

APPENDIX 3: MODEL SECTION 106 LEGAL AGREEMENT

DATED

20

SOUTH DOWNS NATIONAL PARK AUTHORITY (1)

and

Owner (2)

and

[MORTGAGEE] (3)

and

OBLIGATION

under section 106 of the Town and Country Planning Act 1990 and

relating to []

THIS Obligation is made the _____ day of _____ 2019
under Section 106 of the Town and Country Planning Act 1990

BETWEEN

(1) SOUTH DOWNS NATIONAL PARK AUTHORITY of South Downs Centre, North Street, Midhurst, GU29 9DH (the "Authority")

(2) [] (the "Owner") of []

(3) [] (the "Mortgagee") of []

1. DEFINITIONS AND INTERPRETATION

1.1 Wherever the context so permits the following words and phrases shall have the meanings herein attributed to them:-

1.2	"the Act"	means the Town and Country Planning Act 1990 or any statute amending or modifying repealing or re-enacting the same for the time being in force.
1.3	"Affordable Housing"	means housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is essential local works) including Affordable Rented Housing, Social Rented Housing and Shared Ownership Housing for occupation by persons as their only or principal home and (for the avoidance of doubt) such occupation cannot at any time include short term holiday letting. Affordable Housing should meet the needs of eligible households who the Housing Authority could reasonably expect to occupy the Development having regard to its allocation scheme including availability at a cost low enough

		for them to afford, determined with regard to local incomes and local house prices and should include provision for the homes to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision subject to any such recycling of the subsidy being in accordance with the requirements of Homes England and any other form of affordable housing as determined by the Housing Authority or the Authority
1.4	[“Affordable Housing Contribution”] ¹	[means the financial contribution of [(£) pounds] towards the cost of providing Affordable Housing within: <ul style="list-style-type: none"> 1) The area of the South Downs National Park that is co-terminus with the area of the Housing Authority whenever possible; or 2) If that is not possible, within the administrative area of the South Downs National Park as close to the boundary of the Housing Authority as possible; or 3) If neither of the above are achievable then the Affordable Housing Contribution shall be pooled for the delivery of Affordable Housing within any part of the South Downs National Park
1.5	“Affordable Housing Grant”	means grant provided by Homes England for the provision of Affordable Housing

¹ The AH Contribution will only be included where a contribution is to be paid in lieu of on-site AH provision.

1.6	“Affordable Housing Land Sale Contract”	means a contract for the disposal of the Affordable Housing Units between the Owner and an Affordable Housing Provider
1.7	“Affordable Housing Mix”	means the different types of tenure of Affordable Housing to be provided within the Development or such other tenure mix as agreed with the Authority
1.8	"Affordable Housing Plan"	means a plan setting out the proportion and distribution of each of the Affordable Housing Units within the Development as set out in Annex [] or any other terms approved by the Authority
1.9	“Affordable Housing Provider”	means either: <ul style="list-style-type: none"> 1) a registered proprietor as defined in Part 2 of the Housing and Regeneration Act 2008 who is registered with the RSH pursuant to Section 116 of that Act or any successor body; or 2) a non-profit making body which is registered with the RSH and/or any other body which is authorised by the RSH to own and manage Affordable Housing; or 3) any other provider of Affordable Housing approved by the Authority
1.10	"Affordable Housing Units"	means the [] Dwellinghouses numbered [] (including any associated parking space(s) and residential curtilage) referred to in the Application and to be constructed on the Land pursuant to the Planning Permission for Affordable Housing being those units that are not open market units and for the purpose of identification only shown edged/hatched [] on the Affordable Housing Plan
1.11	“Affordable Rented Housing Units”	means the Affordable Housing Units to be occupied as Affordable Rented Housing in accordance with

