DATED 13th February 2023

THE DISTRICT COUNCIL OF ADUR

- and –

WEST SUSSEX COUNTY COUNCIL

- and –

THE COMMUNITY STADIUM LIMITED

- and –

CALA MANAGEMENT LIMITED

SECTION 106 AGREEMENT

relating to development at

New Monks Farm, Lancing

Planning application ref: AWDM/0021/22

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DATE 13th February 2023

PARTIES

(1) **THE DISTRICT COUNCIL OF ADUR** of Town Hall, Chapel Road, Worthing, West Sussex, BN11 1HA ("the Council")

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

(3) **THE COMMUNITY STADIUM LIMITED** (Co. Reg. No 04612364) of American Express Community Stadium, Village Way, Falmer, Brighton BN1 9BL ("Owner")

(4) **CALA MANAGEMENT LIMITED** (Co. Reg. No SC013655) whose registered office address is as Adam House, 5 Mid New Cultins, Edinburgh, EH11 4DU ("CALA")

INTRODUCTION

A. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.

B. The County Council is the local highway authority the county planning authority the education authority and the authority responsible for the provision of the fire service and the library service for the area in which the Site is situated.

C. The Owner is the freehold owner of the Site registered at the Land Registry under Title Number WSX243973

D. CALA has an interest in the Site by virtue of an agreement for sale and an option agreement both dated 30 June 2017.

E. CALA Homes (South Home Counties) Limited submitted the Application to the Council.

F. The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

G. The Application was submitted to the Council on 6th January 2022 and the Council resolved on 30th November 2022 to grant the Planning Permission subject to the prior completion of this Deed.

H. The Application relates to land comprising part of a larger development for which hybrid planning permission AWDM/0961/17 was granted on 4 February 2020 subject to the Original S106 Agreement ("the Hybrid Permission"). The Application relates to land

comprising Phase 3 and Phase 4 of the Hybrid Permission. It is intended that Phase 3 and Phase 4 of the Hybrid Permission will be developed pursuant to this Application and this Deed seeks to reflect the obligations in the Original S106 Agreement and apply them pro rata to the Development as appropriate whilst reflecting the obligations in the Original S106 Agreement.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"1980 Act"	means the Highways Act 1980;
"Act"	means the Town and Country Planning Act 1990 (as amended);
"Affordable Housing"	means Affordable Rented and Intermediate Housing provided to Eligible Households whose needs are not met by the open market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should include provisions to remain at an affordable price for future Eligible Households or for the subsidy to be recycled for alternative Affordable Housing provision;
"Affordable Housing Mix"	means the tenure and mix of the Affordable Housing Units as set out in Part 1 of Schedule 5;
"Affordable Housing Scheme"	means a scheme submitted to the Council prior to the Commencement of Development of a Phase identifying the numbers, locations and tenure mix of the Affordable Housing within that Phase;
"Affordable Housing Units"	means 30% of the Dwellings to be provided within the Development as Affordable Housing;
"Affordable Rent"	means affordable rented housing let by Registered Providers of social housing to households who are eligible for social rent housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent (including service charges

	where applicable) or at no more than the Local Housing Allowance rates (whichever is the lower) increased by CPI + 1% per annum and "Affordable Rented" shall be construed accordingly;
"Air Quality Measures"	means the measures set out in Chapter 9 of the Environmental Statement prepared by Phlorum (dated December 2021) and submitted as part of the Application;
"Application"	means the application for full planning permission submitted to the Council for the Development and allocated reference number AWDM/0021/22, seeking erection of 385 dwellings and Community Hub (Flexible Class E/F1/F2 use) along with associated access, landscaping, car parking and public open space (an increase of 34 dwellings from the outline approval of 351 dwellings AWDM/0961/17);
"Chargee"	means any mortgagee or chargee of a Registered Provider (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver")) of such Registered Provider;
"Commencement of Development"	means the date on which the first material operation (as defined in Section 56(4) of the Act) forming part of the Development (or a Phase of the Development) begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, temporary haul road, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly;
"Community Hub"	means a floorspace within a building of no less than 250 sqm or as otherwise agreed in writing with the Council to be delivered within the Development in the location to be submitted and approved by the Council;

