

DATED 11th March 2021

TUNBRIDGE WELLS BOROUGH COUNCIL

-and -

THE KENT COUNTY COUNCIL

-and -

CL SISSINGHURST LIMITED

DEED OF AGREEMENT PURSUANT TO
SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF
LAND AT COMMON ROAD SISSINGHURST
Planning Application Ref. No.: 19/03625/OUT

Mid Kent Legal Services
Tunbridge Wells Borough Council
Mount Pleasant Road
Royal Tunbridge Wells
Kent
TN1 1RS
Ref.: T14449



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THIS DEED OF AGREEMENT is dated the 11th day of March 2021

BETWEEN

- 1) **TUNBRIDGE WELLS BOROUGH COUNCIL** of Mount Pleasant Road Royal Tunbridge Wells Kent TN1 1RS (the "**Borough Council**") and
- 2) **THE KENT COUNTY COUNCIL** of Sessions House County Hall Maidstone Kent ME14 1XQ (the "**County Council**") and
- 3) **CL SISSINGHURST LIMITED** (Company Registration No 1108549) whose registered office is at T C Group Level 1 Devonshire House One Mayfair Place London W1 8AJ (the "**Owner**")

RECITALS

- A. The Borough Council is the local planning authority and local housing authority for the area within which the Land is situated and the appropriate statutory body to enforce this Deed for the purposes of Section 106 of the 1990 Act
- B. The County Council is a local planning authority for the purposes of the 1990 Act and is a principal council within the meaning of section 270(1) of the Local Government Act 1972 and is the statutory authority responsible for education local highways libraries youth services community learning and adult social care for the area within which the Land is situated
- C. The Application was made to the Borough Council
- D. The Borough Council by its Planning Committee at its meeting held on 18th November 2020 resolved that planning permission be granted for the Development subject to conditions and the prior completion of this Deed (without which planning permission would have been refused)
- E. The Owner is a person interested in the Land by virtue of being the registered freehold proprietor with title absolute of the Land as set out in Schedule 1
- F. The Parties agree that the obligations contained in this Deed are necessary to make the Development acceptable in planning terms directly relate to the development and fairly and reasonably relate in scale and kind to the Development in accordance with Regulation 122 of the Community Infrastructure Regulations 2010
- G. The Owner has agreed to enter into this Deed to regulate the Development and to give effect to the terms of the resolution of the Borough Council's Planning Committee hereinbefore recited which Deed may also secure other planning benefits

- H. The Borough Council is a Local Authority for the purposes of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Deed will facilitate be conducive to and be incidental to the Borough Council's functions

OPERATIVE PROVISIONS

IT IS AGREED as follows

1. DEFINITIONS

- 1.1 Unless the context otherwise requires where in this Deed the following defined terms and expressions are used they shall have the following respective meanings and (where applicable) be supplemented by the definitions contained in Paragraphs 1.1 to the relevant Schedule(s)

"1990 Act"	means the Town and Country Planning Act 1990 (as amended)
"All in Tender Price Index"	means the All in Tender Price Index published by the Building Costs Information Service on behalf of the Royal Institution of Chartered Surveyors
"Application"	means the application for outline planning permission submitted to the Borough Council to carry out the Development at the Land and given the registered reference number 19/03625/OUT
"Borough Council Contributions"	means the financial contributions payable to the Borough Council pursuant to Schedule 3 comprising the Play Equipment Contribution
"Commencement of Development"	means the carrying out of a material operation as defined in section 56(4) of the 1990 Act which is not a Preparatory Operation and the words "Commence" and "Commence Development" shall be construed accordingly
"County Council"	means The Kent County Council of Sessions House County Hall Maidstone Kent ME14 1XQ who are the education authority the local highway authority the transport authority the social care authority and the

	libraries authority for the area within which the Land is situated
“County Council Contributions”	means the financial contributions payable to the County Council pursuant to Schedule 4 comprising <ul style="list-style-type: none"> a) the Community Learning Contribution b) the Primary Education Contribution c) the Youth Services Contribution d) the Waste Contribution
“Deed”	means this deed of agreement together with all Schedules and Appendices
“Development”	means the construction of circa 18 residential dwellings with associated highways landscaping and open space infrastructure on the Land as set out in the Application pursuant to the Planning Permission
“Dwelling”	means any residential unit to be erected on the Land pursuant to the Planning Permission (and approved pursuant to the Reserved Matters Approval) including for the avoidance of doubt the Open Market Dwellings and Affordable Dwellings
“General Building Cost Index”	means the General Building Cost Index as published by the Building Costs Information Service on behalf of the Royal Institution of Chartered Surveyors
“Index Linked”	means adjusted by reference to the relevant index pursuant to the provisions of Clause 18
“Interest Rate (Borough Council)”	means interest at 4% per annum above the base lending rate of Lloyds Bank PLC from time to time applicable at the actual date of payment

"Interest Rate (County Council)"	means interest at 4% per annum above the base lending rate of National Westminster Bank PLC from time to time applicable at the actual date of payment
"Land"	means the land against which this Deed may be enforced as detailed in Schedule 1 and shown edged red on the Plan
"Occupy"	means taking beneficial occupation of a building forming part of the Development for any purpose authorised by the Planning Permission but not including occupation by personnel engaged in construction fitting out finishing or decoration of that building nor occupation in relation to site and building security operations or for marketing purposes and for the avoidance of doubt the sale of a any Dwelling shall constitute permitting its occupation and "Occupation" "Occupier" or "Occupied" shall be construed accordingly
"Open Market Dwellings"	means those Dwellings for sale on the open market and which are not the Affordable Dwellings
"Parties"	means the Owner the Borough Council and the County Council as the context so requires and "Party" means any one of them
"Plan"	means the plan entitled "Proposed Development" (Drawing No D1273-001) prepared by Urban & Rural Limited and dated Oct 2019 annexed as Appendix 1
"Planning Permission"	means planning permission for the Development to be granted pursuant to the Application subject to conditions

