DATE: 16th JUNE 2023

SECTION 106 AGREEMENT

In relation to land at 69 - 75 Brighton Road,
Shoreham-By-Sea, West Sussex BN43 6RE

PARTIES:

[1] Adur District Council

[2] West Sussex County Council

[3] Frosts (Cars) Limited

DJ ~~[4] HSBC UK Bank PLC~~

[5] Shoreham Brighton Road Limited

File Ref: 10896.13/SRH

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AGREEMENT

Dated 16th JUNE **2023**

PARTIES

(1) **Adur District Council** of Adur Town Hall, Chapel Road, Worthing, West Sussex BN11 6PR (the **Council**);

(2) **West Sussex County Council** of County Hall, West Street, Chichester, West Sussex PO19 1RQ (the **County Council**);

(3) **Frosts (Cars) Limited** (company registration number 00511284) whose registered office is at 69-75 Brighton Road, Shoreham by Sea, West Sussex BN43 6RT (the **Owner**);

DJ ~~(4) **HSBC UK Bank PLC** (company registration number 9928412) whose registered office is at 1 Centenary Square, Birmingham B1 1HQ (the **Mortgagee**); and~~

(5) **Shoreham Brighton Road Limited** (company registration number 12472188) whose registered office is at Unit 4 Limes Court, Conduit Lane, Hoddesdon, Hertfordshire EN11 8EP (the **Developer**)

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 and the education authority 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 numbers WSX182548 and WSX60561.

DJ ~~(D) The Mortgagee has the benefit of two registered charges, one dated 14 October 2004 and the other dated 18 January 2010 against the Owner's interests in the Site and registered at the Land Registry under title numbers WSX182548 and WSX60561 respectively.~~

(E) The Developer has the benefit of an option agreement dated 29 May 2020 with the Owner.

(F) The Developer has submitted the Application to the Council and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.

(G) The Council resolved on 20 March 2023 to grant the Planning Permission subject to the prior completion of this Agreement.

Agreed terms

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

For the purposes of this Agreement the following expressions shall have the following meanings in addition to the definitions set out in the Schedules hereto:

Act means the Town and Country Planning Act 1990;

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

Application means the application for outline planning permission submitted to the Council for the Development and allocated reference number AWDM/2039/22;

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 begins to be carried out other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, 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, replacement of the river wall and retaining wall, excavation and levelling works, piling for river moorings, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and **Commence** and **Commence Development** shall be construed accordingly;

Council Contributions means all contributions payable to the Council in accordance with this Agreement;

County Council Contributions means all contributions payable to the County Council in accordance with this Agreement;

Council Monitoring Contribution means the total sum of £2,700 payable to the Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Agreement over the lifetime of the Development;

County Council Monitoring Contribution means the total sum of £2,800 payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Agreement over the lifetime of the Development;

Development means the demolition of existing buildings, construction of 176no. 1 and 2 bedroom residential apartments and commercial development over 4 blocks between 5 and 9 levels, basement parking and raised deck, new highway access, flood defences, drainage infrastructure, landscaping and ancillary development as set out in the Application;

Dwelling means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission;

Interest means interest at 4% above the base lending rate of the Bank of England applicable at the actual date of payment;

Occupy 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 **Occupied and Occupation** shall be construed accordingly;

Plan means the plan of the Site attached to this Agreement at Appendix 1;

Planning Permission means the planning permission subject to conditions to be granted by the Council pursuant to the Application;

Practical Completion means depending on the context of the Agreement the substantial completion of any part or the whole of the Development as appropriate such that it is fit for its intended purpose (and, in the case of any highway works, physically completed and available for use by the public) and, free from defects other than minor snagging as confirmed by a certificate of practical completion or sectional practical completion issued by the Owner's architect or other suitably qualified professional and **Practically Complete** and **Practically Completed** shall be construed accordingly;

Qualifying Trigger means any trigger contained within this Agreement that attracts the Council Monitoring Contribution and/or the County Council Monitoring Contribution (as appropriate) because its implementation and/or adherence requires monitoring by the Council and/or the County Council (as appropriate);

Site means the land as indicatively shown on the Plan;

Specified Date means the date on which any payment under this Agreement becomes due;

Schedules means Schedules 1 to 5 contained in this Agreement; and

Working Days means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory Bank Holiday and **Working Day** shall be construed accordingly.

1.2. Interpretation

1.2.1 Where in this Agreement 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 Agreement.

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

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

1.2.4 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.

1.2.5 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.

