DATED **2025**

(1) ADUR DISTRICT COUNCIL

AND

(2) WEST SUSSEX COUNTY COUNCIL

AND

(3) RUTH ELIZABETH KENWARD
MICHAEL GUY TRISTRAM and
FRANCES ROSEMARY TRISTRAM

AND

(4) MICHAEL GUY TRISTRAM and
FRANCES ROSEMARY TRISTRAM
and RUTH ELIZABETH KENWARD of
The Sompting Settlement

AND

(5) PERSIMMON HOMES LIMITED

DEED OF VARIATION UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990

Relating to Land at Loose Lane, West Sompting

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THIS AGREEMENT is made on 2025

BETWEEN:

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

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

(3) **RUTH ELIZABETH KENWARD** of Brown Cottage, Glynleigh Road, Hankham, Pevensey, BN24 5BJ **MICHAEL GUY TRISTRAM** of The Old Rectory, Binstead, Arundel BN18 OLL **and FRANCES ROSEMARY TRISTRAM** of 4 Mill Lane, Shoreham-by-Sea, West Sussex BN43 5AB (the "Second Owner")

(4) **MICHAEL GUY TRISTRAM of** The Old Rectory, Binstead, Arundel BN18 OLL and of The Sompting Settlement, Sompting Estate Office, Middle Yard Barn, Lambleys Lane, Worthing BN14 9JX and **FRANCES ROSEMARY TRISTRAM of** 4 Mill Lane, Shoreham-by-Sea, West Sussex BN43 5AB and of The Sompting Settlement, Sompting Estate Office, Middle Yard Barn, Lambleys Lane, Worthing BN14 9JX and **RUTH ELIZABETH KENWARD** of Brown Cottage, Glynleigh Road, Hankham, Pevensey BN24 5BJ and of The Sompting Settlement, Sompting Estate Office, Middle Yard Barn, Lambleys Lane, Worthing BN14 9JX **(Mortgagee)**

(5) **PERSIMMON HOMES LIMITED** of Persimmon House, Fulford, York, YO19 4FE (the "Developer");

BACKGROUND

A The Council is the local planning authority for the purposes of section 106 and section 106A of the TCPA 1990 for the area within which the Site is situated and is capable of enforcing the obligations in the Original Agreement.

B The County Council is a local planning authority and the highway authority for the area in which the Site is situated.

C The Developer is the freehold owner of that part of the Site registered at the Land Registry with Title Number WSX442302

D The Second Owner (as defined in the Original Agreement) is the Owner of that part of the Site registered at the Land Registry with Title Number WSX418944

E The Mortgagee has the benefit of a charge dated 18 August 2023 over the Developer's part of the Site registered in title number WSX442302

F On 4 August 2023 the Council, the County Council, the Second Owner and the Developer entered into the Original Agreement

G Without prejudice to the covenants in the Original Agreement the parties have agreed to vary the terms of the Original Agreement as set out in this Agreement.

IT IS AGREED as follows:

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1 **INTERPRETATION**

1.1 In this Agreement unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

"**Original Agreement**" means the agreement made pursuant to section 106 of the TCPA 1990 dated 4 August 2023 and made between the District Council of Adur (1) West Sussex County Council (2) Persimmon Homes Limited (3) Ruth Elizabeth Kenward, Michael Guy Tristram and Frances Rosemary Tristram as Trustees of the Sompting Settlement (4) and Ruth Elizabeth Kenward, Michael Guy Tristram and Frances Rosemary Tristram (5)

"**Original Planning Permission**" means the planning permission reference AWDM/0323/19 dated 08 August 2023

"**The TCPA 1990"** means the Town and Country Planning Act 1990 (as amended)

1.2 Clause, paragraph and Schedule headings do not form part of this Agreement and shall not affect the construction or interpretation of this Agreement.

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

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

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

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

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

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

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

1.10 A reference to writing or written does not include fax or e-mail.

1.11 A reference to this Agreement or to any other deed or document referred to in this Agreement is a reference to this Agreement or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.