“Phase”	means a development phase of the Development as approved by the Borough Council
“Practical Completion”	means the proper issue of one or more certificate(s) of practical completion of any works carried out pursuant to the Planning Permission or as the context may allow any part section or phase thereof by an independent architect civil engineer chartered surveyor or other certifying professional (as the case may be) and the term “Practically Complete” shall be construed accordingly
“Preparatory Operation”	<p>means an operation or item of work of or connected with or ancillary to</p> <ul style="list-style-type: none"> a) archaeological investigation b) exploratory boreholes and trial pits c) remedial work in respect of any contamination or other adverse ground conditions d) site clearance (but excluding demolition of a building or structure) e) diversion decommissioning and/or laying of services for the supply or carriage of water sewerage gas electricity telecommunications or other media or utilities f) the erection of fences and hoardings around the Land and g) construction of temporary access and service roads h) the temporary display of site notices or advertisements
“Reserved Matters Application”	means an application for approval of reserved matters in accordance with the Planning Permission
“Reserved Matters Approval”	means an approval given by the Borough Council of a Reserved Matters Application

“Retail Price Index”	means the Retail Price Index published by the Office for National Statistics
“Statutory Undertakers”	means any public gas transporter water or sewerage undertaker electricity supplier or public telecommunications operator
“VAT”	means Value Added Tax as referred to in the Value Added Tax Act 1994 (or any tax of a similar nature which may be substituted for or levied in addition to it)
“Working Day”	means a day which is not a Saturday Sunday bank holiday in England (as defined in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971) or other public holiday

2. INTERPRETATION

- 2.1 A reference to any Clause Plan Paragraph Schedule Appendix or Recital such reference is a reference to a Clause Plan Paragraph Schedule Appendix or Recital in (or in the case of plans attached to) this Deed
- 2.2 The headings in this Deed are for convenience only and shall not be deemed to be part of or taken into consideration in the interpretation of this Deed
- 2.3 Words importing the singular include the plural and vice versa
- 2.4 Words importing the masculine gender include the feminine and neuter genders and vice versa
- 2.5 Words denoting actual persons include companies corporations and firms and all such words shall be construed as interchangeable in that manner
- 2.6 Reference to any Party to this Deed shall include the successors in title to that Party and to any person deriving title through or under that Party and in the case of the Borough Council the County Council or the NHS West Kent CCG (as the case may be) shall include any successor to their respective statutory functions
- 2.7 Reference to any officer of the Borough Council means such officer or such other officer as may be lawfully designated by the Borough Council for the purposes of discharging such duties and functions
- 2.8 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 individual severally

- 2.9 Words denoting an obligation on a Party to do any act matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction
- 2.10 References in this Deed to statutes bye-laws regulations orders and delegated legislation shall include any statute bye-law regulation order delegated legislation plans regulations permissions and directions amending re-enacting consolidating replacing or made pursuant to the same as current and in force from time to time
- 2.11 Any words following the terms "including" "include" "in particular" "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words description definition phrase or term preceding those terms

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to section 106 of the 1990 Act section 111 of the Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003 section 1 of the Localism Act 2011 and any other enabling powers
- 3.2 The covenants obligations restrictions and requirements imposed upon the Parties by this Deed
 - 3.2.1 are entered into pursuant to the provisions of section 106 of the 1990 Act
 - 3.2.2 are planning obligations for the purposes of section 106 of the 1990 Act
 - 3.2.3 relate to the Land
 - 3.2.4 are entered into with intent to bind the Owner's interest in the Land as set out in Schedule 1 and each and every part thereof into whosoever hands the same may come
 - 3.2.5 are enforceable by the Borough Council and the County Council (as the case may be) as local planning authority
 - 3.2.6 are executed by the respective Parties as a deed
- 3.3 To the extent that any obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act they are entered into by the Borough Council and the County Council (as the case may be) pursuant to the powers contained in section 111 of Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003 Section 1 of the Localism Act 2011 and all other powers so enabling

4. CONDITIONALITY

- 4.1 With the exception of this Clause 4 and Clauses 1 2 3 5.2 5.3 and 7 to 23 inclusive (which take effect immediately on the date of this Deed) this Deed is conditional on the grant and issue of the Planning Permission

5. COVENANTS AND OBLIGATIONS OF THE OWNER

- 5.1 The Owner covenants with the Borough Council and the County Council respectively (as the case may be) to perform and observe the covenants obligations restrictions and requirements contained within this Deed

- 5.2 The Owner shall permit the Borough Council and its authorised employees and agents upon reasonable notice to enter the Land at all reasonable times for the purposes of verifying whether or not any planning obligations arising under this Deed have been performed or observed **SUBJECT TO** compliance by the Borough Council and its authorised employees and agents at all times with the Owner's site regulations and requirements and health and safety law and good practice

- 5.3 The Owner covenants to pay before completion of this Deed

5.3.1 the Borough Council's reasonable legal and administrative costs and disbursements in connection with the negotiation preparation and execution of this Deed

5.3.2 the County Council's reasonable legal and administrative costs in connection with the negotiation and execution of this Deed

- 5.4 No Development shall Commence until the Owner:

5.4.1 pays the sum of £3,500.00 to the Borough Council in connection with the monitoring and administration of this Deed; and

5.4.2 pays the sum of ~~£2,500.00~~ ^{£2,000.00} to the County Council in connection with the monitoring of Schedule 3 of this Deed

whether or not this Deed is delivered in accordance with Clause 23

6. COVENANTS AND OBLIGATIONS OF THE BOROUGH COUNCIL AND THE COUNTY COUNCIL

- 6.1 The Borough Council covenants with the Owner that subject to the Owner carrying out and observing the Owner's covenants obligations restrictions and requirements herein it will perform the Borough Council's covenants as set out herein

- 6.2 The County Council covenants with the Owner that subject to the Owner carrying out and observing the Owner's covenants obligations restrictions and requirements

herein it will perform the County Council's covenants as set out herein

7. RELEASE AND EXCLUSIONS

- 7.1 No planning obligations contained in this Deed shall be binding on any freehold or leasehold owners or occupiers of individual Dwellings (or their respective mortgagees or successors in title) constructed pursuant to the Planning Permission SAVE FOR paragraphs 2.5 and 2.6 of schedule 5 which shall bind the Affordable Dwellings and any planning obligation which restricts Occupation of a Dwelling prior to any matter within the Schedules to this Deed having first been complied with
- 7.2 No planning obligations contained in this Deed shall be binding on any Statutory Undertaker with any existing interest in any part of the Land or acquires an interest in any part of the Land for the purpose of the supply of electricity gas water or sewerage drainage or public telecommunication services
- 7.3 No person shall be liable for breach of any of the planning obligations or other provisions of this Deed after they shall have irrevocably parted with their entire interest in the Land or that part of the Land in relation to which such breach occurs but without prejudice to the rights of the Borough Council in relation to any subsisting or any antecedent breach non-performance or non-observance arising prior to parting with such interest