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

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

1.2.8 The words **including** and **include** shall be deemed to be followed by the words **without limitation.**

1.2.9 References in this Agreement to **development** shall have the meaning given to it by section 55 of the Act.

2. LEGAL BASIS

2.1. This Agreement is made pursuant to section 106 of the Act and to the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council and the County Council in respect of the Site.

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

2.3. The Owner enters into the obligations (for themselves and their successors in title and persons deriving title from the Owner) with the Council and the County Council with the intent that the obligations contained in this Agreement shall be enforceable not only against the Owner but also against their successors in title and any person claiming through or under the Owner an interest or estate in the Site or any part thereof.

3. CONDITIONALITY

3.1 This Agreement shall come into immediate effect save for the obligations in the Schedules which are conditional upon the grant of the Planning Permission and Commencement of the Development.

4. THE OWNER'S COVENANTS

4.1. The Owner covenants:

4.1.1 with the Council in respect of the Owner's covenants as set out in Schedules 1, 2 and 4; and

4.1.2 with the County Council in respect of the Owner's covenants as set out in Schedules 3 and 4.

5. **THE COUNCIL'S COVENANTS**

5.1. The Council covenants with the Owner as set out in Schedule 5.

6. **THE COUNTY COUNCIL'S COVENANTS**

6.1. The County Council covenants with the Owner as set out in Schedule 5.

7. **MISCELLANEOUS**

7.1 The Owner shall pay to the Council and County Council on completion of this Agreement the reasonable legal costs of the Council and County Council incurred in the negotiation, preparation and execution of this Agreement in respect of the Council's costs and the County Council's costs.

7.2 The Owner covenants to pay the Council Monitoring Contribution to the Council prior to Commencement of Development

7.3 The Owner covenants to pay the County Council Monitoring Contribution to the County Council on completion of this Agreement

7.4 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third parties) Act 1999 nor does it confer or purport to confer any right to enforce any of the terms and provisions of this Agreement to any person who is not a party or successor in title or statutory successor to a party hereto.

7.5 This Agreement shall be registrable as a local land charge by the Council.

7.6 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or County Council under the terms of this Agreement 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.

7.7 Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall following a request from the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7.8 Insofar as any clause or clauses of this Agreement 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 Agreement.

7.9 This Agreement 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.

7.10 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site (or where they have parted with only part thereof, any breaches in respect of that part in which they no longer have an interest) but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

7.11 This Agreement shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services and any management company.

7.12 Nothing in this Agreement 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 Agreement.

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

7.14 The Owner warrants to the Council and the County Council that apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Site or any part of it.

7.15 This obligations in this Agreement will not bind nor be enforceable against:

7.15.1 A Registered Provider (or their chargee) who acquires the Affordable Housing Units (or their mortgagees, chargees or Receivers or any persons deriving title through such parties save for the provisions of Schedule 1, paragraph 2.2 of Schedule 2 and paragraphs 1.1.13 and 1.1.14 of Schedule 4 provided that this exemption shall no apply to any Registered Provider who has a legal interest in any Market Housing Unit

7.15.2 An individual owner, tenant or occupier of a completed Dwelling (which is not an Affordable Housing Unit) or their mortgagees or charges

7.15.3 With the exception of Schedule 1, the individual owner, tenant or occupier of a completed Affordable Housing Unit or their mortgagees or chargees

7.15.4 A statutory undertaker

~~8. THE MORTGAGEE AND THE OWNER~~

DJ ~~The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of its charge over the Site shall take effect subject to this Agreement provided that the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Site (or part thereof) in which case it too will be bound by the obligations in this Agreement that bind the Site as if it were a person deriving title from the Owner.~~

9. **FUTURE MORTGAGEES**

It is acknowledged and declared by the parties that this Agreement has been entered into by the Owner with their consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of any mortgage or charge over the Site (or any part thereof) shall take effect subject to this Agreement **provided that** any mortgagee or chargee shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

10. **WAIVER**

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

11. **CHANGE IN OWNERSHIP**

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

12. **INDEX LINKED**

12.1 In relation to Council Contributions the Owner agrees with the Council that any sum payable by the Owner pursuant to this Agreement shall be increased by the application of the following formulae:

A = (B x C) divided by D

Where A	is the sum actually payable;
B	is the original sum mentioned in this Agreement;
C	is the All-In Tender Price Index for the quarter preceding the Specified Date;
D	is the All-In Tender Price Index for the quarter preceding 30 June 2022;
C/D	is equal to or greater than 1.