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1.12 References to clauses and Schedules without further designation are to the clauses and Schedules of this Agreement.

1.13 An obligation on a party not to do something includes an obligation not to cause permit or suffer that thing to be done.

1.14 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.

1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.

1.16 Save in respect of the Planning Permission, in the event of any conflict between the terms conditions and provisions of this Agreement and any document annexed hereto or referred to herein, the terms conditions and provisions of this Agreement will prevail.

1.17 In this Agreement, unless otherwise specifically stated, any reference to the term "month" shall mean calendar month, any reference to the term "day" shall mean any day on which retail banks are open for business in London and any reference to the term "year" shall mean calendar year.

1.18 The Interpretation Act 1978 shall apply to this Agreement.

2 STATUTORY PROVISION

2.1 This Agreement constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 278 of the Highways Act 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

2.2 The covenants, restrictions and obligations contained in this Agreement are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Developer with the intention that they bind the interests held by those persons in the Site and their respective successors and assigns save for as set out in clause 7 of the Original Agreement.

2.3 The covenants, restrictions and obligations contained in this Agreement are enforceable by the Council in accordance with section 106 of the TCPA 1990.

2.4 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the TCPA 1990, they are entered into pursuant to the other powers contained in clause 2.1.

3 VARIATIONS TO THE ORIGINAL AGREEMENT

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3.1 Without prejudice to the other covenants in the Original Agreement which shall continue in full force and effect, the parties to this Agreement agree that from the date of this Agreement the Original Agreement shall be amended as set out in this Agreement.

3.2 The obligations and covenants in the Original Agreement as varied by this Agreement relate to the Site, are planning obligations to which the statutory provisions in clause 2 apply and are for the purposes of regulation 122 of the Community Infrastructure Levy Regulations 2010 necessary, directly related to and fairly and reasonably related in scale and kind to the development of the Site.

3.3 Save for as provided in this Agreement it is agreed by the parties that all covenants and obligations in the Original Agreement met and performed prior to the date of this Agreement are satisfied.

4 DEVELOPER'S AND MORTGAGEE'S COVENANTS

4.1 The Developer covenants with the Council and the County Council that it will observe and perform the covenants restrictions and obligations on its part contained in the Original Agreement as amended by this Agreement.

4.2 The Mortgagee enters into this Agreement to provide its consent to the Developer entering into the Agreement

5 LOCAL LAND CHARGE

5.1 This Agreement is a local land charge and the Council shall register it as such as soon as practicable after the completion of this Agreement.

5.2 Following the performance and satisfaction of all the obligations contained in the Original Agreement as amended by this Agreement the Council shall forthwith cancel all the entries made in the register of local land charges in respect of both the Original Agreement and this Agreement.

6 NO FETTER ON DISCRETION

Nothing in this Agreement shall fetter or prejudice the Council's statutory rights powers discretions and responsibilities (save where legally or equitably permitted) under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

7 SEVERABILITY

It is agreed that if any part of this Agreement is declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the offending provision(s) will be severed from the Agreement and the remainder of this Agreement shall continue in full force and effect.

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8 **LEGAL COSTS**

8.1 The Developer will no later than the date of this Agreement pay the Council's reasonable legal costs for preparation and completion of this Agreement.

8.2 The Developer will no later than the date of this Agreement pay the County Council's reasonable legal costs for preparation and completion of this Agreement.

9 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Agreement shall be enforceable by a third party who is not a party to the Agreement and the terms of the Agreement may be varied by a deed agreed between the parties without the consent of any third party being required.

10 **WAIVER**

No waiver (whether expressed or implied) by the Council or Developer 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 Developer) from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11 **GOVERNING LAW**

This Agreement 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 without reference to any other country's system of laws and the parties agree to irrevocably submit to the exclusive jurisdiction of the English courts.