8. DETERMINATION OF THE PLANNING PERMISSION

- 8.1 Save for Clause 5.3 this Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires prior to Commencement of Development without the consent of the Owner
- 8.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission or modification variation or amendment thereof) granted after the date of this Deed
- 8.3 If the Borough Council agrees following an application under section 73 of the 1990 Act to vary or release any condition contained in the Planning Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act the covenants or provisions of this Deed shall be deemed to bind the varied permission and apply in equal terms to the new planning permission **UNLESS** the Borough Council in determining the application for the new planning permission (or

the Secretary of State determining the section 78 appeal in relation to that application) indicates that consequential amendments are required to this Deed to reflect the impact of the section 73 application in which circumstances a separate deed under section 106 or s.106A of the 1990 Act (as the case may be) will be required to secure relevant planning obligations or other planning benefits relating to the new planning permission **BUT** nothing in this Deed shall in any way fetter the Borough Council's discretion in relation to the section 73 application or the determination thereof

9. DISPUTES AND EXPERT DETERMINATION

- 9.1 Without prejudice to the rights of the Owner, the Borough Council or the County Council (as the case may be) to take immediate alternative action in the event of any dispute or difference between the Parties touching or concerning any matter arising out of this Deed (SAVE FOR the amount of any contribution payable pursuant to this Deed or the due date of payment) such dispute or difference shall be referred to an expert ("the Expert") to be appointed on the application of the Parties by the President (or equivalent person) for the time being of the professional body in England chiefly relevant to such dispute or difference
- 9.2 In the absence of agreement as to whom to appoint as the Expert or as to the appropriate professional body referred to in Clause 9.1 within ten (10) Working Days after a written request by one Party to the others to agree to the appointment of an Expert then the question of the appropriate Expert or professional body shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of a Party and such a solicitor shall act as an expert and his decision as to the Expert or as to the appropriate professional body shall be final and binding on the Parties to the dispute or difference and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne in equal shares
- 9.3 The Expert shall act as an expert and save in case of manifest error his decision shall be final and binding on the Parties to the dispute or difference and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties to the dispute or difference in equal shares
- 9.5 The Expert shall be required to give notice to each of the Parties to the dispute requiring them to submit to him within ten (10) Working Days of notification of his

appointment written submissions and supporting material and the other Party will be entitled to make a counter written submission within a further ten (10) Working Days in respect of any such submission and supporting material

- 9.6 Any expert howsoever appointed shall be subject to the express requirement that a decision shall be in writing (and give reasons for his decision) and shall be reached and communicated to the relevant Parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) Working Days after the conclusion of any hearing that takes place or twenty-eight (28) Working Days after he has received the last submission or written representation
- 9.7 Nothing in this Clause 9 shall be taken to fetter or limit the ability of the Borough Council to carry out its functions and duties nor to limit the ability of any of the Parties to refer a dispute to the Courts of England and Wales

10. NOTICES

- 10.1 Any notice approval consent certificate direction authority agreement action expression of satisfaction or other communication to be given under this Deed must be in writing and shall be delivered by hand or sent by pre-paid first class post or other next Working Day delivery service marked for the attention of the person and copied to the person(s) (as the case may be) identified below **SAVE THAT** any of the Parties may by written notice notify the other Parties of an alternative address (which address must be based in England and Wales) for the service of subsequent notices or other written communications in which case those details shall be substituted for the details provided below

The Borough Council Tunbridge Wells Borough Council

Address The Head of Planning Services
Mount Pleasant Road
Royal Tunbridge Wells
Kent
TN1 1RS

Reference 19/03625 land at Common Road Sissinghurst
Kent

With a copy to The Section 106 Monitoring Officer

Where required The Head of Housing, Health & Environment

The County Council The Kent County Council

Address **Head of Paid Service/Corporate Director of Strategic and Corporate Services**
County Hall
Maidstone
Kent
ME14 1XQ

Reference PH/KEN002.000789

The Owner **CL SISSINGHURST LIMITED**
T C Group
Address Level 1
Devonshire House
One Mayfair Place
London
W1 8AJ

10.2 Any notice approval consent certificate direction authority agreement action expression of satisfaction or other communication given pursuant to this Deed shall conclusively be deemed to have been received

10.2.1 if delivered by hand on signature of a delivery receipt provided that if delivery occurs before 09h00 on a Working Day the notice will be deemed to have been received at 09h00 on that day and if delivery occurs after 17h00 on a Working Day or on a day which is not a Working Day the notice will be deemed to have been received at 09h00 on the next Working Day or

10.2.2 if sent by pre-paid first class post or other next Working Day delivery service within the United Kingdom at 09h00 on the day 2 Working Days after the date of posting

10.3 Any notice or request by the Owner for approval consent certificate direction authority agreement action expression of satisfaction or other communication required pursuant to this Deed shall cite the Clause or Paragraph of the relevant Schedule to this Deed to which such notice or request relates

10.4 This Clause does not apply to the service of any proceedings or other documents in any legal action or where applicable any arbitration or other method of dispute resolution

11. LOCAL LAND CHARGE

11.1 This Deed is a local land charge and shall be registered as such

11.2 Where in the opinion of the Owner any of the provisions of this Deed have been

satisfied the Owner shall be entitled to apply to the Borough Council for confirmation to that effect and (subject to the payment of the Borough Council's reasonable costs and charges in connection therewith) upon the Borough Council being satisfied that the relevant obligation or covenant (as the case may be) has been satisfied the Borough Council shall as soon as is reasonably practicable issue a written confirmation to such effect to the Owner

- 11.3 The Borough Council shall upon the written request of the Owner (and subject to the payment of the Borough Council's reasonable costs and charges in connection therewith) at any time after all the obligations of the Owner under this Deed have been performed or otherwise discharged and the Borough Council being satisfied that this Deed no longer serves a useful purpose as soon as is reasonably practicable cancel all entries made in the local land charges register in respect of this Deed

12. SUCCESSORS IN TITLE

- 12.1 The Owner enters into the obligations set out in this Deed for itself and its successors in title for the benefit of the Borough Council and the County Council to the intent that the obligations in this Deed shall be enforceable not only against the Owner but also against the successors in title of the Owner and any person claiming through or under the Owner an interest or estate in the Land or any part thereof

