered charge dated 18 December 2018.

1.5 The County Council is the Highway Authority for the land in which the Application Site is situated and is entitled to enforce those obligations contained in this Agreement given to the County Council.

1.6 The District Council received the Application on 21st November 2025 which was validated on 28th November 2025. On 28th April 2026 Members of the District

DRAFT

Council's Planning Committee granted the Planning Permission subject to completion of this Agreement to secure the necessary planning obligations.

1.7 The Parties have agreed to enter into this Agreement, be bound by the obligations and be subject to the restrictions, on the terms set out herein, to secure the necessary planning obligations to make the Development acceptable in planning terms.

1.8 The Parties are satisfied that the provisions of this Agreement comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and, accordingly, that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and fairly and reasonably relate in scale and kind to the Development.

NOW THIS AGREEMENT WITNESSES as follows:

2. INTERPRETATION

In this Agreement:

2.1 Words importing the one gender include reference to all the genders.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing persons include companies and corporations and vice versa.

2.4 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.

2.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation, all their obligations can be enforced against all of them jointly and against each individually.

2.6 Any reference to a clause, schedule, paragraph or plan is to a clause, schedule, paragraph or plan in, to or attached to this Agreement, unless expressly stated otherwise.

2.7 Any reference to a colour or letter is to a colour or letter on the plans attached to this Agreement.

2.8 In the absence of contrary provision, any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.

2.9 A reference to writing or written excludes fax but includes email subject to the provisions of clause 7.6.

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

2.11 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and, in the

DRAFT

case of the District Council and the County Council, the successors to their respective statutory functions.

2.12 The headings are for reference only and shall not affect construction.

3. DEFINITIONS

It is hereby agreed between the Parties set out in this Agreement that the following expressions have the following meanings:

"Act"	the Town and Country Planning Act 1990 (as amended).
"Application"	the application ascribed reference number DC/25/1910 and described as: "Outline planning permission for up to 125no. homes and associated infrastructure/green space with all matters reserved apart from access".
"Application Site"	all that land east of Billingshurst Business Park (Phase 2), Stane Street, Billingshurst, West Sussex RH14 9HN shown for identification purposes edged red on the Application Site Plan and to which the Application relates.
"Application Site Plan"	the plan of the Application Site entitled "S106 Plan – Residential Use" dated 05.03.2025 with Job number 2284 Volume 1000 Drawing number 101 revision P01 made 30.03.26 at Schedule 1 of this Agreement.
"BCIS Index"	the All-In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the District Council and/ or the County Council may specify;
"Commencement of Development"	the carrying out of a material operation as defined in section 56(4) of the Act in respect of the Development but excluding (for the purposes of this Agreement and for no other purpose) any operation relating to works of investigations in respect of land contamination or remedial action in respect thereof, enabling works demolition, site clearance works, earthworks, archaeological investigations and digs, exploratory boreholes, operations permitted by the Town and Country Planning (General Permitted Development) Order 2015, the erection of hoardings and fencing, temporary diversion of services and signage (including the formation of temporary construction accesses) and "**Commence Development**" shall be construed accordingly;
"Commencement Date"	the date on which the Commencement of the Development occurs;
"Commencement Notice"	the written notice confirming the Commencement Date referred to in clause 7.1.1 and served in accordance with Clause 7.3.

DRAFT

"County Monitoring Fees"	fees totalling **£1710 (ONE THOUSAND SEVEN HUNDRED AND TEN POUNDS)** for monitoring obligations in the Agreement to be paid to the County Council in accordance with clause 8 of this Agreement.
"District Monitoring Fees"	fees totalling **£800 (EIGHT HUNDRED POUNDS)** for monitoring obligations in the Agreement to be paid to the District Council in accordance with clause 8 of this Agreement.
"Development"	the development of the Application Site pursuant to the Planning Permission.
"Dwelling"	a residential dwelling constructed on the Application Site and forming part of the Development.
"Head of Development and Building Control"	the Head of Development and Building Control at the District Council or any successor or such other officer as may be designated by the District Council for the purposes of discharging their duties and functions from time to time.
"Index"	the BCIS Index or such other index or indices as identified by the District Council / County Council if the BCIS Index ceases;
"Index Linked"	Adjusted in line with movements in the Index between the date of this Deed and the date that the particular payment falls due;
"Interest"	Interest at the rate of 4% above the Bank of England base rate applicable at the relevant payment date which shall be calculated on a day to day basis;
"Occupation"	occupation for any purpose for which the Planning Permission has been granted by the District Council other than occupation for the purposes of construction or fitting out or occupation for security, marketing or display and "**Occupy**" and "**Occupied**" shall be construed accordingly.
"Occupation Date"	the date on which the Development is first Occupied.
"Occupation Notice"	the written notice confirming the Occupation Date referred to in clause 7.1.2 to be served in accordance with clause 7.3 of this Agreement.
"Owners"	together the First Owner and the Second Owner.
"Planning Permission"	the planning permission to be granted by the District Council pursuant to the Application.
"Reserved Matters Application"	any application submitted to the Council to secure approval for specific details of the Development that were reserved and not considered as part of the grant of the (outline) Planning Permission.
"Section 73 Consent"	any planning permission granted pursuant to section 73 of the Act to vary and/ or remove any planning condition(s) subject to which

DRAFT

the Planning Permission was granted and/ or subsequent planning permission was granted pursuant to section 73 of the Act.

"Working Day" means Monday to Friday inclusive but excluding any day that is a bank holiday, public holiday or statutory holiday in England.

4. ENABLING PROVISIONS

4.1 This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

5. CONDITIONS PRECEDENT

5.1 This Agreement shall come into effect upon the date it is dated but the provisions in the Schedules of this Agreement shall only take effect upon the Commencement of Development unless explicitly stated otherwise.

6. COVENANTS

6.1 Subject to clause 5.1 the Owners covenant with the District Council to comply fully with and to perform the obligations contained herein and in the Schedules of this Agreement in accordance with the requirements and timescales set out.

7. NOTICES

7.1 The Owners covenant with the District Council and the County Council as follows:

7.1.1 to give the Commencement Notice to the District Council and the County Council not less than 5 (five) Working Days before the anticipated Commencement Date; and

7.1.2 to give the Occupation Notice to the District Council and County Council not less than 5 (five) Working Days before the anticipated Occupation Date.

7.2 The Parties to this Agreement agree that if the Owners fail to give the notice required by clause 7.1.1 and clause 7.1.2 above then the District Council shall be entitled in its absolute discretion to determine the Commencement Date and Occupation Date and shall give notice to the Owners and the County Council of the District Council's determination.

7.3 Any notice, certificate or other communication required or permitted to be given under this Agreement shall be given in writing to the relevant party and in the case of the County Council shall be addressed to the Information Management Team, County Planning and in the case of the District Council, addressed to the Head of Development and Building Control, and either:

7.3.1 Emailed to planning@horsham.gov.uk; or

7.3.2 Posted by first class "Signed For" delivery to the relevant address referred to at the start of this Agreement or such other address as may be notified in writing to the other party; or

DRAFT

7.3.3 Served personally at the relevant address referred to at the start of this Agreement or such other address as may be notified in writing to the other party

7.4 Any notice, certificate or other communication sent by email in accordance with clause 7.3.1 shall be deemed to have been delivered at the time of despatch if transmitted prior to 17:00hrs on a Working Day but otherwise it shall be deemed to have been received on the next Working Day.

7.5 Any notice, certificate or other communication sent by post in accordance with clause 7.3.2 shall be deemed (in the absence of evidence of receipt) to have been delivered 2 (two) Working Days after despatch and in proving the fact of despatch it shall be sufficient to show that the envelope was properly addressed and posted.

7.6 Any notice, certificate or other communication delivered personally in accordance with clause 7.3.3 shall be deemed to have been delivered at the time it is received provided it is received between 09:00hrs and 17:00hrs on a Working Day but otherwise it shall be deemed to have been received on the next Working Day.

8. COSTS

8.1 The Owners have undertaken to pay on or before the date hereof the District Council's reasonable legal costs incurred in preparing and entering into this Agreement.