12 **DELIVERY**

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

THIS AGREEMENT HAS BEEN EXECUTED AS A DEED AND DELIVERED on the date stated at the beginning of this Agreement.

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IN WITNESS of which this document has been duly executed as a Deed and delivered on the date stated at the beginning of this document.

THE COMMON SEAL of)
THE DISTRICT COUNCIL OF ADUR)
was affixed to this **DEED** by Order)

Authorised signatory by delegation

of the Council on the 1st August 2025

Name of Signatory…… Officer Role……..

THE COMMON SEAL of)
WEST SUSSEX COUNTY COUNCIL)
was affixed to this **DEED**)
in the presence of:)

Authorised Signatory

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EXECUTED as a **DEED** by

PERSIMMON HOMES LIMITED)

Acting by its Attorneys [ ]) Attorney

)

Attorney

Both in the presence of:

Witness Signature)

Witness Name)

Witness Address)

EXECUTED as a **DEED** by)

RUTH ELIZABETH KENWARD (as Second Owner and Mortgagee))

)

In the presence of:)

Witness Signature)

Witness Name)

Witness Address)

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EXECUTED as a **DEED** by

MICHAEL GUY TRISTRAM (as Second Owner and Mortgagee)

In the presence of:

Witness Signature) .....

Witness Name) .....

Witness Address) .....

EXECUTED as a **DEED** by

FRANCES ROSEMARY TRISTRAM (as Second Owner and Mortgagee)

In the presence of:

Witness Signature) .....

Witness Name) .....

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SCHEDULE 1

Amendments to Original Agreement

The Original Agreement shall be amended as follows:

1. In Clause 1 to delete the definition of "Affordable Housing Spreadsheet" and replace it as follows:
   Affordable Housing Spreadsheet the spreadsheet setting out the numbers and tenure of the Affordable Housing within each Residential Phase appended to this Deed at Annex 2. The numbers and tenures cited in this spreadsheet are subject to change following the determination of reserved matters for Phase 2 and Phase 3,

2. In Clause 1 to delete the definition of "Play Area" and replace it as follows:

   "Play Area": the play area that will be provided in accordance with the Play Area Scheme in the general location identified on the Landscape and Facilities Plan and marked "LEAP". "LEAP" and "Play Area" are construed within this Deed to have the same meaning;

3. In Clause 1 the definition of "Off-Site Sports Changing Room Contribution" shall be amended to delete the words *" referee changing facility and"*

4. In Clause 1 the definition of "Sports Pitches" shall be amended to delete the words *" referee changing facility"* and to delete the words *"and car park"*

5. In Clause 1, to add a new definition as follows:
   Car Park the car park in the location shown in the Landscape and Facilities Plan at "G";

6. In clause 1 the definition of "Maintenance Specification" shall be amended to add the words "Car Park," after the words "carried out to the"

7. In clause 1, the definition of "Management and Maintenance Proposals" shall be amended to add the words "Car Park," after "Community Orchard,"

8. In clause 1, the definition of "Management Body" shall be amended to add the words "Car Park," after the words "and for the management and maintenance of the"

9. In clause 5.7, the words "Car Park," shall be added after both places where the words "Public Open Space Area," appear.

10. In Schedule 5, to delete paragraph 1.1 and replace it as follows:

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"To submit a Public Open Space Scheme for each Residential Phase for the approval of the Council for the Public Open Space Areas to be provided within that Residential Phase and obtain Requisite Consents (if any) prior to the Commencement of Development within that Residential Phase and shall not Commence Development of a Residential Phase unless and until the Public Open Space Scheme for that Residential Phase has been approved by Council in writing and Requisite Consents (if any) have been obtained;"

11. In Schedule 5, at paragraphs 2.1, and 2.1(a) the words "Play Area" shall be deleted.

12. In Schedule 5, at paragraphs 2.1, 2.1(a)(i) and 2.4, the words "and / or Car Park," shall be added after the words "and / or Sports Pitches".