		the terms of this Agreement and any Nominations Agreement
1.12	“Affordable Rented Housing”	means rented housing made available to households who are eligible for Social Rented Housing at a rent level of up to 80% of market rent (including service charges) and within local housing allowance levels
1.13	“Application”	means the planning application made by the Owner for the Development bearing Council reference number []
1.14	“Commencement of Development”	means the carrying out on the Land of a material operation pursuant to the Planning Permission as defined in Section 56 (i) of the Act save for the purpose of determining whether or not a material operation has been carried out there shall be disregarded such operations as marking out surveying ground investigations archaeological investigations demolition site clearance site preparation and “commence” and “commencement” shall be construed accordingly
1.15	“Completed”	means completed for all practical purposes as certified by the NHBC on the issue of a Buildmark Insurance Certificate or cover note or equivalent as the case may be
1.16	“the Contributions”	means the [Public Open Space Contribution], the [Transport Contribution], the [], the [] and [the Affordable Housing Contribution] payable in accordance with Schedule 1
1.17	“Development”	means residential development comprising [] to be developed in accordance with the Planning Permission granted pursuant to the Application

1.18	“Dwellinghouse”	means any unit of residential accommodation forming part of the Development for the sole use as a private residence of the occupier
1.19	“Dwelling Units”	means the Dwelling Units to be constructed on the land pursuant to the permission and Dwelling means any one of them.
1.20	“First Occupation”	means the first occupation of a Dwellinghouse as such or the time at which the Dwellinghouse becomes liable for payment to the Council of council tax whichever is the sooner.
1.21	“Homes England”	means the body known as Homes England or any successor organisation or body charged with the function of investing in the provision of Affordable Housing within the Housing Authority’s administrative area by any Affordable Housing Provider.
1.22	“Housing Authority”	means the District Council of [] being the statutory housing authority for the area within which the Land is situated.
1.23	“Implementation”	means implementation of the Development by the carrying out of a material operation as defined in Section 56(4) of the Act
1.24	“Index Linking”	means that the relevant contribution amount shall be adjusted by the percentage change in the relevant index from the last published figure to the grant of Planning Permission to the figure last published prior to Commencement of Development and subject to the following formulae: A x B

		<p>C</p> <p>Where:</p> <p>A = the contribution amount</p> <p>B = the last figure published prior to the Commencement of Development</p> <p>C = the last figure published prior to the grant of Planning Permission</p> <p>and Index Linked shall be construed accordingly</p>
1.25	"Land"	means the land shown edged red on the Plan being [] and registered at HMLR under title number []
1.26	"Local Housing Allowance"	means the method used by the Housing Authority to decide rent payments for people receiving housing benefit with local housing allowance rates based on the size of the household and the area in which a person lives used to work out the amount of rent which can be met with housing benefit.
1.27	"Nominations Agreement"	means the agreement to be entered into with the Affordable Housing Provider setting out the selection and prioritisation of tenants and occupiers of the Shared Ownership Housing Units the Affordable Rented Housing Units and the Social Rented Housing Units in accordance with [POLICY]
1.28	["Neighbouring Parishes"]	[means the neighbouring parishes of [] within the administrative area of []]
1.29	"the Plan"	means the plan annexed to this Agreement
1.30	"Planning Permission"	means any planning permission for the Development granted pursuant to the Application

1.31	[“Public Open Space Contribution”]²	[means the sum of [] calculated as the sum of [£ for each of the new Dwellinghouses resulting from the Development] [towards the provision and maintenance of [] and payable in accordance with Schedule 1]
1.32	“Rented Housing”	means the Affordable Rented Housing and the Social Rented Housing together
1.33	“RSH”	means the Regulator of Social Housing as established by section 80A of the Housing and Regeneration Act 2008 or any successor organisation or body charged with the function of regulating the provision of Affordable Housing within the Housing Authority’s administrative area by any Affordable Housing Provider
1.34	Serviced Condition	means the relevant property has proper connections within its boundary so as to connect it to surface water drainage facilities and to mains foul drainage, water, gas, electricity and telecommunications and enjoys direct access to the public highway or a roadway constructed to adoptable standards (connecting to the public highway) which is the subject of an agreement under section 38 of the Highways Act 1980 and in each case adequate for the purpose of its prospective use.
1.35	“Shared Ownership Lease”	means a lease in the form of the Homes England’s model shared ownership lease and on terms that permit part purchase of the open market value of the equity in a unit in multiples of [FIGURE]% up to a maximum of [FIGURE]% together with rent