8.2 The Owners shall on or before the date hereof pay to the District Council the District Monitoring Fees.

8.3 The Owners have undertaken to pay on or before the date hereof the County Council's reasonable legal costs incurred in preparing and entering into this Agreement.

8.4 The Owners shall on or before the date hereof pay to the County Council the County Monitoring Fees

9. MORGAGEE'S CONSENT

9.1 The Mortgagee acknowledges and declares that this Agreement has been entered into by the Second Owner with its consent and acknowledges that its interest in the relevant part of the Application Site shall be bound by the obligations contained in this Agreement and that the security of the mortgage over the relevant part of the Application Site shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Second Owner.

9.2 Any future mortgagee or chargee shall not be liable for any breach of the obligations in this Agreement unless committed or continuing at a time when it is in possession of all or any part of the Application Site in which case it will be bound by the obligations in this Agreement as if it were a person deriving title from the Owners.

10. GENERAL

DRAFT

The Parties undertake that:

10.1 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999.

10.2 No waiver (whether express or implied) by the District Council or by the Owners of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the District Council or the Owners from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default. .

10.3 The Owners hereby undertake that:

10.3.1 this Agreement supersedes and replaces all previous negotiations whether oral or written;

10.3.2 the Owners have not relied on any express or implied statement warranty representation or undertaking given by or on behalf of the District Council; and

10.3.3 nothing herein contained excludes the liability of any party in relation to fraud.

10.4 This Agreement will be registered as a local land charge by the District Council.

10.5 The First Owner hereby gives consent for the Application Site Plan and the Managed Land Plan to be reproduced by the District Council.

10.6 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.

10.7 This Agreement shall be governed by and interpreted in accordance with laws of England and the Parties submit to the exclusive jurisdiction of the courts of England.

10.8 The obligations in this Agreement (with the exception of clause 8. – Costs) shall cease to have effect (insofar only as any has not already been complied with) if, before the Commencement of Development, the Planning Permission:

10.8.1 expires; or

10.8.2 is varied or revoked other than at the request of the Parties; or

10.8.3 is quashed following a successful legal challenge,

10.9 but will remain in full force and effect so far as any subsisting Section 73 Consent is concerned.

10.10 The Owners and the Mortgagee (or any person deriving title to Application Site from the Owners and/ or the Mortgagee) shall not be liable for any breach of the restrictions and obligations set out in this Agreement where such breach arises after the Owners and/ or the Mortgagee or their successors in title have parted with its/ their interest in the Application Site or part of Application Site to which such breach relates save in respect of liability for antecedent breach of this Agreement.

DRAFT

10.11 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies to the covenants in this agreement.

10.12 References to the Application Site include any part of it.

10.13 Any covenant by the Owners not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

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

10.15 Subject to the proviso to this clause if any Section 73 Consent is granted after the date of this Agreement:

10.15.1 the obligations in this Agreement shall relate to and bind such Section 73 Consent; and

10.15.2 the definitions of Application, Development and Planning Permission (other than for the purposes of clause 1) shall be construed to include reference to (respectively) the planning application for the Section 73 Consent, the development permitted by the Section 73 Consent and the Section 73 Consent itself.

10.15.3 nothing in this clause shall fetter the discretion of the District Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same.

PROVIDED THAT:

10.15.4 to the extent that any of the obligations in this Agreement have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent; and

10.15.5 the District Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any Section 73 Consent if the District Council (acting reasonably) considers it desirable to do so.

10.16 The provisions of this Agreement shall not bind the following:

10.16.1 Purchasers, tenants, occupiers (or their respective mortgagees and chargees), of any individual Dwellings;

10.16.2 Any statutory undertakers in respect of land held for their operational purposes and as a consequence of the release given in this clause this Agreement may be modified varied or released without the consent or approval of any such person without them being a party to any document or deed required to effect such a modification variation or release but such document or deed shall take effect as if they had been a party to such document or deed;

11. DISPUTE RESOLUTION

DRAFT

11.1 Save for matters of construction (which shall be matters for the Court), should a dispute or difference arise between the Parties or any of them concerning anything herein then the provisions of this clause 11 shall apply.

11.2 Subject to clause 11.3, all differences and disputes which may arise between the Parties concerning this Agreement shall be referred to the determination (as an expert and not as an arbitrator) of an independent leading conveyancing/ planning counsel agreed upon by the Parties but in default of such agreement appointed by the President of the Law Society of England and Wales on the application of any of the Parties.

11.3 All differences and disputes which may arise between the Parties concerning matters that are the subject of a Breach Notice served in accordance with paragraph INSERT of Schedule INSERT of this Agreement shall be referred to the determination (as an expert and not as an arbitrator) of an independent Member/ Fellow of the Chartered Institute of Ecology and Environmental Management or equivalent agreed upon by the Parties but in default of such agreement appointed by Chartered Institute of Ecology and Environmental Management.

11.4 Any expert appointed pursuant to clause 11.2 or 11.3 shall:

11.4.1 on his appointment serve written notice thereof on the parties in dispute;

11.4.2 consider any written representations by or on behalf of those parties which are received by him within 20 (twenty) Working Days of such service and immediately forward a copy of the written representation of one party to the other party;

11.4.3 allow the parties to the dispute an opportunity of commenting in writing on the other party's representations within 20 (twenty) Working Days of receipt by the other party thereof;

11.4.4 have an unfettered discretion to determine the reference to him;

11.4.5 serve notice of his determination as soon as he has made it;

11.4.6 give full and clear reasons for his decision; and

11.4.7 be paid his proper fee and expenses in connection with such reference by the Parties in dispute in equal shares or in such shares as he may determine and his determination shall be final and binding on the parties in dispute (save in the case of manifest error) PROVIDED THAT if any such expert shall die, become insolvent or of unsound mind or if any of the parties in dispute shall serve on him written notice in their opinion he has unreasonably delayed making his determination he shall be ipso facto discharged and be entitled only to his reasonable expenses prior to such discharge and another person shall be appointed in his place as such expert.

11.5 The provisions of this clause shall not affect the ability of the District Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, and any other means of enforcing this Agreement and consequential and interim orders and relief.

DRAFT

12. OWNERSHIP

12.1 The Owners warrant that no person other than the Owners has any legal or equitable interest in the Application Site other than as set out in this Agreement.

12.2 The Owners, undertake to the District Council to give the District Council and the County Council immediate written notice of any change in the ownership of, any of their respective interests in, the Application Site, as the case may be, occurring before all the obligations under this Agreement 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 Application Site purchased by reference to a plan.

IN WITNESS whereof this Agreement has been duly executed the day and year first hereinbefore mentioned

EXECUTED as a **DEED** by
DUNMOORE (WEST LONDON) LIMITED
acting by one director in the presence of a witness

…… Signature

In the presence of:

W …… Signature

I …… Print name

T …… Address 1

N …… Address 2

E …… Address 3

S …… Address 4

S …… Post code

EXECUTED as a **DEED** by
BILLINGSHURST MANAGEMENT COMPANY LIMITED
acting by one director in the presence of a witness

DRAFT

…… Signature

In the presence of:

W …… Signature

I …… Print name

T …… Address 1

N …… Address 2

E …… Address 3

S …… Address 4

S …… Post code

EXECUTED as a **DEED** by
HSBC UK BANK PLC
acting by an Attorney* in the presence of a witness

…… Signature of Attorney

…… Print name

…… Position held

In the presence of:

…… Signature of witness

…… Print name

DRAFT

…… Position held

*Note: the Power of Attorney nominating the Attorney who signs this Deed on behalf of the Mortgagee must be submitted to the District Council with this Deed.