13. In Schedule 5, at paragraph 2.1(a) the words "a Residential Phase" shall be deleted and replaced with "Phase 2 and Phase 3".

14. In Schedule 5, to delete paragraph 3.1 and replace it as follows:

    "To submit a Play Area Scheme for the written approval of the Council for the Play Area prior to Commencement of Development of Phase 3."

15. In Schedule 5, at paragraph 3.2, the words "Phase 1" shall be deleted and replaced with "Phase 3".

16. In Schedule 5, at paragraph 4.2, the words "the 70th Dwelling within Phase 1 only" shall be deleted and replaced with "Phase 2"

17. In Schedule 5, after paragraph 4, a new paragraph 4A shall be added as follows:

    "4A CAR PARK
    The Owners covenant with the Council as follows:
    4A.1 Prior to the Occupation of the 70th Dwelling within Phase 1 to submit to the Council plans and specifications for the boundaries and laying out of the Car Park and not to commence construction of the Car Park until approval and plans and specifications for the Car Park are granted by the Council in writing.

    4A.2 To lay out the Car Park in a good and workmanlike manner using good quality and sound material in accordance with the plans and specifications approved under paragraph 4A.1 above prior to the Occupation of Phase 2.

    4A.3 To apply for all necessary permissions consents and approvals including any approvals under reserved matters required by the Planning Permission for the laying out construction and provision of the Car Park.

    4A.4 To give to the Council not less than one month's prior written notice of the intention of the Developer's architect to issue a Certificate of Practical Completion in respect of the Car Park and to extend to the Council an invitation to make an inspection of the Car Park jointly

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with the Developer's architect and any other party nominated by the Council and to make observations and written representations thereon.

4A.5 To maintain the Car Park for the Maintenance Period to the reasonable satisfaction of the Council and make good any defects as may reasonably be required by the Council during this period."

18. In Schedule 6, after the heading "Schedule 6" and also after the heading "Part 1" (both at the top of page 66) the words "Car Park" shall be added after the words "Play Area".

    In Schedule 6, Part 1, to delete paragraph 1 and replace it as follows:
    "The Owners and the Council agree that the Owners will offer the Council a transfer of the land referenced as A2, A3, B, C, D, E and the LEAP (which falls within area E) on the Landscape and Facilities Plan ("the Offer"). The Owners and the Council agree that the Owners have offered the Council a transfer of the land referenced as G (the "Car Park") on the Landscape and Facilities Plan and the Council has confirmed that it does not wish to take on the Car Park, meaning that the Owners shall make arrangements for the Car Park to be transferred to the Management Body and the provisions of paragraph 2 of Schedule 5 shall apply."

19. In Schedule 6, Part 1, paragraphs 2.2 and 10, the word "Company" shall be deleted and replaced with "Body".

20. In Schedule 6, Part 1, to delete paragraph 3.3 and replace it as follows:

    "In respect to the Sports Pitches, subject to any defects being made good as reasonably required by the Council in accordance with paragraph 4.5 of Schedule 5, upon the expiry of the Maintenance Period to transfer the Sports Pitches to the Council for a consideration of £1.00 (one pound), and on completion of the transfer the Sports Pitches the Owners shall pay the Maintenance Contribution for the Sports Pitches.

21. Clause 1.2 of Schedule 7 "Affordable Housing" shall be deleted and replaced as follows:

    1.2 30% of the Dwellings comprised in the Development other than Phase 1 are to comprise of Affordable Housing of which:

    (a) 75% of these Dwellings to be provided as Affordable Rent; and
    (b) 25% as Intermediate Housing

    such Affordable Housing to be provided in accordance with the Affordable Housing Spreadsheet and the approved Affordable Housing Scheme or as otherwise agreed in writing with the Council PROVIDED THAT the relevant Phase shall include the percentage of Affordable Housing specified in any reserved matters approval for the relevant Phase.

