**THIS UNILATERAL OBLIGATION** is given the 2018

BY

[Name] (‘the Owner’) and

[Name](‘the Developer’)

[Name] (‘the Mortgagee’)

To

**Thanet District Council** of Cecil Square, Margate, Kent CT9 1XZ (the Council)

RECITALS

1. For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and is entitled to enforce the obligations contained in this Deed.
2. The Owner is the registered proprietor of the *[freehold/leasehold interest in the]* Land shown edged red on the Plan registered at HM Land Registry under title number
3. The Developer has *[the benefit of an option to purchase the Land/set out Developer’s interest for the purposes of this Deed]*applied to the Council for planning permission and is proposing to carry out the Development
4. The Owner [*and the Developer][[1]](#footnote-1)* submit this Unilateral Undertaking to the Council to covenant to the Council the Planning Obligations set out herein which shall take effect on the date of this Deed
5. The Mortgagee has a charge registered against title number………dated

……..and has consented to the terms of this Deed.

1. **OPERATIVE PROVISIONS**

**INTERPRETATION**

In this Deed, the following words and expressions have the following meanings:

* 1. Any reference to a clause is to one in the Deed and the headings of clauses are for ease of reference and do not form part of this Deed
	2. References to any party to this Deed shall include successors in title to that party
	3. In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it
	4. Words importing the singular meaning where the context so admits include the plural meaning and vice versa
	5. 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
	6. Wherever 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 express provision otherwise
	7. Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and any words placing a party under a restriction include an obligation not to cause permit or suffer any infringement of that restriction
	8. Any reference to an Act of Parliament shall include any modification extension or re-enactment thereof 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 thereunder or deriving validity therefrom
	9. Headings in this Deed are for reference purposes only and are not incorporated into this Deed to which they relate
	10. Any reference to a clause or schedule or plan is to a clause or schedule or plan in to or attached to this Deed
	11. Any reference to a colour or letter is to a colour or letter on a plan attached to this Deed
	12. "including" means "including, without limitation";
	13. any covenant by the Landowners not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
	14. The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
	15. Nominations” 100% of any affordable rented units (if applicable) shall be let to individuals or families who have been nominated by the Council in accordance with its published allocations policy at the time

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| **"Title Numbers"** |  | […] |
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| **"1990 Act"** |  | the Town and Country Planning Act 1990 |
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| **"Contribution"** |  | means:* Special Protection Area Contribution
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| **"Commencement Date”****“Deed”** |  | the date on which the Development commences by the carrying out on the Site of a material operation as specified in section 56(4) of the 1990 Act pursuant to the Planning Permission and ‘commencement of development’ shall be construed accordingly.Means this Deed |
| **"Development"****“Dwelling”** |  | the development of the Property described in the Planning Application Reference No: TH/means a residential unit constructed as part of the Development and ‘Dwellings’ shall be construed accordingly |
| **“Index Linked”****“Land”** |  | increased in accordance with the following formula:Amount payable = the Contribution x (A/B) where:A = the figure for the Retails Prices Index (All Items) that applied immediately preceding the date of actual payment;B = the figure for the Retail Prices Index (All Items) that applied where the Index was last published prior to the date of this DeedMeans the freehold/leasehold land situate at [address] and registered under title number:[…] |
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| **"New Permission"** |  | a planning permission authorising the redevelopment of the Site in a manner which would, if such redevelopment were completed, cause the Landowner to be in breach of any or all of the provisions contained in this Obligation |
| **"Plan"** |  | means the plan attached to this Agreement showing the Site outlined in red at Schedule 2 herein |
| **"Planning Application"****“Planning Obligations”** |  | An application for full planning permission for the carrying out of the Development made by the Owner on [*date]* carrying the reference [reference]means the Obligations contained in this Deed |
| **"Planning Permission''** |  | the planning permission which may be granted forthe Development in pursuance of the Planning Application Reference Number: |
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| **"Special Protection Area Contribution"** |  | means the sum of £[…] […pounds]as a contribution towards mitigation measures to avoid adverse impacts on the Thanet Coast and Sandwich Bay SAC or Thanet Coast SAC and/or Thanet Coast SSSI |
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1. **EFFECT OF THIS DEED**
	1. This Deed is made pursuant to s.106 of the 1990 Act, s.111 of the Local Government Act 1972, s.1 of the Localism Act 2011 and other enabling powers to the intent that it shall bind the Land and the Owner *[and the Developer]* and their successors in title to each and every part of the land as provided for in the 1990 Act and the Obligations on the part of the Owners *[and the Developer]* in this Deed are enforceable by the Council.
	2. The Obligations in this Deed comply with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 (as amended)
	3. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
	4. Nothing in this Deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than the Planning Permission, granted after the date of this Deed, whether or not pursuant to an appeal.
	5. This Deed comes into effect on the date of the grant of Planning Permission
2. **COMMENCEMENT DATE**
	1. The Commencement Date will not be triggered by any of the following operations:
		1. site investigations or surveys;
		2. site decontamination;
		3. the demolition of any existing buildings or structures;
		4. the clearance or regrading of the Site;
		5. works connected with infilling;
		6. archaeological investigation;
		7. temporary access construction works;
		8. erection of any fences or hoardings around the Property;
		9. works for the provision of drainage or mains services to prepare the Site or the Development.
3. **OBLIGATIONS OF THE OWNER [***and the Developer]*
	1. The Owner *[and the Developer]* shall comply with the obligations set out in **Schedule 1** in relation to the Development.
	2. No person will be liable for any breach of the terms of this Deed occurring after the date on which they part with their interest in the Site or the part of the Site in respect of which such-breach occurs, but they will remain liable for any breaches of this Deed occurring before that date.
4. **Determination of Deed**
	1. This Obligation will come to an end if:
		1. the Planning Permission is quashed, revoked or otherwise withdrawn before the Commencement Date so as to render this Deed or any part of it irrelevant, impractical or unviable;
		2. the Planning Permission expires before the Commencement Date without having been implemented; or
		3. at any time after the date of this Deed, the Council or any other competent authority grants a New Permission under which development is initiated for the purposes of section 56 of the 1990 Act.
5. **LOCAL LAND CHARGE**