12.2 In relation to County Council Contributions the Owner agrees with the County Council that any sum payable by the Owner pursuant to this Agreement shall be increased by the application of the following formulae:

A = (B x C) divided by D

Where A	is the sum actually payable;

B	is the original sum mentioned in this Agreement;
C	is the All-In Tender Price Index for the quarter preceding the Specified Date;
D	is the All-In Tender Price Index for the quarter preceding 21 October 2021
C/D	is equal to or greater than 1.

13. INTEREST

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

14. VAT

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

15. DISPUTE PROVISIONS

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

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

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

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

16 JURISDICTION

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

17 DELIVERY

The provisions of this Agreement (other than this clause 17 which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

18 **PLANNING CONSENTS GRANTED PURSUANT TO S73 OF THE ACT**

18.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act (as amended) and unless otherwise agreed between the parties, with effect from the date that the any new planning permission is granted pursuant to Section 73 of the Act (as amended):

18.1.1 the obligations in this Agreement shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the Act and the Site itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the Act;

18.1.2 the definitions of Application, Development and Planning Permission in this Agreement shall be construed to include references to any applications under Section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and

18.1.3 this Agreement shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Agreement relate to and bind the Site in respect of which a new planning permission referenced [ ] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

provided that nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act or the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the Act whether by way of a new deed or supplemental deed pursuant to S106 of the Act

This Agreement has been executed on the date stated at the beginning of it.

SCHEDULE 1
Affordable Housing

1. Definitions

1.1 In this Schedule 1, the following terms have the following meanings unless inconsistent with the context:

Adur District means the administrative area of the Council;

Affordable Housing means Affordable Rented Housing and Intermediate Housing provided to eligible households whose needs are not met on the open market;

Affordable Housing Plan means a plan showing the location, sizes and tenure of the Affordable Housing Units to be agreed in writing between the Council and Owner pursuant to this Schedule;

Affordable Housing Units means at least fifty three (53) Dwellings to be provided as Affordable Housing to be constructed pursuant to the Planning Permission in accordance with the Affordable Housing Plan and the Agreed Mix;

Affordable Rented Housing means affordable housing to be made available by a Registered Provider to households with a Local Connection whose needs are not adequately served by the commercial housing market at rents which shall not exceed the Local Housing Allowance (including service charges where applicable) and **Affordable Rented Units** and **Affordable Rent** shall be construed accordingly;

Agreed Mix means the mix of Affordable Housing Units set out at Paragraph 2.3 of this Schedule 1, or such other size tenure and mix of Affordable Housing Units approved by the Council in writing and which shall be determined having regard to the identified housing needs within the Council's administrative area;

Intermediate Housing means Affordable Rented Housing and/or Shared Ownership Housing or such other tenure that may be agreed in writing by the Council and the Owner provided that such other tenure is in accordance with the definition of 'Other Affordable Routes to Home Ownership' in Annex 2 of the NPPF and **Intermediate Housing Units** shall be construed accordingly;

Local Connection means a person that lives or works in the Adur District or in a district or borough adjoining Adur District;

Local Housing Allowance means the local housing allowance provided by the Valuation Office Agency as published from time to time;

Market Housing Units means a Dwelling that is not an Affordable Housing Unit;

Market Rent means the estimated amount for which the relevant Dwelling should lease (let) on the date of valuation between a willing lessor and willing lessee on appropriate lease terms in an arms length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion;

Market Value means the price at which the whole interest in the Affordable Housing Unit would be expected to command if sold by a willing seller to a willing purchaser for residential purposes free of the restrictions and obligations contained in this Agreement;

NPPF means the National Planning Policy Framework (July 2021) as may be updated from time to time;

Nominations Agreement means an agreement substantially in the form appended to this Agreement at Appendix 4 to be entered into between the Council and the Owner setting out the Nomination Rights;

Nomination Rights means that the Council will have the right to nominate the occupier of the Affordable Rented Units and Social Rented Units in accordance with the Nominations Agreement;

Registered Provider means a registered provider of social housing as defined in the Housing and Regeneration Act 2008 who is registered with Regulator pursuant to that Act;

Regulator means Homes England as the Regulator of Social Housing established pursuant to Part 2 of the Housing and Regeneration Act 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions;

Retained Equity means the proportion of the Market Value in a Shared Ownership Housing Unit represented by such share of unsold equity;