² To be included or deleted as necessary. Other CIL compliant contributions to be included where required.

		payable for the open market rack rental value of the un-purchased percentage of the equity in the unit up to a value which does not exceed the rent set by Homes England from time to time (or such other rent or form of lease approved in writing by the Authority).
1.36	“Shared Ownership Housing Units”	means the Affordable Housing Units to be occupied as Shared Ownership Housing under a Shared Ownership Lease in accordance with the terms of this Agreement and identified on the Affordable Housing Plan coloured [COLOUR]
1.37	“Social Rented Housing”	means Affordable Housing let to eligible households for which guideline formula rents are determined in accordance with the RSH’s Rent Standard
1.38	“Social Rented Housing Units”	means the Affordable Housing Units to be provided as Social Rented Housing in accordance with the terms of this Agreement and as identified on the Affordable Housing Plan coloured [COLOUR].
1.39	“Standards”	means the design and construction standards set out in paragraph 4 below or any successor standards that apply at the time of commencement of construction of the Affordable Housing Unit(s) in question
1.40	“Surplus Sale Proceeds”	any sums received by an Affordable Housing Provider by way of staircasing proceeds pursuant to a Shared Ownership Lease or by way of sale of the tenanted property but only in so far as such sale proceeds exceed: <p style="text-align: right;">(a) All capital debt incurred by the Affordable Housing Provider in relation to the relevant</p>

		dwelling including interest and costs thereon; (b) All related costs in respect of the purchase and sale of the relevant dwelling (and the subsequent staircasing transaction if applicable)
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1.41 Where the context so admits:

1.41.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa

1.41.2 any reference herein to any statute or section of a statute includes any statutory re-enactment or modification thereof

1.41.3 any reference to a clause or a schedule is unless the context otherwise requires a reference to a clause or schedule of this Agreement and any reference to a sub clause is a reference to a sub clause of the clause in which the reference appears

1.42 The expressions the "Owner" and the "Authority" shall except where the context otherwise requires include their respective successors to the statutory functions or in title as the case may be and assigns.

2. RECITALS

2.1 The Authority is the Local Planning Authority for the purposes of the Act in respect of the area within which the Land is situated and is the authority by whom the obligations contained in this Agreement are enforceable

2.2 The Owner is the owner of the freehold of the Land shown on the Plan [and subject to a charge in favour of the Mortgagee]

2.3 The Application submitted to the Authority seeking planning permission for the Development was submitted as set out in the plans specifications and particulars deposited with the Authority

2.4 The Owner [and Mortgagee] is/are prepared to enter into this Agreement on the terms contained herein in support of the Application

3. STATUTORY POWERS

- 3.1 This agreement is made under section 106 of the Act and section 111 of the Local Government Act 1972 and all other enabling powers and it is acknowledged by the Owner [and the Mortgagee] that the planning obligations are planning obligations for the purpose of Section 106 of the Act
- 3.2 The restrictive and positive covenants and undertakings in this agreement by the Owner shall be binding on all its respective successors in title
- 3.3 The planning obligations are binding on the Land as provided by Section 106 of the Act and are enforceable in respect of the part of the Land where the breach occurs by the Authority as local planning authority against the Owner as owner of an interest in the Land and their successors in title in respect of their interests in the Land

4. THE OWNER'S COVENANTS

- 4.1 The Owner covenants with the Council to observe the restrictions and obligations specified in Schedule 1 to this Agreement
- 4.2 The Owner covenants with the Council to observe the restrictions and obligations specified in Schedule 2 to this Agreement