This Deed is a local land charge and shall be registered as such by the Council

1. **INTEREST ON LATE PAYMENT OF CONTRIBUTIONS**

if the Contributions have not been paid to the Council on the due dates for payment under this agreement the Landowner shall pay the Council interest on the Contribution at the rate of 3% above the base rate from time to time of National Westminster Bank Plc both before and after any judgement) . Such interest shall accrue on a daily basis for the period from the due date for payment to and including the actual date of payment

**8. NOTICES**

8.1 Any notice, demand or any other communication served under this Obligation is to be delivered by hand or sent by first class post, pre-paid or recorded delivery.

8.2 Any notice, demand or any other communication served is to be sent to the following address of the parties or to such other address as one party may notify in writing to the others at any time as its address for service:

8.2.1. on the Council is Planning Applications Manager at the address set out in this Obligation; and

8.2.2 on the Landowner at the address set out in this Obligation.

8.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

8.3.1 if delivered by hand, at the time of delivery;

8.3.2 if sent by post, on the second working day after posting; or

8.3.3 if sent by recorded delivery, at the time delivery was signed for.

8.3.4 If a notice, demand or any other communication is served after 4.00 pm on a working day, or on a day that is not a working day, it is to be treated as having been served on the next working day.

8.4 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

**9. NOTICE BY THE OWNERS**

9.1 The Owner *[Developer]* agree the notify the Council in writing within one week of the following event:

 9.1.1 the Commencement Date

# 10. OWNERSHIP

# 10.1 The Owner warrants that no person other than the Landowner has any legal or equitable interest in the Property *[other than as shown on the title Deeds]*

10.2 The Owneragrees with the Council to give the Council within five (5) working days’ notice of any change of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to contain full details of the transferee's full name and registered office {if a company and usual address if not) lease assignment mortgage or other disposition entered into in respect of all or any part of the property together with the area of the Site or unit of occupation purchased by reference to a plan)

**11. INDEXATION OF CONTRIBUTIONS**

* 1. All financial Contributions payable to the Council shall be Index linked.

11.2 Where reference is made to an Index and that Index ceases to exist or is replaced or rebased then it shall include reference to an Index which replaces it or a rebased Index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the Index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Landowners in writing

# 12. JURISDICTION

This Obligation is to be governed by and interpreted in accordance with the law of England and Wales.

# 13. EXECUTION

This document is executed as a deed and it is delivered and takes effect on the date stated at the beginning of it

**SCHEDULE 1**

**Owner’s Obligations**

* 1. **Payment of the Contribution**
		1. The Special Protection Area Contribution shall be paid to the Council by the Landowner within 28 days of the Commencement Date.
		2. The Landowner covenants to give the Council no less than 7 days' notice of the Commencement Date.

**SCHEDULE 2**

**The Plan**

SIGNED as a deed by ………………….

 in the presence of: )

Witness signature: -------------------------------------------------------------------

Name: -----------------------------------------------------------------------------------

Address: ---------------------------------------------------------------------------------

Occupation: ----------------------------------------------------------------------------

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1. As required depending on interest that Developer has in Land (and also throughout this UU) [↑](#footnote-ref-1)