22. The Affordable Housing Spreadsheet at Annex 2 to the Original Agreement shall be deleted and replaced with the Affordable Housing Spreadsheet appended to this Agreement at Annex 1.

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ANNEX 1

AFFORDABLE HOUSING SPREADSHEET

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West Sompting - Annex 2 Affordabl Housing Schedules

Phase 1 @ 31.25% schedule revised as per approved NMA AWDM/0251/24

Affordable Rent @ 75%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
Maisonette (GF)	2	1	67	718	2	134	1436	Y		Y
Maistonette (FF)	3	2	78	843	2	156	1686	Y	Y	
2B4P House	4	2	82	878	12	984	10536	Y	Y	
3B4P House	4	3	92	995	6	552	5970	Y	Y	
~~4B5P House~~	~~5~~	~~4~~	~~98~~	~~1057~~	~~2~~	~~196~~	~~2114~~	~~Y~~	~~Y~~	
					22	**1826**	**19628**			

Affordable Totals

1 bed	2
2 bed	14
3 bed	10
4 bed	4
	30

Affordable Intermediate @25%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
~~2B4P House~~	~~4~~	~~2~~	~~80~~	~~863~~	~~2~~	~~160~~	~~1726~~	~~Y~~	~~Y~~	
3B4P House	4	3	92	995	4	368	3980	Y	Y	
4P5P House	5	4	113	1218	4	452	4872	Y	Y	
					8	**820**	**8852**			

Phase 2 @ 30%

Affordable Rent @75%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
Maisonette (GF)	2	1	67	718	3	201	2154	Y		Y
Maistonette (FF)	3	2	78	843	3	234	2529	Y	Y	
2B4P	4	2	82	884	8	656	7072	Y	Y	
3B5P House	5	3	97	1044	6	582	6264	Y	Y	
					20	**1673**	**18,019**			

Affordable Totals

1 bed	3
2 bed	14
3 bed	10
	27

Affordable Intermediate @25%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
2B4P House	4	2	82	884	3	246	2652	Y	Y	
3B5P House	5	3	97	1044	4	388	4170	Y	Y	
					7	**634**	**6828**			

Phase 3 * @30%

* All figures are based on current testing layout for Phase 3 which is subject to change during the reserve matters application process and will be amended proportionally according to total number of units provided on the Phase

Affordable Rent @ 75%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
Flat (GF)	2	1	64.5	695	5	322.5	3475	Y		Y
Flat	2	1	53	575	6	318	3450	Y	Y	
~~Maisonette~~	~~3~~	~~2~~	~~78~~	~~843~~	~~8~~	~~627~~	~~6744~~	~~Y~~	~~Y~~	
Flat	3	2	64	687	9	576	6183	Y	Y	
Flat	3	2	63	679	6	378	4074	Y	Y	
Flat	3	2	64.5	695	7	451.5	4865	Y	Y	
2B3P House	3	2	73	783	4	292	3132	Y	Y	
2B4P House	4	2	82	884	8	656	7072	Y	Y	
3B5P House	5	3	97	1044	17	1649	17748	Y	Y	
4B6P House	6	4	124.5	1341	2	249	2682	Y	Y	
					64	**4892**	**52,681**			

Estimated Affordable Totals ** subject to change during RMA

1 bed	19
2 bed	44
3 bed	18
4bed	4
	85

Affordable Intermediate @25%

Unit Type	Persons	Beds	sqm	sqft	Total Units	Total sqm	Total sqft	NSS Compliant	M4-2	M4-3
Maisonette (GF)	2	1	67	718	8	536	5744	Y		Y
Masionette (FF)	3	2	78	843	8	624	6744	Y	Y	
2B4P House	4	2	82	884	2	164	1768	Y	Y	
3B5P House	5	3	99.5	1072	1	99.5	1072	Y	Y	
4B6P House	6	4	124.5	1341	2	249	2682	Y	Y	
					21	**1672 .5**	**18010**			

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