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

Authorised Officer

SEALED WITH THE COMMON SEAL of
HORSHAM DISTRICT COUNCIL
in the presence of:

Authorised Officer

DRAFT

SCHEDULE 1

Plans

1. Application Site Plan.

DRAFT

SCHEDULE 2

Affordable Housing

1. DEFINITIONS

It is hereby agreed between the Parties set out in this Agreement that the following expressions have the following meanings:

"Affordable Housing"	affordable housing comprising Rented Units and/ or Shared Ownership Units (or such other forms of intermediate tenure as defined in the National Planning Policy Framework) provided to meet the needs of eligible households which are not met by the market, including availability at sufficiently low cost determined with regard to local incomes and local house prices and provision for the home to remain at an affordable price for future eligible households or if these restrictions are lifted for the subsidy to be recycled for alternative affordable housing provision.
"Affordable Housing Land"	those parts of the Application Site on which the Affordable Housing Units shall be constructed together with the associated curtilage of each such building and amenity space where relevant and provided in accordance with the obligations set out in this Agreement.
"Affordable Housing Scheme"	a scheme for the provision of the Affordable Housing Units to be provided by the Owners which shall (as a minimum) provide: a) the type and size of Housing Units to be provided as the Affordable Housing Units in accordance with the Affordable Housing Tenure Mix; b) a plan showing the location of the Affordable Housing Land and the Affordable Housing Units, appropriately distributed throughout the Development so that, where practical, it is not segregated from the Open Market Units, to ensure inclusive and mixed communities AND identifying which (if any) of the Affordable Housing Units shall be fully wheelchair accessible, their type, size and location within the Development AND such other matters as the District Council may require (acting reasonably); c) such other matters as the District Council may require (acting reasonably).
"Affordable Housing Provider"	either one or a combination of: a) a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including its successors and assigns from time to time) who is on the District Council's approved list (as may be amended from time to time) OR another registered provider of social housing as may be proposed by the Owners and approved by the District Council;

DRAFT

OR

b) an unregistered provider of affordable housing approved by the District Council, or such other body or organisation approved by the District Council whose main object is the provision of Affordable Housing;

"Affordable Housing Tenure Mix" a tenure mix of c. 70% (seventy percent) Rented Units and c. 30% (thirty percent) Shared Ownership Units, or such other mix of Affordable Housing Units as shall be approved in writing by the District Council in accordance with this Schedule (such approval not to be unreasonably withheld or delayed).

"Affordable Housing Units" a minimum of 35% (thirty five percent) of the total Housing Units to be provided as part of the Development of which the Affordable Rented Units and the Shared Ownership Units are to be transferred to an Affordable Housing Provider as housing for persons in Housing Need in accordance with the provisions of this Schedule unless an alternative tenure mix is required to fulfil the requirements of paragraph 3.8 of this Schedule.

"Affordable Rent" in relation to first lets only, chargeable rent that is subject to the HE's Rent Standard (April 2026) as expanded on by current government guidance and any such document and/or associated guidance that may be amended updated or replaced from time to time and is required to be offered to eligible householders in Housing Need at an open market rental level which does not exceed 80% of gross local market rent (inclusive of service charges) for an equivalent property of that size and location calculated using the Royal Institute of Chartered Surveyors approved valuation methods OR the applicable Local Housing Allowance rate for the District Council, whichever is the lower.

"Affordable Rented Units" rented housing let by the Affordable Housing Provider to eligible households at Affordable Rent and **"Affordable Rented Unit"** shall be construed as meaning any one of them.

"BCIS Index" means the All-In Tender Price Index published by the Building Cost Information Service Index of the Royal Institution of Chartered Surveyors or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the District Council may specify.

"Deed of Nomination Rights" the District Council's nomination agreement in the form (or substantially in the form) attached at Schedule 3 to be entered into between the District Council and the Affordable Housing Provider to provide the District Council with nomination rights in respect of the Affordable Rented Units for the life of the Development.

"Disposal" a disposal of the Affordable Housing Units to an Affordable Housing Provider whether by transfer of the freehold or the grant of a long

DRAFT

	lease for a term of at least 990 (nine hundred and ninety years and **"Dispose"** shall be construed accordingly.
"First Occupation"	the date on which each Housing Unit is Occupied for the first time.
"Fully Serviced"	where provision of Housing Units is made with access from the highway surfaced to adoptable standard and all utility connections, including electricity, mains water, sewerage and wiring for connection to high-speed broadband are installed and fully functional.
"Head of Development and Building Control"	the Head of Development and Building Control at the District Council or any successor or such other officer as may be designated by the District Council for the purposes of discharging their duties and functions from time to time.
"Head of Housing and Communities"	the District Council's Head of Housing and Communities or such other officer as may be lawfully designated by the District Council for the purposes of discharging his duties and functions.
"Homes England"	the executive non-departmental public body known as Homes England (or any successor body to its functions within the meaning of Part I of the Housing and Regeneration Act 2008 that funds new affordable homes and regulates registered providers of social housing in England);
"Housing Register and Nominations Policy"	the District Council's published scheme of allocations presently contained in its "Housing Register and Nominations Policy (April 2025)" or any amendment, update, variation, or subsequent replacement thereof.
"Housing Need"	a) in relation to any Rented Units the requirement by a person for social housing allocation in accordance with the Housing Register and Nominations Policy; and b) in relation to the Shared Ownership Units the requirement for a person's income to be insufficient to enable them rent or buy housing available locally on the open market determined with regard to local incomes and local house prices;
"Housing Unit"	a unit for residential Occupation to be constructed as part of the Development.
"Local Housing Allowance"	the flat rate rental allowance providing financial assistance towards the housing costs of low-income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department of Work and Pensions or such similar framework that may replace it.
"Neighbouring Councils"	councils who share the same housing market within the District Council's Strategic Housing Market Assessment;

DRAFT

"New Homes Build Warranty"	a 10-year insurance policy, to be taken out by the Owner at its own expense, from any provider which offers a similar scope of cover to that of NHBC Buildmark or any similar NHBC product which replaces Buildmark from time to time.
"Open Market Units"	all those Housing Units to be constructed on the Application Site which are not Affordable Housing Units.
"Practical Completion"	in relation to a Housing Unit, complete save for minor snagging items such that it is reasonably fit for occupation or use with all utilities/ services connected and in full operation and accessible by both vehicles and pedestrians, and the words and **"Practically Complete"** shall be construed accordingly.
"Rented Units"	Housing Units to be made available by an Affordable Housing Provider as low cost rented accommodation (as defined by s.69 Housing and Regeneration Act 2008), which includes (but is not limited to) Affordable Rented Units and Social Rented Units.
"Right to Acquire"	the right of a secure tenant to purchase their dwellinghouse as set out in Part V of the Housing Act 1996 (as amended) and Housing (Right to Acquire) Regulations 1997.
"Right to Buy"	the right of a secure tenant to purchase their dwellinghouse as set out in Part V of the Housing Act 1985 (as amended)
"Shared Ownership Lease"	a lease which accords with HE's model form of lease issued from time to time such that the dwelling is occupied in accordance with shared ownership arrangements within the meaning of section 70(4) of the Housing and Regeneration Act 2008.
"Shared Ownership Unit"	the Affordable Housing Units to made available by an Affordable Housing Provider whereby a person granted a Shared Ownership Lease can purchase an initial equity share in a Shared Ownership Unit of not less than 10% and not more than 75% and pay rent on the unsold equity with flexibility for such a person to purchase further equity shares in the Shared Ownership Unit up to 100% or such other equity sharing or retention terms from time to time approved by the District Council.
"Social Rent"	rent set in accordance with the Regulator for Social Housing's Tenancy Standard (April 2012) as may be amended updated or replaced from time to time at a rent not higher than the national rent regime amount.
"Social Rented Units"	Affordable Housing Units that will be let to persons in housing need at a Social Rent and "**Social Rented Unit**" shall be construed as meaning any one of them.

The Owners hereby covenants with the District Council as follows:

2. GENERAL PROVISIONS

DRAFT

2.1 Prior to Commencement of Development to submit to the District Council for its approval as a Reserved Matters Application the Affordable Housing Scheme and not to Commence Development unless and until the District Council has approved the Affordable Housing Scheme in writing.

2.2 Subject to paragraph 5.1 of this Schedule (and the sub-paragraphs thereof), to construct, Practically Complete and deliver the Affordable Housing Units on the Affordable Housing Land in accordance with the Affordable Housing Scheme and the other provisions of this Schedule subject to any amendments agreed in writing by the District Council from time to time.