"Community Hub Specification"	means the specification for the Community Hub to be submitted and approved by the Council ;
"Completion"	Means the completion of a Dwelling such that it is capable of Occupation as a Dwelling and "Complete" shall be construed accordingly;
"Construction Phase"	means the period starting with the date of Commencement of Development in a Phase and ending with the date of Occupation of the relevant Phase;
"Council Contributions"	means the Healthcare Contribution and Open Space Contribution;
"Council Monitoring Fee"	means the sum of £2,400.00 to monitor the delivery and performance of the obligations to the Council contained in this Deed;
"County Council Contributions"	means the Cycle and Pedestrian Links Contribution, the Education Contribution, the Fire and Rescue Service Infrastructure Contribution and the Libraries Infrastructure Contribution;
"County Council Monitoring Contribution"	means the total sum of £3,000.00 payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Deed over the lifetime of the Development;
"Cycle & Pedestrian Links Contribution"	means the financial contribution of SEVENTY FIVE THOUSAND POUNDS (£75,000) to be paid to the County Council in accordance with paragraph 3 of Schedule 3 to be used towards an upgrade to the Grinstead Road crossing and cycle route together with improvements to tactile paving within the Mash Barn Estate;
"Development"	means the development of the Site as permitted by the Planning Permission;
"Drainage Management Plan"	means a written plan for the ongoing management and maintenance of the drainage infrastructure associated with the Development (to the extent that such drainage is not adopted by a statutory undertaker) and to: i) include but not be limited to repair and replacement of any faulty equipment forming part of the drainage infrastructure;

ii) include the membership of any management company set up to manage and maintain the drainage infrastructure, the extent of the drainage infrastructure, the management and maintenance regime the source and evidence of there being sufficient funding for the management and maintenance regime and

iii) include any other information that the Council may reasonably request to satisfy themselves that the drainage infrastructure will be properly managed and maintained;

"Dwelling"	means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;
"Education Contribution"	means the sum of TWO MILLION ONE HUNDRED AND SEVENTEEN THOUSAND SIX HUNDRED AND SEVENTY TWO POUNDS (£2,117,672.00) towards education facilities and services in the vicinity of the Development;
"Eligible Households"	means persons who are assessed by the Council and / or the Registered Provider as being unable to resolve their housing needs in the private sector because of the relationship between housing costs and income;
"Fire and Rescue Service Infrastructure Contribution"	TEN THOUSAND SEVEN HUNDRED AND EIGHTY FOUR POUNDS (£10,784.00) towards the redevelopment or relocation of fire stations and associated vehicles and equipment in the West Sussex Fire Service Southern Area;
"Greater Brighton City Region"	means the administrative areas of Adur, Worthing, Brighton and Hove, Lewes, Mid Sussex and Crawley;
"Healthcare Contribution"	means the sum of TWO HUNDRED AND FIFTY THOUSAND POUNDS (£250,000) towards the relocation of Ball Tree Surgery;
"Highway Contribution"	means the sum of FOURTEEN THOUSAND FOUR HUNDRED POUNDS (£14,400) towards some or all of the Adur Local Plan Transport Study schemes including A27 / A283 Steyning Road, A259 Brighton Road / A2025 South Street and Hangleton Link South Roundabout;
"Homes England"	means Homes England of 50 Victoria Street, Westminster, London, SW1H 0TL or any body undertaking the existing functions of the Homes and Communities Agency within the meaning of Part I of

	the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement, or re-enactment of such Act);
"Index Linked"	means index linked in accordance with the provisions of clause 11;
"Interest"	means interest at 4% per cent above the base lending rate of Bank of England applicable at the actual date of payment;
"Intermediate Housing"	means housing for sale and rent provided at a cost above social rent levels but below open market levels subject to the criteria set out in the definition of Affordable Housing;
"Libraries Infrastructure Contribution"	means ONE HUNDRED AND TWENTY SEVEN THOUSAND EIGHT HUNDRED AND FORTY NINE POUNDS (£127,849.00) towards the improvement and/or redevelopment of Pond Road Library;
"Local Equipped Area of Play ("LEAP")	means the equipped local area of play within Phases A and B;
"Local Business"	a business organisation whose principal place of business is situated in the Greater Brighton City Region;
"Local Housing Allowance"	means the rate as set by the Valuation Office Agency for the relevant financial year based on rents being paid by tenants in the Brighton and Hove broad rental market area;
"Local Paper"	means the Lancing Herald, Worthing Herald, Shoreham Herald, Argus;
"Local People"	means persons resident in the Greater Brighton City Region;
"Management Company"	means a body established by the Owner to carry out the long term management and maintenance of the estate roads;
"Market Units"	means those Dwellings for general sale on the open market and which are not Affordable Housing;
"Occupation" and "Occupied"	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupier" shall be construed accordingly;
"Open Space Contribution"	means the sum of FIVE THOUSAND SIX HUNDRED POUNDS (£5,600) for open space and environmental improvements at the Mash Barn Estate ;