5. LIMITATIONS

- 5.1 Save for Clause 6 the provisions of this Agreement shall only become binding on the parties upon the granting of Planning Permission in respect of the Application and the subsequent Implementation of the said permission thereof by means of Commencement of Development. If the planning permission is not granted then this obligation shall immediately cease to have further effect
- 5.2 Subject always to clause 5.3 any provisions involving requirements or obligations to be met prior to or restricting or relating to the Commencement of Development shall come into force on the date of the grant of Planning Permission pursuant to the Application but otherwise the provisions of this agreement shall take effect and become binding on the Owner on Commencement of Development
- 5.3 Nothing in this obligation shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the planning permission granted for this Application) granted (whether or not on Appeal) after the date of this Agreement.
- 5.4 No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part in respect of which such breach

occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

- 5.5 This Agreement shall cease to have effect (insofar only as it has not 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 Commencement of Development
- 5.6 The covenants contained in this Agreement shall take effect only upon the Implementation of the Planning Permission and shall not bind the individual purchasers of completed Dwellinghouses nor their mortgagees nor service providers of gas water electricity drainage and telecommunications
- 5.7 This Agreement is a local land charge and shall be registered as such
- 5.8 Any notice or other written communication to be served upon or given by one party to any other under the terms of this Agreement shall be deemed to have been validly served or given if transmitted by facsimile (and confirmed by transmission confirmation slip) delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing
- 5.9 In the event of any dispute in respect of any matter contained in this Agreement then the same shall be determined by arbitration conducted in accordance with the Arbitration Act 1996 the arbitrator to be nominated on the application of either of the parties in dispute by the President for the time being of the Chartered Institute of Arbitrators such person being experienced in the relevant field with not less than 10 years' standing.
- 5.10 If any part of this Agreement shall be declared unlawful or invalid by any Court of competent jurisdiction then (to the extent possible) the remainder of this Agreement shall continue in full force and effect
- 5.11 The parties hereto are satisfied that the provisions of this Agreement comply with the requirements of Regulation 122 and Regulation 123 of the Community Infrastructure Levy Regulations 2010

6. AUTHORITY'S LEGAL COSTS

The Owner hereby undertakes to pay on the date hereof the reasonable legal costs of the Authority incurred in connection with the negotiation and completion of this agreement

7. PROVISIONS IN RESPECT OF THE CONTRIBUTIONS

All sums payable pursuant to Schedule 1 shall be adjusted in accordance with Index Linking

Any amount due from the Owner under this Agreement which is not paid on the due date shall be payable with interest calculated at the rate of 4% above the base lending rate from time to time of Bank of England (calculated on a daily basis from the date on which it fell due)