2.3 Subject to paragraph 5 not to Occupy or use the Affordable Housing Units for any other purpose other than as Affordable Housing in accordance with the Affordable Housing Scheme and the other provisions of this Schedule.

2.4 The Owners further covenant that subject to paragraph 5:

2.4.1 the Rented Units shall not be Occupied other than by persons who are in Housing Need on Affordable Rent or Social Rent terms, or any other form of low cost rented accommodation (as defined by s.69 of the Housing and Regeneration Act 2008), by way of an assured tenancy complying with the guidance given by HE;

2.4.2 the Shared Ownership Units shall not be Occupied other than by persons who are in Housing Need.

3. PRACTICAL COMPLETION AND TRANSFER OF AFFORDABLE HOUSING UNITS

3.1 Prior to Occupation of a maximum of 25% (twenty five percent) of the Open Market Units, to make reasonable endeavours to enter into a binding contract for:

3.1.1 the disposal of the Affordable Housing Land to an Affordable Housing Provider together with a contract requiring the construction of the Affordable Housing Units in accordance with the Planning Permission and the Affordable Housing Scheme; OR

3.1.2 the transfer to an Affordable Housing Provider of the Affordable Housing Units, fully serviced and in clean condition and the Affordable Housing Land.

3.2 In the event of a transfer taking place pursuant to paragraph 3.1.2, prior to Occupation of a maximum of 75% (seventy five percent) of the Open Market Units to:

3.2.1 construct and Practically Complete all the Affordable Housing Units in accordance with the Planning Permission and the Affordable Housing Scheme.

3.2.2 transfer either the freehold title, or a lease for at least 990 (nine hundred and ninety) years on a full repairing and insuring basis, for the Affordable Housing Units to the Affordable Housing Provider, free from all encumbrances (other than those on the title of the Affordable Housing Land at the date of this Deed) and financial charges.

DRAFT

3.2.3 provide the New Homes Build Warranty for each of the Affordable Housing Units to the Affordable Housing Provider.

3.3 not to Occupy or allow Occupation of more than 25% of the Open Market Units unless and until the provisions of paragraph 3.1 of this Schedule (including its sub-paragraphs) have been complied with.

3.4 Not to Occupy or allow Occupation of more than 75% of the Open Market Units unless and until the provisions of paragraph 3.2 of this Schedule (including its sub-paragraphs) have been complied with.

3.5 Within any transfer and/ or lease of any/ all of the Affordable Housing Units to the Affordable Housing Provider, to require or procure the execution by the Affordable Housing Provider and delivery to the District Council of a Deed of Nomination Rights in respect of the Rented Units, substantially (but subject to such amendments as may be agreed between the Affordable Housing Provider and the District Council) in the form set out in Schedule 3 with the District Council's costs to be paid by the Affordable Housing Provider;

3.6 To provide evidence of the transfer of the freehold interest or grant of the leasehold interest of the Affordable Housing Units referred to in Paragraph 3.2.2 of this Schedule to the Head of Housing and Communities within 5 (five) Working Days of completion of the transfer or grant.

3.7 In the event that no agreement for the transfer the Affordable Housing Land and/ or Affordable Housing Units (as required by paragraph 3.1) has been reached at the expiration period of 6 (six) months from the date of first approach to an Affordable Housing Provider pursuant to paragraph 3.1 above, to:

3.7.1 serve notice on the District Council confirming that no agreement has been entered into;

3.7.2 submit evidence to the Head of Development and Building Control demonstrating the steps taken and explaining why such an agreement could not be entered into with any Affordable Housing Provider.

3.8 To allow a further period of 3 (three) months from the date of service of the notice referred to in paragraph 3.7.1 of this Schedule EITHER to find an Affordable Housing Provider(s) (as required by paragraph 3.1) with the assistance of the District Council AND/ OR to agree an alternative housing tenure mix by amendment of the Affordable Housing Scheme and in the event that the latter applies and the District Council agrees a revised Affordable Housing Scheme (such agreement not to be unreasonably withheld or delayed) the Owners shall continue to use reasonable endeavours to enter into contract with an Affordable Housing Provider or Affordable Housing Providers in accordance with paragraph 2.1 .as soon as reasonably practicable but for the avoidance of doubt the restriction on occupation of Open Market Units in paragraph 3.3 shall no longer apply.

3.9 That a minimum 10% and a maximum 75% share in each Shared Ownership Unit may be sold to eligible applicants initially and that the rent (excluding service charge) to be charged on the remaining percentage share in the Shared

DRAFT

Ownership Units shall not be more than 3% of the capital value of the unsold equity in that particular Shared Ownership Unit.

3.10 Unless otherwise agreed by the District Council or directed by HE any proceeds derived from the sale of a Shared Ownership Unit or the proceeds from a Right to Buy or Right to Acquire transaction of a Rented Unit shall be used by the Affordable Housing Provider to re-invest in Affordable Housing with priority given to the provision of new dwellings for Affordable Rent or Social Rent.

4. MISCELLANEOUS PROVISIONS

4.1 Prior to Occupation of the Affordable Housing Units:

4.1.1 all public highways (if any) and public sewerage and drainage serving the Affordable Housing Units shall be in place and shall meet all statutory requirements for such public sewerage and drainage including any build over consents or agreements that might be required;

4.1.2 all private roads, footways and footpaths (if any) serving the Affordable Housing Units shall be constructed, laid, connected, operational and serviceable;

4.1.3 all private sewage and drainage pipes, channels and gutters, all mains water and gas pipes and electricity cables (as applicable) serving the Affordable Housing Units shall be constructed, laid, connected, operational and serviceable.

5. EXCLUSIONS

5.1 The obligations contained in this Schedule shall neither be binding on nor enforceable against:

5.1.1 any mortgagee or chargee or any receiver (including an administrative receiver) or manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security ("Appointee") or any administrator (howsoever appointed) ("Administrator") including a housing administrator (each a "Receiver") of an Affordable Housing Provider of the Affordable Housing Land and/ or Affordable Housing Provider of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or receiver PROVIDED ALWAYS THAT

5.1.1.1 any power of sale available to any such Appointee Administrator or Receiver shall only be exercised in the event of there being a default of any obligation under the security documentation;

5.1.1.2 such Appointee Administrator or Receiver shall first have notified the District Council and the Head of Housing and Communities that it wishes to exercise its statutory power of sale;

5.1.1.3 for a period of 3 (three) clear calendar months from the date of such notification, the Appointee Administrator or Receiver shall

DRAFT

use reasonable endeavours to complete a disposal of the relevant Affordable Housing Land and/ or Affordable Housing Units to another Affordable Housing Provider (who shall take subject to the provisions of this Deed) for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies interest and costs and expenses

PROVIDED THAT and for the avoidance of doubt if such disposal has not been completed within such 3-month period then the Appointee, Administrator or Receiver shall be entitled to dispose of the relevant Affordable Housing Units free from the obligations contained in this Schedule which provisions shall determine absolutely

5.1.2 a tenant of an Affordable Rented Unit who has exercised a Right to Acquire;

5.1.3 A tenant of an Affordable Rented Unit who has exercised a Right to Buy;

5.1.4 a Shared Ownership leaseholder who has acquired 100% of the shares in the Shared Ownership Unit; and

5.1.5 any successor in title of any person detailed in Sub-Paragraphs 5.1.2, 5.1.3 and 5.1.4 (above) or their mortgagee or chargee.