Shared Ownership Housing means a form of tenure granted by lease by a Registered Provider to be disposed pursuant to shared ownership arrangements within the meaning of section 70(4) Housing and Regeneration Act 2008 whereby a purchaser is able to purchase a share of the equity in an Affordable Housing Dwelling from 25% to a maximum of 75% initially (at the option of the buyer) and pay an annual rent of up to 2.75% on the Retained Equity with no limitation in the aggregate equity that can be subsequently acquired by the lessee and such form of lease shall comply with Homes England's model lease for shared ownership housing (as varied from time to time) or such other form of lease as maybe agreed in writing by the Council and Shared Ownership Housing Unit(s) and Shared Ownership Lease shall be interpreted accordingly;

Social Rented Housing means affordable housing which is managed by local authorities and/or Registered Providers where the rent is no higher than Target Rent and **Social Rented Units** and **Social Rent** shall be construed accordingly;

Staircasing means the purchase by the owner of an individual Dwelling of additional equity in a Shared Ownership Unit;

Target Rent means target rent for Social Rented Housing as determined through the National Rent Regime and published from time to time by the Regulator (or such other body as may replace the Regulator, having responsibility for setting target rents for social housing);

Transfer means the transfer of the freehold or grant of a lease for a term of at least 125 years unless otherwise agreed in writing with the Council and **Transferred** shall be construed accordingly;

Wheelchair User Homes means an Affordable Housing Unit which is fully adapted and accessible for wheelchair users in accordance with M4(3)(2)(b) of Approved Document M pursuant to the Building Regulations 2010.

The Owner covenants with the Council as follows:

2. Affordable Housing Provisions

2.1 To provide the Affordable Housing Units within the Development in accordance with this Schedule 1.

2.2 To submit an Affordable Housing Plan to the Council for approval prior to Commencement of Development.

2.3 Unless otherwise agreed in writing by the Council, the Affordable Housing Units shall comprise:

2.3.1 Thirteen (13) Intermediate Housing Units (5 x 1 bed and 8 x 2 bed); and

2.3.2 Forty (40) Affordable Rented Housing Units or Social Rented Units (17 x 1 bed and 23 x 2 bed); and

2.3.3 Up to four (4) but no less than two (2) of the Affordable Rented Housing Units or Social Rented Units delivered in accordance with paragraph 2.3.2 above shall comprise Wheelchair User Homes.

2.4 Not to Commence Development until the Affordable Housing Plan has been approved in writing by the Council (the **Approved Affordable Housing Plan)** provided that such approval by the Council shall not be unreasonably withheld or delayed .

2.5 To construct and provide the Affordable Housing Units in accordance with the Approved Affordable Housing Plan (unless otherwise agreed in writing by the Council).

3. Transfer

3.1 Unless the Owner is a Registered Provider to Transfer the Affordable Housing Units to a Registered Provider.

3.2 Unless otherwise agreed in writing with the Council not to cause or allow the Occupation of more than 50% of the Market Housing Units of the Development unless and until all of the Affordable Housing Units have been provided in accordance with paragraph 2.5 and the Affordable Housing Plan and those Affordable Housing Units have been transferred to a Registered Provider (unless the Owner is a Registered Provider).

4. Occupation

4.1 Subject to paragraph 5 of this Schedule 1 not to Occupy or permit Occupation of the Affordable Housing Units other than as Affordable Housing.

4.2 Not to Occupy or permit the Occupation of the Affordable Rented Units and/or Social Rented Units unless and until a Nominations Agreement has been entered into with the Council granting the Council Nomination Rights in respect of the Affordable Rented Units and/or Social Rented Units provided pursuant to paragraph 2.3.2 above.

5. Exclusions

5.1 The affordable housing provisions in Schedule 1 of this Agreement shall not be binding on a mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver)**) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver **provided that:**

5.1.1 such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the Council 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; and

5.1.2 if such disposal has not completed within the three-month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the affordable housing provisions in this Agreement which provisions shall determine absolutely.

5.2 The provisions of this Schedule 1 shall:

5.2.1 cease to apply to any part or parts of the Site which are disposed of in accordance with paragraph 5.1.2;

5.2.2 cease to apply to any completed Affordable Housing Units where the Registered Provider shall be required to dispose of the same pursuant to a right to buy under Part V Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under section 180 Housing and Regeneration Act 2008 or any similar or substitute right applicable;

5.2.3 cease to apply to any completed Affordable Housing Units where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) Housing and Regeneration Act 2008 or any amendment or replacement thereof;

5.2.4 cease to apply to any Shared Ownership Housing Unit where the tenant has Staircased up to 100% in accordance with the terms of such Shared Ownership Housing lease.

5.3 For the avoidance of doubt, the provisions of this Schedule 1 shall not apply to any successors in title purchasing an interest in part of the Site where provisions of this Schedule 1 have ceased to apply pursuant to paragraph 5.2.