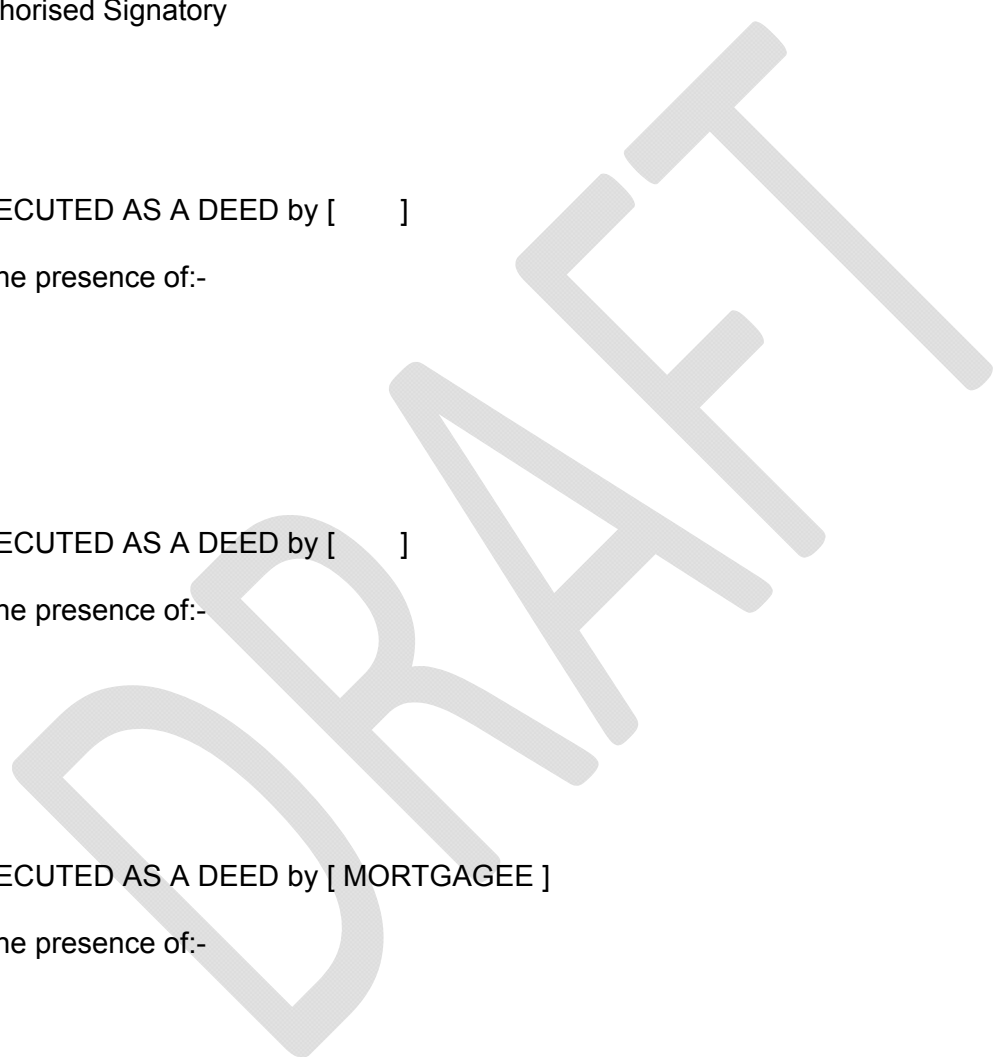
8. FUTURE PERMISSIONS

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

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IN WITNESS WHEREOF the parties have executed this deed on the day and year first before written

EXECUTED AS A DEED by affixing the seal of
South Downs National Park Authority in the
presence of: -
Authorised Signatory

EXECUTED AS A DEED by [] 
in the presence of:-

EXECUTED AS A DEED by []
in the presence of:-

EXECUTED AS A DEED by [MORTGAGEE]
in the presence of:-

SCHEDULE 1

1. THE CONTRIBUTIONS

The Owner hereby covenants to the Authority and undertakes to be bound by the following obligations:

- 1.1 To serve notice of Commencement of Development on the Authority 7 days prior to the Commencement of Development
- 1.2 To pay to the Authority the Contributions within twenty-one days of the Commencement of Development
- 1.3 Not to cause or allow First Occupation of any Dwelling Units until the Contributions have been paid to the Authority.

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SCHEDULE 2

AFFORDABLE HOUSING

1. THE OWNER COVENANTS WITH THE AUTHORITY:

1.1 That the Owner shall construct no less than [NUMBER] Affordable Housing Units in accordance with the Planning Permission, the Affordable Housing Plan and to the Standards to the reasonable satisfaction of the Authority and hand over the same to an Affordable Housing Provider prior to the completion of the open market units

1.2 The Affordable Housing Units shall comprise: -

- (a) [NUMBER] Social Rented Housing Units.
- (b) [NUMBER] Affordable Rented Housing Units.
- (c) [NUMBER] Shared Ownership Housing Units.

1.3 The Rented Housing shall be provided in accordance with the following dwelling mix:

Social Rented Housing

- (a) [NUMBER] of the said units shall be provided as [one OR [NUMBER]] bed units.
- (b) [NUMBER] of the said units shall be provided as [two OR [NUMBER]] bed units.
- (c) [NUMBER] of the said units shall be provided as [three OR [NUMBER]] bed units.

Affordable Rented Housing

- (a) [NUMBER] of the said units shall be provided as [one OR [NUMBER]] bed units.
- (b) [NUMBER] of the said units shall be provided as [two OR [NUMBER]] bed units.
- (c) [NUMBER] of the said units shall be provided as [three OR [NUMBER]] bed units.