"Original Outline Permission	means the outline element of planning permission AWDM/0961/17 granted on 4 February 2020;
"Original S106 Agreement"	means the agreement pursuant to section 106 of the 1990 Act dated 4th February 2020 between the Council, the County Council, The Community Stadium Limited and the Owner;
"Phase"	means Phase A and Phase B of the Development as appropriate;
"Phase A"	means that part of the Development shown shaded green on the Phasing Plan and which equates to Residential Phase 3 of the Original Outline Permission;
"Phase B"	means that part of the Development shown shaded yellow on the Phasing Plan and which equates to Residential Phase 4 of the Original Outline Permission;
"Phasing Plan"	means the plan at Appendix 3;
"Plan"	means the plan at Appendix 1;
"Planning Permission"	means planning permission to be granted by the Council pursuant to the Application in the form or substantially in the form as set out in Appendix 2;
"Play Area Management Strategy"	means the strategy for the management and maintenance of the LEAP to be submitted to the Council for approval;
"Play Area Specification"	means the specification for LEAP to be submitted to the Council for approval;
"Qualifying Trigger"	means any trigger contained within this Deed that attracts the County Council Monitoring Contribution because its implementation and/or adherence requires monitoring by the County Council;
"Registered Provider"	means a registered social landlord registered as a Registered Provider by Homes England or other organisation whose objectives include providing Affordable Housing;
"Site"	means the land edged red on the Plan on which the Development is to be constructed and against which this Deed can be enforced;
"Sold"	means the sale of the freehold of a Dwelling or the grant of a lease of a Dwelling with a term of 125 years or more;

"Working Days" means any day which is not a Saturday, Sunday or bank (public) holiday in England and "Working Day" shall mean any one of them.

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

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

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3 LEGAL BASIS

3.1 This Deed is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and any other enabling powers and constitutes a planning obligation for the purposes of Section 106 of the Act.

3.2 The covenants, restrictions and requirements contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intention that they bind its interest in the Site and its successors and assigns and are enforceable by the Council and the County Council as local planning authorities.

3.3 To the extent that any of the covenants, restrictions and obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.

4 CONDITIONALITY

With the exception of Clauses 8.1-8.3 this Deed is conditional upon the grant and issue of the Planning Permission.

5 THE OWNER'S COVENANTS

Subject to clause 8.11 below the Owner covenants with the Council and the County Council so as to bind the Site and upon Commencement to perform the obligations as set out in Schedules 1 to 9

6 THE COUNCIL'S COVENANTS

The Council covenants with the Owner as set out in Schedule 10

7 THE COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner as set out in Schedules 10

8 MISCELLANEOUS

8.1 CALA shall pay to the Council and the County Council on completion of this Deed their reasonable legal costs incurred in the negotiation, preparation and execution of this Deed.

8.2 CALA shall pay to the Council on completion of this Deed the Council Monitoring Fee.

8.3 CALA shall pay to the County Council the County Council Monitoring Contribution on completion of this Deed.

8.4 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

8.5 This Deed shall be registrable as a local land charge by the Council.

8.6 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

8.7 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall at request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

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

8.9 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 (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

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

8.11 This Deed shall not be enforceable against the following:

8.11.1 owners, occupiers or tenants of the Dwellings nor against those deriving title from them or their mortgagees or chargees;

8.11.2 owners, occupiers or tenants of the Community Hub nor against those deriving title from them or their mortgagees or chargees except for the provisions of Schedule 7;

8.11.3 Registered Providers, nor against those deriving title from them or their mortgagees or chargees; except for the provisions of Schedule 5;

8.11.4 Statutory Undertakers or other persons with any interest in any part of the Site for the purpose of the supply of electricity, gas, water, drainage, telecommunication services, public transport services or other services.

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

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

9 WAIVER

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

10 CHANGE IN OWNERSHIP

The Owner agrees with the Council and the County Council to give the Council and the County Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan PROVIDED THAT no notice of any change of ownership affecting a completed Dwelling shall be required.

11 INDEX LINKED

The Owner agrees with the Council and the County Council that any sum payable by the Owner and referred to in Schedules 1 to 9 shall be increased by the application of the following formula:

A = (B x C) divided by D

Where A is the sum actually payable on the Specified Date

B is the original sum mentioned in this Deed

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

D is the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors on the 17 October 2022 whereby C/D is equal to or greater than 1

12 INTEREST

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

13 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of

any value added tax properly payable.