13. POWERS OF THE BOROUGH COUNCIL

- 13.1 Nothing contained or implied in this Deed shall fetter prejudice restrict or affect the rights discretions powers duties responsibilities and obligations of the Borough Council or the County Council (as the case may be) under all and any legislative instrument including statutes by-laws statutory instruments orders and regulations for the time being in force in the exercise of its function as a local authority

14. SEVERABILITY

- 14.1 If any provision (or part thereof) of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions (or such part of the provisions as is still enforceable) shall not in any way be deemed thereby to be affected impaired or called into question

15. RIGHTS OF THIRD PARTIES

- 15.1 The Parties intend that no terms of this Deed may be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to this

Deed

16. CHANGE OF OWNERSHIP AND NEW INTEREST

16.1 The Owner shall give the Borough Council immediate written notice of any conveyance transfer lease assignment mortgage or other disposition entered into in respect of all or any part of the Land or change in ownership of any of its interests in the Land (other than the conveyance transfer lease assignment mortgage or other disposition of an individual Dwelling) occurring before all the obligations under this Deed have been discharged such notice to give

16.1.1 the name and address of the person to whom the disposition was made (and in the case of a company the full name and registered office address) and

16.1.2 the nature and extent of the interest disposed of by reference to a plan

16.2 In the event of the Borough Council considering it appropriate to note the provisions of this Deed against the title to the Land at H M Land Registry the Owner hereby consents

17. WAIVER

17.1 No waiver (whether expressed or implied) by the Borough Council or the County Council (as the case may be) of any breach or default or delay 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 Borough Council or the County Council (as the case may be) from enforcing any of the relevant terms or conditions or acting upon any subsequent breach or default and no single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy

18. INDEXATION

18.1 All the financial contributions payable pursuant to this Deed shall be Index Linked

18.2 The Borough Council Contributions payable pursuant to this Deed shall be increased in the same proportion as the percentage increase in the All in Tender Price Index between the quarterly index figure immediately proceeding the Committee Resolution of 18th November 2020 and the quarterly index figure for the quarter immediately preceding the date of the payment becoming due

18.3 The following County Council Contribution payable pursuant to this Deed shall be increased in the same proportion as the percentage increase in the General Building

Cost Index from October 2016 (Index 328.3) and the monthly index figure for the month of the date of the payment becoming due:

18.3.1 the Primary Education Contribution

18.4 The following County Council Contributions payable pursuant to this Deed shall be increased in the same proportion as the percentage increase in the Retail Price Index from October 2016 (Index 328.3) and the quarterly index figure for the quarter immediately preceding the date of the payment becoming due

18.4.1 the Community Learning Contribution

18.4.2 the Youth Services Contribution

18.4.3 the Waste Contribution

18.5 Where reference is made to any index in this Deed and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) issued or caused to be issued from time to time by the Building Costs Information Service Royal Institution of Chartered Surveyors or other appropriate body and as may commonly be used in place of that index and as approved by the Borough Council or the County Council (as the case may be) or in the event the index is not replaced to an alternative reasonably comparable basis or index as the Borough Council or the County Council (as the case may be) shall approve

19. INTEREST

19.1 If any sum or amount due under this Deed has not been paid to the Borough Council by the date it is due the Owner shall pay the Borough Council interest on that amount at the Interest Rate (Borough Council) with such interest accruing on a daily basis for the period from the date payment is due to and including the date of payment

19.2 If any sum or amount due under this Deed has not been paid to the County Council by the date it is due the Owner shall pay the County Council interest on that amount at the Interest Rate (County Council) with such interest accruing on a daily basis for the period from the date payment is due to and including the date of payment

20. VAT

20.1 Each amount stated to be payable by one Party to the other under or pursuant to this Deed is exclusive of VAT

- 20.2 If any VAT is at any time chargeable on any supply made by any Party under or pursuant to this Deed the Party making the payment shall pay the other an amount equal to that VAT as additional consideration subject to receipt of a valid VAT invoice

21. AGREEMENTS AND DECLARATIONS

- 21.1 The Parties agree that

21.1.1 nothing in this Deed constitutes a planning permission or an obligation to grant planning permission and

21.1.2 nothing in this Deed grants planning permission or any other approval consent or permission required from the Borough Council or the County Council (as the case may be) in the exercise of any other statutory function

22. JURISDICTION

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

- 22.2 It is hereby agreed that the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales

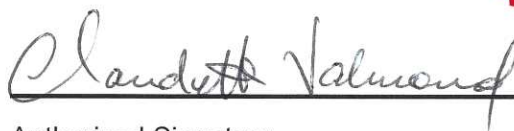
23. DELIVERY

- 23.1 This Deed is delivered on the date written at the start and the provisions of this Deed (other than this Clause and Clause 5.3 which shall be of immediate effect) shall be of no effect until this Deed has been dated

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

The COMMON SEAL of)
TUNBRIDGE WELLS BOROUGH)
COUNCIL was affixed to this Deed)
in the presence of)





Authorised Signatory

The COMMON SEAL of THE KENT)
COUNTY COUNCIL was affixed to)
this Deed in the presence of)
)



173-2021

Authorised Signatory

EXECUTED as a DEED and delivered by)
(Director) on behalf of)
CL SISSINGHURST LIMITED in the presence of)

Director

Signature of witness:

Name (in capital letters)

TOBY SNAPE

Address: HOCKLEY SOLE
ALKHAM VALLEY
ROCKSTONE
KENT
CT18 7EU

SCHEDULE 1: THE LAND

The land against which this Deed is enforceable comprises all that land and premises situate at Common Road Sissinghurst Kent as shown on the Plan of which the Owner is the registered proprietor of the freehold with title absolute of all the freehold land and premises as the same is shown edged red on the Plan and is registered at the Land Registry under title number K968461

SCHEDULE 2: NOTICES

Without prejudice to any other notice required to be given pursuant to the terms of this Deed the Owner covenants that

Pre-Commencement and Commencement Notification

- 1 it shall provide the Borough Council with no less than 20 Working Days prior notice of the intended date of Commencement of Development and the Owner shall
 - 1.1 not Commence Development unless and until this notice has been provided to the Borough Council and
 - 1.2 notify the Borough Council promptly and in any event within 5 Working Days of the actual date of Commencement of Development