DRAFT

SCHEDULE 3

Specimen Deed of Nomination Rights

[**AFFORDABLE HOUSING PROVIDER**]

and

HORSHAM DISTRICT COUNCIL

DEED OF NOMINATION RIGHTS

for

[ ] Affordable Housing – Rented Units

at

[ ] West Sussex

Authority: Signed and Dated S106 [ ]

Lauren Kelly
Head of Legal and Democratic Services
Horsham District Council
Albery House
Springfield Road
Horsham
West Sussex
RH12 2GB

Ref:

DRAFT

THIS DEED OF NOMINATION RIGHTS is made the day of 202X

BETWEEN:

(1) [ ] ("**the Affordable Housing Provider**"); and

(2) **HORSHAM DISTRICT COUNCIL** of Albery House, Springfield Road, Horsham West Sussex RH12 2GB ("**the District Council**")

1. DEFINITIONS

In this Deed the following expressions shall have the following meanings:

"**Affordable Housing"**	subsidised housing provided to eligible households whose needs are not met by the market and which should meet the needs of eligible households, including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices and shall include provision for the home to remain at an affordable price for future eligible households or if these restrictions are lifted for the subsidy to be recycled for alternative affordable housing provision. and for the purposes of this deed comprises the Rented Units;
"Affordable Housing Land"	the land upon which the Rented Units are constructed [address of property] shown edged red on the plan at Schedule 1 of this Deed;
"Affordable Housing Provider"	either one or a combination of: a) a registered provider of social housing within the meaning of the Housing and Regeneration Act 2008 (including its successors and assigns from time to time) as nominated by the District Council from the District Council's approved list (as may be amended from time to time) OR another registered provider of social housing as may be proposed by the Head of Housing and Communities and approved by the District Council; OR b) an unregistered provider of social housing approved by the District Council, or such other body or organisation approved by the District Council whose main object is the provision of Affordable Housing;
"Exempted Void	a Void occurring when the District Council transfers a tenant to more suitable accommodation to meet the tenant's needs;
"Homes England"	the executive non-departmental public body called Homes England, sponsored by the Department for Levelling Up, Housing and Communities or any bodies undertaking the existing functions of Homes England within the meaning of Part 1 of the Housing and Regeneration Act 2008 (or redefined by any amendment replacement or re-enactment of such Act;
"Housing Register and	the District Council's Housing Register and Nominations Policy dated April 2025 (and which may be updated from time to time):

DRAFT

Nominations Policy"	https://www.horsham.gov.uk/__data/assets/pdf_file/0007/146779/Housing-Register-Nominations-Policy.pdf or other document which may replace it;
"Initial Let"	the first tenancy or lease of a newly constructed and previously unoccupied Rented Unit and "Initial Let" shall mean any one of them;
"Local Connection"	in relation to an individual, that such individual: a) immediately before taking up occupation of a Rented Unit had his only or principal home in the parish of Billingshurst for a continuous period of not less than two years; or b) a member of his household has a parent, child, adult child, brother or sister whose only or principal home is and has been for a continuous period of not less than 2 (two) years in the parish of Billingshurst and he wishes to be near that relative; or c) is and has been permanently employed in the parish of Billingshurst for a continuous period of not less than 2 (two) years provided that where no person or insufficient persons can be identified as having a connection with the parish of Billingshurst as outlined above then the District of Horsham shall be substituted for the parish of [XXX.];
"**Nominee"**	a person who may be nominated by the District Council to the Rented Units and who is in need of Affordable Housing, who is not easily able to compete in the local housing market and who meets the following criteria: a) is an individual or are individuals; b) is considered in their reasonable opinion by the District Council or the Affordable Housing Provider in accordance with its rules or its allocations and lettings policies to be in need of the accommodation provided by the Affordable Housing Unit; c) is not able easily to compete in the open market for equivalent housing accommodation in the administrative area of the District Council; d) before taking up occupation of the Affordable Housing Unit has not owned a freehold or a lease for a term exceeding 3 years within the previous 12 months (save that the condition shall not apply where the District Council or the Affordable Housing Provider is satisfied that the circumstances of that person are such as to put him in need of housing) and intends to occupy and subsequently occupies the Affordable Housing Unit as his/her only or principal home; e) is an individual who meets the criteria of the District Council's Housing Register and Nominations Policy; f) has a Local Connection. and **"Nominee"** and **"Nominees"** shall be construed accordingly;
"Rented Units"	the housing units constructed or to be constructed on the Affordable Housing Land to be made available by an Affordable Housing Provider as

DRAFT

	low cost rented accommodation (as defined by s.69 Housing and Regeneration Act 2008) subject to a Tenancy Agreement.
"**S106 Agreement"**	the agreement relating to the Application Site and dated […….] and made between (1) Dunmoore Properties Limited; (2) Dumoore (West London) Limited; (3) Billingshurst Management Company Limited; (4) HSBC Bank plc; (5) West Sussex County Council and (6) Horsham District Council, and any subsequent supplemental agreements varying it thereafter;
"Social Rent"	rent in accordance with the Regulator for Social Housing's Tenancy Standard (April 2012) as may be amended updated or replaced from time to time at a rent not higher than the national rent regime amount.
"Social Rented Units"	Affordable Housing Units that will be let to persons in housing need at a Social Rent and **"Social Rented Unit"** shall mean any one of them.
"Tenancy Agreement"	an assured tenancy agreement in a form prepared by the Affordable Housing Provider and containing terms which accord with the form of tenancy agreement being used by the Affordable Housing Provider from time to time for its general lettings or such other form of tenancy as the Affordable Housing Provider specifies (acting reasonably;
"Vacancy Notice"	a written notice, the form of which is to be agreed between the Affordable Housing Provider and the District Council within 5 (five) weeks of this Deed, to be given by the Affordable Housing Provider to the District Council in respect of any Affordable Housing Unit on the Affordable Housing Land to notify the District Council that the construction and fitting out of that Affordable Housing Unit is complete;
"Void"	an Affordable Housing Unit which is vacant because the tenant has vacated it;
"Void Notice"	a written notice, the form of which is to be agreed between the Affordable Housing Provider and the District Council within 8 (eight) weeks of the date of this Deed, to be given by the Affordable Housing Provider to the District Council to notify it that a Void is now available for re-letting;
"Void Notification"	the notification to the District Council by the Affordable Housing Provider that an Affordable Housing Unit is to become a Void with such notification to include the anticipated period that the Affordable Housing Unit will remain as a Void;
"Working Day"	any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

2. INTERPRETATION

2.1. Clause headings shall not affect the interpretation of this Deed.

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

DRAFT

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

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

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

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

2.7. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

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

2.9. A reference to writing or written excludes faxes and e-mail.

2.10. 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 from time to time.

2.11. References to clauses are to the clauses of this Deed.

2.12. 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.

2.13. When calculating percentages for the purposes of this Deed percentages of 0.5 or more shall be rounded up and percentages less than 0.5 shall be rounded down.

3. ENABLING PROVISIONS

3.1. This Agreement is made pursuant to s.111 of the Local Government Act 1972, s.33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers.

4. NOMINATION PROCEDURE FOR RENTED UNITS

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

Initial Lets

4.2. The Affordable Housing Provider shall give the District Council not less than 8 (eight) weeks' written notice of the date when an Initial Let will be ready for occupation.

4.3. The Affordable Housing Provider shall serve a Vacancy Notice on the District Council in respect of an Initial Let not less than 2 (two) weeks prior to it becoming available for occupation.

Nomination procedures

DRAFT

4.4. The District Council shall within 10 (ten) Working Days of receipt of a Vacancy Notice, Void Notice or written notice served in accordance with clauses 4.7.1, 4.7.2 or 4.7.3, serve on the Affordable Housing Provider details of a Nominee, which shall:

4.4.1. specify the type of Rented Unit which the Nominee requires and sufficient details of the Nominee's requirements and circumstances to justify their nomination to the particular Rented Unit or type of Rented Unit; and

4.4.2. include any other details that the Affordable Housing Provider may reasonably require from time to time.

4.5. Within 10 (ten) Working Days of the receipt of the details of a Nominee, the Affordable Housing Provider shall use its reasonable endeavours to arrange a viewing of the Affordable Housing Unit and make an offer of a Tenancy Agreement to the Nominee ("an Offer").

Failure to let

4.6. If the Nominee fails to enter into a Tenancy Agreement within 10 (ten) Working Days of receipt of the Affordable Housing Provider's Offer, that Nominee shall be deemed to have rejected the Affordable Housing Provider's Offer.