1.4 Shared Ownership Housing Units shall be provided in accordance with the following dwelling mix:

- (a) [NUMBER] of the said units shall be provided as [one OR [NUMBER]] bed units
- (b) [NUMBER] of the said units shall be provided as [two OR [NUMBER]] bed units.

(c) [NUMBER] of the said units shall be provided as [three OR [NUMBER]] bed units.

- 1.5 The Owner shall use reasonable endeavours to seek to design the Development so far as reasonable and practicable to ensure that the level of service and estate charges for the Affordable Housing Units are as low as is reasonably practicable.
- 1.6 That the Affordable Rent Housing Units shall be provided at no more than 80% of the local market rent (including service charges, where applicable) and the Housing Authority reserves the right to cap the affordable rent charged by the Affordable Housing Provider to a maximum of the Local Housing Allowance
- 1.7 Not to permit the Affordable Housing Units to be Occupied by any person other than one who is nominated by the Housing Authority and who satisfies the guidelines set out in paragraph 1.8 below ("the Guidelines") PROVIDED THAT if the Housing Authority fails to nominate a person within fourteen (14) days of being notified of the availability of the Affordable Housing Unit or the nominee fails to take up the tenancy then the Affordable Housing Provider shall be entitled to allocate such unit to any person who is in need of Affordable Housing within the South Downs National Park
- 1.8 The Guidelines referred to in paragraph 1.7 above are:-
 - 1.8.1 Each person will be in housing need and will not be in a financial position to secure accommodation in the areas referred to below on the open market
 - 1.8.2 Each person will, save in exceptional circumstances, only be allocated accommodation appropriate to their current need
 - 1.8.3 Each of the Affordable Housing Units on the Land shall be occupied by a person who (or if occupied by more than one person at least one of whom) falls within the following categories of applicants and priorities given in the following order of priority:-
 - (i) persons who reside or have their place of work in [] parish or whose parents siblings or adult children reside or have their place of work in [] parish with priority given to those who have lived in [] parish the longest; or
 - (ii) persons who reside or have their place of work in the administrative area of the South Downs National Park that is co-terminus with the administrative area of the Housing Authority with priority given to those who have lived there the longest; or

- (iii) is a member of the armed forces or former service personnel (within 5 years of their discharge) or a bereaved spouse or civil partner of a member of the armed forces leaving services family accommodation following the death of their spouse or partner or a serving or former member of the reserve forces who needs to move because of serious injury, medical condition or disability sustained as a result of such membership;
- (iv) If there is no suitable person identified through the provisions of paragraph 1.8.3 i to iii, a person residing or working in any part of the administrative area of the South Downs National Park (as are identified pursuant to an agreement between the Affordable Housing Provider and the Housing Authority (if any))

1.9 The Rented Housing shall hereafter not be used for any purpose other than for the provision of Affordable Housing in accordance with this Agreement and none of them shall be sold into owner occupation or otherwise disposed of by the Affordable Housing Provider other than by way of:

- 1.9.1 Disposal to another Affordable Housing Provider for the purpose of providing Affordable Rented Housing; or
- 1.9.2 Transfers of Engagements or Amalgamation under Sections 109-13 of the Co-operative and Community Benefit Societies Act 2014 or any re-enactment thereof; or
- 1.9.3 Creation of easements or other rights in favour of statutory undertakings or service companies for the purpose of providing services to the Development; or
- 1.9.4 Sale to a sitting tenant by way of tenant's statutory right to acquire or by way of a scheme or arrangement promoted by Homes England whether as a condition of grant funding or otherwise;
- 1.9.5 Mortgage or charge and subject always to the residual power of sale of a mortgagee in possession
- 1.9.6 Assured tenancies granted to persons permitted to occupy in accordance with this Agreement and the Nomination Agreement

1.10 Any tenancy agreements shall be in the standard form of the Affordable Housing Provider which shall accord with the requirements of the RSH and shall also prohibit: -

- 1.10.1 short term holiday letting; and
- 1.10.2 lodgers OR [if allowing lodgers] profit from any lodgers.