Occupation Notification

- 2 it shall provide the Borough Council with no less than 20 Working Days prior notice of the intended date of Occupation of the Development and
 - 2.1 the Owner shall not Occupy the Development unless and until this notice has been provided to the Borough Council
 - 2.2 it shall notify the Borough Council promptly and in any event within 5 Working Days of the actual date of Occupation of the Development
 - 2.3 Occupation of the last Dwelling to be Occupied on each Phase of the Development

Completion Notification

- 3 it shall provide the Borough Council and the County Council with the final Certificate of Practical Completion of the Development

SCHEDULE 3: FINANCIAL CONTRIBUTIONS PAYABLE TO THE BOROUGH COUNCIL

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 and (where applicable) be supplemented by Clause 1.1 and Paragraph 1.1 of the other relevant Schedules

Play Equipment Contribution	means a contribution in the sum of £14,344.55 Index Linked towards the Play Equipment Facility
------------------------------------	--

Play Equipment Facility	means the improvement of play equipment at Jubilee Playing Field in Sissinghurst
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2 Play Equipment Contribution

- 2.1 The Owner covenants that it shall pay to the Borough Council the Play Equipment Contribution before Commencement of Development
- 2.2 The Owner covenants that it shall not Commence the Development unless and until the Play Equipment Contribution has been paid to the Borough Council
- 2.3 The Borough Council covenants with the Owner that it shall apply the Play Equipment Contribution as a contribution towards the Play Equipment Facility or for such other purposes for the benefit of the Development as the Owner and the Borough Council may otherwise agree in writing and not to use the Play Equipment Contribution otherwise than for the purposes for which it was paid **PROVIDED THAT** for the avoidance of doubt the Borough Council shall be entitled to treat any accrued interest (if any) or any interest payable under Clause 19 as if it were part of the principal sum paid by the Owner
- 2.4 In the event that all or any part of the Play Equipment Contribution remains unspent or has not been allocated or committed or used for the purpose for which it was paid within 10 years from the date of Practical Completion of the Development (as notified to the Borough Council by the Owner pursuant to paragraph 3 of Schedule 2) and unless the Borough Council and the Owner agree otherwise the Borough Council

covenants on written request from the person that made such payment to repay such sum or amount (or such part thereof) to the person who paid the contribution together with any accrued interest (if any) but less the Borough Council's administration expenses

SCHEDULE 4: FINANCIAL CONTRIBUTIONS PAYABLE TO THE COUNTY COUNCIL

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 and (where applicable) be supplemented by Clause 1.1 and Paragraph 1.1 of the other relevant Schedules

“Community Learning Contribution”	means a contribution in the sum of £419.63 per Dwelling Index Linked
“Community Learning Facilities”	means to be used towards increased demand for libraries adult learning and social care at the Cranbrook Community Hub arising from the Development
“Primary Education Contribution”	means a contribution in the sum of £3,324.00 Index Linked per Dwelling
“Primary Education Facilities”	means the expansion of Cranbrook primary school (which for the avoidance of doubt may include professional and other fees and investigative works and studies reasonably incurred and/or undertaken by the County Council)
“Youth Services Contribution”	means a contribution in the sum of £65.50 Index Linked per Dwelling
“Youth Service Facilities”	means additional resources for the Kent Youth Service locally in the Cranbrook area
“Waste Contribution”	means a contribution in the sum of £237.54 Index Linked per Dwelling
“Waste Facilities”	means Tunbridge Wells Waste Transfer Station and HWRC Expansion

2 Community Learning Contribution

- 2.1 The Owner covenants that it shall pay to the County Council the Community Learning Contribution before Occupation any of the Dwellings
- 2.2 The Owner covenants that it shall not Occupy or permit Occupation of any Dwelling unless and until
 - 2.2.1 the Community Learning Contribution has been paid to the County Council and
 - 2.2.2 the Owner has notified the Borough Council of this payment
- 2.3 The County Council covenants with the Owner that it shall apply the Community Learning Contribution as a contribution towards the Community Learning Facilities or for such other purposes for the benefit of the Development as the Owner and the County Council may (in consultation with the Borough Council) otherwise agree in writing and not to use the Community Learning Contribution otherwise than for the purposes for which it was paid **PROVIDED THAT** for the avoidance of doubt the County Council shall be entitled to treat any accrued interest (if any) or any interest payable under Clause 19.2 of the Deed as if it were part of the principal sum paid by the Owner
- 2.4 In the event that all or any part of the Community Learning Contribution remains unspent or has not been allocated or committed or used for the purpose for which it was paid within 10 years from the date of Practical Completion of the Development (as notified to the County Council by the Owner pursuant to paragraph 3 of Schedule 2) and unless the County Council and the Owner agree otherwise the County Council covenants on written request from the person that made such payment to repay such sum or amount (or such part thereof) to the person who paid the contribution together with any accrued interest (if any) but less the County Council's administration expenses

3 Primary Education Contribution

- 3.1 The Owner covenants that it shall pay to the County Council 50% of the Primary Education Contribution before Commencement of Development
- 3.2 The Owner covenants that it shall pay the balance of the Primary Education Contribution to the County Council before Occupation of any Dwelling
- 3.3 The Owner covenants that it shall not Occupy or permit Occupation of any Dwelling

unless and until:

3.3.1 the Primary Education Contribution has been paid to the County Council and

3.3.2 the Owner has notified the Borough Council of this payment

3.4 The County Council covenants with the Owner that it shall apply the Primary Education Contribution as a contribution towards the Primary Education Facilities or for such other purposes for the benefit of the Development as the Owner and the County Council may (in consultation with the Borough Council) otherwise agree in writing and not to use the Primary Education Contribution otherwise than for the purposes for which it was paid **PROVIDED THAT** for the avoidance of doubt the County Council shall be entitled to treat any accrued interest (if any) or any interest payable under Clause 19.2 of the Deed as if it were part of the principal sum paid by the Owner

3.5 In the event that all or any part of the Primary Education Contribution remains unspent or has not been allocated or committed or used for the purpose for which it was paid within ten (10) years from the date of Practical Completion of the Development as a whole (as notified to the County Council by the Owner pursuant to Paragraph 3 of Schedule 2 to this Deed) and unless the County Council and the Owner agree otherwise the County Council covenants on written request from the person that made such payment to repay such sum or amount (or such part thereof) to the person who paid the contribution together with any accrued interest (if any) but less the County Council's administration expenses