Notices

4.7. The Affordable Housing Provider shall give notice in writing to the District Council within 5 (five) Working Days of the occurrence of a Nominee:

4.7.1. failing to view an Affordable Housing Unit within 10 (ten) Working Days of an Offer being made;

4.7.2. failing to accept an Offer within 10 (ten) Working Days of it being made;

4.7.3. being rejected by Affordable Housing Provider in accordance with clause 4.13 and in such cases, the notice shall explain the reasons for the rejection;

4.7.4. accepting an Offer from the Affordable Housing Provider.

4.8. On receipt of a written notice served in accordance with clause 4.7.1, 4.7.2 or 4.7.3, the District Council shall serve details of a further Nominee on the Affordable Housing Provider and the parties shall repeat the procedures set out in clauses 4.4 – 4.7 except that:

4.8.1. the 10 (ten) Working Day period referred to in clauses 4.4 – 4 7 shall be reduced to 5 (five) Working Days.

4.8.2. the procedures set out in clauses 4.4 – 4.7 shall only be repeated twice.

4.9. In the event that:

4.9.1. a third Nominee fails to enter into a Tenancy Agreement within 10 (ten) Working Days of receipt of an Offer; or

4.9.2. the District Council fails to serve details of a Nominee within 10 (ten) Working Days of receipt of a Vacancy Notice or written notice served in accordance with clauses 4.7.1, 4.7.2 or 4.7.3. then, unless clause 4.10 applies

DRAFT

the Affordable Housing Provider shall have the right to make the Initial Let in respect of the Rented Unit to person of its own choosing (subject to the provisions within the S106 Agreement and clause 4.13).

4.10. If the District Council fails to serve details of a Nominee on the Affordable Housing Provider in accordance with clause 4.4 because it does not have suitable Nominee, it shall inform the Affordable Housing Provider within 10 (ten) Working Days and serve details of a suitable Nominee as soon as reasonably practicable thereafter and in any event within 20 (twenty) Working Days of the date of receipt of the notice.

Voids and reletting

4.11. If a Rented Unit becomes a Void after the Initial Let or the Affordable Housing Provider has reasonable cause to believe it will become a Void:

4.11.1. the Affordable Housing Provider shall serve a Void Notification in respect of that Rented Unit within 5 (five) Working Days of it becoming a Void;

4.11.2. the Affordable Housing Provider shall serve a Void Notice on the District Council in respect of that Rented Unit as soon as it is available for re-letting;

4.11.3. the parties shall follow the nomination procedures set out in clauses 4.4 to 4.7. and clauses 4.8 and 4.9 shall apply

unless the Void is an Exempted Void, in which case clause 4.12 shall apply.

Exempted Voids

4.12. Where the Void is an Exempted Void:

4.12.1. if fewer than 75% of the total number of Rented Units have been let, the parties shall follow the procedures set out in clauses 4.4 – 4.7. and clauses 4.8 and 4.9 shall apply;

4.12.2. if 75% of the Voids (which for the avoidance of doubt means 75% of the total number of Affordable Housing Units) have been let, the Affordable Housing Provider shall not be required to follow the procedures set down in clauses 4.4 – 4.7 and the Affordable Housing Provider shall then be entitled to let the remaining 25% of the Voids (which for the avoidance of doubt means 25% of the total number of Affordable Housing Units) to persons of its own choosing (subject to the provisions within the S106 Agreement).

Rejecting Nominees

4.13. The Affordable Housing Provider shall have the right to interview and make enquiries about each Nominee and to reject any Nominee if in the opinion of the Affordable Housing Provider the grant of a Tenancy Agreement to such Nominee would be in contravention of the Affordable Housing Provider's registered rules or its letting criteria and if an Affordable Housing Provider rejects a Nominee in accordance with this clause, the Affordable Housing Provider must serve written notice on the District Council in accordance with clause 4.7.3.

4.14. Where the Affordable Housing Provider intends to reject a Nominee in accordance with clause 4.13 and it serves notice of this on the District Council in accordance with clause 4.7.3, the District Council shall:

DRAFT

4.14.1. within 5 (five) Working Days of receipt of the said notice be entitled to send the Affordable Housing Provider written representations setting out the reason(s) why the Nominee does meet the Affordable Housing Provider's registered rules or its lettings criteria; and

4.14.2. within 5 (five) Working Days of receipt of the District Council's written representations, the Affordable Housing Provider shall consider the written representations and will notify the District Council in writing that the Nominee has been accepted or that they have not, giving the reasons for their decision.

4.15. The District Council and the Affordable Housing Provider agree that the nomination rights contained in this Deed may be varied from time to time but only by agreement in writing by the parties.

5. NOTICES

5.1. Any notice served in accordance with this Deed must be in writing and:

5.1.1. delivered by hand; or

5.1.2. sent by pre-paid first class post or next working day delivery service.

5.2. Any notice to be given under this Deed must be sent to the relevant party at the address indicated above or such other address notified by one party to the other and addressed, in the case of the District Council to Head of Housing and Communities and, in the case of the Affordable Housing Provider [xxx].

5.3. Any notice given in accordance with clause 5 will be deemed to have been received:

5.3.1. if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00am on a Working Day, the notice will be deemed to have been received at 9.00am on that day, and if delivery occurs after 5.00pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

5.3.2. if sent by pre-paid first-class post or next working day delivery service, at 9.00am on the second Working Day after posting.

5.4. Any notice given in accordance with this clause 5 will be deemed to have been received:

6. TRANSFERS TO OTHER AFFORDABLE HOUSING PROVIDERS

6.1. The Affordable Housing Provider shall ensure that any Affordable Housing Provider to which the Affordable Housing Land and Affordable Housing erected thereon are transferred otherwise than by direction of the Homes England under its statutory powers shall enter into a similar agreement with the District Council.

7. DISPUTES

7.1. Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the

DRAFT

determination of a single expert to be agreed between the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Housing.

8. COSTS

8.1. The Affordable Housing Provider agrees with the District Council to pay the reasonable and proper legal costs which the District Council incurs in preparing and entering into this Deed.

9. AGREEMENTS AND DECLARATIONS

The parties agree:

9.1. nothing in this Deed fetters or restricts the exercise by the District Council of any of its powers;

9.2. the obligations contained in this Deed are covenants for the purpose of s.33 of the Local Government (Miscellaneous Provisions) Act 1982.

10. DISCREPANCIES AND PRIORITY

10.1. Where there is any discrepancy between this Deed and the s106 Agreement the S106 Agreement shall take priority.

11. EXCLUSION CLAUSE

11.1. The provisions of this Deed shall not be binding nor enforceable against any of the following:

11.1.1. Any person who shall exercise a statutory right to buy (including the preserved right to buy) or right to acquire any Rented Unit and their successor in title or chargee;

11.1.2. Any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator of an Affordable Housing Provider provided that such party so appointed shall have first complied with the procedure in clause [xx] Schedule [xx] of the S106 Agreement; and

11.1.3. Any and all successors in title from the persons specified in clauses 11.1 – 11.2 above.

Execution clause for the

Affordable Housing Provider

DRAFT

The common seal of

HORSHAM DISTRICT COUNCIL

was affixed in the presence of:

Authorised signatory

DRAFT

SCHEDULE 3 – Specimen Deed of Nomination Rights (ctd)

Schedule 1

Plan

DRAFT

Schedule 2

Rented Unit Details

[Details to depend on the scheme but will typically include address/plot number, type of property (flat/house), no. bedrooms, no. persons property will accommodate, type of tenure (usually affordable rent), location (ground, first floor etc), any other relevant details such as accessibility details, wet rooms etc]