- 1.11 Following completion of the Rented Housing to comply at all times with all statutory and contractual obligations to the tenants and to ensure the Rented Housing is at all times properly managed and maintained.
- 1.12 In the event of any Surplus Sale Proceeds to hold such monies in an interest bearing account and to use such Surplus Sale Proceeds whether in part in full or in conjunction with other sums in accordance with the requirements of Homes England in accordance with the terms of any Homes England grant agreement and as determined by the Housing Authority or the Authority in respect of all other surplus.
- 1.13 For a period of three (3) months from the date of Implementation or until such time as contract negotiations with the Affordable Housing Provider are completed or terminated (whichever is the sooner) to use all reasonable endeavours to exchange an Affordable Housing Land Sale Contract with the Affordable Housing Provider such contract to include provisions that: -
- (i) the sale of the Affordable Housing Units to the Affordable Housing Provider shall be at a price reflecting no more than 65% market value at time of the offer
 - (ii) the Affordable Housing Units shall be completed and in a Serviced Condition
 - (iii) the Affordable Housing Units shall be sold with vacant possession
 - (iv) the grant of rights of access and passage of services and other rights reasonably necessary for the use of Affordable Housing Units as Dwellinghouses;
 - (v) the Affordable Housing Provider shall enter into a nominations agreement (if required)
- 1.14 Until transfer of the Affordable Housing Units to the Affordable Housing Provider in accordance with the terms of this agreement the Owners shall not permit the Affordable Housing Units to be used for any purpose other than the provision of Affordable Housing
- 1.15 In the event that the Affordable Housing Provider does not exchange contracts with the Owners in accordance with paragraph 1.12 hereof or later then the Owners shall be required to provide the Affordable Housing Units in accordance with the Affordable Housing Plan
- 1.16 The Owners will use reasonable endeavours to the satisfaction of the Authority to contract to provide the Affordable Housing. Such reasonable endeavours will include:
- 1.16.1 early engagement with Homes England and the Affordable Housing Provider

1.16.2 robust search of the affordable housing market and evidence of such endeavours shall be produced to the Housing Authority and the Authority if demanded

1.17 In the event that any Affordable Housing Unit (or Units as the case may be) is owned or leased by a Affordable Housing Provider and there is a default under any security documentation of the same then any chargee or mortgagee (including the Mortgagee) (or any receiver (including an administrative receiver) appointed by such mortgagee or charge or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver")) or any persons deriving title through such mortgagee or charge or Receiver shall be entitled to exercise its power of sale free from the restrictions of this Schedule and all other provisions concerning Affordable Housing in this Agreement provided that the chargee or mortgagee or Receiver shall first have followed the procedure set out in paragraphs 1.16.1 to 1.16.4:-

1.17.1 Any charge mortgagee or Receiver shall prior to seeking to dispose of the Affordable Housing Units give not less than three (3) months prior notice to the Authority of its intention to dispose of the Affordable Housing Units and:

1.17.2 in the event that the Authority responds within six weeks from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units a consideration of 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) can be made in such a way as to safeguard them as Affordable Housing then the chargee mortgagee or Receiver shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer.

1.17.3 if the Authority does not serve its response to the notice served under paragraph 1.16.1 within the six weeks then the chargee mortgagee or Receiver shall be entitled to dispose free of the restrictions set out in this Schedule which shall from the time of completion of the disposal cease to apply

1.17.4 if within three months of the date of service of by the Authority of its response under paragraph 1.16.2 such disposal has not been completed then provided that the chargee mortgagee or Receiver shall have complied with its obligations under paragraph 1.16.2 the chargee mortgagee or Receiver shall be entitled to dispose free of the restrictions set out in this Schedule and all other provisions

concerning Affordable Housing in this Agreement which shall from the time of completion of the disposal cease to apply

PROVIDED THAT at all times the rights and obligations in this paragraph 1.16 shall not require a chargee mortgagee or Receiver to act contrary to its duties under the security documentation and that the Authority must give full consideration to protecting the interest of the chargee mortgagee or Receiver in respect of moneys outstanding under the security documentation

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