4 Youth Services Contribution

4.1 The Owner covenants that it shall pay to the County Council the Youth Services Contribution before Occupation of any Dwelling

4.2 The Owner covenants that it shall not Occupy or permit Occupation of any Dwelling unless and until

4.2.1 the Youth Services Contribution has been paid to the County Council and

4.2.2 the Owner has notified the Borough Council of this payment

4.3 The County Council covenants with the Owner that it shall apply the Youth Services Contribution as a contribution towards the Youth Service Facilities or for such other purposes for the benefit of the Development as the Owner and the County Council may (in consultation with the Borough Council) otherwise agree in writing and not to use the Youth Services Contribution otherwise than for the purposes for which it was

paid **PROVIDED THAT** for the avoidance of doubt the County Council shall be entitled to treat any accrued interest (if any) or any interest payable under Clause 20.2 of the Deed as if it were part of the principal sum paid by the Owner

- 4.4 In the event that all or any part of the Youth Services Contribution remains unspent or has not been allocated or committed or used for the purpose for which it was paid within ten (10) years from the date of Practical Completion of the Development as a whole (as notified to the County Council by the Owner pursuant to Paragraph 3 of Schedule 2 to this Deed) and unless the County Council and the Owner agree otherwise the County Council covenants on written request from the person that made such payment to repay such sum or amount (or such part thereof) to the person who paid the contribution together with any accrued interest (if any) but less the County Council's administration expenses

5 Waste Contribution

- 5.1 The Owner covenants that it shall pay to the County Council the Waste Contribution before Occupation of any Dwelling
- 5.2 The Owner covenants that it shall not Occupy or permit Occupation of any Dwelling unless and until
- 5.2.1 the Waste Contribution has been paid to the County Council and
- 5.2.2 the Owner has notified the Borough Council of this payment
- 5.3 The County Council covenants with the Owner that it shall apply the Waste Contribution as a contribution towards the Waste Facilities or for such other purposes for the benefit of the Development as the Owner and the County Council may (in consultation with the Borough Council) otherwise agree in writing and not to use the Waste Contribution otherwise than for the purposes for which it was paid **PROVIDED THAT** for the avoidance of doubt the County Council shall be entitled to treat any accrued interest (if any) or any interest payable under Clause 20.2 of the Deed as if it were part of the principal sum paid by the Owner
- 5.4 In the event that all or any part of the Waste Contribution remains unspent or has not been allocated or committed or used for the purpose for which it was paid within ten (10) years from the date of Practical Completion of the Development as a whole (as notified to the County Council by the Owner pursuant to Paragraph 3 of Schedule 2 to this Deed) and unless the County Council and the Owner agree otherwise the County Council covenants on written request from the person that made such

payment to repay such sum or amount (or such part thereof) to the person who paid the contribution together with any accrued interest (if any) but less the County Council's administration expenses

SCHEDULE 5: AFFORDABLE HOUSING

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 and (where applicable) be supplemented by Clause 1.1 and Paragraph 1.1 of the other relevant Schedules

"Advertising"

means the advertising for sale or letting of any interest in the relevant Affordable Dwelling in accordance with a scheme to be approved by the Borough Council (such approval not to be unreasonably withheld or delayed) which scheme shall include unless otherwise agreed with the Borough Council:

(a) in the case of Affordable Rented Units or Social Rented Units an advertisement on the website of the Registered Provider or such other similar website for advertising affordable homes which are ready for letting as agreed by the Borough Council

(b) in the case of Shared Ownership Dwellings an advertisement on the website of Help to Buy South East or any other similar organisation promoting intermediate market housing

(c) such other local advertising and social media channels as shall be agreed in writing by the Council

"Affordable Dwellings "

means the 40% of the Dwellings together with associated vehicle and cycle parking to be provided by the Owner on the Land of which

a) 70% shall be Affordable Rented Units

AND

b) 30% shall be Shared Ownership Units

and which are to be transferred to a Registered Provider for housing Qualifying Persons in Housing Need in accordance with the provisions of this

Schedule

"Affordable Housing"

means the Affordable Dwellings to be provided within the Development which are available to Qualifying Persons in Housing Need and which are to be made permanently available (unless otherwise agreed with the Borough Council) to such persons nominated by the Borough Council

"Affordable Housing Land"

means those plots on the Land approved by the Borough Council pursuant to the Affordable Housing Scheme for the location of the Affordable Housing on which the Affordable Dwellings will be constructed and provided in accordance with the obligations set out in this Deed

"Affordable Housing Scheme"

means a scheme (or any revised scheme to be agreed between the Council and the Owner) for the provision of the Affordable Dwellings to be provided by the Owner which scheme shall (as a minimum) provide

- a plan showing the location of the Affordable Dwellings on the Land appropriately distributed throughout the Development so as not to be segregated from the Open Market Dwellings and ensure inclusive and mixed communities
- details of the tenure and tenure split
- the type and size of Dwelling to be provided as the Affordable Dwelling
- (if applicable) identifying which of the Affordable Dwellings is to comprise fully wheelchair accessible Dwellings their location within the Development (as shown on the plan above) and the type and size of Affordable Dwelling to be provided as fully wheelchair accessible

AND such other matters as the Borough Council may reasonably require

"Affordable Rent"	means chargeable rent that is subject to the HE's Rent Standard (April 2015) as expanded on by the Rent Standard Guidance (April 2015) as such document and/or associated guidance 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 or the applicable Local Housing Allowance rate for the Council (whichever is the lower)
"Affordable Rented Units"	means the Affordable Dwellings that will be let to Qualifying Persons in Housing Need at an Affordable Rent in accordance with the HE's Tenancy Standard (April 2020) as may be amended updated or replaced from time to time
"Allocations Scheme"	means the Borough Council's published scheme of allocations presently contained in the Borough Council's document entitled "Housing Allocations Policy 2013" or any amendment update or variation thereto or any subsequent replacement thereof
"Deed of Nomination Rights"	means the Deed agreed between the Borough Council and the Registered Provider in relation to the nomination rights in respect of the Affordable Dwellings
"Final Area"	means the administrative area of the Borough Council of Tunbridge Wells
"HE"	means the body known as the 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 in England