DRAFT

Schedule 3

Schedule of Tenure – The Rented Units

Plot	Tenure	Beds	Address	Type	Floor Level

DRAFT

Schedule 4

Specimen Tenancy Agreement

[*To be provided by the Affordable Provider]*

DRAFT

SCHEDULE 4

Community Land

1. Interpretation of this Schedule

1.1. Unless the context otherwise requires where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings:

"Estate Charge"	the perpetual yearly variable estate management charge to be imposed on each Dwelling to cover the annual costs incurred by the Management Company of complying with the obligations of the approved Management Scheme.
"LEAP/ Local Equipped Area for Play"	a designated equipped area for play of at least 400m^2 to be provided within the Managed Land as part of the Development shown for indicative purposes only shown edged and shaded blue on the Managed Land Plan or in such other location as shall be approved by the Council pursuant to a Reserved Matters Approval and/ or as shall be agreed between the Council and the Owners (acting reasonably).
"LEAP Specifications"	a specification for the LEAP to include: • plans, details, specifications and a timetable for provision of the LEAP; • details of the surface treatment (grass/ hard/linked surface paths/ impact absorbing safety surfaces); • details of any earthworks, excavations, construction, drainage; • details of any fencing or materials; • type and size of play equipment; • details and type of any seating; • litter bins; • signage (type and location); and • a management plan for the long term future maintenance and management (including a maintenance schedule) and the arrangements for securing the availability of the LEAP for use by the general public; be submitted to and approved by the District Council in accordance with this Schedule 4.
"Managed Land"	land be provided as part of the Development including retained trees, landscaping and public shared space providing areas of: • amenity green space; • natural/ semi-natural green space;

DRAFT

	• a LEAP in the locations shown indicatively on the Managed Land Plan or in such other areas as shall be approved by the Council pursuant to a Reserved Matters Approval and/ or as shall be agreed between the Council and the Owners (acting reasonably), which shall be managed and maintained by the Management Company in accordance with the Management Plan and this Schedule (but excluding any areas which have been or are to be adopted by the relevant highway or drainage authorities pursuant to an adoption agreement);
"Managed Land Plan"	the plan of the Managed Land showing the locations of areas designated for specific uses (including the LEAP) and which is to be submitted pursuant to a Reserved Matters Approval.
"Managed Land Specifications"	the specification provided for the Development for the Managed Land or any parts thereof to be laid out and maintained in accordance with this Deed and which may include information relating to any of the following as appropriate: • plans, details, specifications and a timetable for provision of the Managed Land • approval of boundaries of any areas or parcels of land to be transferred to the Management Company • details of the layout, landscaping and planting • details for topsoil and seeding • details for surface treatment (grass/hard/linked surface paths/impact safety absorbing surfaces) • details of any earthworks, excavations, construction, drainage • details of any fencing or materials • details and type of any seating • litter bins • signage (type and location); and • a management plan for the long term future maintenance and management (including a maintenance schedule) and the arrangements for securing the availability of the Managed Land for use by the general public;
"Management Company"	a limited company or company limited by guarantee established to carry out the long term management and maintenance of the Managed Land (including the LEAP but excluding any areas which have been or are to be adopted by the relevant highways or drainage authorities pursuant to an adoption agreement) to be managed by it in accordance with

DRAFT

	the provisions of this Agreement and the Management Plan, 1. whose objectives shall include: a) setting and collecting the Estate Charge; b) ensuring accountability to Occupiers of the Dwellings; AND 2. whose constitution shall be submitted to and approved by the District Council and shall: c) facilitate the Owners retaining control of the Management Company until such time it relinquishes that control to shareholders (if applicable); and d) include any subsequent body that takes on this responsibility;
"Management Company Structure Scheme"	a scheme that addresses the following in relation to the Management Company: 1. details of the proposed constitution of the Management Company which shall be a private company limited by shares or by guarantee; 2. details of and arrangements for maintenance of such insurances as shall be appropriate in respect of the use of any Managed Land that is managed by the Management Company and against damage by those comprehensive risks as are reasonable to insure against in the circumstances then prevailing; 3. details of the mechanism together with suitable documentation to enable the transfer of ownership and responsibility for the Managed Land from the Management Company if the circumstances require on terms to be agreed (including details of how and when such transfer shall take place and how any step-in mechanism shall be triggered, settlement of outstanding management costs prior to transfer and liability for legal costs/ expenses associated with the transfer);
"Management Plan"	a detailed written scheme for the ongoing management and maintenance of the Managed Land which shall: 1. include a plan showing the boundaries of the Managed Land (such plan may be amended from time to time as the boundaries of the Managed Land change); 2. demonstrate full integration of landscape, biodiversity and arboriculture considerations; 3. confirm the approximate location and details of any apparatus to be vested in or adopted by statutory

DRAFT

	undertakers or the drainage or highway authorities; 4. set out the frequency of the maintenance; 5. include measures to replace any trees shrubs or turf which may die or become diseased following implementation of the Residential Management Plan; 6. specify the standard of maintenance and repair to be achieved or maintained; 7. state how the costs of the maintenance shall be funded and this shall include a mechanism for recovery of costs of the Managed Land; 8. state details of the proposed Management Company; 9. nominate the person who shall be the point of contact for anyone wishing to raise issues regarding the management or maintenance of the Managed Land; 10. specify the mechanism which shall be put in place to ensure that the details of the point of contact are publicised to residents of Dwellings, and members of the public entering the Managed Land and in the event of any change in the point of contact to notify the District Council in writing within 7 days of the date of such change;
"the Specifications"	Together the LEAP Specifications and the Managed Land Specifications.

The Owners hereby covenant with the District Council as follows:

2. Managed Land

2.1. Prior to Commencement of Development, to:

2.1.1. submit details as a Reserved Matters Application for the provision of the Managed Land including the Specifications, the Management Plan and the Managed Land Plan, to the District Council for approval and not to Commence the Development the District Council has approved the aforesaid details, the Specifications the Management Plan and the Managed Land Plan in writing, such approval not to be unreasonably delayed or withheld.

2.1.2. Confirm to the District Council whether the Managed Land is to be retained as part of the Development or transferred to the Management Company, in either case, to be managed in accordance with the Specifications and the Management Plan and the obligations set out in this Schedule.

2.2. Unless otherwise agreed in writing with the District Council, not to Occupy or cause or allow the Occupation of more than 75% of the Dwellings in the Development

DRAFT

until the Owners have at their own expense:

2.2.1. provided the Managed Land (including the LEAP) in accordance with the approved Specifications such that it is ready for use and open to members of the public to access free of charge in perpetuity thereafter;

2.2.2. submitted a post installation report prepared by the Royal Society for the Prevention of Accidents in respect of the LEAP to the Head of Development and Building Control at the District Council within 5 working days of the date of completion of the LEAP;

2.2.3. notified the Head of Development and Building Control that the approved works to be undertaken in relation to the provision of the Managed Land (including the LEAP) have been completed to obtain written confirmation of completion of the approved works;

2.2.4. immediately upon receipt of the District Council's written confirmation of completion of the approved works and PROVIDED THAT the Owners have confirmed in writing in accordance with paragraph 2.1.2 of this Schedule that the Managed Land is to be transferred, the Owners shall:

2.2.4.1. offer in writing to transfer the Managed Land (including the LEAP) to the Management Company for £1 upon the contractual terms set out in paragraph 2.6 (including its sub paragraphs) of this Schedule who shall not be entitled to refuse the offer; and

2.2.4.2. notify the Head of Development and Building Control of the District Council in writing that such an offer has been made;

2.2.5. enter into a binding contract for the transfer of the Managed Land (including the LEAP) and the for the sum of £1 to the Management Company, which the Management Company will be required as a successor in title to the Owners to maintain the Managed Land (including the LEAP) PROVIDED ALWAYS that notice of the entering into a contract shall be given to the District Council within 7 (seven) days of entering a contract and a copy of the binding contract shall be sent with such notice to the District Council.

2.3. If in the reasonable opinion of the Head of Development and Building Control there are defects in any of the works undertaken to provide the Managed Land in accordance with this Schedule, the Owners covenant to make good any such defects prior to the transfer of the Managed Land (including the LEAP) in accordance with paragraph 2.6 of this Schedule and the District Council's written confirmation referred to in paragraph 2.2.2 and 2.2.3 will only be provided in the event that, in the reasonable opinion of the Head of Development and Building Control the Owner/ Developer has complied with its obligation to make good any defects in the works.