14 DISPUTE PROVISIONS

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

14.1 in the case of any difference or dispute arising out of the provisions of paragraphs 1 and 2 of Schedule 5 ("Affordable Housing") the same shall be referred to an independent Chartered Surveyor of at least fifteen (15) years standing who shall be nominated in default of agreement between the Owner and the Council by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy;

14.2 in the case of any legal requirement or interpretation or other matter regarding this Deed the same shall be referred to Counsel of at least fifteen (15) years' experience in such matters who shall be appointed in default of agreement between the Owner and the Council or the County Council (as the case may be) by the President of the Bar or his deputy; and

14.3 any matter referred to an independent Chartered Surveyor or Counsel shall be decided by such person as an expert (and not as an arbitrator) who shall permit one representation and one counter-representation (each in writing) by each party to the dispute and his determination shall be in writing and final and binding on the parties and the costs of such determination shall be paid as the expert shall direct but if he does not direct shall be borne equally between the Owner and the Council or the County Council (as the case may be) provided that in all cases the expert shall direct the costs be borne by the Owner where the expert considers the Council or the County Council's case (as the case may be) is reasonable.

15 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

16 DELIVERY

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

17 SEVERANCE

17.1 If any court or competent authority finds that any provision of this Deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Deed shall not be affected.

17.2 If any invalid, illegal or unenforceable provision of this Deed would be valid, legal and enforceable if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18 SECTION 73 PLANNING PERMISSIONS

Unless confirmed otherwise by the Council the provisions of this Deed shall apply to any modification, variation or amendment to the Planning Permission pursuant to section 73 of the Act provided that such modification, variation or amendment does not materially alter the nature of the Development, and for the avoidance of any doubt the Council shall in its absolute discretion be entitled to require the entering into of a further agreement under section 106 of the Act in relation to an application made under section 73 of the Act in respect of the Planning Permission.

19 ORIGINAL SECTION 106 PAYMENTS

Upon Commencement of Development, to the extent that any financial contributions have been paid pursuant to the Original S106 Agreement in respect of Residential Phase 3 and/or Residential Phase 4 (being the 250th Dwelling onwards as defined and set out therein) then the amount of such payments made pursuant to the Original S106 Agreement in respect of Residential Phase 3 and/or Residential Phase 4 shall be deducted from the amount due under the equivalent financial contribution(s) pursuant to this Deed

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

SCHEDULE 1

The Owner's Covenants with the County Council

County Council Financial Contributions

The Owner COVENANTS with the County Council as follows:

1. Libraries Infrastructure Contribution

1.1 To pay the Libraries Infrastructure Contribution to the County Council on a Phase by Phase basis as follows:

(a) 50% on or before Occupation of the first (1st) Dwelling in Phase A;

(b) 50% on or before Occupation of the first (1st) Dwelling in Phase B;

2. Fire and Rescue Services Infrastructure Contribution

2.1 To pay the Fire and Rescue Services Infrastructure Contribution to the County Council on or before Occupation of the first (1st) Dwelling in Phase A;

3. Education Contribution

3.1 To pay the Education Contribution to the County Council as follows:

(a) 34% on or before Occupation of the first (1st) Dwelling in Phase A;

(b) 33% on or before Occupation of the 50% of the Dwellings in Phase A;

(c) 33% on or before Occupation of the first (1st) Dwelling in Phase B;

SCHEDULE 2

The Owner's covenants with the Council

Council Financial Contributions

The Owner COVENANTS with the Council as follows:

1. Healthcare Contribution

1.1 To pay the Healthcare Contribution to the Council on a Phase by Phase basis as follows:

(a) ONE HUNDRED AND TWENTY FIVE THOUSAND POUNDS (£125,000) (the "First Instalment") on Occupation of 50% of the Dwellings on Phase A and not to cause or permit the Occupation of more than 50% of the Dwellings on Phase A until the First Instalment has been paid to the Council; and

(b) ONE HUNDRED AND TWENTY FIVE THOUSAND POUNDS (£125,000) (the "Second Instalment") on Occupation of 50% of the Dwellings on Phase B and not to cause or permit the Occupation of more than 50% of the Dwellings on Phase B until the Second Instalment has been paid to the Council

2. Open Space Contribution

2.1 To pay the Open Space Contribution to the Council on or before Occupation of the first Dwelling comprised in the Development

SCHEDULE 3

The Owner's Covenants with the Council and County Council

Highways Obligations

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

1. Estate Roads

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

1.2 Prior to the first Occupation of a Dwelling within a Phase to submit to the County Council;

1.2.1 the name and contact details of the Management Company; and

1.2.2 a schedule for approval of the street furniture that the Management Company will be responsible for maintaining and a regime of maintenance within that Phase.