**“HE’s East and South
East Operating Area”**

consists of the counties of Buckinghamshire Cambridgeshire East Sussex Essex Hertfordshire Kent Norfolk Suffolk Surrey and West Sussex and the unitary authorities of Brighton and Hove Medway Towns Peterborough Southend-on-Sea and Thurrock but shall not include Greater London

“Help to Buy Agent”

means an agent commissioned by the HE to provide a one stop shop service to qualifying applicants enquiring about and applying for the low cost home ownership schemes within Tunbridge Wells Borough Council including shared ownership schemes

“Housing Need”

means

- a) in relation to the Affordable Units or Social Rented Units the requirement by a person for social housing allocation in accordance with the Borough Council’s Allocations Scheme and
- b) in relation to the Shared Ownership Units the requirement by a person to be registered with the Help to Buy Agent to be granted a Shared Ownership Lease because the persons income is insufficient to enable them rent or buy housing available locally on the open market determined with regard to local incomes and local house prices

“Local Connection”

means a connection with the Primary Area the Secondary Area the Tertiary Area or the Final Area as appropriate and demonstrated by that person or a member of their household to the reasonable satisfaction of the Borough Council:

- (a) being permanently resident therein for a continuous period of at least (3) years immediately prior to Advertising; or
- (b) being formerly permanently resident therein for a continuous period of (5) years immediately prior to Advertising; and/or

(c) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein for a continuous period of 6 months immediately prior to Advertising; and/or
(d) having a connection through a close family member (normally mother, father, brother, sister, son or daughter) where the family member is currently resident therein and has been so for a continuous period of at least (5) years immediately prior to Advertising

“Local Housing Allowance”

means 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 Works and Pensions or such similar framework that may replace it

“Neighbouring Councils”

means Councils who share the same housing market within the Borough Council’s Strategic Housing Market Assessment

“Part M4(2)”

means Part M4(2) Category 2: Accessible and adaptable dwellings of Schedule 1 to the Building Regulations 2010 as supported by “Approved Document M: Access to and use of buildings, volume 1: Dwellings” as such approved document may be amended updated or replaced from time to time or such other equivalent standard as approved by the Council

“Part M4(3)”

means Part M4(3) Category 2: Wheelchair user dwellings of Schedule 1 to the Building Regulations 2010 as supported by “Approved Document M: Access to and use of buildings, volume 1: Dwellings” as such approved document may be amended updated or

replaced from time to time or such other equivalent standard as approved by the Council

“Primary Area”

means the area of Sissinghurst (which lies within the Parish of Cranbrook and Sissinghurst)

“Qualifying Person”

means a person(s) who (unless otherwise agreed in writing with the Borough Council) has/have a Local Connection with: No we don't need to list the evidence here as it is contained in the Allocations Policy 2013

(a) the Primary Area; or

(b) if no person satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council within a period of 28 days of Advertising the relevant Affordable Dwelling a person who has an Local Connection with the Primary Area or Secondary Area; or

(c) if no person satisfying the requirements of (a) or (b) has been identified by the Owner in consultation with the Council within a period of 56 days of Advertising the relevant Affordable Dwelling a person who has an Local Connection with the Primary Area or Secondary Area or the Tertiary Area; or

(d) if no person satisfying the requirements of (a) or (b) or (c) has been identified by the Owner in consultation with the Council within a period of 56 days of Advertising the relevant Affordable Dwelling a person who has an Local Connection with the Primary Area or Secondary Area or the Tertiary Area or the administrative area of the Borough Council;

PROVIDED THAT the Council reserves the right not to allow the sale or letting of an Affordable Dwelling to a Qualifying Person with a Primary Area connection should the sale or letting result in an under occupancy

of the Affordable Dwelling by more than one bedroom;
and

PROVIDED FURTHER THAT in the case of an Affordable Dwelling which has been constructed or adapted to meet the needs of disabled persons the Council reserves the right to allow the sale or letting of such Affordable Dwelling to a disabled person who is either in Housing Need and who on the date of Advertising has a Local Connection PROVIDED that the Affordable Dwelling has first been offered to any disabled person who is either in Housing Need and who has an Local Connection with the Primary Area followed by any disabled person who is either in Housing Need who has an Local Connection with the Secondary Area followed by any disabled person who is either in Housing Need and who has an Local Connection with the administrative area of the Borough Council

SAVE THAT where an Affordable Dwelling is subject to the provisions of The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 such person(s) that fall within Regulation 3 (3) of those regulations shall not be required to have a Local Connection with either the Primary Area or the Secondary Area or the administrative area of the Borough Council

"Registered Provider"

means 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 Council from the Council's approved list (as maybe amended from time to time) or another registered provider of social housing as maybe approved by the Council

or

- b) an unregistered provider of social housing approved by the Council or such other body or organisation approved by the Council whose main object is the provision of Affordable Housing

“Secondary Area”

means the area of Cranbrook (which lies within the administrative area of the Parish of Cranbrook and Sissinghurst)

“Shared Ownership Lease”

means a lease which accords with the HE’s model form of lease issued from time to time

“Shared Ownership Units”

means the Affordable Dwellings to be occupied by persons who are in Housing Need whereby a person granted a Shared Ownership Lease can purchase an initial equity share in a Shared Ownership Unit of not less than 25% 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 Borough Council

“Social Rent”

means the formula rent as set out in the Regulator of Social Housing Rent Standard April 2020 or such other document that may supercede it

“Social Rented Units”

means the Affordable Dwellings that will be let to and occupied by persons in Housing Need by the Registered Provider on an Assured Shorthold Tenancy at a Formula Rent (which excludes service charges) as set by the Regulator of Social Housing’s Rent Standard April 2020 or such other Rent Standard that may replace it

“Strategic Housing and

means the Borough Council’s Strategic Housing and

Health Manager”

Health Manager or such other officer as may be lawfully designated by the Borough Council for the purposes of discharging his duties and functions