2.4. The Owners shall at their own expense continue to maintain and insure the Managed Land (including the LEAP), keeping all trees and vegetation at all times cultivated and fed, watered and healthy and shall replace any damaged or dying grass, turf, trees, shrubs and other plants, for the period until the Managed Land (including the LEAP) is transferred in accordance with paragraph 2.6 (including its

DRAFT

sub paragraphs).

2.5. Not to Occupy or cause or allow the Occupation of more than 50% of the Dwellings within the Development until the Owners have paid to the District Council a fee of £600 (six hundred pounds) which is based on the current daily rate for the inspection of the works undertaken by the Owners in creating the Managed Land (including the LEAP).

2.6. Not to transfer any parcel of land comprising the Managed Land (including the LEAP) to a Management Company except upon the following terms and conditions unless otherwise agreed between the parties:

2.6.1. title shall be deduced in accordance with the Land Registration Act 2002;

2.6.2. the parcel(s) of land comprising the Managed Land (including the LEAP) will be transferred free of any financial charges together with the rights and easements but subject only to the exceptions reservations right easements registered against the title prior to the date of this Agreement and subject also to any easements granted to Statutory Undertaker and purchasers of Dwellings after the date of this Agreement and other matters contained and referred to in the register of title to the Application Site;

2.6.3. vacant possession of the parcel of land comprising the Managed Land (including the LEAP) shall be given on the date of the transfer in accordance with the provisions of this Deed;

2.6.4. completion shall take place on the date falling 60 Working Days after the date the written offer of transfer is made pursuant to paragraph 2.2.3.1 of this Schedule unless otherwise agreed in a contract for the transfer/conveyance made between the Owners and the Management Company;

2.6.5. the transfer of the Managed Land (including the LEAP) to the Management Company shall be subject to a covenant to comply with the following:

2.6.5.1. that the Managed Land (including the LEAP) shall be made available for the use of the general public and shall only be used for the purposes of public open space and LEAP as defined in this Deed and shall not be used for any trade or business and that no development requiring planning permission shall be carried out thereon unless it is for the purpose of providing children's play facilities or for the maintenance of the Managed Land (including the LEAP) or is required to be carried out by a statutory undertaker;

2.6.5.2. the Owners and the District Council agree that when the Managed Land (including the LEAP) is transferred to the Management Company the Owners shall be entitled to include in the transfer of the title a requirement that the Management Company shall enter into a direct covenant with the Owners (in this case not including the owners of the Dwellings or the

DRAFT

Affordable Housing Provider) to restrict the use of the land in accordance with the restrictions set out in this Agreement.

2.7. That the Managed Land (including the LEAP) shall be maintained at all times to the reasonable satisfaction of the District Council in a clean and safe condition with all grass regularly mown and tree hedges and shrubs kept in good order with any necessary trimming or lopping or replanting in accordance with the approved Management Plan together with any amendments or details subsequently approved in writing by the District Council.

3. Management Company

3.1. In the event that the Owners have confirmed that the Owners have confirmed that the Managed Land is to be transferred to a Management Company, the Owners shall not Occupy or permit the Occupation of any Dwelling until they have:

3.1.1. set up the Management Company in accordance with the provisions set out in this Schedule;

3.1.2. made provision to include in the transfer of the freehold or leasehold sale of each Dwelling a covenant by the purchaser to pay the Estate Charge as determined by the Management Company for the maintenance of Managed Land (including the LEAP) and any other land which has been transferred or will be transferred to the Management Company in accordance with this Agreement;

3.1.3. agreed not to sell or otherwise deal with any Dwelling without imposing a covenant on the purchaser of such Dwelling to pay the Estate Charge as determined by the Management Company towards the costs incurred in maintaining and insuring the parcels of land referred to in paragraph 3.1.2 above or parts thereof and any ancillary structures;

3.1.4. prior upon the sale of the first Dwelling to provide the District Council with copies of the Memorandum and Articles of Association of the Management Company, to include clauses whereby it must accept ownership and full responsibility for the management and maintenance thereafter of the Managed Land (including the LEAP) AND a copy of the transfer relating to the Dwelling including the covenants referred to in paragraph 3.1.2 above;

3.1.5. prior to the first Occupation of any Dwelling on the Development submit for approval to the District Council and gain approval from the District Council to the Management Company structure scheme;

3.1.6. on approval of the Management Company Structure Scheme the Owners will establish the Management Company in accordance with the approved Management Company Structure Scheme and such Management Company shall be established prior to the date of transfer of any Managed Land.

DRAFT

SCHEDULE 5

Highway Agreement/ Works/ Contributions/ PROW

"All Requisite Consents"	all requisite consents orders agreements authorisations licences and permissions required to implement the Highway Works Scheme.
"Highway Works"	the provision of the following on the [existing public highway] in the vicinity of the Development: a) Pedestrian accessibility improvements to local infrastructure including tactile paving as shown indicatively on drawing PROPOSED UNCONTROLLED PEDESTRIAN CROSSINGS PD02 REV A attached to this Agreement; b) Bus stop improvements in the form of two shelters either side of the A29 as shown indicatively on drawing PD02.1; and c) [Re-surfacing of Footpath 1942 to the West Sussex County Council rural footpath specification within no-dig zone,] to be provided in accordance with the Highway Works Scheme.
"Highway Works Scheme"	a scheme in respect of the Highway Works delivered in accordance with paragraph 2 of this Schedule.
Section 278 and/or Section 38 Agreement	an agreement to be entered into pursuant to Section 278 and/or Section 38 of the Highways Act 1980 (as applicable) in respect of the Highway Works Scheme (if required).
"Travel Plan"	a travel plan to be submitted to the County Council for approval which includes initiatives to promote sustainable modes of transport to and from the Application Site.
"Travel Plan Co-Ordinator"	the person appointed by the Owner responsible for securing the implementation of the Travel Plan.
"Travel Plan Monitoring Fee"	a fee in the sum of **£4,110 (FOUR THOUSAND ONE HUNDRED AND TEN POUNDS)** Index Linked for monitoring the travel plan to be paid to the County Council in accordance with paragraph 1 of this Schedule.

1. TRAVEL PLAN AND TRAVEL PLAN MONITORING FEE

1.1. Prior to First Occupation of any Dwelling, the Owner shall submit the Travel Plan to the County Council for approval and shall not Occupy any Dwelling until the Travel Plan has been approved in writing by the County Council such approval not to be unreasonably delayed or withheld.

1.2. Prior to First Occupation of any Dwelling, the Owner shall pay the Travel Plan Monitoring Fee to the County Council and shall not Occupy any Dwelling until the

DRAFT

Travel Plan Monitoring has been paid in full to the County Council.

1.3. Prior to First Occupation of any Dwelling, the Owner shall appoint a Travel Plan Co-Ordinator and shall notify the County Council in writing of the name, address, email address and telephone number of the person appointed.

1.4. Upon First Occupation of any Dwelling the Owner shall implement the approved Travel Plan or amendments (as may be agreed with the County Council in writing) until such time as it is agreed between the Owner and the County Council (in writing) that there is no need for a Travel Plan.

2. HIGHWAY WORKS SCHEME

2.1. To undertake a Stage 2 and Stage 3 Safety Audit in respect of the Highway Works.

2.2. Not to Commence the Development until a Highway Works Scheme has been submitted to and approved in writing by the County Council (such approval not to be unreasonably withheld or delayed) provided that where a Highway Works Scheme is submitted to the County Council which is not approved (acting reasonably) a revised Highway Works Scheme shall, within 14 days of receipt of notice in writing from the County Council that the previous Highway Works Scheme is not approved, be submitted to the County Council for approval (such approval not to be unreasonably withheld or delayed).

2.3. Once the County Council has approved a Highway Works Scheme (the "Approved Highway Works Scheme") to obtain All Requisite Consents including without limitation entering into a Section 278 and/or Section 38 Agreement (if required) with the County Council.

2.4. After All Requisite Consents have been obtained to carry out in full the Approved Highway Works Scheme and to complete the Highway Works to the satisfaction of the County Council.

2.5. Not without the consent of the County Council to allow First Occupation of any Dwelling until such Highway Works have been completed to the satisfaction of the County Council.