1.3 It is agreed with the County Council that all estate roads within a Phase that are stated to be privately maintained by the Owner or the Management Company shall be:

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

1.3.2 maintained by the Owner or the Management Company at their own expense in good and substantial repair and condition; and

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

1.4 Upon completion of the construction of the estate roads not being adopted under a section 38 agreement the Owner will provide a report to be prepared and signed by a Chartered Engineer at their own expense to confirm that the construction of the

privately maintained estate roads have been designed and built to a suitable standard for their intended use.

1.5 The Owner or the Management Company covenant with the County Council:

1.5.1 that the privately maintained estate roads shall remain open and unobstructed at all times and available for use by both residents of the Development and members of the public on foot and by bicycle as appropriate and in the latter case without charge; and

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

2. Highway Contribution

To pay the Highway Contribution to the County Council on or before Occupation of the first Dwelling comprised in the Development

3. Cycle & Pedestrian Links Contribution

To pay the Cycle & Pedestrian Links Contribution to the County Council on or before the Occupation of the 51st Dwelling.

SCHEDULE 4

The Owner's Covenants with the Council

Play Area

The Owner COVENANTS with the Council as follows:

1. Provision of the Play Area

1.1 Prior to Commencement of Development in a Phase to submit to the Council for approval in writing the Play Area Specification for that Phase in which the LEAP is to be constructed.

1.2 To provide the LEAP in accordance with the Play Area Specification prior to Occupation of the final Dwelling in the relevant Phase in which the LEAP is to be constructed.

1.3 Prior to Occupation of any Dwelling in the Phase in which the LEAP is to be constructed to submit to the Council for approval in writing the Play Area Management Strategy and not to cause or permit the Occupation of any Dwelling within the said Phase unless and until the Play Area Management Strategy for the relevant Phase has been submitted to and approved in writing by the Council.

1.4 Not to cause or permit Occupation of the final Dwelling in the said Phase unless and until the LEAP is available for use by the public and to ensure that the LEAP remains open and available for use by the public in perpetuity.

1.5 To manage and maintain the LEAP in accordance with the Play Area Management Strategy unless otherwise agreed in writing with the Council.

SCHEDULE 5

The Owner's Covenants with the Council

Affordable Housing

The Owner COVENANTS with the Council as follows:

Part 1 - Affordable Housing Mix

1.1 Subject to Commencement and subject to paragraph 2.4 below 30% of the Dwellings comprised in the Development shall be Affordable Housing comprising:

(a) **82 Dwellings** as:

60% Affordable Rent

40% Intermediate Housing

(b) **34 Dwellings** as:

75% rented at Local Housing Allowance rates

25% as Intermediate/Shared Ownership

or as otherwise agreed in writing with the Council pursuant to paragraph 1.2 below or otherwise.

1.2 Prior to the Commencement of Development of the relevant Phase to submit the Affordable Housing Scheme for the relevant Phase to the Council and not to cause or permit Commencement of Development of the relevant Phase unless and until the Affordable Housing Scheme for that Phase has been submitted to and approved in writing by the Council.

Part 2 - Obligation to provide Affordable Housing

1.6 Upon Commencement of a Phase within the Development to construct the Affordable Housing Units within that Phase in accordance with the Planning Permission and to provide the Affordable Housing Units within the relevant Phase in accordance with the

approved Affordable Housing Scheme for that Phase and in the terms set out in paragraph 2 below and:

1.7 To procure that the Affordable Housing Units are physically completed in a workmanlike manner with due care and skill; and

1.7.1 not to permit Occupation of more than 75% of the Market Units in each Phase until:

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

(b) long leases (of at least 125 years) have been granted or the freehold interests in all the Affordable Housing Units in the relevant Phase have been transferred to the Registered Provider and on terms granting the Registered Provider all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units.

1.8 Save where paragraph 2.4.2(ii), 2.6.2 and 2.7(b) apply the Owner shall with effect from the date on which the Affordable Housing Units are physically completed not allow or permit such units to be Occupied other than by Eligible Households and for the avoidance of doubt this restriction shall apply not just to the first Occupier of any of the Affordable Housing Units but to all subsequent occupiers of them.

2. Terms of Transfer of Affordable Housing

2.1 The Owner shall make an offer to a Registered Provider for the Registered Provider to purchase the Affordable Housing Units in the relevant Phase (that shall not be used other than Affordable Rent and Intermediate Housing as set out in the definition of Affordable Housing Units) ("the first offer") and such offer shall remain open for acceptance for no less than 1 month ("the first offer period") from the date of the offer being made.

2.2 In the event that the first offer made in accordance with the above is not accepted within the first offer period then the Owner shall make a second offer to the Council or its