“Tertiary Area”

means the parishes of Goudhurst, Frittenden, Benenden and Hawkhurst

2. General Provisions

- 2.1. The Owner covenants that prior to Commencement of Development the Owner shall submit to the Council for its approval the Affordable Housing Scheme and the Owner shall not Commence Development unless and until the Borough Council has approved the Affordable Housing Scheme
- 2.2. The Owner covenants that it shall construct and deliver the Affordable Dwellings on the Affordable Housing Land in accordance with the Affordable Housing Scheme and the other provisions of this Schedule
- 2.3. The Owner covenants that
 - 2.3.1. the Affordable Dwellings shall be constructed by the Owner in accordance with Part M4(2)
 - 2.3.2. in the event that any of the Affordable Dwellings are required by the Borough Council pursuant to the Affordable Housing Scheme to be fully wheelchair accessible they shall be constructed and delivered by the Owner in accordance with Part M4(3)
- 2.4. The Owner covenants that the Affordable Dwellings shall be Practically Completed within 24 calendar months of the date of Commencement of the Development
- 2.5. The Owner covenants that the Affordable Dwellings shall not be Occupied or used for any other purpose other than as Affordable Housing unless otherwise agreed by the Borough Council
- 2.6. Subject to paragraph 2.5 of this Schedule the Owner covenants that
 - 2.6.1. the Affordable Rented Units or the Social Rented Units shall not be Occupied other than by Qualifying Persons who are in Housing Need
 - 2.6.2. the Shared Ownership Units shall not be Occupied other than by Qualifying Persons who are in Housing Need and registered with the Help to Buy Agent

3. Transfer of the Affordable Dwellings

- 3.1. Prior to Occupation of not more than 25% of the Open Market Dwellings the Development the Owner covenants that it shall have secured the exchange of contracts of the Affordable Dwellings to a Registered Provider and shall provide to the Borough Council sufficient evidence as the Borough Council shall require to show that this Paragraph has been complied with and the Owner covenants that it shall not Commence Development unless and until the provisions of this Paragraph have been complied with
- 3.2. Prior to Occupation of 25% of the Open Market Housing Units the Owner shall ensure that
- 3.2.1. all of the Affordable Dwellings have been constructed on the Land and Practically Completed in accordance with the covenants and obligations in this Schedule (a copy of the Certificate of Practical Completion shall be provided to the Strategic Housing and Health Manager with a copy to the Section 106 Monitoring Officer) and
- 3.2.2. a freehold interest or a leasehold interest of at least 125 years on a full repairing and insuring basis of each of the Affordable Dwellings has been transferred or granted to the Registered Provider free from all encumbrances (other than those on the title of the Land at the date of this Deed) and free from all financial charges for the Affordable Dwellings
- 3.2.3. the Owner has granted (or if the Owner is not a Registered Provider shall ensure that the Registered Provider shall grant) to the Borough Council the exclusive right to nominate suitable households in Housing Need to the Affordable Dwellings in accordance with the Borough Council's published Allocations Scheme and the provisions of this Deed and on the terms set out in the Deed of Nomination Rights

AND the Owner covenants that no Open Market Dwellings shall be Occupied unless and until the provisions of this Paragraph 3.2 have been complied with

- 3.3. The Owner covenants that it shall provide evidence of the transfer of the freehold or leasehold interest of the Affordable Dwellings referred to in Paragraph 3.2.2 of this Schedule to the Strategic Housing and Health Manager within 5 Working Days of completion of the transfer

- 3.4. The Owner covenants that it shall ensure that the price to be paid for the Affordable Rented Units or Social Rented Units by the Registered Provider (or the Borough Council as the case may be) shall be at a level that allows the Affordable Rented Units or Social Rented Units to be paid for through rents to be charged as Affordable Rent or Social Rent
- 3.5. The Owner covenants that no more than a 25% to 75% share in the Shared Ownership Units shall be sold to eligible applicants initially and the rent (excluding service charge) to be charged on the remaining percentage share in the Shared Ownership Units shall not be more than 3% of the capital value of the unsold equity in that particular individual Shared Ownership Unit with each subsequent annual rent increase or increases limited to further increases in the Retail Price Index plus 0.5%
- 3.6. Unless otherwise agreed by the Borough Council or directed by HE any proceeds derived from the sale of a Shared Ownership Unit or the proceeds from the right to buy or right to acquire an Affordable Rented Unit shall be used by the Registered Provider to re-invest in affordable housing within (in order of priority)
 - 3.6.1. the local authority district of Tunbridge Wells
 - 3.6.2. then Neighbouring Councils
 - 3.6.3. then the County of Kent and
 - 3.6.4. then the HE's East and South East Operating Area (but excluding the County of Kent)

with priority given to the provision of new dwellings for Affordable Rent

4. Miscellaneous Provisions

- 4.1. The Owner covenants that prior to Practical Completion of the Affordable Dwellings
 - 4.1.1. all public highways (if any) and public sewerage and drainage serving the Affordable Dwellings 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 Dwellings shall be in place and constructed to an adoptable standard
 - 4.1.3. all private sewage and drainage pipes channels and gutters and all mains water gas and electricity pipes and cables serving the Affordable Dwellings shall be constructed laid connected operational and serviceable

5. Exclusions

5.1. The obligations contained in this Schedule shall not be binding upon 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 a Registered Provider of the Affordable Housing Land and/or Affordable Dwellings 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 Council and the Housing Delivery Manager that it wishes to exercise its statutory power of sale and provided Office Copy Entries of the Affordable Dwellings it intends to dispose of

5.1.1.3. within 3 months of the date of such notification the Appointee Administrator or Receiver shall use reasonable endeavours to complete a disposal of the relevant Affordable Housing Land and/or Affordable Dwelling to another Registered Provider or the Borough Council (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 Land and/or Affordable Dwelling free from the obligations contained in this Schedule which provisions shall determine

absolutely

- 5.1.2. a tenant of an Affordable Rented Units who has exercised a statutory right to acquire
- 5.1.3. a tenant of an Affordable Rented Unit who has exercised a statutory 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 persons detailed in Sub-Paragraphs 5.1.2 5.1.3 and 5.1.4 above or their mortgagee or chargee

APPENDIX 1: PLAN

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THE COMMON SEAL OF THE KENT
COUNTY COUNCIL WAS HEREUNTO
AFFIXED IN THE PRESENCE OF:-

Carpenter
Collages
Authorised Signatory



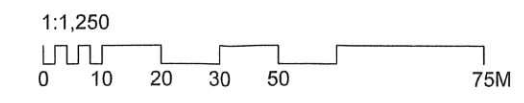
William Mendenham



Claudia Valmored



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Proposed Self Build Development
At Land at Common Road, Sissinghurst

Existing
OS Red Line

Project Name: Drawing Name:

