



Dated

2025

Gravesham Borough Council

and

Kent County Council

and

Ebbfleet United Football Club Limited

and

Northfleet Phase 1 Properties Limited

and

Faithdean PLC

and

Vital Energi Utilities Limited

**Planning Obligation by Deed of Agreement pursuant to
Section 106 of the Town and Country Planning Act 1990**

in relation to land at Northfleet Harbourside

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Section 106 Agreement

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Parties

- (1) **Gravesham Borough Council** of Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU (the **Council**);
- (2) **Kent County Council** of County Hall, Maidstone, Kent ME14 1XQ (the **County Council**);
- (3) **Ebbsfleet United Football Club Limited** (Company Registration Number 00412018) of Stonebridge Road, Northfleet, Gravesend, Kent, DA11 9GN (**EUFC**);
- (4) **Northfleet Phase 1 Properties Limited** (Company Registration Number 15536445) of Kuflink Stadium, Stonebridge Road, Northfleet, Kent, United Kingdom, DA11 9GN (**NP1P**);
- (5) **Faithdean PLC** (Company Registration Number 01389235) of Unit 12, The Oaks Revenge Road, Lordswood, Chatham, Kent, United Kingdom, ME5 8LF (**Faithdean**); and
- (6) **Vital Energi Utilities Limited** (Company Registration Number 04050190) of Century House, Roman Road, Blackburn, Lancashire, BB1 2LD (**Vital**).

Introduction¹

- (A) The Council is the local planning authority for the purpose of the Planning Act for the area in which the Site is situated and entitled to enforce the terms of this Agreement for which it (the Council) is a beneficiary.
- (B) The Council is also the beneficiary of a charge dated 17 May 2016 over the Ebbsfleet United FC Land registered at the Land Registry under Title Number K829241.
- (C) The County Council is a local planning authority and the education authority and highway authority, and the authority responsible for social services, community learning and libraries for the purpose of the Planning Act for the area in which the Site is situated and entitled to enforce the obligations of this Agreement for which it (the County Council) is a beneficiary.
- (D) EUFC is the freehold owner of the Ebbsfleet United FC Land registered at the Land Registry under Title Number K829241 which forms part of the Site.
- (E) NP1P is the freehold owner of land known as Unit 1, 13 & 14 Ebbsfleet Business Park, Stonebridge Road, Northfleet, Kent DA11 9DZ registered at the Land Registry under Title Numbers K627840, K639790, K761377 and K899525 which forms part of the Site and the transfer of that land to NP1P is pending registration at the Land Registry.
- (F) Faithdean is the beneficiary of charges dated 23 November 2020, 11 May 2021, 20 July 2021 and 23 January 2023 over the Ebbsfleet United FC Land registered at the Land Registry under Title Number K829241.
- (G) Vital is the beneficiary of a charge dated 6 August 2024 over land known as Unit 1, 13 & 14 Ebbsfleet Business Park, Stonebridge Road, Northfleet, Kent DA11 9DZ registered at the

¹ Recitals to be confirmed once updated title report and information has been provided to GBC for review.

Land Registry under Title Numbers K627840, K639790, K761377 and K899525 which is pending registration at the Land Registry.

- (H) The Planning Application was submitted by Northfleet Central 1 Ltd to the Council for planning permission for the Development.
- (I) The Council resolved on 30 April 2024 to grant planning permission for the Development subject to the completion of this Agreement.
- (J) On 7 February 2025 the Secretary of State called-in the Application for her own determination under her powers contained in section 77 of the Planning Act.
- (K) The Owner (so as to bind their current interests in the Site and such further interests in the Site or any part thereof as shall be acquired by them after the date of this Agreement) have agreed to enter into this Agreement in support of the Planning Application so as to create planning obligations pursuant to Section 106 of the Planning Act and to be bound by and observe and perform the covenants hereinafter contained.
- (L) The Remaining Land Interest Holders also own interests within the Site but are not party to this Agreement. Pursuant to a Condition of the Planning Permission no Development may be undertaken on the Remaining Land (or part thereof) until a Confirmatory Deed has been entered into in respect of the Remaining Land (or relevant part thereof) securing compliance with the terms of this Agreement.

Agreed terms

1 Definitions and interpretation

- 1.1 In this Agreement (including the recitals and Schedules) the following terms have the following meanings unless inconsistent with the context:

Bond means a bond or bonds from the National House Building Council or a reputable Surety satisfactory to the Council substantially in the form attached to this Agreement at Appendix 7 and Appendix 8 required in accordance with the terms of this Agreement and the term Replacement Bond shall be interpreted in accordance with the meaning of clause 8.1.1 of this Agreement;

Boulevard Neighbourhood means the neighbourhood forming part of the Development within the area shown for illustrative purposes shaded in blue and labelled 'Boulevard Neighbourhood' on the Neighbourhoods Plan;

Chargees means together:

- (a) The Council (in its capacity as chargee over the Ebbsfleet United FC Land);
- (b) Faithdean; and
- (c) Vital;

Condition means a condition of the Planning Permission, and where followed by a number is a reference to the condition bearing that number within the Draft Conditions Schedule;

Commencement Date means the date on which the Commencement of Development occurs;

Commencement of Development means commencement of the Development on the Site (or such part of the Development as may be specified) by the carrying out of a material operation forming part of the Development and within the meaning of section 56(4) of the Planning Act other than (for the purpose of this Agreement and for no other purpose) the carrying out of any:

- (a) works of demolition,
- (b) works of site clearance,
- (c) ground investigation and site survey works,
- (d) construction of boundary fencing or hoardings,
- (e) construction of temporary accesses,
- (f) archaeological investigation,
- (g) site decontamination or remediation works,
- (h) landscaping works,
- (i) laying or diversion of sewers and other services, or
- (j) creation of site compounds and noise attenuation works,

which shall not be deemed either individually or together to be the carrying out of a material operation and **Commence** and **Commencement** shall be construed accordingly;

Commercial Floorspace means the floorspace in the Development authorised, designed and constructed for Commercial Use, pursuant to the Planning Permission;

Commercial Units means a unit of Commercial Floorspace;

Commercial Use means Class E uses including retail (Use Class E(a)), food/beverage and drinking establishments (Use Class E(b)), local services (Use Class E(c)), indoor sport/recreation/fitness (Use Class E(d)), healthcare (Use Class E(e)), creche/nursery uses (Use Class E(f)), office floorspace (Use Class E(g)(i)), multi-use stadium with associated business and leisure facilities (sui generis) and hotel use (Use Class C1) pursuant to the Town and Country Planning (Use Classes) Order 1987;

Confirmatory Deed means a confirmatory deed of agreement to be entered into under sections 106 and 106A of the Planning Act, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 substantially in the form appended at Appendix 4 of this Agreement for the purposes of confirming that the relevant obligations, covenants and undertakings in this Agreement shall be binding on the Remaining Land (or relevant part or parts thereof);

Contributions means the financial contributions set out in Schedule 3 but excluding the Leisure Services Contribution;

Council's Costs means the Council's proper and reasonable legal and administrative costs incurred in the preparation, execution and registration of this Agreement;

County Council's Costs means a contribution to the County Council's proper and reasonable legal and administrative costs in the preparation execution and registration of this Agreement;

County Council Obligation means those obligations of the Owner benefitting the County Council set out in Part 2 of Schedule 3 and Schedules 9, 10, 12 and 13;

Decision Letter means the decision letter issued by the Inspector or the Secretary of State confirming whether or not the Planning Permission is granted;

Development means the development of the Site for a phased mixed-use redevelopment including the demolition of existing buildings and structures including site preparation/remediation works, and the development of residential units (Use Class C3), Class E uses including floorspace for retail (Use Class E(a)), food/beverage and drinking establishments (Use Class E(b)), local services (Use Class E(c), indoor sport/recreation/fitness (use Class E(d)), healthcare (Use Class E(e)), creche/nursery uses (Use Class E(f)), office floorspace (Use Class E(g)(i)), a new multi-use stadium with associated business and leisure facilities (sui generis), hotel (Use Class C1), community uses floorspace (Use Class F2)). The phased redevelopment will include other sui generis uses, delivery of open space and significant realignment of the road network including the A226 Galley Hill Road / Stonebridge Road / Lower Road with hard / soft landscaping, car and cycle parking provisions, infrastructure works, and ancillary and associated works pursuant to the Planning Permission;

Dispute Resolution Procedure means the procedure referred to in clause [15] and set out in Schedule 16 of this Agreement;

Dwelling means a building or part of a building forming part of the Development designed for residential occupation by a single household constructed pursuant to the Planning Permission and the term **Dwellings** shall be interpreted accordingly;

Ebbfleet United FC Land means the freehold land registered at HM Land Registry under title number K829241 which forms part of the Site as shown for illustrative purposes shaded [] on Plan [3]² annexed to this Agreement at [Appendix 2];

General Counsel means the officer of the County Council from time to time holding that appointment or (if no officer holds that appointment) carrying out the duties of that appointment or such suitably qualified person as that officer may from time to time nominate;

Group Company means any connected person (as defined by section 1122 of the Corporation Tax Act 2010);

Hotel Floorspace means any floorspace constructed within the Development authorised for use by the Planning Permission as hotel accommodation;

Implementation of Development means the date upon which a material operation (as defined in section 56(4) of the Planning Act) is carried out on the Site or part thereof and the

² Plan to be provided to GBC and KCC for approval

terms **Implemented, Implement, Implementation** and **Implementation Date** shall be interpreted accordingly;

Independent Assessor means any suitably qualified surveyors or other suitably qualified professionals appointed for the purposes of this Agreement in order to ensure that:

- (a) the Open Space is provided in accordance with the Planning Permission, relevant Reserved Matters Approvals, the Approved Overarching Open Space Plan and relevant Sub-Phase Open Space Plans; or (as applicable)
- (b) the River Infrastructure Works are provided in accordance with the Planning Permission and any relevant Reserved Matters Approvals (as applicable); or (as applicable)
- (c) the Temporary Integrated Facility and Permanent Integrated Facility (as required) is provided in accordance with the Planning Permission and any relevant Reserved Matters Approvals (as applicable);

Indexation means the increase of any sum in accordance with clause 17 and **Index Linked** shall be construed accordingly;

Inflation Index means:

- (d) for the purposes of the Contributions payable to the Council and the Benchmark Land Value, the RPI All Items index published by the Office for National Statistics;
- (e) for the purposes of the Leisure Services Contribution **[and the NHS Contribution]**, the all items index figure of the General Building Cost Index as published by the Building Cost Information Service on behalf of the Royal Institution of Chartered Surveyors;
- (f) for the purposes of the Contributions payable to the County Council means the All-In Tender Price Index from Q1 2022 or such other index as the County Council may reasonably nominate in the event that the All-In Tender Price Index shall no longer be published or its name or methodology be materially altered; and

or if any index set out above ceases for any reason to be published in the United Kingdom, such other index issued or caused to be issued from time to time by the appropriate body and as may commonly be used in place of that index;

KCC Monitoring Fee means the fee of £300 (three hundred pounds) per Contribution which is payable to the County Council for the proper and reasonable costs of monitoring compliance with the obligations and requirements contained in this Agreement and to be paid in accordance with clause **[17.4.1]**;

Leasehold Interest means a leasehold interest subsisting at the date of this Agreement and affecting the Site or any part of it (but only to the extent the premises demised by the

relevant lease form a part of the Site) with the exception of any such leasehold interests that are bound pursuant to any Confirmatory Deed³;

Management Company means any private limited company to be established or procured by the Owner (and registered at Companies House) pursuant to the obligations within this Agreement for the purpose of which will be (amongst other things) to manage and maintain the Open Space and the River Infrastructure Works;

Market Dwelling means a Dwelling which is not an Affordable Housing Unit (as defined in Schedule 1) and the term **Market Dwellings** shall be interpreted accordingly;

Marketplace Neighbourhood means the neighbourhood forming part of the Development within the area shown for illustrative purposes shaded red and labelled 'Marketplace Neighbourhood' on the Neighbourhoods Plan;

Monitoring Officer Costs means the sum of £50,000 (fifty thousand pounds) being the agreed contribution to the Council's proper and reasonable costs in monitoring compliance with the obligations and requirements contained in this Agreement to be paid in accordance with clause 6.1.6;

Monitoring Officer Costs (Additional) means the annual payment of £6,000 (six thousand pounds) (Index Linked) to be applied towards the Council's proper and reasonable costs in monitoring compliance with the obligations and requirements contained in this Agreement to be paid in accordance with clause 6.1.7;

Neighbourhoods Plan means the Plan located at Appendix 2 to this Agreement with the title 'Neighbourhoods Plan' and with the reference NFH-CGL-MAST-DR-1018;

Notice means a notice in the form which is attached to this Agreement at Appendix 1;

NP1P Land means the freehold land registered at HM Land Registry under title numbers K627840, K639790, K761377 and K899525 which form part of the Site as shown for illustrative purposes shaded [] on Plan [3] annexed to this Agreement at [Appendix 2];

Occupation means physical occupation for the intended beneficial purposes permitted by the Planning Permission which for the avoidance of doubt does not include occupation for the purposes of construction, fitting-out, decoration, landscaping, marketing, commissioning, testing (including test events), sales or security of any part of the Development and **Occupy, Occupier, Occupiers and Occupied** shall be construed accordingly;

Owner means EUFC and NP1P;

Owners Land means the Ebbsfleet United FC Land and the NP1P Land;

Parkland Neighbourhood means the neighbourhood forming part of the Development within the area shown for illustrative purposes shaded orange and labelled 'Parkland Neighbourhood' on the Neighbourhoods Plan;

³ List of leaseholders to be inserted into the agreement and details of the leasehold interests need to be provided to GBC and KCC for review

Payment Date means each date upon which an event occurs by which the payment of any Contribution by the Owner is required to have been made under this Agreement;

Phase means a phase of the Development as shown on the Phasing Plan;

Phasing Plan means the site-wide phasing plan submitted from time to time pursuant to the conditions of the Planning Permission which shall show the Phases, Sub-Phases and Plots of the Development;

Plan means a plan marked and annexed to this Agreement at Appendix 2 and, where followed by a number, is a reference to a plan bearing that number;

Planning Act means the Town and Country Planning Act 1990;

Planning Application means the application for outline planning permission for the Development with all matters reserved save for the primary means of access and road layout submitted by the Developer to the Council and allocated reference 20221064;

Planning Permission means the planning permission for the Development to be granted by the Secretary of State pursuant to the Planning Application;

Plot means any area of land in respect of which a particular building or group of buildings is to be constructed as defined in the relevant RMA for that area of land in relation to the remainder of the Development as identified on the Phasing Plan;

Practical Completion means the issue of a certificate of practical completion of the Development or such part as may be specified by the Owner's architect or other relevant competent professional, or in the event that the Development (or relevant part) is constructed by a party other than the Owner, the issue of a certificate of practical completion by that other party's architect or other relevant competent professional and the term **Practically Complete** shall be construed accordingly;

Remaining Land means the land within the Site which is not bound by and subject to the obligations, covenants and undertakings in this Agreement as at the date of this Agreement;

Remaining Land Interest Holders means the owners of the interests in the Remaining Land at the date of this Agreement;

Reserved Matters has the same meaning as is given to that term in the Town and Country Planning (Development Management Procedure) (England) Order 2015;

Reserved Matters Application means an application for the approval of any one or more Reserved Matters;

Reserved Matters Approval means an approval of a Reserved Matters Application and the term "RMA" shall be construed accordingly;

Reserved Matters Development means Reserved Matters Development (Commercial) and Reserved Matters Development (Residential) and each of them as the context may require;

Reserved Matters Development (Commercial) means a part of the Development that is the subject of a Reserved Matters Application and/or (as applicable) approved pursuant to a Reserved Matters Approval and which comprises Commercial Floorspace;

Reserved Matters Development (Residential) means a part of the Development that is the subject of a Reserved Matters Application and/or (as applicable) a Reserved Matters Approval and which comprises Dwellings;

Riverside Neighbourhood means the neighbourhood forming part of the Development within the area shown for shaded green and labelled 'Riverside Neighbourhood' on the Neighbourhoods Plan;

Schedule means any one or all of the schedules annexed to this Agreement;

Secretary of State means the Secretary of State for Housing, Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers conferred on the Secretary of State for Housing, Communities and Local Government under section 77 of the Planning Act and includes any successor function;;

Section 73 Consent means a planning permission granted pursuant to an application made under section 73 or (where brought into force) section 73B of the Planning Act to vary the Planning Permission;

Site means the land known as Northfleet Harbourside, land surrounding Ebbsfleet United Football Club, Stonebridge Road, Northfleet as shown edged red on the Site Plan;

Site Plan means the Plan located at Appendix 2 to this Agreement with the title 'Location Plan' and with the reference NFH-UNS-MAST-DR-1003;

Stadium means the new multi-use stadium to be provided as part of the Development;

Stadium Neighbourhood means the neighbourhood forming part of the Development within the area shown for illustrative purposes shaded pink and labelled 'Stadium Neighbourhood' on the Neighbourhoods Plan;

Statutory Undertaker has the meaning given to such term in the Planning Act and for the avoidance of doubt, shall include any public gas transporter water or sewerage undertaker electricity supplier or public telecommunications operator;

Sub-Phase means any one of the five neighbourhoods (being the Boulevard Neighbourhood, the Marketplace Neighbourhood, the Parkland Neighbourhood, the Riverside Neighbourhood and the Stadium Neighbourhood) forming part of the Development and the term **Sub-Phases** shall be interpreted accordingly; and

Working Day means any day excluding any Saturday or Sunday or any bank or public holiday.

- 1.2 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 or the County Council to the body or bodies (as appropriate) having statutory responsibility for the relevant function in replacement for the Council or the County Council.

- 1.3 In the absence of any contrary provision any reference to a statute shall include any statutory extension modification or re-enactment of it and any statutory instrument, direction, order, regulation or byelaw made or issued under the statute or deriving validity from it.
- 1.4 Words importing the masculine gender shall include the feminine gender and the neuter and vice versa.
- 1.5 Words importing persons include companies, partnerships and corporations and vice versa.
- 1.6 Unless the context otherwise requires words importing the singular shall include the plural and vice versa.
- 1.7 Headings are for ease of reference only and shall not be construed as part of this Agreement.
- 1.8 Reference to any recital, clause, Schedule or paragraph or any part thereof shall unless the context otherwise requires be reference to any recital, clause, Schedule or paragraph or any part thereof in this Agreement.
- 1.9 Wherever a party includes more than one person named as a party or where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and severally or against each individually subject to clause 4.1.
- 1.10 Any covenant by a party to this Agreement not to do an act or thing shall be deemed to include an obligation not to permit or knowingly suffer such act or thing to be done by any other person.
- 1.11 Any reference to a plan, strategy or other document that is to be submitted to and approved by the Council in accordance with this Agreement shall include a reference to any amendment or update to that plan, strategy or document as may be agreed by the Council in writing from time to time.

2 Statutory provisions

- 2.1 This Agreement is made pursuant to section 106 of the Planning Act and all other enabling powers.
- 2.2 To the extent they fall within the terms of section 106 of the Planning Act, the covenants, restrictions and obligations imposed on the Owner contained in this Agreement are all planning obligations for the purposes of section 106 of the Planning Act and are given with the intent that they bind the Owner's interests in the Site as at the date of the Agreement.
- 2.3 To the extent only that any of the obligations contained in this Agreement are not planning obligations within the terms of section 106 of the Planning Act, they are entered into and enforceable by the Council and (in respect of the County Council Obligations) the County Council pursuant to the powers contained in section 111 Local Government Act 1972, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 1 of the Localism Act 2011 and all other enabling powers.
- 2.4 The Parties to this Agreement are satisfied subject to Clause 3 that the planning obligations contained in this Agreement are necessary to make the development acceptable in planning terms, are directly related to the Development and fairly and reasonably related in scale and

kind to the Development and thus satisfy the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

- 2.5 Subject to clause 2.6 below the covenants, restrictions and obligations contained in this Agreement are enforceable by the Council and (in respect of the County Council Obligations) the County Council against the Owner and for the avoidance of doubt the Council and the County Council shall be entitled to enforce any of the covenants, restrictions and obligations given by the Owner against any of its successors in title and assigns in respect of such covenants, obligations and restrictions which relate to the interest or estate for the time being held by that person.
- 2.6 [To the extent that the Council should come into possession of the Ebbsfleet United FC Land pursuant to its registered charge over that land it is agreed that the County Council shall be the enforcing authority in respect of the covenants, restrictions and obligations contained in this Agreement against the Owner of the Ebbsfleet United FC Land that relate to the Ebbsfleet United FC Land until such time as the Council is no longer in possession of that land and in those circumstances this Agreement shall be read in relation to the Council on the basis that all references to the Council are replaced with reference to the County Council.]⁴
- 2.7 The Parties agree the need for the planning obligations contained in this Agreement both for the benefit of the Development and in the interest of proper planning of the area.
- 2.8 Unless otherwise agreed with the Council and the County Council, the Owner covenants with the Council and County Council:
- 2.8.1 not to Implement or permit Implementation of any part of the Development until:
- (a) all Leasehold Interest have been surrendered or terminated and written notice of such surrender/termination (as applicable) has been provided to the Council and the County Council and the Owner has provided reasonable evidence of vacant possession to the Council and the County Council; or
 - (b) the tenant of the relevant Leasehold Interest has entered into an agreement with the Council and the County Council pursuant to section 106 of the Planning Act binding the Leasehold Interest on the same terms as (mutatis mutandis) as this Agreement;
- 2.8.2 not to amend vary or renew the Leasehold Interests in a manner that would allow any tenant to carry out the Development without first procuring that they enter into an agreement with the Council certifying that they will comply with the obligations of the Owner as set out in this Agreement;
- 2.8.3 if a tenant of a Leasehold Interest or any other person(s) other than the Owner Implements or carries out or procures Implementation of Development, then the Owner shall be liable to observe and perform the covenants obligations and duties contained in this Agreement;

⁴ KCC are undertaking their internal processes to confirming that they will be the enforcing authority in these circumstances.

- 2.8.4 if a tenant of a Leasehold Interest or any other person(s) other than the Owner Implements or carries out or procures Implementation of Development then the Owner shall use all reasonable endeavours to prevent any further works pursuant to the Development being carried out and shall ensure that the tenant or person(s) responsible for carrying out or procuring the Implementation shall promptly and permanently be removed from the Site; and
- 2.8.5 in the event of non-compliance with any part of this clause 2.8, the Owner shall upon notice from the Council forthwith take any steps reasonably required by the Council to remedy such non-compliance.⁵

3 **Conditionality**

- 3.1 With the exception of this Clause 3 and Clauses 1, 2, 4, 5, 6.1.2, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.2 and 7 - 26 inclusive (which take effect immediately on the date of this Agreement) and subject to the remaining provisions of this Clause 3 the covenants contained in this Agreement are conditional on:
- 3.1.1 the grant of Planning Permission by the Secretary of State's Decision Letter; and
- 3.1.2 on the Commencement of Development (save in respect of any obligations in this Agreement requiring compliance prior to the Commencement of the Development).
- 3.2 Each planning obligation in this Agreement is also conditional upon the Secretary of State being satisfied that it complies in all respects with regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and in the event that the Secretary of State expressly states in their Decision Letter that any individual planning obligation (or any part of an obligation) contained within this Agreement is not compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), or should otherwise not carry weight in the determination of the Application, then that planning obligation (or any part of an obligation) or those planning obligations so identified by the Secretary of State will cease to have effect and shall be void for the purposes of this Agreement and the parties shall be under no obligation to comply with the obligation or obligations PROVIDED ALWAYS THAT the remaining provisions of this Agreement (if any) shall remain legally effective and binding.
- 3.3 For the avoidance of doubt, none of the planning obligations in this Agreement shall be legally effective and binding on the Parties if the Secretary of State refuses Planning Permission.
- 3.4 In the event that the Secretary of State imposes a condition on the Planning Permission as a replacement for one or more of the obligations in this Agreement, and this is specified within the Decision Letter, then the said provisions of this Agreement shall thereafter have no legal effect to the extent determined by the Secretary of State in her decision.

⁵ This clause is subject to GBC and KCC receiving information in respect of the relevant Leasehold Interests and being satisfied that no such parties need to be joined to the s106 agreement

4 Enforceability of obligations

- 4.1 The obligations in this Agreement and the Schedules shall be enforceable against the Owner (including, for the avoidance of doubt, all owners from time to time of the Site or part thereof who shall be jointly and severally liable for the performance of the obligations) save for those obligations noted in Schedule 17⁶ which specifically relate to a Phase, Sub-Phase or Plot and which shall only be enforceable against all persons who hold any interest or estate in the relevant Sub-Phase, Phase or Plot to which the obligations relate.
- 4.2 The provisions contained in the Schedules to this Agreement shall not bind nor be enforceable against the following:
- 4.2.1 any Statutory Undertaker which acquires an interest in the Site for the sole purpose of undertaking its statutory functions;
 - 4.2.2 any bona fide owner, occupiers or tenants of a sole individual Dwelling and their mortgagees or chargees and their successors in title save for the obligations and restrictions on the use and Occupation of the Dwellings contained within this Agreement and Schedules; and
 - 4.2.3 any bona fide owner, occupiers or tenants of a sole individual Commercial Unit (save for the owner of the Stadium) and their mortgagees or chargees of the Commercial Units and their successors in title save for the obligations and restrictions on the use and Occupation of the Commercial Units contained within this Agreement and the Schedules. .

5 Charges

- 5.1 The Chargees acknowledge and declare that:
- 5.1.1 This Agreement has been entered into by the Owner with the Chargees' consent;
 - 5.1.2 The Site shall be bound by the obligations in this Agreement;
 - 5.1.3 The security of the Chargees over the Site shall take effect subject to this Agreement; and
 - 5.1.4 The Chargees shall have no liability under this Agreement unless and until such Chargees are a mortgagee in possession of the whole or part 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.
- 5.2 The Parties agree that any future mortgagee or chargee of the Site or any part of it shall have no liability under this Agreement unless and until such future mortgagee or chargee is a mortgagee in possession of the whole or part of the Site in which case it will be bound by the obligations as if it were a person deriving title from the Owner.

⁶ Schedule 17 is to be populated and an updated draft with this information will be issued in due course.

6 The Owner's covenants

6.1 The Owner hereby covenants as follows with the Council and the County Council so as to bind its interests in the Site at the date of this Agreement:

- 6.1.1 to observe the restrictions and perform their obligations set out in this Agreement, including the Schedules to this Agreement;
- 6.1.2 not to encumber or otherwise deal with the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out;
- 6.1.3 immediately upon the Owner (or any Group Company of the Owner) acquiring a freehold or leasehold interest in any part of the Remaining Land to:
 - (a) notify the Council and the County Council of such transaction;
 - (b) enter into a Confirmatory Deed with the Council and the County Council (together with any other parties with an interest as may so be required by the Council and/or the County Council) in respect of the relevant Remaining Land; and
 - (c) pay the Council and the County Council's reasonable and proper administrative and legal costs in connection with the negotiation and completion of each Confirmatory Deed;
- 6.1.4 not to Commence or permit or cause or suffer Commencement in respect of a part of the Remaining Land unless and until the Owner (or other Group Company of the Owner) has acquired a freehold or leasehold interest in such relevant part of the Remaining Land and has entered into a Confirmatory Deed binding all relevant interests in the relevant part of the Remaining Land as may so be required by the Council and/or the County Council;
- 6.1.5 to pay the Council's Costs and the County Council's Costs on completion of this Agreement;
- 6.1.6 to pay to the Council 50% of the Monitoring Officer Costs 21 (twenty-one) days following the grant of Planning Permission and the remaining 50% of the Monitoring Officer Costs on or prior to Implementation of Development;
- 6.1.7 if there is a requirement for the discharge of obligations by the Owner after a period of 10 (ten) years from the date of this Agreement such that all obligations which require the Council's approval have not been discharged, to pay to the Council the Monitoring Officer Costs (Additional) on an annual basis until such time that all obligations which require the Council's approval have been discharged; and
- 6.1.8 to pay to the County Council the KCC Monitoring Fee on or prior to the Implementation of Development.

6.2 The Owner further covenants to serve a Notice on the Council in relation to and in accordance with each of the following provisions in respect of each Sub-Phase and Plot of the Development:

- 6.2.1 at least 20 (twenty) Working Days before the Commencement of the Sub-Phase or Plot in question to serve notice of the proposed occurrence of the same;
- 6.2.2 within 10 (ten) Working Days of the Commencement of the Sub-Phase or Plot in question to serve notice of the actual Commencement of that Sub-Phase or Plot;
- 6.2.3 at least 20 (twenty) Working Days before first Occupation of the Sub-Phase or Plot in question to serve notice of the proposed occurrence of the same;
- 6.2.4 within 10 (ten) Working Days of the first Occupation of the Sub-Phase or Plot in question to serve notice of the actual Commencement of that Sub-Phase or Plot;
- 6.2.5 within 10 (ten) Working Days of the occurrence of a Payment Date to serve notice of the date of the relevant Payment Date together with confirmation of whether the relevant Contribution(s) has been paid to the Council;⁷ and
- 6.2.6 to retain such records and information and within 10 (ten) Working Days of receipt of a written request by the Council to provide the Council with such records and information as the Council may reasonably request to enable the Council to satisfy itself (acting reasonably) that the Owner is complying with all of its obligations under this Agreement PROVIDED THAT no more than 2 requests may be made within any 12 month period.

6.3 Nothing in this Agreement shall require the Owner to provide any information to the Council which would breach or which would properly be information which is exempted from disclosure pursuant to any data protection legislation.

7 The Council and the County Council's covenants

7.1 The Council and the Country Council covenant with the Owner to observe and perform the obligations set out in this Agreement on their respective parts, including the Schedules to this Agreement at the times and in the manner prescribed.

7.2 The Council and the County Council shall use the Contributions paid to them only for the purposes for which they are paid AND FOR THE AVOIDANCE OF DOUBT if the Council or the County Council forward-funds any project facility infrastructure or other expenditure from its own resources and/ or enters into a commitment to a third party to repay any similar forward-funding provided by that third party (whether in cash and/or in kind) in anticipation of receipt of any relevant contribution or payment under the provisions of this Agreement then on such receipt the Council or the County Council (as applicable) may credit such contribution or payment (including any indexation element and/ or interest received thereon) to its own resources and/ or repay such third party accordingly and in either case the receipt shall be treated as being immediately expended by the Council or the County Council (as applicable) for the purpose for which the forward-funding was expended.

⁷ Other notice requirements to be inserted to reflect all relevant trigger points within the agreement

- 7.3 The Parties agree that the approval or consent of the County Council for any modification or variation of this Agreement shall only be required in respect of any modification or variation of a County Council Obligation.

8 Liability for breach

- 8.1 No person shall be liable for a breach of a covenant contained in this Agreement in relation to any part of the Site in which they no longer have an interest (but without prejudice to the liability of such person for any subsisting breach of covenant prior to its parting with such interest) provided always that:

8.1.1 if a person has parted with their interest in part of the Site but remains an Owner of another part or parts of the Site then such person shall remain jointly and severally liable for the obligations contained in this Agreement save for those obligations noted in Schedule 17 which specifically relate to a Phase, Sub-Phase or Plot and which shall only be enforceable against all persons who hold any interest or estate in the relevant Sub-Phase, Phase or Plot to which the obligations relate; and

8.1.2 if the Owner has provided a Bond pursuant to the terms of this Agreement the relevant Owner shall remain liable for the provision of such Bond and compliance therewith and the relevant obligations within this Agreement referred to within the Bond after he has parted with the whole of his interest in the Site unless and until a Replacement Bond is delivered to the Council at without expense to the Council guaranteeing the performance by a successor in title of the Owner of those provisions and the provisions of this clause 8.1.1 shall apply (mutatis mutandis) to such successor in title and their successors (whether mediate or immediate).

- 8.2 Subject to compliance with clause 8.1.1, the Council shall within 20 (twenty) Working Days of receipt of a written request fully release and discharge an Owner from all remaining liability under the respective Bond or Replacement Bond as relevant save in respect of any subsisting breach arising prior to parting with their interest in the Site and the provisions of this clause 8 shall apply mutatis mutandis to such successor in title and his successors (whether mediate or immediate).

9 Revocation, modification or expiry of the Planning Permission

- 9.1 This Agreement shall determine and cease to have any further effect if the Planning Permission is quashed, or revoked or is otherwise withdrawn by the Council pursuant to the Planning Act or by any Court or if the Planning Permission expires before the Implementation Date.

- 9.2 This Agreement shall also determine if the Planning Permission is modified without the consent of the Owner (and for the avoidance of doubt the consent of any person who is within the definition of the Owner for the purposes of this Agreement shall constitute the consent of the Owner and the Council shall not be required to obtain the consent of all persons who comprise the Owner).

10 Notices

- 10.1 Any Notice required under clause [6.2] shall be in the form attached to this Agreement at **[Appendix 1]** and shall be deemed to be served if sent electronically to the address provided

on the Notice or if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the Council or the County Council provided on the Notice.

10.2 Any other notice, consent or approval to be given under this Agreement shall be in writing and shall be deemed to be served if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the relevant party as described at "Parties" or such other address as shall have been notified in writing to the party giving the notice, consent or approval, provided that:

10.2.1 in the case of notice or other written communication to the Council two notices must be served, one to the Director (Planning and Development) with reference 20221064 quoted and one addressed to the New Homes Development and Strategy Manager. Both notices must be addressed to the Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU; and

10.2.2 in the case of notice or other written communication to the County Council marked for the attention of the Office of General counsel quoting reference 20220164 and by email with reference 20221064 quoted to developer.contributions@kent.gov.uk.

11 Approvals

Where any approval, consent, direction, action or authority is required to be given by any of the parties hereto such approval, consent, direction, action or authority shall not be unreasonably delayed or withheld and shall only be effective if given for the purposes of this Agreement.

12 Severance

If any provision in this Agreement shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be deemed thereby to be affected or impaired.

13 Waiver by the Council and/or the County Council

No waiver (whether express or implied) by the Council or the County Council of any breach or default by another party in performing or observing any of the terms and conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the said terms or conditions which they are entitled to enforce or from acting upon any subsequent breach or default in respect thereto by that party.

14 Registration as a local land charge

This Agreement is a local land charge and shall be registered as such by the Council in the Register of Local Land Charges for the purposes of the Local Land Charges Act 1975 against the Ebbsfleet United FC Land and the NP1P Land.

15 Dispute Resolution

15.1 Any dispute between the parties regarding the terms of this Agreement may be referred to an expert under the Dispute Resolution Procedure.

15.2 The decision of any expert appointed under the Dispute Resolution Procedure shall be final and binding on all of the parties to the dispute except in the case of fraud or manifest error.

16 Overdue payment

16.1 Payments required to be made under the terms of this Agreement shall be paid by the Owner no later than the latest date by which the sum is payable as specified in the relevant clause or paragraph of this Agreement (the **Due Date**).

16.2 In the event that any sum due under this Agreement is paid later than the relevant Due Date, interest shall be payable on the amount payable at the rate of 4% (four percent) above the National Westminster Bank plc base lending rate from time to time in force from the Due Date to the date of actual payment.

17 Indexation and VAT

17.1 Any sums which become payable under this Agreement and which are specified as being 'Index Linked', shall be subject to Indexation (except where the Inflation Index figure at the due date is less than the Inflation Index at the Base Date) and for the avoidance of doubt where any sums are required to be paid in instalments, each instalment shall be subject to Indexation rather than the entirety of the total sum.

17.2 Where a sum is subject to Indexation pursuant to clause 17.1, the actual sum due (**the Indexed Sum**) shall be calculated in accordance with the following formula:

$$\text{Indexed Sum} = \text{Initial Sum} \times \frac{\text{Inflation Index at Due Date}}{\text{Inflation Index at Base Date}}$$

where:

- (a) the **Initial Sum** is the original sum specified in this Agreement; and
- (b) the **Base Date** (unless expressly stated otherwise elsewhere in this Agreement) is March 2024;

PROVIDED THAT where payment is not made on the Due Date the provisions of clause [16] will have effect in relation to the Indexed Sum.

17.3 All sums due under this Agreement are exclusive of VAT and the Owner shall pay to the Council in addition to any such sums any VAT properly payable in respect thereof to the extent that VAT had not been previously charged in respect of that payment and following the receipt of a valid VAT invoice.

18 No fettering of discretion

Except in so far as is legally or equitably permitted nothing in this Agreement shall fetter, prejudice or affect the exercise of any statutory or regulatory power duty or discretion of the Council.

19 Variation

No variation or modification of this Agreement shall be valid unless made by Agreement and executed by the Parties or their respective successors.

20 **Section 73 Consents**

20.1 In the event any Section 73 Consent is granted in relation to the Planning Permission (or a Section 73 Consent where the originating planning permission is the Planning Permission) after the date of this Agreement:

20.1.1 the obligations in this Agreement shall relate to and bind such Section 73 Consent without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to sections 106 or 106A of the Planning Act; and

20.1.2 the definitions of Planning Application, Planning Permission and Development shall be construed to include reference to the planning application for the Section 73 application, the Section 73 Consent itself and the development permitted by the Section 73 Consent respectively.

PROVIDED THAT:

20.1.3 nothing in this clause 20 shall fetter the discretion of the Council in determining the planning application for the Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same;

20.1.4 to the extent that any of the obligations in this Agreement have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent; and

20.1.5 the parties acknowledge that the Council has the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any Section 73 Consent if the Council (acting reasonably) considers it necessary to do so.

21 **Contracts (Rights of Third Parties) Act 1999**

This Agreement is not intended to confer any rights or benefit on a third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

22 **Planning Permission**

Nothing in this Agreement is or amounts to or shall be construed as a planning permission or approval.

23 **Change in ownership**

Otherwise than in relation to transfers to Statutory Undertakers for the sole purpose of undertaking its statutory functions or transfers or leases of an individual Dwelling or Commercial Unit, the Owner shall give to the Council within one month of the Owner disposing of any part of the Site written notice of the name and address of the person to whom the Site or any part has been transferred.

24 **Interests**

24.1 EUFC hereby warrants that, save for itself and the Council and Faithdean (in their capacity as Chargees), no other party has a material interest in the Ebbsfleet United FC Land.

24.2 NP1P hereby warrants that, save for itself and Vital (in its capacity as a Chargee) and the tenant of any Leasehold Interest⁸ no other party has a material interest in the NP1P Land.

25 **Jurisdiction**

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 laws of England and subject to the exclusive jurisdiction of the English Courts.

26 **Future development**

Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop the Site or any part of it in accordance with a planning permission (other than the Planning Permission) granted by the Council or by the relevant Secretary of State after the date of this Agreement.

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

⁸ Details to be provided for GBC and KCC review

Schedule 1

Housing

- 1 In this Schedule 1 and this Agreement unless the context requires otherwise, the following words and expressions shall have the following meanings:

Accessible Dwellings means:

- (a) All the Affordable Housing Units shall be constructed to meet the M4(2) (accessible and adaptable dwellings) requirements set out at Part M of Schedule 1 of the Building Regulations 2010 which shall be all Affordable Housing Units save for those which are constructed to meet M4(3) (wheelchair user dwellings) requirements set out at Part M of Schedule 1 of the Building Regulations 2010; and
- (b) The Market Dwellings constructed to meet the M4(2) (accessible and adaptable dwellings) requirements set out at Part M of Schedule 1 of the Building Regulations 2010 which shall be not less than 5% of the Dwellings for sale on the open market;

Accessible Dwellings Overarching Plan means a plan to demonstrate that an even spread of Accessible Dwellings will be secured across the Sub-Phases, and the term **Approved Accessible Dwellings Overarching Plan** shall be interpreted accordingly to mean the Accessible Dwellings Overarching Plan approved in writing by the Council pursuant to this Schedule 1 (and any subsequent amendment, update or replacement of such approved plan that may be approved in writing by the Council from time to time);

Accessible Dwellings Plot Plan means a plan confirming the number of Accessible Dwellings to be delivered as part of a Plot which is to contain Dwellings, such plan to include the following details in relation to the relevant Plot:

- (a) the proposed location of the Accessible Dwellings;
- (b) details of the layout and specification of the Accessible Dwellings; and
- (c) a proposed plan to market the Accessible Dwellings within that Plot to wheelchair users and other people in need of such Accessible Dwellings,

such plan to be in accordance with the Approved Accessible Dwellings Overarching Plan, and the term **Approved Accessible Dwellings Plot Plan** shall be interpreted accordingly to mean an Accessible Dwellings Plot Plan approved in writing by the Council pursuant to this Schedule 1 (and any subsequent amendment, update or replacement of such approved plan that may be approved in writing by the Council from time to time); and

Additional Affordable Housing Units means any Dwellings provided as Additional Affordable Housing;

Additional Affordable Housing means any additional Dwellings to be provided as Affordable Housing (in addition to the Affordable Housing Units) by the Owner pursuant to the outcome of and in accordance with one or more Viability Reviews and the Affordable Housing Programme (as may be updated from time to time) pursuant to Schedule 2;

Affordable Housing means Dwellings for sale or rent which shall be occupied as affordable housing in accordance with the definition set out in Annexe 2 of the National Planning Policy Framework (December 2024) (as shall be updated and replaced from time to time) (the **NPPF**) or as otherwise provided by legislation;

Affordable Housing Land means the part or parts of the Site as identified on the Approved Affordable Housing Plans on which the Affordable Housing Units (and, if applicable at the relevant time, the Additional Affordable Housing Units) are to be provided;

Affordable Housing Mix means the mix of the Affordable Housing Units (number of bedrooms) which across the entire Development shall be in accordance with the following:

- (a) 1 bedroom homes: 30% - 40%
- (b) 2 bedroom homes: 40% - 50%
- (c) 3 bedroom or more homes: 20% - 30% ;

Affordable Housing Plan means each of (as applicable in the context) the Overarching Affordable Housing Plan and the Sub-Phase Affordable Housing Plans and reference to an **Approved Affordable Housing Plan** shall be a reference to any Approved Overarching Affordable Housing Plan any relevant Approved Sub-Phase Affordable Housing Plan;

Affordable Housing Price means the sum payable to the Owner by a Registered Provider for the relevant Affordable Housing Units and/or Additional Affordable Housing Units which sum shall be calculated on the basis of the following assumptions:

- (a) the Transfer or lease of the Affordable Housing Land on which the Dwellings are being provided at nil cost;
- (b) the Owner having at their own cost:
 - i remediated the relevant land in accordance with all necessary consents and statutory requirements;
 - ii cleared and levelled the relevant Affordable Housing Land;
 - iii constructed the relevant Affordable Housing Units and/or Additional Affordable Housing Units;
 - iv provided the Affordable Housing Land on which those Dwellings are provided with all necessary services including gas, telecommunications, water, foul and surface water drainage, electricity, and access, so as to render the Affordable Housing Land fully serviced and accessible by vehicles and pedestrians and fit for use (once developed) for residential purposes and without requiring plant or equipment to provide services; and
- (c) the Registered Provider having paid for the build and fitting out costs of the relevant Affordable Housing Units and/or Additional Affordable Housing Units which are constructed on the relevant Affordable Housing Land prior to the Transfer or lease of the same to the Registered Provider;

Affordable Housing Units means the 10% (ten percent) of the proposed Dwellings (which, for indicative purposes, would equate to 350 Affordable Housing Units based on 3,500 Dwellings being constructed on the Site) to be provided as Affordable Housing in accordance with the Affordable Housing Mix, 100% (one hundred percent) of which shall be provided as Shared Ownership Housing (or such other tenure or tenures as shall be agreed in writing by the Council from time to time) and which shall be situated on the Affordable Housing Land as detailed in one or more Approved Affordable Housing Plans and which shall all be constructed to meet:

- (a) the Buildings Regulations 2010 (2015 Edition) Access to and use of Buildings Approved Document Part M4(2) Category 2 or any replacement thereof as may be agreed in writing by the Council; and
- (b) the Nationally Described Space Standards; and
- (c) to the extent they are not inconsistent with the Nationally Described Space Standards the Council's housing standards supplementary planning document adopted February 1996 as amended in June 2020 entitled '*Residential layout guidelines including the Housing Standards Policy Statement October 2015*' (including any amendments or variations thereto)

Affordable Rent Housing means Affordable Housing which is let by local authorities or Registered Providers to households who are eligible for Social Rent Housing and which shall be let at a rental level of 35% (thirty five percent) below the Local Market Rent (including any Service Charge where applicable) or Local Housing Allowance rates whichever is the lower and **Affordable Rent** shall be construed accordingly;

Approved Registered Provider means any of the following:

- (a) Abbeyfield;
- (b) Amicus Horizon (now part of Option);
- (c) Clarion Housing Group (including any connected Registered Provider);
- (d) Gravesend Churches Housing Association;
- (e) Hyde Housing Association;
- (f) London & Quadrant Housing Trust;
- (g) Moat;
- (h) Sage;
- (i) Sanctuary Housing; and
- (j) Town & Country Group,

and such other Registered Providers who may be confirmed by the Council to be an Approved registered Provider from time to time;

Disposal means sale, transfer, option, gift exchange, declaration of trust, assignment, lease and (a contract for any such disposal) and **Disposals**, **Dispose** and **Disposed of** shall be construed accordingly;

Choice Based Lettings means the scheme from time to time operated by the Council to all allow Eligible Households to select properties based on location and type of property, instead of automatically being allocated the next available property;

Eligible Households means:

- (a) in respect of any Affordable Rent Housing and Social Rent Housing, any Household who is in Local Housing Need and who is nominated by the Council from its Housing Needs Register in accordance with the Housing Allocation Policy through its Choice Based Lettings;
- (b) in respect of Shared Ownership Housing, means any Household:
 - i whose annual Household income does not exceed the Household Income Cap;
 - ii who cannot afford to buy housing generally within the Borough;
 - iii whose income and savings should be appropriate to the initial equity share in the Shared Ownership Housing Unit offered by the RPSH; and
 - iv which can be accommodated within a Shared Ownership Housing Unit of a size suitable to the Household in accordance with the Housing Allocation Policy.

Gravesham Lettings Policy means a policy (which may be adopted and amended from time to time) setting out the requirements of the nomination and allocation of the Shared Ownership Housing Units;

Homes England Capital Funding Guide means the guidance published by Homes England on 4 November 2016 as amended on 4 November 2024 (including any updates, variations thereto or replacement guidance)

Household means any person or persons living together as a single household;

Household Income Cap means annually a maximum Household income of £80,000 in accordance with Homes England Capital Funding Guide (or any replacement or update to the Homes England Capital Funding Guide);

Housing Allocation Policy means the Council's policy (as adopted from time to time) for allocating properties to persons on the Housing Needs Register;

Housing Needs Register means the register maintained by the Council or its nominee for Eligible Households;

Intermediate Housing means homes for sale or rent provided to Eligible Households at a cost above Social Rent but below markets levels subject to the criteria in the Affordable Housing definition above and which shall include shared equity (Shared Ownership and

equity loans) and other low cost homes for sale and **Intermediate Housing Units** shall be construed accordingly;

Local Connection means a person who:

- (a) currently lives or has lived in the Borough of Gravesham continuously for the preceding period of two years;
- (b) has previously been a member of a household that is currently living within the Borough of Gravesham and also has parents siblings or adult children that are currently resident within the Borough of Gravesham and have been for the preceding period of a minimum of ten years;
- (c) has lived in the Borough of Gravesham previously for a least five out of the preceding ten years; and/or
- (d) is permanently employed within the Borough of Gravesham or can demonstrate they will be taking up such employment;

Local Housing Allowance means the allowance used to assess housing benefit entitlement for people on a low income renting from a private landlord in the vicinity of the Development;

Local Housing Need means households who are in need of residential accommodation suitable for their needs as their sole or principal home otherwise unable to obtain such suitable accommodation within the Borough of Gravesham by reason of a lack of financial resources and whom it is reasonable to live in the locality or persons for the time being registered on the Council's maintained Housing Needs Register and/or other housing register maintained for the purpose of identifying Local Housing Need in accordance with the policies of the Council;

Local Market Rent means rent which is the local market rent for a property of a particular size and location, the rental value of which shall be determined in accordance with RICS "Red Book" approved valuation methodologies and assumptions;

Marketing Strategy means a strategy which sets out the proposed activities for marketing the Affordable Housing Units and/or Additional Affordable Housing Units which are Intermediate Housing to potential Occupiers and shall encompass at least the following:

- (a) details of how the Affordable Housing Units and/or Additional Affordable Housing Units which are Intermediate Housing will be marketed to Eligible Households with a Local Connection in accordance with this Schedule 1;
- (b) copies of any marketing brochures produced from time to time;
- (c) a schedule setting out the proposed timescales for the relevant Affordable Housing Units and/or Additional Affordable Housing Units which are Intermediate Housing to be marketed for first Occupation; and
- (e) confirmation that the Affordable Housing Units and/or Additional Affordable Housing Units which are Intermediate Housing will be

advertised through Homes England or on another recognised internet lettings listing or portal;

National Rent Regime means the national rent regime published by Homes England (or such other body as may replace Homes England, having responsibility for setting target rents for social housing) (as may be updated or re-published from time to time);

Nationally Described Space Standard means the standard set by the Government (from time to time) which deals with internal space within new dwellings, is suitable for application across all tenures and which sets out requirements for the gross internal (floor) area of new dwellings at a defined level of occupancy;

Neighbouring Boroughs means boroughs which physically border the Borough of Gravesham;

Nomination Agreement (Affordable Rent) means a nomination agreement for Affordable Rent Housing substantially in the form annexed hereto at Appendix [4], but subject to any amendments as may be agreed between the Council and the Registered Provider;

Nomination Agreement (Social Rent) means the nomination agreement for Social Rent Housing substantially in the form annexed hereto at Appendix [4] but subject to any amendments as may be agreed between the parties;

Overarching Affordable Housing Plan means a high level plan that sets out a strategy for the provision of the Affordable Housing Units (and, if applicable at the time of submission, any Additional Affordable Housing Units) across the entire Development, which shall accord with the requirements of this Schedule 1 and shall include the following:

- (a) the proposed total number of Dwellings which are proposed to be provided as part of the Development and the corresponding number of Affordable Housing Units (and Additional Affordable Housing Units if applicable) which are proposed to be provided as part of the Development;
- (b) the proposed quantum, general distribution and location of those Affordable Housing Units (and Additional Affordable Housing Units if applicable) within each of the Sub-Phases;
- (c) the proposed mix (by number of bedrooms of the Affordable Housing Units (in accordance with the Affordable Housing Mix) (and Additional Affordable Housing Units if applicable) and tenure of those units; and
- (d) a general description of the car parking spaces to be available to those Affordable Housing Units (and Additional Affordable Housing Units if applicable),

subject to such details complying with housing need within the Borough and the Council's policies from time to time (save that, for the avoidance of doubt, the tenure of the Affordable Housing Units shall not be subject to change as a consequence of having regard to those matters) and subject to any variations which may thereafter be agreed in writing by the Council pursuant to Schedule 2 as part of the Affordable Housing Programme (as defined therein) and the term **Approved Overarching Affordable Housing Plan** shall be construed

accordingly to mean the Overarching Affordable Housing Plan approved by the Council pursuant to this Schedule 1 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Registered Provider and **RPSH** means any of the following:

- (a) a body whose aim or function includes the provision and management of Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) and which are from time to time included in the list of registered providers of affordable housing under Chapter 3 of Part 2 of the Housing and Regeneration Act 2008 (the **2008 Act**) and with which the Council has a partnership agreement;
- (b) any other body regulated by Homes England as a registered provider of social housing within the meaning of the 2008 Act, which has been approved by the Council (such approval not to be unreasonably withheld or delayed); or
- (c) an approved development partner of Homes England eligible to obtain grant funding and accredited by Homes England, which has been approved by the Council (such approval not to be unreasonably withheld or delayed);
- (d) an Approved Registered Provider; or
- (e) the Council;

Service Charge means a service charge and/or any other fees or such like (where applicable) levied on and payable by the occupant of an Affordable Housing Unit (or Additional Affordable Housing Units) in respect of any general maintenance or services (including the maintenance and insurance of relevant buildings) provided to an Affordable Housing Unit on the Site;

Shared Ownership Housing means housing offered to Eligible Households by an RPSH to be occupied partly for rent and partly by way of owner occupation on shared ownership arrangements within the meaning of section 70(4) Housing and Regeneration Act 2008 (or any amended or replacement provision) whereby a shared ownership lessee is able to purchase a share of the equity at a minimum of 10% (ten percent) and a maximum of 75% (seventy five percent) initially (at the option of the buyer) and pay an annual rent of up to 3% (two point seven five percent) on the retained equity and has the right to carry out Staircasing and dispose of the unit on the open market;

Shared Ownership Housing Unit(s) means a Dwelling provided as Shared Ownership Housing;

Social Rent Housing means Affordable Housing which is managed by local authorities and Registered Providers and where the rent is no higher than Target Rents and **Social Rent** shall be construed accordingly;

Social Rent Housing Unit means a Dwelling provided as Social Rent Housing;

Staircasing means the purchase of additional equity in a Shared Ownership Unit or other Intermediate Housing Unit and **Staircased** shall be construed accordingly;

Sub-Phase Affordable Housing Plan means a plan for the provision of the Affordable Housing Units (and, if applicable at the time of submission, any Additional Affordable Housing Units required to be provided pursuant to one or more agreed Viability Reviews) within a Sub-Phase which is to contain Affordable Housing, which plan shall accord with the Approved Overarching Affordable Housing Plan (or any update to such plan as may have been submitted to the Council in accordance with the provisions of this Schedule 1), the requirements of this Schedule 1 and shall include the following:

- (a) the proposed location of those units within the relevant Sub-Phase;
- (b) the proposed Affordable Housing Mix for those units within the relevant Sub-Phase; and
 - i the tenure of those units (the different tenure types to be identified by different colouring on the relevant Sub-Phase Affordable Housing Plan);
 - ii floor plans and a schedule of floor areas of those units;
- (c) confirmation of the car parking spaces to be available to those units; and
- (d) the proposed Marketing Strategy for the Shared Ownership Housing Units within that Sub-Phase,

subject to such details complying with the Council's policies from time to time (save that, for the avoidance of doubt, the tenure of the Affordable Housing Units shall not be subject to change as a consequence of having regard to those matters))) and subject to any variations which may thereafter be agreed in writing by the Council pursuant to Schedule 2 as part of the Affordable Housing Programme (as defined therein) and the term **Approved Sub-Phase Affordable Housing Plan** shall be construed accordingly to mean the Sub-Phase Affordable Housing Plan approved by the Council pursuant to this Schedule 1 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

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

Transfer means the transfer of the freehold or grant of a lease for a term of at least 125 (one hundred and twenty-five) years unless otherwise agreed in writing with the Council and **Transferred** shall be construed accordingly.

2 Affordable Housing Delivery

The Owner hereby covenants with the Council as follows:

- 2.1 to submit the Overarching Affordable Housing Plan to the Council for its written approval prior to submission of the first Reserved Matters Applications seeking approval for any Dwellings;

- 2.2 not to Commence the Development unless and until the Overarching Affordable Housing Plan has been submitted to and approved in writing by the Council;
- 2.3 in relation to a Sub-Phase proposed to include Affordable Housing Units (and/or, if applicable at the time of submission, Additional Affordable Housing Units required to be provided pursuant to one or more agreed Viability Reviews which are proposed to be located in that Sub-Phase), to submit a Sub-Phase Affordable Housing Plan for that Sub-Phase to the Council for its written approval prior to submission of the first Reserved Matters Applications seeking approval for any Dwellings within that Sub-Phase;
- 2.4 not to Commence a Sub-Phase which contains any Dwellings ,unless and until the Sub-Phase Affordable Housing Plan for the relevant Sub-Phase has been submitted to and approved in writing by the Council (save that this paragraph [2.4] shall not apply in respect of any Sub-Phase which does not include Affordable Housing pursuant to the Approved Overarching Affordable Housing Plan);
- 2.5 with the submission of each Sub-Phase Affordable Housing Plan, to confirm in writing to the Council if changes are required to the Approved Overarching Affordable Housing Plan and, if the Council agrees that changes are required, to submit an updated Overarching Affordable Housing to the Council for its approval;
- 2.6 prior to Commencement of any Plot which contains Affordable Housing Units (and/or, if applicable, Additional Affordable Housing Units) the Owner will supply to the Council written notification of the names and addresses of the proposed Registered Providers for the provision of the Affordable Housing Units (and/or, if applicable, Additional Affordable Housing Units) within that Plot in accordance with the terms of this Agreement;
- 2.7 not to Commence or cause or permit the Commencement of any Plot which contains Affordable Housing Units (and/or, if applicable, Additional Affordable Housing Units) until the Council approves in writing the proposed Registered Provider(s) for the Affordable Housing Units within that Plot notified by the Owner to the Council pursuant to the foregoing paragraph (such approval not to be unreasonably withheld or delayed) SAVE THAT the Council's written approval is not required for any Approved Registered Provider and not to procure the Transfer of the Affordable Housing Units (and/or, if applicable, Additional Affordable Housing Units) to a Registered Provider other than that which is approved by the Council or an Approved Registered Provider;
- 2.8 to ensure that the Affordable Housing Units within any Plot which contains Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) are constructed and delivered in accordance with the Planning Permission, all applicable Reserved Matters Approvals and relevant Approved Affordable Housing Plans;
- 2.9 save as provided for in this Schedule 1, to not sell, let, Occupy or permit Occupation of the Affordable Housing Units (and Additional Affordable Housing Units if applicable) other than in accordance with the Planning Permission, all applicable Reserved Matters Approvals and relevant Approved Affordable Housing Plans;
- 2.10 to ensure that the Affordable Housing Units are provided as Shared Ownership Housing Units (unless the Council agrees that some or all of the Affordable Housing Units may be provided as a different tenure or tenures of Affordable Housing) and not to permit the Affordable Housing Units to be Occupied other than as Shared Ownership Housing Units for the lifetime of the Development subject to the provisions set out within this Schedule.

3 **Transfer and Disposal of the Affordable Housing Units**

The Owner hereby covenants with the Council as follows:

- 3.1 subject always to clauses 3.2 and 3.3, not to Occupy nor cause nor permit more than 50% (fifty percent) of the Market Dwellings in a Sub-Phase to be Occupied until:
 - 3.1.1 100% of the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) as identified in the relevant Approved Affordable Housing Plans for that Sub-Phase have been constructed and Practically Completed in accordance with the relevant Reserved Matters Approvals for that Sub-Phase and have been made ready for Occupation as Affordable Housing Units; and
 - 3.1.2 the Affordable Housing Land and the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) on that land within that Sub-Phase have been Transferred or Disposed of to a Registered Provider on the terms set out in this Agreement for the Affordable Housing Price;
- 3.2 not to cause or permit Occupation of more than eight hundred and seventy-four (874) Market Dwellings until 50% of the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units required to be provided at that time on the Site in accordance with the terms of this Agreement (including in accordance with the Overarching Affordable Housing Plan)) on the Site have been Practically Completed and are available for Occupation and the Owner has Transferred the freehold or leasehold interest in the Affordable Housing Units (and/or, if applicable, Additional Affordable Housing Units) to a Registered Provider;
- 3.3 not to cause or permit Occupation of more than one thousand seven hundred and fifty (1,750) Market Dwellings until 100% of the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units required to be provided at that time on the Site in accordance with the terms of this Agreement (including in accordance with the Overarching Affordable Housing Plan)) have been completed and are available for Occupation and the Owner has transferred the freehold or leasehold interest in the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) to a Registered Provider.
- 3.4 to procure that any Transfer or Disposal of the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) to the Registered Provider shall be with full title guarantee and with vacant possession;
- 3.5 to procure that any Transfer or Disposal of the Affordable Housing Land and/or the Affordable Housing Units includes a covenant that the Affordable Housing Land and the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) shall only be used in perpetuity for the purposes of Affordable Housing (subject always to the further provisions of paragraph [5] of this Schedule 1) and shall contain the following provisions and benefits (unless evidence is produced to the Council to its reasonable satisfaction that the Registered Provider has agreed otherwise and the Council agrees in writing to the omission):
 - 3.5.1 full and free rights of access (both pedestrian and vehicular) from the highway to the Affordable Housing Units;
 - 3.5.2 full and free rights to the passages of water, soil, electricity, gas and other services through the pipes, drains, channels, wires, cables and conduits which

shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Units all such services to be connected to the mains;

- 3.5.3 the Disposal shall be free of all financial charges and of any restrictive covenants or other third-party rights which would prevent the use of the Affordable Housing Land and/or the Affordable Housing Units for the purpose for which it is Transferred or Disposed of;
 - 3.5.4 a covenant by the Registered Provider not to use the Affordable Housing Land other than for the purposes of Affordable Housing (which covenant shall also be subject to the further provisions of paragraph [5] and this Schedule 1);
 - 3.5.5 a covenant by the Registered Provider that they will within 28 (twenty eight) Working Days of the Transfer or Disposal of any Social Rent Housing Units or Affordable Rent Housing enter into a Nomination Agreement (Social Rent) or Nomination Agreement (Affordable Rent Housing) (as applicable) in respect of the Affordable Housing Units to be delivered as Social Rent Housing or Affordable Rent Housing;
- 3.6 on each sale (including re-sale) of any Intermediate Housing which has not been subject to 100% Staircasing to advertise the Intermediate Housing to Eligible Households pursuant to the Approved Marketing Strategy and to make them available to Eligible Households with a Local Connection for a period of six weeks from the date that the relevant Intermediate Housing is first advertised;
- 3.7 if no suitable persons with a Local Connection have been identified within the said six week period, to advertise and make available the relevant Intermediate Housing for a further period of four weeks to Eligible Households in the Neighbouring Boroughs, after which the Intermediate Housing may be sold to any other Eligible Households regardless of whether or not they have a Local Connection or reside in Neighbouring Boroughs;
- 3.8 The initial Disposal of each Shared Ownership Housing Unit shall include the following terms:
- 3.8.1 The Disposal shall not involve the sale of an equity stake of less than 10% (ten percent) or more than 75% (seventy five percent); and
 - 3.8.2 The rent payable under the Shared Ownership Lease which shall be determined by the relevant Registered Provider shall not amount to more than 3% of the Market Value of the unsold equity of the relevant Shared Ownership Housing Unit.

4 Service Charge

- 4.1 The Owner shall ensure that any Service Charge is no more than a fair and reasonable proportion of the services provided by the Owner and is justifiable, fully explained and clearly described to relevant Registered Provider and occupants of an Affordable Housing Unit (and, if applicable, an Additional Affordable Housing Unit) who are also to be consulted but no more than once every 12 (twelve) months and such Service Charges shall not be increased annually by more than the cost to the Owner and the Owner shall take reasonable steps to ensure that Service Charges are kept as low as reasonably possible.

- 4.2 It is acknowledged and agreed by the Owner and the Council that the Service Charge for the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) will be calculated separately from that for the Market Dwellings and the owners and occupiers of the Market Dwellings will not be expected to subsidise the charges payable by the owners and occupiers of the Affordable Housing Units.

5 Enforceability

- 5.1 None of the provisions contained at paragraphs 1 – 4 of this Schedule 1 shall 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 of any part of the Affordable Housing Land or Affordable Housing Units (and, if applicable, Additional 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 Land and/or Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Housing Land and/or Affordable Housing Units (and, if applicable, Additional 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 principle monies, interest, costs and expenses; and

5.1.2 if such disposal has not been completed within the three (3) month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Land and/or Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) free from the provisions contained at paragraph 1 – 4 of this Schedule 1 of this Agreement which provisions shall determine absolutely in relation to those Affordable Housing Land and/or Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) only.

- 5.2 The provisions contained paragraph 1 – 4 of this Schedule 1 of this Agreement shall not bind nor be enforceable against the following:

5.2.1 any owner or tenant of an Affordable Housing Unit (and, if applicable, Additional Affordable Housing Units) who has exercised a statutory or equivalent right to acquire or right to buy or preserved right to buy;

5.2.2 any part or parts of the Affordable Housing Land and Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) which are disposed of in accordance with paragraph [5.1]; or

5.2.3 any Shared Ownership Housing Unit or other form of Intermediate Housing Unit where the tenant has Staircased up to 100% (one hundred percent) in accordance with the terms of a relevant lease or other arrangement.

6 Proceeds of Sale Arising from Sale of the Affordable Housing Units

6.1 Registered Providers of any Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) shall use reasonable endeavours to utilise any monies which arise from the sale of any Affordable Housing Unit (and, if applicable, Additional Affordable Housing Units) following the exercise of:

- 6.1.1 a tenant's right to buy; or
- 6.1.2 a tenant's right to acquire (including any share of their Affordable Housing Unit (and, if applicable, Additional Affordable Housing Units)); or
- 6.1.3 upon the sale of a share in a Shared Ownership Housing Unit following the exercise of Staircasing rights,

for other Affordable Housing projects within the Council's administrative area PROVIDED THAT the Registered Provider's primary obligation in relation to the use of any such funds shall be to satisfy its obligations to any mortgagee or chargee of the Affordable Housing Unit (and, if applicable, Additional Affordable Housing Units) which shall always take priority.

7 Miscellaneous provisions

7.1 The Owner covenants and undertakes that prior to Occupation of the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) within a Plot containing Affordable Housing Units (and, if applicable, Additional Affordable Housing Units):

- 7.1.1 public highways (if any) and public sewerage and drainage to serve the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) within that Plot shall be in place and shall meet all statutory requirements for such public sewerage and drainage;
- 7.1.2 private roads footways and footpaths (if any) to serve the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) within that Plot shall be in place and shall be constructed and completed to the satisfaction of the Council; and
- 7.1.3 private sewage and drainage pipes, channels and gutters and all mains water gas (if applicable) and electricity pipes and cables to serve the Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) within that Plot shall be in place and shall be constructed laid and completed,

to the satisfaction of the Council.

8 Delivery of Accessible Dwellings

8.1 The Owner covenants as follows with the Council:

- 8.1.1 prior to or on submission of the first Reserved Matters Application to contain Dwellings, to submit the Accessible Dwellings Overarching Plan to the Council for its written approval;
- 8.1.2 not to Commence or suffer Commencement of any Dwelling until the Council has approved in writing the Accessible Dwellings Overarching Plan;

- 8.1.3 prior to or on submission of the first Reserved Matters Application in respect of a Plot that will contain Accessible Dwellings, to submit the Accessible Dwellings Plot Plan for that Plot to the Council for its written approval;
- 8.1.4 not to Commence or suffer Commencement of a Plot containing Accessible Dwellings until the Council has approved in writing the Accessible Dwellings Plot Plan for that Plot;
- 8.1.5 prior to Occupation of 75% (seventy five percent) of the Dwellings in a Plot containing Accessible Dwellings, to construct and Practically Complete the Accessible Dwellings in that Plot in accordance with the Approved Accessible Dwellings Plans, the Planning Permission and applicable Reserved Matters Approval;
- 8.1.6 not to Occupy or cause or suffer Occupation of 75% (seventy five percent) of the Dwellings in a Plot containing Accessible Dwellings, until the Accessible Dwellings in that Plot have been constructed and Practically Completed in accordance with the Approved Accessible Dwellings Plans, the Planning Permission and applicable Reserved Matters Approval;
- 8.1.7 to market each Accessible Dwelling for a minimum period of 3 (three) months to persons in need of an Accessible Dwelling prior to Practical Completion of that Accessible Dwelling;
- 8.1.8 not to market the Accessible Dwellings save to persons in need of an Accessible Dwelling for a minimum period of 3 (three) months prior to Practical Completion of that Accessible Dwelling;
- 8.1.9 prior to disposing of each Accessible Dwelling, to submit details of the marketing undertaken pursuant to paragraph [8.1.7] above supported by such evidence as the Council may reasonably require, such information to include the date of first advertisement, the methods of advertisement and (if applicable) when the Accessible Dwelling was advertised on the general market;
- 8.1.10 not to dispose of an Accessible Dwelling to a person who is not in need of an Accessible Dwelling unless the Council has confirmed in writing that it is satisfied that marketing has been undertaken in accordance with the relevant Approved Accessible Dwelling Plot Plan PROVIDED THAT if the Council has not provided its written confirmation pursuant to this paragraph [8.1.10] within 10 Working Days of receipt of the details submitted pursuant to paragraph [8.1.9] above, then such confirmation shall be deemed to be granted by the Council; and
- 8.1.11 to retain or procure the retention of the internal layout of the Accessible Dwellings in accordance with the relevant Approved Accessible Dwelling Sub-Phase Plan for the lifetime of the Dwellings.

Schedule 2

Viability Reviews

- 1 In this Schedule 2 and this Agreement unless the context requires otherwise, the following words and expressions shall have the following meanings:

Actual Build Costs means the build costs of the Development actually incurred, which costs shall include the following:

- (a) demolition, site clearance and site preparation costs;
- (b) base build costs;
- (c) abnormal costs;
- (d) on-Site infrastructure and utilities costs;
- (e) off-Site infrastructure and utilities costs;
- (f) overheads and profit for the main contractor;
- (g) preliminaries;
- (h) design fees;
- (i) insurances reasonably incurred during scheme delivery;

PROVIDED THAT no costs contingency shall be included in Actual Build Costs and the Council shall reserve the right on submission of each Viability Review to determine which costs shall be included in Actual Build Costs after consultation with their expert;

Additional Amount means either Additional Affordable Housing Units, Additional Affordable Housing Contribution, and / or Late Stage Review Contribution (as applicable depending on the Relevant Review) which a Viability Review demonstrates can viably be provided;

Additional Amount Notice means a notice to be served by the Council where it is determined in accordance with this Schedule 2 following a Viability Review that there is a Surplus Profit and that the Development can viably support an Additional Amount, such notice to confirm the proportion of the Surplus Profit to be used towards Additional Affordable Housing Units, Additional Affordable Housing Contribution, and / or Late Stage Review Contribution (as applicable depending on the Relevant Review);

Additional Affordable Housing Contribution means a financial contribution that may be required to be paid pursuant to a Viability Review that has been agreed by the Council or determined by an expert, including for the avoidance of doubt any Late Stage Review Contribution, such contribution to be used towards the provision of Affordable Housing in the Council's administrative area and the quantum of such contribution and whether it shall be paid shall be subject to the provisions of this Schedule 2 or (at the Council's sole discretion) an amount of the Additional Affordable Housing Contribution may be used towards the provision of land acquisition, laying out and future management and

maintenance of a new cemetery up to the maximum amount of the Burial Space Contribution;

Additional Affordable Housing Units has the meaning set out in Schedule 1;

Affordable Housing Programme means a written programme submitted in accordance with this Schedule 2 which shall detail how the Available Surplus agreed or determined pursuant to a Viability Review is proposed to be applied to the provision of Additional Affordable Housing Units and/or by payment of an Additional Affordable Housing Contribution, such programme to set out the following details:

- (a) how the Additional Affordable Housing Units (if any) will be delivered on the Site including:
 - i the proposed location of the Additional Affordable Housing Units within the Development PROVIDED THAT unless the Owner elects otherwise, those units shall not be required to be delivered in any Sub-Phase that has Commenced as at the date of submission of the relevant programme but only in future Sub-Phases;
 - ii the number of Additional Affordable Housing Units;
 - iii the sizes (per person and bedroom) and tenures of those Additional Affordable Housing Units having regard to the Affordable Housing Target Tenure; and/or
- (b) the quantum of the Available Profit that is to be paid as an Additional Affordable Housing Contribution; and
- (c) details of the Additional Affordable Housing Units confirmed in all Affordable Housing Programmes previously agreed or determined and any consequential amendments to relevant Approved Affordable Housing Plans if required as a result of the programme the subject of the submission;

Affordable Housing Target means a policy compliant level of Affordable Housing (in accordance with the Affordable Housing Target Tenure and the Affordable Housing Mix) being equivalent to 30% (thirty percent) of the total number of Dwellings provided by the Development (which Affordable Housing may be provided by way of the Affordable Housing Units, Additional Affordable Housing Units and/or Additional Affordable Housing Contributions);

Affordable Housing Target Tenure means the Council's target for all Affordable Housing to comprise:

- (a) 70% (seventy percent) Affordable Rent Housing and/or Social Rent Housing; and
- (b) 30% (thirty percent) Intermediate Housing;

Available Surplus means 100% of the Surplus Profit for any Viability Review or in the case of the Late Stage Review only 60% of the Surplus Profit ;

Benchmark Land Value means the amount of £69,748,000 (sixty-nine million seven hundred and forty-eight thousand pounds) as set out as being the benchmark land value in the Original Viability Appraisal or any other amount as determined through any viability assessment agreed in writing by the Council as part of any Compulsory Purchase Order;

Build Costs means the build costs of the Development, adopting the same principles as the Original Viability Appraisal, supported by evidence of these costs including but not limited to:

- (a) for Actual Build Costs details of payments made or agreed to be paid in the relevant building contracts applicable to the parts of the Development which have been completed or are under construction at the time of the Viability Review, such details to be provided on an open book basis and certified by a suitably qualified and experienced surveyor; and
- (b) for Estimated Build Costs the reasonable estimate of what such costs are likely to be in the construction of the Development in the form of a professionally prepared elemental cost plan as certified by a suitably qualified and experienced surveyor;

Commercial Purchasers Costs means commercial purchasers' costs which shall be calculated as 6.8% of the Gross Development Value of the Commercial Floorspace;

Commercial Sales Agent and Legal Fees means commercial sales agent and legal fees which shall be calculated as 1% of the Gross Development Value of the Commercial Floorspace;

Community Infrastructure Levy means the levy payable pursuant to the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010;

Component means a part of the Development including but not limited to:

- (a) Market Dwellings;
- (b) Affordable Housing Units (and, if applicable, Additional Affordable Housing Units) (as defined in Schedule 1 of this Agreement);
- (c) any other floorspace including the Stadium and the Commercial Floorspace; and
- (d) land;

Compulsory Purchase Order means any order made by the Council to compulsorily acquire interests in all or part or parts of the Site;

Developer Profit means:

- (a) 6% on GDV in respect of the sale of any Affordable Housing Units and any Additional Affordable Housing Units;
- (b) 17.5% on GDV in respect of the sale of any Market Dwellings;
- (c) 15% on GDV in respect of the sale of any Commercial Units ;

Development Programme means an indicative programme submitted by the Owner to the Council which sets out in relation to each Phase, proposed timing of demolition or site clearance, archaeological investigation, contamination remediation, infrastructure works, construction of foundations and superstructure and floorspace including the Dwellings (and any subsequent amendment, update or replacement of such plan that may be approved by the Council from time to time);

Disposal means:

- (a) the Sale of a Component(s) of the Development; or
- (b) the grant of a lease of a term of less than 125 (one hundred and twenty-five) years of a Component of the Development; or
- (c) the grant of an assured shorthold tenancy agreement or a short term let in respect of a Component of the Development,

excluding Undervalue Transactions and the terms **Dispose**, **Disposals** and **Disposed** shall be interpreted accordingly;

Estimated Build Costs means the estimated build costs of the Development not yet incurred at the relevant Review Date, which costs shall include the following:

- (a) demolition, site clearance and site preparation costs;
- (b) base build costs;
- (c) abnormal costs;
- (d) on-Site infrastructure and utilities costs;
- (e) off-Site infrastructure cost;
- (f) overheads and profit;
- (g) preliminaries;
- (h) design fees;
- (i) insurances reasonably incurred during scheme delivery; and
- (j) any Estimated Build Costs Contingency;]

Estimated Build Costs Contingency means a costs contingency which shall be calculated as 5% of Estimated Build Costs;

External Consultant means an appropriately qualified and experienced external consultant appointed by the Council to assess a Viability Review;

Finance Costs the cost of finance for carrying out the Development, including financial charges and fees to be calculated as 6.5%;

Gross Development Value means the sum of the following:

- (a) the value of all gross receipts from any Sale of a Component, to be evidenced on an open book basis as part of any Viability Review;
- (b) the estimated Market Value of all Components of the Development based on comparable evidence certified by a suitably qualified and experienced surveyor; and
- (c) all Public Subsidy;

Late Stage Review means a Viability Review carried out on the Late Stage Review Date in accordance with the provisions of Part 2 of this Schedule 2;

Late Stage Review Contribution means a financial contribution to be used towards the provision of off-site Affordable Housing;

Late Stage Review Date means the date on which 75% (seventy five percent) of the Dwellings proposed within the entire Development have been either Occupied or Disposed of as determined by the Council pursuant to this Agreement;

Letting Agency and Legal Fees means letting agency and legal fees which shall be calculated as 15% of the first year's rental income obtained for Commercial Floorspace;

Land Acquisition Costs means the following costs based on the Benchmark Land Value:

- (d) Stamp Duty (at the relevant rate);
- (e) Sale Agent Fees of 1.00%;
 - (a) Sale Legal Fees of 0.50%; and
 - (b) VAT;

Market Value means the price at which the sale of the relevant property interest would have been completed unconditionally for cash consideration on the relevant Review Date based on detailed comparable market evidence, including evidence of rental values achieved for any Component of the Development which has been Disposed but not Sold, to be assessed by the Council and assuming:

- (a) a willing seller and a willing buyer;
- (b) that no account is taken of any additional bid by a prospective purchaser with a special interest; and
- (c) that both parties to the transaction have acted knowledgeably, prudently and without compulsion;

Marketing Costs means the costs of marketing which shall be calculated as 1% of Gross Development Value of all Dwellings and associated ancillary floorspace;

Original Viability Appraisal means the viability appraisal entitled "Independent Viability Review" prepared by BPS dated 28 March 2024 prepared on behalf of the Council in connection with the Planning Application;

Professional Fees means consultant fees incurred in delivering the Development which shall be calculated as 8% of Build Costs;

Public Subsidy means funding from the Council or another public organisation or body to support the delivery of the Development;

Residential Sales Agent and Legal Fees means residential sales agent and legal fees which shall be calculated as 1.25% of the Gross Development Value of all Dwellings and any ancillary floorspace;

Review Date means the date on which a Viability Review is undertaken;

RMA Review means the Viability Reviews to be carried out pursuant to Part 1 of this Schedule 2;

Sale means:

- (a) the sale of the freehold of a Component; or
- (b) the grant of a lease of a Component with a term of 125 years or more and subject to nominal rent,

and the term **Sold** shall be interpreted accordingly;

Sale Agent Fees means sale agent fees in relation to the disposal of the Components of the Development;

Sale Legal Fees means legal fees in relation to the disposal of the Components of the Development;

Substantial Delay means, following Commencement, a period of 18 months within which no substantive progress has been made on the Development having regard to the Development Programme;

Substantial Delay Review means a Viability Review carried out if a Substantial Delay occurs;

Surplus Profit means an additional profit over and above the Developer Profit calculated pursuant to a Viability Review;

Town Planning Costs means the costs of:

- (a) obtaining and complying with the Planning Permission (including the costs of submission and securing approval of discharges of conditions and Reserved Matters Approvals);
- (b) paying any Community Infrastructure Levy in respect of the Development; and
- (c) complying with this Agreement;

Undervalue Transactions means:

- (a) a transaction the purpose or effect of which is to artificially reduce the Gross Development Value in the relevant Review; and/or
- (b) a Disposal of a Component of the Development at less than Market Value that is not an arm's length third party bona fide transaction;

Viability Review means a review of the viability of the Development carried out in accordance with and subject to the procedures and principles in this Schedule 2 to determine whether there is a Surplus Profit, which review shall take the form of a reassessment of the Original Viability Appraisal and shall be provided using the Viability Review Template together with evidence provided on an open book basis and certified by suitably qualified and experienced surveyor with respect to Build Costs and GDV, and for the avoidance of doubt such review shall include the Late Stage Review and any Substantial Delay Reviews where the context requires; and

Viability Review Fee means the fee per Viability Review reasonably and properly incurred by the Council in assessing any Viability Review and which shall include the fee for the appointment of an External Consultant and/or independent surveyor to act on the Council's behalf where the Council shall obtain three fee estimates and delivery timetables from three different viability consultants which the Council shall send in writing to the Owner prior to instructing any viability consultant and where the Owner shall elect in writing within ten Working Days of receipt of all three estimates which consultant shall be instructed on behalf of the Council to undertake the said Viability Review further to consideration of the said estimates; and

Viability Review Template means the template to be used in carrying out a Viability Review which shall take the form set out in the Appendix to this Schedule 2 and for the avoidance of doubt, each of the terms in the template shall have the meanings set out in this Schedule 2.

Part 1

Viability Reviews

1 Viability Review Submission

1.1 Viability Reviews shall be undertaken and submitted to the Council as follows:

- 1.1.1 on or prior to submission of the first Reserved Matters Application for Reserved Matters Development (Residential) within the Boulevard Neighbourhood;
- 1.1.2 prior to submission of the first Reserved Matters Application within the Marketplace Neighbourhood;
- 1.1.3 prior to submission of the first Reserved Matters Application for a Reserved Matters Development (Residential) within the Parkland Neighbourhood;
- 1.1.4 prior to submission of the first Reserved Matters Application for Reserved Matters Development (Residential) within the Riverside Neighbourhood; and
- 1.1.5 prior to submission of the first Reserved Matters Application within the Stadium Neighbourhood,

(together the **RMA Review Dates**),

PROVIDED THAT the Owner shall not be obliged to undertake a Viability Review where the event for undertaking the applicable Viability Review set out in paragraph 1.1 falls within a 24 month period from the date of this Agreement and PROVIDED FURTHER THAT if all of the Viability Reviews at paragraphs 1.1.1 to 1.1.5 would have taken place within 24 month period from the date of this Agreement then an additional Viability Review shall take place prior to Occupation of the 1,000th Dwelling.

1.2 The Owner shall notify the Council in writing of the anticipated date of submission of a Viability Review no less than 20 Working Days in advance of that date.

1.3 The Owner shall submit a Viability Review to the Council alongside the relevant Reserved Matters Applications referred to in paragraph 1.1 which shall include the following information:

- 1.3.1 a written statement confirming whether in the Owner view any Surplus Profit is available to provide any Additional Amount;
- 1.3.2 where such written statement confirms that any Additional Affordable Housing Units can be provided, a proposed updated Affordable Housing Programme for the Development which includes:
 - (a) the Additional Affordable Housing Units and/or the amounts of any proposed Additional Affordable Housing Contribution that shall be payable in lieu of Additional Affordable Housing Units; and
 - (b) the delivery of a further 5% of Additional Affordable Housing Units constructed to meet the M4(2) (accessible and adaptable dwellings)

requirements set out at Part M of Schedule 1 of the Building Regulations 2010; and

- 1.3.3 a written statement confirming whether any Public Subsidy has been obtained or secured to be obtained.

2 Viability Review – Assessment

- 2.1 The Council shall assess the Viability Reviews submitted pursuant to paragraph 1 above and in each case assess whether in its view any Surplus Profit is available to provide Additional Affordable Housing Units and/or an Additional Affordable Housing Contribution.
- 2.2 The Council may appoint an External Consultant to assess the information submitted pursuant to paragraph 1 above. If the Council decides to appoint an External Consultant, the Council must inform the Owner in writing within 10 Working Days and such External Consultant must be appointed within 15 Working Days of receipt by the Council of the Viability Review.
- 2.3 Following receipt of a Viability Review, the Council shall as soon as reasonably practicable and in any event within 30 Working Days of receipt of the Viability Review (or if an External Consultant is appointed, within 35 Working Days of that appointment) either:
 - 2.3.1 confirm to the Owner that no further information is required from the Owner in respect of the Viability Review; or
 - 2.3.2 request such further information as is reasonable in the circumstances having regard to the purpose of the Viability Review.
- 2.4 In the event that the Council and/or an External Consultant requires further supporting evidence then the Owner shall provide any reasonably required information to the Council or the External Consultant (as applicable and with copies to the other parties) within 10 Working Days of receiving the relevant request and this process may be repeated until the Council and/or the External Consultant (as applicable) has all the information it reasonably requires to assess whether any Additional Amount is due.
- 2.5 Within 15 Working Days of receiving the Viability Review or if an External Consultant is appointed within 20 Working Days of that appointment, or if further information was requested from the Owner, within 15 Working Days of receiving the final information so requested from the Owner, the Council and/or the External Consultant shall issue the Additional Amount Notice (if applicable) and confirm in writing to the Owner whether the Council agrees or disagrees with the conclusions of the Viability Review submitted to it including whether a Surplus Profit arises and the quantum of that Surplus Profit (and if the Council disagrees with the conclusions the Council shall also confirm in writing the reasons for this).
- 2.6 In the event that the Owner disagrees with the Council's conclusions as to the Viability Review the Parties shall have 20 Working Days to work together to reach agreement on any matters in dispute. If the Parties cannot reach agreement, thereafter either Party shall have the ability to refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure.

- 2.7 In the event that it is agreed by the Council or determined by an expert that a Viability Review gives rise to a Surplus Profit:
- 2.7.1 100% of such Surplus Profit is to be used towards the provision of Additional Affordable Housing Units (or towards Additional Affordable Housing Contributions if agreed in writing by the Council) or (at the Council's sole discretion) towards the provision of land acquisition, laying out and future management and maintenance of a new cemetery up to the maximum amount of the Burial Space Contribution; and
 - 2.7.2 the Owner shall submit an Affordable Housing Programme to the Council for its written approval within 20 Working Days of the date of agreement or determination of the relevant Viability Review.
- 2.8 Within 20 Working Days of receipt of a proposed Affordable Housing Programme from the Owner, the Council shall confirm in writing to the Owner whether the Affordable Housing Programme submitted to it is approved (and therefore the consequential amendments to any relevant Approved Affordable Housing Plans). If the Council refuses to approve an Affordable Housing Programme submitted to it the parties shall have 20 Working Days to work together to reach agreement on any matters in dispute but if agreement is not reached within that timescale either Party may refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure (and for the avoidance of doubt any matters in dispute may extend to the associated Additional Amount Notice served by the Council).
- 2.9 The Owner shall deliver any Additional Affordable Housing Units and pay any Additional Affordable Housing Contributions (as applicable) in accordance with any agreed or determined Affordable Housing Programme in accordance with paragraph [4] of [Part 4] of this Schedule 2.
- 2.10 The Owner shall pay to the Council the relevant Viability Review Fee within 20 Working Days of receipt of a written request for payment.

Part 2

Late Stage Review

1 Late Stage Review -Trigger

The Owner shall notify the Council in writing of the anticipated Late Stage Review Date not less than 20 Working Days in advance of that date.

2 Late Stage Review – Submission of Information

2.1 No later than 20 Working Days after the Late Stage Review Date notified to the Council pursuant to paragraph 1 of Part 2 of this Schedule 2, the Owner shall submit a Viability Review to Council which shall include:

2.1.1 a written statement confirming whether in the Owner's view any Late Stage Review Contribution is due and if so how much; and

2.1.2 a written statement confirming whether any Public Subsidy has been obtained or secured to be obtained.

3 Late Stage Review – Assessment

3.1 The Council shall assess the Viability Review submitted pursuant to paragraph 2 above and assess whether in its view a Late Stage Review Contribution is due.

3.2 The Council may appoint an External Consultant to assess the information submitted pursuant to paragraph 2 above. If the Council decides to appoint an External Consultant, the Council must inform the Owner in writing within 10 Working Days and such External Consultant must be appointed within 15 Working Days of receipt by the Council of the Viability Review.

3.3 Following receipt of the Viability Review submitted pursuant to paragraph 2 above, the Council shall as soon as reasonably practicable and in any event within [30] Working Days of receipt of the the Viability Review submitted pursuant to paragraph 2 above (or if an External Consultant is appointed, within 35 Working Days of that appointment) either:

3.3.1 confirm to the Owner that no further information is required from the Owner in respect of the the Viability Review submitted pursuant to paragraph 2 above; or

3.3.2 request such further information as is reasonable in the circumstances.

3.4 In the event that the Council and/or an External Consultant requires further information or further supporting evidence then the Owner shall provide any reasonably required information to the Council or the External Consultant (as applicable and with copies to the other parties) within 10 Working Days of receiving the relevant request and this process may be repeated until the Council and/or the External Consultant (as applicable) has all the information it reasonably requires to assess whether in its view a Late Stage Review Contribution is due.

3.5 If the Council and/or External Consultant determines following receipt of the information submitted pursuant to paragraph 2 above that the Late Stage Review Date has not occurred,

the Council may require the Owner to re-submit the information required under paragraph 2 above upon the occurrence of the Late Stage Review Date (as determined by the Council).

- 3.6 Within 15 Working Days of receiving the information submitted pursuant to paragraph 2 above or if an External Consultant is appointed within 20 Working Days of that appointment, or if further information was requested from the Owner, within 15 Working Days of receiving the final information so requested from the Owner, the Council and/or the External Consultant shall notify the Owner in writing of its assessment confirming whether or not there is a Surplus Profit and whether an Additional Amount is required and confirm in writing to the Owner whether the Council agrees or disagrees with the conclusions of the information submitted pursuant to paragraph 2 above including whether a Surplus Profit arises and the quantum of that Surplus Profit (and if the Council disagrees with the conclusions the Council shall also confirm in writing the reasons for this).
- 3.7 In the event that the Owner disagrees with the Council's assessment the parties shall have 20 Working Days to seek resolution thereafter either party may refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure.
- 3.8 Subject always to the outcome of any Dispute Resolution Procedure, In the event that the Late Stage Review determines that a Surplus Profit has been made then:
- 3.8.1 the Council shall serve on the Owner the Additional Amount Notice; and
- 3.8.2 60% (sixty% percent) of such Surplus Profit shall be used towards the Late Stage Review Contribution as required pursuant to the Additional Amount Notice.
- 3.9 Further in the event that that the Council's assessment determines that a Late Stage Review Contribution is due, then the Owner covenants:
- 3.9.1 that such Late Stage Review Contribution shall be paid to the Council within 30 Working Days of the date on which such notice is received by the Owner from the Council or the expert's decision (in the case of a dispute) setting out the exact sum due; and
- 3.9.2 no more than 85% of the Dwellings comprised within the Development shall be Occupied until the Late Stage Review Contribution has been paid in full to the Council.
- 3.10 The Owner shall pay to the Council the relevant Viability Review Fee within 20 Working Days of receipt of a written request for payment.

Part 3

Substantial Delay Review

1 Development Programme

- 1.1 The Owner shall submit the Development Programme to the Council prior to Commencement of Development.
- 1.2 The Owner shall not Commence or permit Commencement until the Council has approved the Development Programme in writing PROVIDED ALWAYS that the Council shall not refuse approval of the Development Programme if it shows:
 - 1.2.1 Commencement of Development within 4years of the date of this Agreement;
 - 1.2.2 Practical Completion of Development within 10 years of the Commencement Date; and
 - 1.2.3 is consistent with the Phasing Plan.

2 Substantial Delay

- 2.1 The Owner shall notify the Council in writing of any Substantial Delay within one month of such delay occurring.
- 2.2 The Owner shall provide the Council on written request with full documentary evidence on an open book basis to enable the Council to independently assess whether a Substantial Delay has occurred.
- 2.3 The Owner shall afford the Council access to the Site to inspect and assess whether or not there has been a Substantial Delay PROVIDED THAT the Council shall:
 - 2.3.1 provide the Owner with reasonable written notice of its intention to carry out such an inspection;
 - 2.3.2 comply with relevant health and safety legislation; and
 - 2.3.3 at all times be accompanied by the Owner or its agent.
- 2.4 In the event that the Owner disagrees with the Council's assessment that a Substantial Delay has occurred the Parties shall have 10 Working Days to to work together to reach agreement on any matters in dispute. If the Parties cannot reach agreements, thereafter either Party shall have the ability to refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure.
- 2.5 In the event that the Owner or the Council notify each other respectively that they consider that a Substantial Delay has occurred, the Owner shall not carry out any further works on the Site save as may be considered necessary and in the interests of health and safety and works required to safeguard the Site and any existing constructions that may have been carried out before that time unless and until the Owner has served notice on the Council informing them that they shall be carrying out further works on the Site.

3 Substantial Delay Review – Submission

- 3.1 Where the Owner notifies the Council in writing of a Substantial Delay, and/or the Council notifies the Owner that there has been a Substantial Delay and/or it is agreed or determined that a Substantial Delay has occurred, the Owner shall submit a Substantial Delay Review to Council within 20 Working Days of such notification, agreement or determination PROVIDED THAT in no circumstances shall a Substantial Delay Review be required to be submitted after Commencement of the final Sub-Phase.
- 3.2 The Substantial Delay Review shall include the following information:
- 3.2.1 a written statement confirming whether in the Owner's view any Surplus Profit is available to provide any Additional Amount; and
 - 3.2.2 where such written statement confirms that Additional Affordable Housing Units can be provided, a proposed updated Affordable Housing Programme which includes the Additional Affordable Housing Units ;and
 - 3.2.3 where such written statement confirms that an Additional Affordable Housing Contribution can be provided, the amounts of any proposed Additional Affordable Housing Contribution that shall be payable in lieu of Additional Affordable Housing Units; and
 - 3.2.4 a written statement confirming whether any Public Subsidy has been obtained or is secured to be obtained.

4 Substantial Delay Review – Assessment

- 4.1 The Council shall assess the Substantial Delay Viability Review submitted pursuant to paragraph 3 above to identify whether in its view any Surplus Profit is available to provide Additional Affordable Housing Units and/or an Additional Affordable Housing Contribution.
- 4.2 The Council may appoint an External Consultant to assess the information submitted pursuant to this paragraph 4 of Part 3 of this Schedule 2.
- 4.3 The procedure set out in paragraph 2 of Part 1 of this Schedule 2 shall apply to assessment of each Substantial Delay Review submitted pursuant to this Part 3.
- 4.4 The Parties agree that the terms of this Part 3 shall apply mutatis mutandis to the provision of all Substantial Delay Reviews for the Development.

Part 4

General Viability Review Provisions

1 Application of this Part

The provisions of this Part 4 shall apply to the operation of the provisions of this Schedule 2.

2 Affordable Housing Target

2.1 No provisions in this Agreement shall be construed or operated so as to require the Development to provide Affordable Housing in excess of the Affordable Housing Target on Site and/or by payment of contributions to provide Affordable Housing off Site by way of any combination of the following:

2.1.1 the Affordable Housing Units;

2.1.2 Additional Affordable Housing Units; and

2.1.3 Additional Affordable Housing Contributions.

2.2 For the avoidance of doubt, any Additional Affordable Housing Units and Additional Affordable Housing Contribution agreed or determined pursuant to a Viability Review (including a Substantial Delay Review) which when taken together with the Affordable Housing Units, Additional Affordable Housing Units and Additional Affordable Housing Contributions agreed or determined pursuant to previous Viability Reviews would result in the Affordable Housing Target being exceeded, may only be applied to the provision of Additional Affordable Housing Units and/or payment of an Additional Affordable Housing Contribution to the extent and in such proportion that the Affordable Housing Target is not exceeded.

2.3 If and from the date that Affordable Housing delivered by the Development by way of the Affordable Housing Units and any Additional Affordable Housing Units and Additional Affordable Housing Contributions meets the Affordable Housing Target and the Owner has paid the paid the Burial Space Contribution pursuant to paragraph 3 of Schedule 3 in full no further Viability Reviews will be required to be carried out pursuant to this Schedule 2.

2.4 Where the viability of the Development changes as evidenced by any Viability Review undertaken pursuant to this Schedule 2:

2.4.1 the quantum or mix of Affordable Housing provided by the Development by way of the Affordable Housing Units and any Additional Affordable Housing Units and Additional Affordable Housing Contributions agreed or determined prior to that date may be adjusted upwards only in any Affordable Housing Programme Provided That any upwards adjustment shall always be limited by the Affordable Housing Target in accordance with the provisions of this Part 4 and in any event only if the relevant Viability Review confirms an Available Surplus; and

2.4.2 the tenures of the Affordable Housing Units and any Additional Affordable Housing Units may be amended, where reasonably required by the Council and

where such units have not already been Occupied or disposed of, to seek to reach the Affordable Housing Target Tenure.

- 2.5 Unless otherwise agreed by the Parties each Viability Review shall be carried out in accordance with RICS "Red Book" approved valuation methodologies and assumptions on an open book basis and shall be based on actual data (if available) at the relevant Review Date.

3 **Procedural Principles**

- 3.1 The Parties agree as follows, subject always to paragraph 1 above:

- 3.1.1 the proportion of the Surplus Profit arising from a Viability Review that may be applied to the provision of Additional Affordable Housing Units and/or payment of an Additional Affordable Housing Contribution shall not exceed the Available Surplus agreed or determined pursuant to the relevant Viability Review;
- 3.1.2 for the purposes of the final Sub-Phase Review (and, for the avoidance of doubt, the Late Stage Review) the full amount of the agreed or determined Available Surplus arising from a Viability Review shall be paid as an Additional Affordable Housing Contribution only and cannot be required to be applied to provision of Additional Affordable Housing Units; and
- 3.1.3 for the purposes of a Substantial Delay Review undertaken at a time when only one Sub-Phase remains to be Implemented, the full amount of the agreed or determined Available Surplus shall be paid as an Additional Affordable Housing Contribution only and cannot be required to be applied to provision of Additional Affordable Housing Units.

- 3.2 The Owner covenants:

- 3.2.1 to pay all Additional Affordable Housing Contributions to the Council within 20 Working Days of the date on which an Additional Amount Notice setting out the exact sum due is received by the Owner or within 20 Working Days of the date of determination by an expert and not to construct or continue to construct the Development in breach of this obligations; and
- 3.2.2 unless agreed otherwise by the Council, to provide any Additional Affordable Housing Units in accordance with the relevant Affordable Housing Programme relating to the Additional Affordable Housing Units approved by the Council pursuant to this Schedule 2 and in accordance with paragraph 3 of Schedule 1.

4 **Compliance with Affordable Housing Programme**

- 4.1 The Owner covenants that:

- 4.1.1 any Additional Affordable Housing Units shall not be used or Occupied or Disposed of other than as Affordable Housing and in accordance with the relevant Affordable Housing Programme approved by the Council pursuant to this Schedule 2, subject always to the provisions of **paragraph 5 of Part 1** of this Schedule 2;

4.1.2 in the event that an Affordable Housing Programme approved by the Council pursuant to this Schedule 2 provides for Additional Affordable Housing Units to comprise:

- (a) Affordable Rent Housing, then such Dwellings shall not be let or sold other than at an Affordable Rent to an Eligible Household;
- (b) Social Rent Housing Units, then such Dwellings shall not be let or sold other than at a Social Rent to an Eligible Household;
- (c) Intermediate Housing Units, then such Dwellings shall not be let or sold other than as an Intermediate Housing Unit to an Eligible Household;
- (d) Shared Ownership Housing, then the initial Disposal of each such Dwelling shall include the following terms:
 - i the Disposal shall not involve the sale of an equity stake of less than 10% or more than 75%; and
 - ii the annual rent payable under the Shared Ownership Lease shall not amount to more than 3% of the Market Value of the unsold equity of the relevant Shared Ownership Housing Unit.

5 **Special Provisions**

5.1 The Owner further acknowledges and agrees with the Council that notwithstanding the provisions of this Schedule 2, a draft deed of variation is to be entered into pursuant to section 106 and s106A of the Act to secure any Additional Affordable Housing Units and/or an Additional Affordable Housing Contribution if the Council reasonably considers that such is necessary.

5.2 The Owner further acknowledges and agrees with the Council that:

- 5.2.1 the Council (at its sole discretion) may allocate any Surplus Profit towards the provision of Additional Affordable Housing Units (or towards Additional Affordable Housing Contributions if agreed in writing by the Council) or towards the provision of land acquisition, laying out and future management and maintenance off a new cemetery up to the maximum amount of the Burial Space Contribution; and
- 5.2.2 the Burial Space Contribution (if payable pursuant to paragraph 3 of Schedule 2), shall be in addition to any Additional Affordable Housing Units (or towards Additional Affordable Housing Contributions) and payment of the Burial Space Contribution shall not be subject to the Affordable Housing Target threshold.

Appendix to Schedule 2
Viability Review Template

GROSS DEVELOPMENT VALUE	
Market Dwellings	
Affordable Housing	
Stadium	
Hotel Floorspace	
Commercial Floorspace	
Public Subsidy	
LESS Commercial Purchasers Costs	
Total Net Development Value (X)	
DEVELOPMENT COSTS	
Land Acquisition Costs	
Build Costs	
Professional Fees	
Marketing Costs	
Letting Agency and Legal Fees	
Residential Sales Agent and Legal Fees	
Commercial Sales Agent and Legal Fees	
Developer Profit	
Finance Costs	
Total Development Costs (Y)	
Residual Land Value (= X minus Y)	
Benchmark Land Value	£[]
Any Surplus Profit (=Residual Land Value minus Benchmark Land Value)	

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Schedule 3

Part 1

Financial Contributions to the Council

- 1 In this **Error! Reference source not found.** of Schedule 3 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Air Quality Contribution means the Air Quality Action Plans Contribution, the Air Quality Monitoring (Passive) Contribution, and the Air Quality Monitoring (Continuous) Contribution;

Air Quality Action Plans Contribution means the financial contribution of £3,000 Index Linked to be used by the Council towards the implementation of the Council's Air Quality Action Plans;

Air Quality Monitoring (Passive) Contribution means the financial contribution of £2,700 Index Linked to be used by the Council towards air quality monitoring to support sites within the vicinity of the Development for a period of five (5) years starting on the date of receipt of the contribution;

Air Quality Monitoring (Continuous) Contribution means the financial contribution of £1,000 Index Linked to be used by the Council towards air quality monitoring to support four sites within the vicinity of the Development for a period of five (5) years starting on the date of receipt of the contribution;

Burial Space Contribution means a financial contribution of not more than £3,238,882.50 Index Linked to be used towards the provision of land acquisition, laying out and future management and maintenance off a new cemetery;

Community Initiatives Contribution means the financial contribution of:

- (a) £200,000 Index Linked to be used by the Council towards the provision of historic initiatives (to include efforts and programs aimed at exploring, preserving or promoting aspects of the past) within the Ward of Northfleet and Springhead; and
- (b) £50,000 Index Linked to be used by the Council to deliver community, historical and employment initiatives agreed between the Owner and the Council;

Leisure Services Contribution means the financial contribution of £4,329,340 Index Linked to be used by the Council towards the improvements to leisure provision to meet the day-to-day needs of the Occupants and employees at the Development, including (but not limited to) improvements to existing or new provision at Cascades Leisure Centre (Gravesend, DA12 4LG) or Cygnet Leisure Centre (Gravesend, DA11 8BU PROVIDED THAT if the Owner provides leisure facilities within the vicinity of the Development, the Owner and Council may agree in writing to reduce this contribution by an amount equal to the cost of constructing and maintaining such facilities;

SAMMS Contribution means the financial contribution of up to a maximum of £1,148,945 to be calculated on the basis of a payment of £328.27 per Dwelling Index Linked and to be used towards offsetting any potential recreational impacts of the Development on the Thames Estuary and Marshes Special Protection Area and Ramsar Site; and

Waste Collections Contribution means the financial contribution up to a maximum of £241,500 to be calculated on the basis of a payment of £69 per Dwelling Index Linked and to be used by the Council towards the provision of additional refuse collection vehicles and additional food waste collection vehicles costs in connection with the Development.

2 Payment of the Council's Contributions

The Owner hereby covenants with the Council as follows:

- 2.1 to pay the Air Quality Contribution to the Council in cleared funds prior to the Commencement of Development;
- 2.2 not to Commence or permit or cause Commencement of Development until the Council has received the Air Quality Contribution in full;
- 2.3 prior to Commencement of a Reserved Matters Development (Residential), to pay to the Council in cleared funds the SAMMS Contribution due in respect of the relevant Reserved Matters Development (Residential); and
- 2.4 not to Commence or permit or cause Commencement of any Reserved Matters Development (Residential), unless and until the Council has received in cleared funds the SAMMS Contribution due in respect of the relevant Reserved Matters Development (Residential)
- 2.5 to pay to the Council in cleared funds the Community Initiatives Contribution and the Leisure Services Contribution in the following instalments:
 - 2.5.1 to pay 25% of the Community Initiatives Contribution and 25% of the Leisure Services Contribution (the **First Community and Leisure Contribution**) prior to Occupation of the first Dwelling within the Development and not to Occupy or permit or cause Occupation of any Dwellings until the Council has received in full the First Community and Leisure and Contribution;
 - 2.5.2 to pay to the Council in cleared funds 25% of the Community Initiatives Contribution and 25% of the Leisure Services Contribution prior to Occupation of the 875th Dwelling within the Development (the **Second Community and Leisure**) and not to Occupy or permit or cause Occupation of 875 Dwellings or more until the Council has received in full the Second Community and Leisure Contribution;
 - 2.5.3 to pay to the Council in cleared funds 25% of the Community Initiatives Contribution and 25% of the Leisure Services Contribution prior to Occupation of the 1,750th Dwelling within the Development (the **Third Community and Leisure Contribution**) and not to Occupy or permit or cause Occupation of 1,750 Dwellings or more until the Council has received in full the Third Community and Leisure Contribution; and

2.5.4 to pay to the Council in cleared funds 25% of the Community Initiatives Contribution and 25% of the Leisure Services Contribution prior to Occupation of the 2,625th Dwelling within the Development (the **Fourth Community and Leisure Contribution**) and not to Occupy or permit or cause Occupation of 2,625 Dwellings or more until the Council has received in full the Fourth Community and Leisure Contribution;

2.6 prior to Commencement of a Reserved Matters Development (Residential), to pay to the Council in cleared funds the Waste Collections Contribution due in respect of the relevant Reserved Matters Development (Residential); and

2.7 not to Commence or permit or cause Commencement of any Reserved Matters Development (Residential), unless and until the Council has received in cleared funds the Waste Collections Contribution due in respect of the relevant Reserved Matters Development (Residential).

3 **Burial Space Contribution**

The Owner hereby covenants with the Council as follows:

3.1 Where on the date a Viability Review is carried out (pursuant to Schedule 2 of this Agreement) and such Viability Review (as approved by the Council) demonstrates a Surplus Profit (as defined in Schedule 2 of this Agreement) which is in excess of the Affordable Housing Target and the Council serves a notice on the Owner requiring the Owner to pay the Burial Space Contribution (or part thereof) up to the maximum amount of the Burial Spaces Contribution and subject to such amount not being in excess of the amount by which the Surplus Profit exceeds the Affordable Housing Target the Owner shall pay to the Council the Burial Space Contribution (or part thereof as stipulated in the notice from the Council) up to the maximum amount of the Burial Spaces Contribution PROVIDED THAT:

- (a) Each subsequent Viability Review (to be carried out pursuant to Schedule 2) shall assess if the Development can viably support the payment of any further instalments of the Burial Space Contribution up to the maximum amount of the Burial Spaces Contribution;
- (b) If it is agreed as part of any subsequent Viability Review that the Development can no longer support the payment of any further instalments of the Burial Space Contribution, the Owner shall no longer be required to pay remaining instalments of the Burial Space Contribution up to the maximum amount of the Burial Spaces Contribution; and
- (c) in no circumstances will the Owner be required to pay an amount pursuant to Schedule 2 and this Schedule 3 which is in excess of the sum of the Affordable Housing Target and the maximum amount of the Burial Space Contribution referred to in paragraph 3.2 below.

3.2 In the event that the Burial Space Contribution becomes payable in accordance with paragraph 3.1 above the maximum amount that shall be payable by the Owner (for the avoidance of doubt in aggregate) shall be [£3,238,882.50] and such amount shall be payable by the Owner on the basis that the amount of the Burial Space Contribution shall be divided into seven instalments payable on the Occupation of each multiple of 500 Dwellings within the Development (and for the avoidance of doubt in the event more than

500 Dwellings have been Occupied at the point the Burial Space Contribution is confirmed to be payable the Owner shall pay each instalment which would have been paid had the Burial Space Contribution been confirmed to be payable on the date of this Agreement) within not more 30 Working Days of the Burial Space Contribution being confirmed to be payable.

- 3.3 In the event that the Council only requires part of the Burial Space Contribution to be paid in accordance with paragraph 3.1 above, the Owner and the Council shall agree reasonable instalments for the payment of the contribution (to be determined by the expert under the Dispute Resolution Procedure in the event that the Council and the Owner cannot reach an agreement).
- 3.4 Where the Council has in accordance with Schedule 2 used Surplus Profit towards the provision of land acquisition, laying out and future management and maintenance of a new cemetery it may where any payment of a Burial Spaces Contribution is payable in accordance with this paragraph 3 of Part1 to Schedule 3 of this Agreement apply an amount which is equivalent to the amount which has been used for that purpose towards the provision of Affordable Housing within the Borough.

Part 2

Financial Contributions to the County Council

- 1 In this 0 of Schedule 3 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Adult Social Care Contribution means the financial contribution of £500,000 Index Linked for the entire Development payable in instalments, and the sums payable shall be used by the County Council towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within the Borough;

Bus Lane (ANPR) Contribution means the financial contribution of £214,000 Index Linked to be paid by the Owner in accordance with this **Error! Reference source not found.** and to be used by the County Council towards the enforcement of the Fastrack Corridor (as defined in Schedule [\[9\]](#));

Bus Shelter Contribution means the financial contribution of £84,000 Index Linked to be paid by the Owner in accordance with this **Error! Reference source not found.** and to be used towards the provision four Fastrack bus shelters, unless otherwise agreed in writing with the County Council;

Community Learning and Skills Contribution means the financial contribution estimated to be £119,735 Index Linked for the entire Development payable in instalments to be calculated in accordance with "Table 5" at paragraph 3 of this 0, and the sums payable shall be used by the County Council towards the provision of additional equipment and resources for adult education centres serving the Development, including outreach provision;

County Council Contributions Report means a report to be submitted to the Council for approval with each Reserved Matters Application for Reserved Matters Development (Residential) calculating the amount of the County Council Financial Contributions payable to the Council in accordance with this Agreement for the relevant Reserved Matters Development (Residential), such report to calculate the amount of the County Council Financial Contributions payable based on the tenures and total number of Dwellings within the relevant Reserved Matters Development (Residential) in accordance with the applicable tables in paragraph 3 of this 0;

County Council Financial Contributions means:

- (a) Adult Social Care Contribution;
- (b) Bus Land ANPR Contribution
- (c) Bus Shelter Contribution
- (d) Community Learning and Skills Contribution;
- (e) Primary Education Contribution;
- (f) Secondary Education Contribution;
- (g) Secondary Education Land Contribution;

- (h) Special Education Needs & Disabilities Education Contribution;
- (i) Integrated Children's Services Contribution; and
- (j) Waste Contribution;

Integrated Children's Services Contribution means the financial contribution estimated to be £117,665.45 Index Linked for the entire Development payable in instalments to be calculated in accordance with "Table 7" at paragraph 3 of this 0 and to be used towards the provision of additional equipment and resources for the Integrated Children's Services in Gravesham;

Primary Education Contribution means the financial contribution estimated to be £2,813,006.70 Index Linked for the entire Development to be paid by the Owner, such sum to be payable in instalments in accordance with this Schedule 3 and such instalments shall be calculated for each Plot in accordance with "Table 1" at paragraph 3 of this 0 of this Schedule 3 to be used towards the replacement Rosherville Primary and/or a new primary in the Northfleet Planning Group;

Secondary Education Contribution means the financial contribution estimated to be £2,219,515.20 Index Linked for the entire Development to be paid by the Owner such sum to be payable in instalments in accordance with this Schedule 3 and such instalments shall be calculated for each Plot in accordance with "Table 2" at paragraph 3 of this 0 of this Schedule 3 to be used towards a new secondary school within the Gravesham non-selective and selective planning groups;

Secondary Education Land Contribution means the financial contribution estimated to be £1,601,033.12 Index Linked for the entire Development payable in instalments to be calculated in accordance with this **Error! Reference source not found.** and such instalments shall be calculated for each Plot in accordance with "Table 3" at paragraph 3 of this 0 of this Schedule 3 to be used towards the purchase of land for the provision of a secondary school within the Gravesham non-selective and selective planning groups;

Special Education Needs & Disabilities Education Contribution means the financial contribution estimated to be £222,396.44 Index Linked for the entire Development payable in instalments to be calculated in accordance with "Table 4" at paragraph 3 of this 0 of this Schedule 3 and to be used towards the provision of Special Education Needs & Disabilities (**SEND**) facilities and services including (but not limited to) the provision of a new SEND school and/or new SEND facilities (including therapy rooms, hygiene rooms, sensory areas and soft play zones) within existing schools and/or the delivery of SEND services within the North Kent Education Area;

Waste Contribution means the financial contribution payable in instalments to be calculated in accordance with "Table 7" at paragraph 3 of this 0 and to be used towards the delivery of the Ebbsfleet Waste Transfer Station and Householder Waste Recycling Centre.

2 **Payment of the County Council's Contributions**

The Owner hereby covenants with the County Council as follows:

- 2.1 to pay the Primary Education Contribution and the Secondary Education Contribution due in respect of each Reserved Matters Development (Residential) to the County Council in

cleared funds prior to the Commencement of Development of the relevant Reserved Matters Development (Residential)

- 2.2 not to Commence a Reserved Matters Development (Residential) until the Primary Education Contribution and the Secondary Education Contribution due in respect of the relevant Reserved Matters Development (Residential) has been paid in full to the County Council.
- 2.3 prior to first Occupation of a Reserved Matters Development (Residential), to pay to the County Council in cleared funds 50% (fifty percent) of the County Council Financial Contributions (aside from the Primary Education Contribution and the Secondary Education Contribution which shall be paid in accordance with paragraph 2.1 of this 0) due in respect of the relevant Reserved Matters Development (Residential), such sums to be calculated based on the tenures and total number of Dwellings in that Reserved Matters Development (Residential), in accordance with the formulae in paragraph 3 of this 0;
- 2.4 not to Occupy or cause or suffer Occupation of a Reserved Matters Development (Residential) until the County Council has received in cleared funds 50% (fifty percent) of the County Council Financial Contributions due in respect of the relevant Reserved Matters Development (Residential) in accordance with paragraph 3 of this Schedule 3;
- 2.5 prior to Occupation of 50% (fifty percent) of the Dwellings in a Reserved Matters Development (Residential), to pay to the County Council in cleared funds the remaining 50% (fifty percent) of the County Council Financial Contributions (aside from the Primary Education Contribution and the Secondary Education Contribution which shall be paid in accordance with paragraph 2.1 of this 0) due in respect of the relevant Reserved Matters Development (Residential), such sums to be calculated based on the tenures and total number of Dwellings in the relevant Reserved Matters Development (Residential) in accordance with the formulae in paragraph 3 of this 0; and
- 2.6 not to Occupy or cause or permit Occupation of more than 50% (fifty percent) of the Dwellings in a Reserved Matters Development (Residential) until the County Council Financial Contributions due in respect of the relevant Reserved Matters Development (Residential) have been paid in full to the County Council in accordance with paragraphs 2.3 and 2.5 of this Schedule 3.

3 County Council Contributions Calculations Table

- 3.1 The Owner covenants and agrees that the County Council Financial Contributions shall be calculated based on the applicable tables / formulae below for each Reserved Matters Development (Residential).

TABLE 1: Primary Education Contribution

Dwelling Type	Cost Per Dwelling
Houses	£7,081.20
Flats*	£1,770.30

* excluding studios and 1-bedroom flats

TABLE 2: Secondary Education Contribution

Dwelling Type	Cost Per Dwelling
Houses	£5,587.19

Flats*	£1,396.80
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* excluding studios and 1-bedroom flats

TABLE 3: Secondary Education Land Contribution

Dwelling Type	Cost Per Dwelling
Houses	£4,030.29
Flats*	£1,007.57

* excluding studios and 1-bedroom flats

TABLE 4: Special Education Needs & Disabilities Education Contribution

Dwelling Type	Cost Per Dwelling
Houses	£559.83
Flats*	£139.96

* excluding studios and 1-bedroom flats

TABLE 5: Community Learning and Skills Contribution

Dwelling Amount	Cost Per Dwelling
Any dwelling	£34.21

TABLE 6: Integrated Children's Services Contribution

Dwelling Amount	Cost Per Dwelling
Any dwelling (excluding studios and 1-bedroom flats)	£74.05

TABLE 7: Waste Contribution

Dwelling Amount	Cost Per Dwelling
Any dwelling	£194.13

4 Report

The Owner covenants with the County Council:

- 4.1 to submit the County Council Contributions Report to the County Council for its written approval at the same time as the submission of the relevant Reserved Matters Application for Reserved Matters Development (Residential); and
- 4.2 not to Commence or cause or permit Commencement in respect of a Reserved Matters Development (Residential) unless and until the County Council has approved the County Council Contributions Report in writing in relation to that Reserved Matters Development (Residential).

Schedule 4

Primary Healthcare⁹

- 1 In this Schedule 4 and this Agreement unless the context requires otherwise, the following expressions shall have the following meanings:

Integrated Facility means a facility for the provision of healthcare services to be operated by NHS Kent and Medway and/or Nominated Persons whether or not in partnership with other organisations involved in the provision healthcare services;

NHS Transfer Terms means the following terms relating to the grant of a lease of the Temporary Integrated Facility and/or Permanent Integrated Facility to the Nominated Persons which shall meet the following requirements:

- (a) permitting use as an Integrated Facility at a peppercorn rent (free from any ground rent charges or similar);
- (b) that, in the case of the Temporary Integrated Facility, such lease shall not be terminated until 6 (six) months after the Council has issued the Permanent Integrated Facility Certificate;
- (c) necessary easements and rights;
- (d) an obligation on the landlord to repair within 3 months of being notified by the NHS Kent and Medway and/or Nominated Persons or the Council (unless the NHS Trust or Council agrees otherwise) any defects; and
- (e) such other terms to agreed in writing between the Owner and the NHS Kent and Medway and/or Nominated Persons;

Nominated Persons means any person or persons nominated by the NHS Kent and Medway to accept a lease of the Temporary Integrated Facility and/or Permanent Integrated Facility in accordance with the NHS Transfer Terms;

NHS Contribution means the sum of £XXX¹⁰ calculated in accordance with the NHS Contributions Formula being [x] for the entire Development based on 3,500 Dwellings payable to the Council in accordance with paragraph 6 of this Schedule 4 towards the cost of the NHS Contribution Purposes;

NHS Contributions Formula means the formula XXX which details how the NHS Contribution has been calculated;

NHS Contribution First Instalment means the sum of £XXX;

NHS Contribution Second Instalment means the sum of £XXX;

[NHS Contribution Third Instalment means the sum of £XXX];

⁹ This schedule is subject to further consultation with the NHS Trust

¹⁰ Contribution and amount to be discussed with the NHS Trust

NHS Contribution Purposes means contributing towards the cost of off-Site improvements to existing GP surgeries to meet the needs of the Development within the Northfleet and Springhead Ward within Gravesham Borough Council;

NHS Kent and Medway means the NHS integrated care system delivering health and social care across Kent and Medway (or any successor organisation);

Permanent Integrated Facility means an Integrated Facility of a minimum 1,350 square metres of floorspace (or such other quantum of floorspace as may be agreed in writing by the Council in consultation with the NHS Kent and Medway and/or Nominated Persons and the Owner) in accordance with the Permanent Integrated Facility Specification (defined below), to be located in the Parkland Neighbourhood in an accessible location to transport facilities and which shall:

- (a) be accessible from the public highway and in close proximity to local transport services;
- (b) be located on the ground floor of a building with step-free access unless agreed otherwise by the Owner (acting reasonably) and in which case there shall be accessible lifts;
- (c) be designed and built with all clinical rooms and offices being provided with natural daylight;
- (d) be close to bus stops on the proposed Fastrack networks;
- (e) provide a car park which should include at least 4 disabled spaces and at least 4 reserved spaces for staff vehicles required for home visits;
- (f) provide disabled drop-off bays and an ambulance parking bay which should be located immediately outside the entrance together with secure bicycle storage;
- (g) be fully serviced (to include connections to surface water drainage facilities and to mains foul drainage water gas electricity and telecommunications); and
- (h) be fully fitted out with the exception of all equipment and loose furniture (to include internal decoration, kitchenette facilities and bathroom facilities);

Permanent Integrated Health Facility Agreement for Lease means the agreement for lease for the Permanent Integrated Facility substantially in accordance with the heads of terms at Appendix [10];

Permanent Integrated Facility Lease means the lease for the Temporary Integrated Facility substantially in accordance with the heads of terms at Appendix [10];

Permanent Facility Specification means a specification to be submitted by the Owner for the design of the Integrated Facility to be agreed in writing by the Council in consultation with the NHS Kent and Medway, such specification to be in accordance with the relevant criteria set out within the *'NHS Health Building Note 11-01:Facilities for primary and*

community care services' published by the Department of Health in March 2023 (or any other replacement guidance published from time to time) and such specification to achieve an excellent standard pursuant to the Building Research Establishment Environmental Assessment Method published from time to time;

Practically Complete means for the purposes of this Schedule 4 only, issue of a certificate of practical completion by the Owner's architect or other appropriate professional that the Temporary Integrated Facility and/or Permanent Integrated Facility has been constructed and is available for use in accordance with the Planning Permission, relevant Reserved Matters Approvals and this Schedule 4;

Relevant Integrated Facility means either the Temporary Integrated Facility or the Permanent Integrated Facility as relevant;

Temporary Integrated Facility means a temporary Integrated Facility of between 200-800 square metres of floorspace (or such other quantum of floorspace as may be agreed in writing by the Council in consultation with the NHS Kent and Medway and/or Nominated Persons and the Owner) in accordance with the Temporary NHS Facility Specification and which shall:

- (a) be accessible from the public highway;
- (b) be located on the ground floor of a building with step-free access;
- (c) be fully serviced (to include connections to surface water drainage facilities and to mains foul drainage water gas electricity and telecommunications); and
- (d) be fully fitted out with the exception of equipment and loose furniture (to include internal decoration, kitchenette facilities and bathroom facilities);

Temporary Integrated Health Facility Agreement for Lease means the agreement for lease for the Temporary Integrated Facility substantially in accordance with the heads of terms at Appendix [9];

Temporary Integrated Facility Lease means the lease for the Temporary Integrated Facility substantially in accordance with the heads of terms at Appendix [9];

Temporary Integrated Facility Specification means a specification to be submitted by the Owner for the Temporary Integrated Facility to be agreed by the Council in consultation with the NHS Kent and Medway and to be in accordance with the relevant criteria set out within the 'NHS Health Building Note 11-01:Facilities for primary and community care services' published by the Department of Health in March 2023 (or any other replacement guidance published from time to time) and such specification to achieve an excellent standard pursuant to the Building Research Establishment Environmental Assessment Method published from time to time and the term **Approved Temporary Integrated Facility Specification** shall be construed accordingly to mean the Temporary Integrated Facility Specification approved by the Council pursuant to this Schedule 4;

Verification Report means the report to be produced by the Independent Assessor following inspection of the Relevant Integrated Facility to verify whether the Relevant Integrated Facility has been satisfactorily completed in accordance with this Agreement and

any conditions attached to the Planning Permission and relevant Reserved Matters Approvals.

2 Election of approach

2.1 The Owner and the Council covenants with each other as follows:

2.1.1 That the Owner shall consult the NHS Kent and Medway and/or relevant Nominated Persons on proposals relating to the Temporary Integrated Facility and the Permanent Integrated Facility prior to the Implementation Date and then at least every 6 months thereafter until such time as the Council has provided the confirmation detailed in paragraph 2.1.2 below and to have due regard to the representations made by the NHS Kent and Medway and/or relevant Nominated Persons; and

2.1.2 by not later than the date which is 6 months following the Commencement off the first Reserved Matters Approval containing Dwellings the Council (having first consulted with NHS Kent and Medway and/or relevant Nominated Persons) shall serve notice on the Owner to confirm whether it requires:

- (a) a Temporary Integrated Facility and subsequently a Permanent Integrated Facility and in which case paragraph 3 and **Error! Reference source not found.** of this Schedule 4 shall be required to be complied with by the Owner;
- (b) a Permanent Integrated Facility only and in which case paragraph 4 of this Schedule 4 shall be required to be complied with by the Owner; or
- (c) payment by the Owner of the NHS Contribution and in which case paragraph 6 of this Schedule 4 shall be required to be complied with by the Owner.

3 Temporary Integrated Facility

3.1 The Owner and the Council covenant with one another as follows:

3.1.1 by no later than the Occupation of [XXX]¹¹ Dwellings the Owner shall submit to the Council, NHS Kent and Medway and/or relevant Nominated Persons for written approval:

- (a) the location of the Temporary Integrated Facility;
- (b) the design brief and Temporary Integrated Facility Specification; and
- (c) a copy of the proposed Temporary Integrated Health Facility Agreement for Lease; and
- (d) a copy of the proposed Temporary Integrated Facility Lease,

and thereafter the Owner shall use all reasonable but commercially prudent endeavours to agree the above referred to documents with the Council, NHS

¹¹ All thresholds for obligations remain subject to discussions with the NHS Trust

Kent and Medway and/or relevant Nominated Persons and to enter into the Temporary Integrated Health Facility Agreement for Lease with the NHS Kent and Medway and/or relevant Nominated Persons.

3.1.2 the Owner shall not Occupy more than [XXX] Dwellings or permit or cause or suffer the Occupation of more than [XXX] Dwellings until the Council has approved in writing:

- (a) the location of the Temporary Integrated Facility;
- (b) the design brief and Temporary Integrated Facility Specification;
- (c) the proposed Temporary Integrated Health Facility Agreement for Lease; and
- (d) the proposed Temporary Integrated Facility Lease.

3.1.3 the NHS Kent and Medway and/or relevant Nominated Persons shall be afforded eight months from the date of service of the offer and documents detailed in paragraph 3.1.1 above to confirm whether the offer is accepted and, where the offer is accepted, to enter into the Temporary Integrated Health Facility Agreement for Lease which shall append the agreed Temporary Integrated Facility Specification;

3.1.4 following the entering into of a Temporary Integrated Facility Agreement for Lease the Owner shall submit the Reserved Matters Application for the Temporary Integrated Facility and shall ensure that the Reserved Matters Application for the Temporary Integrated Facility complies with the details approved pursuant to 3.1.1 (a) to (d);

3.1.5 subject to the Temporary Integrated Health Facility Agreement for Lease having been entered into:

- (a) prior to Occupation of the [XXX]th Dwelling within the Development, construct and deliver the Temporary Integrated Facility to Practical Completion in accordance with the Temporary Integrated Facility Specification, this Schedule 4, the Planning Permission and the relevant Reserved Matters Approval(s);
- (b) not Occupy or cause or permit Occupation of more than [XXX] Dwellings in the Development until the Temporary Integrated Facility is Practically Complete in accordance with paragraph **Error! Reference source not found.**;

3.2 In the event that the NHS Kent and Medway and/or relevant Nominated Persons have not entered into the Temporary Integrated Health Facility Agreement for Lease by the date which is nine months following the Council's written approval of the documents detailed in paragraph 3.1.2 above, this paragraph 3 shall be of no further effect.

3.3 The Owner covenants not to use the land identified for the Temporary Integrated Facility for any use other than as an Integrated Facility (save for any meanwhile use on a temporary basis which is approved in writing by the Council) .

4 Permanent Integrated Facility

4.1 The Owner and the Council covenant with one another as follows:

4.1.1 prior to Commencement of [XXX] Dwellings the Owner shall submit to the Council, NHS Kent and Medway and/or relevant Nominated Persons for its written approval:

- (a) the location of the Permanent Integrated Facility;
- (b) the design brief and Permanent Integrated Facility Specification; and
- (c) a copy of the proposed Permanent Integrated Health Facility Agreement for Lease; and
- (d) a copy of the proposed Permanent Integrated Facility Lease,

and thereafter the Owner shall use all reasonable but commercially prudent endeavours to agree the above referred to documents with the Council, NHS Kent and Medway and/or relevant Nominated Persons and to enter into the Permanent Integrated Health Facility Agreement for Lease with the NHS Kent and Medway and/or relevant Nominated Persons.

4.1.2 the Owner shall not Commence more than [XXX] Dwellings or cause or permit Commencement of more than [XXX] Dwellings until the following have been approved in writing by the Council:

- (a) the location of the Permanent Integrated Facility;
- (b) the design brief and Permanent Integrated Facility Specification;
- (c) a copy of the proposed Permanent Integrated Health Facility Agreement for Lease; and
- (d) a copy of the proposed Permanent Integrated Facility Lease,

4.1.3 the NHS Kent and Medway and/or relevant Nominated Persons shall be afforded 8 months from the date of service of the offer and documents detailed in paragraph 4.1.2 above to confirm whether the offer is accepted and, where the offer is accepted, to enter into the Permanent Integrated Health Facility Agreement for Lease which shall append the agreed Permanent Integrated Facility Specification;

4.1.4 following the entering into of a Permanent Integrated Facility Agreement for Lease the Owner shall submit the Reserved Matters Application for the Permanent Integrated Facility and shall ensure that the Reserved Matters Application for the Permanent Integrated Facility complies with the details approved pursuant to 4.1.2 (a) to (d);

4.1.5 subject to the Permanent Integrated Health Facility Agreement for Lease having been entered into:

- (a) prior to Occupation of the [XXX]th Dwelling within the Development, construct and deliver the Permanent Integrated Facility to Practical Completion in accordance with the Permanent Integrated Facility Specification, this Schedule 4, the Planning Permission and relevant Reserved Matters Approval(s); and
- (b) not Occupy or cause or permit Occupation of more than [XXX]Dwellings in the Development until the Permanent Integrated Facility is Practically Complete in accordance with paragraph 4.1.5(a).

4.2 In the event that the NHS Kent and Medway and/or relevant Nominated Persons have not entered into the Permanent Integrated Health Facility Agreement for Lease by the date which is nine months following the Council's written approval of the documents set out at paragraph 4.1.2 above, this paragraph 4 shall be of no further effect and the NHS Contribution shall be payable by the Owner in accordance with paragraph 6 of this Schedule 4.

4.3 The Owner covenants not to use the land identified for the Permanent Integrated Facility for any use other than as an Integrated Facility (save for any meanwhile use on a temporary basis which is approved in writing by the Council).

5 Temporary and Permanent Integrated Facility Certificate

5.1 Following Practical Completion of the Temporary Integrated Facility and/or Permanent Integrated Facility as set out in this Schedule (the **Relevant Integrated Facility**), the Owner shall apply to the Independent Assessor in writing for a Verification Report in relation to the Relevant Integrated Facility.

5.2 The Owner covenants to pay the Inspection Fees of the Independent Assessor and to be responsible for all reasonable and proper costs of the Independent Assessor.

5.3 As soon as reasonably practicable (and in any event within twenty (20) Working Days following the Owner's application for the issue of a Verification Report pursuant to paragraph **Error! Reference source not found.**) the Owner shall procure that the Independent Assessor:

5.3.1 issue to the Owner and Council the Verification Report for the Relevant Integrated Facility; or

5.3.2 provide the Owner (where necessary) with a definitive written list of any works reasonably required to be carried out and any remedial works required (**Additional NHS Works**) to ensure that the Relevant Integrated Facility is completed to the reasonable satisfaction of the Independent Assessor.

5.4 The Owner must carry out any Additional NHS Works without delay and at their own cost.

5.5 The Additional NHS Works shall be subject to the same inspection procedure set out in paragraphs 5.1 to 5.4 of this Schedule 4 until such time as the Relevant Integrated Facility is completed to the reasonable satisfaction of the Independent Assessor.

5.6 Providing that the Council is satisfied that the Owner has complied with paragraphs 5.1 to 5.5 of this Schedule, as soon as reasonably practicable (and in any event within 20 (twenty)

Working Days of a satisfactory inspection and the delivery of the Verification Report in accordance with paragraph 5.3.1) the Council shall issue a certificate to the Owner confirming the same.

6 Primary Healthcare Contribution

6.1 In the event that:

- 6.1.1 the Permanent Integrated Health Facility Agreement for Lease is not entered into by the NHS Kent and Medway and/or relevant Nominated Persons in accordance with this Schedule;
- 6.1.2 the Permanent Integrated Facility is not Practically Completed in accordance with this Schedule for whatsoever reason;
- 6.1.3 or in the event that the Council serves notice on the Owner confirming that it is released from the obligations within this Schedule save for this paragraph 6,

the Owner covenants with the Council as follows:

- 6.1.4 prior to Occupation of more than [XXX] Dwellings, pay the NHS Contribution First Instalment to the Council and not Occupy more than [XXX] Dwellings until the NHS Contribution First Instalment is paid to the Council;
- 6.1.5 prior to Occupation of more than {XXX} Dwellings, pay the NHS Contribution Second Instalment to the Council and not Occupy more than [XXX] Dwellings until the NHS Contribution Second Instalment is paid to the Council; and
- 6.1.6 [prior to Occupation of more than [XXX] Dwellings, pay the NHS Contribution Third Instalment to the Council and not Occupy more than [XXX] Dwellings until the NHS Contribution First Instalment is paid to the Council;]

6.2 [In the event that a Temporary Integrated Facility has been delivered in accordance with paragraph 3, the amount of the NHS Contribution shall be reduced by the cost to the Owner of providing that Temporary Integrated Facility and that reduction shall be proportionately deducted from each of the NHS Contribution First Instalment, NHS Contribution Second Instalment and NHS Contribution Third Instalment.]¹²

¹² This paragraph remains subject to further discussion with the NHS Trust

Schedule 5

Employment and Training

- 1 In this Schedule 5 and this Agreement, unless the context requires otherwise, the following expressions shall have the following meanings:

Apprentice Post means:

- (a) a post as defined by the National Apprenticeships Service which should combine on-the-job training and academic instruction to those entering the work force, with each apprenticeship post to last a minimum of 12 months per apprentice post or as stipulated by the chosen apprenticeship framework; or
- (b) an apprenticeship post, agreed with the Council in light of the prevailing training routes/services available to employers from time to time;

Approved Employment and Skills Plans means the Approved Employment and Skills Plan (Construction) and the Approved Employment and Skills Plan (Operational);

Approved Sub-Phase Employment and Skills Plan means the Approved Sub-Phase Employment and Skills Plans (Construction) and the Approved Sub-Phase Employment and Skills Plans (Operational) and each of them as the context requires;

Commercial Occupiers means any occupier of the Commercial Floorspace or of the Stadium during the Operational Phase(s);

Construction Phase means the as follows:

- (a) for the purposes of the Employment and Skills Plan (Construction), the period from the Implementation of the Development to Practical Completion of the Development; and
- (b) for the purposes of a Sub-Phase Employment and Skills Plan (Construction), the period from the Implementation of the relevant Sub-Phase to Practical Completion of that Sub-Phase;

Employment and Skills Compliance Payment means a sum to be calculated as follows upon the Practical Completion of each Sub-Phase payable in relation to the relevant Sub-Phase:

- (a) £4,000 multiplied by the shortfall against the Target Number of Jobs for that Sub-Phase (as set out in the relevant Approved Sub-Phase Employment and Skills Plan (Construction)) which are not filled by a Local Resident; and
- (b) £2,000 multiplied by the shortfall against the Target Number of Apprentice Posts for that Sub-Phase (as set out in the relevant Approved Sub-Phase Employment and Skills Plan (Construction)) which are not filled by a Local Resident or Local Student,

such sums to be used by the Council towards training of Local Residents and Local Students;

Employment and Skills Final Report means a document setting out actual performance against the targets in an Approved Sub-Phase Employment and Skills Plan (Construction);

Employment and Skills Plan (Construction) means an overarching high level plan setting out how the Owner will meet the requirements of this Schedule 5 and (to the extent not inconsistent with the requirements of this Schedule 5) the Kent and Medway Local Skills Improvement Plan for the entire Development during the Construction Phase, and the term **Approved Employment and Skills Plan (Construction)** shall be construed accordingly to refer to the Employment and Skills Plan (Construction) approved pursuant to this Schedule 5 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Employment and Skills Plan (Operational) means an overarching high level plan setting out how the Owner will meet the requirements of this Schedule 5 and (to the extent not inconsistent with the requirements of this Schedule 5) the Kent and Medway Local Skills Improvement Plan for the entire Development during the Operational Phase, and the term **Approved Employment and Skills Plan (Operational)** shall be construed accordingly to refer to the Employment and Skills Plan (Operational) approved pursuant to this Schedule 5 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Employment Co-ordinator means the person or persons appointed by the Owner responsible for securing implementation of the Approved Employment and Skills Plans and the Approved Sub-Phase Employment and Skills Plans;

Employment Opportunities means (together or such of the following as the context requires) Jobs, Apprentice Posts, Work Placements (and a reference to a type of Employment Opportunity is a reference to any one of those categories);

Kent and Medway Local Skills Improvement Plan means the strategic initiative designed to address skill gaps and drive economic growth in Kent & Medway (including any updates, variations thereto or replacement guidance);

Job means a new paid employment or engagement position that is not an Apprentice Post or a Work Placement;

Local Resident means a person of working age who is ordinarily resident within the Council's administrative area;

Local Student means a person who studies at sixth-form college or a higher education institution within the Council's administrative area;

National Minimum Wage means the minimum pay per hour almost all workers are entitled to as set by His Majesty's Government from time to time;

Operational Phase means:

- (a) for the purposes of an Employment and Skills Plan (Operational), any time from when the Development is first Occupied until [5] years from the

date of first Occupation of the final Dwelling in the last Sub-Phase to be Occupied;

- (b) for the purposes of a Sub-Phase Employment and Skills Plan (Operational), any time from when a Sub-Phase is first Occupied until [5] years from the date of first Occupation of the final Dwelling in the last Sub-Phase to be Occupied;

Reasonable Endeavours means that a party responsible for an obligation shall not be required to take any step which a reasonable and prudent person acting in their own commercial best interests would not take including not being required to take proceedings (including any appeal) in any court, public inquiry or other hearing;

Sub-Phase Employment and Skills Plan (Construction) means a detailed plan to be prepared for each Sub-Phase setting out how the Owner will meet the requirements of this Schedule 5 and (to the extent not inconsistent with the requirements of this Schedule 5) the Kent and Medway Local Skills Improvement Plan for the entire Sub-Phase during the Construction Phase, such plan to be in accordance with the Approved Employment and Skills Plan (Construction) and shall to provide additional detail as may have become available for a Sub-Phase since such plan was approved, and the term **Approved Sub-Phase Employment and Skills Plan (Construction)** shall be construed accordingly to refer to the Sub-Phase Employment and Skills Plan (Construction) approved for the relevant Sub-Phase pursuant to this Schedule 5 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Sub-Phase Employment and Skills Plan (Operational) means a detailed plan to be prepared for each Sub-Phase setting out how the Owner will meet the requirements of this Schedule 5 and (to the extent not inconsistent with the requirements of this Schedule 5) the Kent and Medway Local Skills Improvement Plan for the entire Sub-Phase during the Operational Phase, such plan to be in accordance with the Approved Employment and Skills Plan (Operational) update to provide additional detail as may have become available for a Sub-Phase since such plan was approved, and the term **Approved Sub-Phase Employment and Skills Plan (Operational)** shall be construed accordingly to refer to the Sub-Phase Employment and Skills Plan (Operational) for the relevant Sub-Phase approved pursuant to this Schedule 5 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Target Number means, in relation to a type of Employment Opportunity, the numbers thereof that are agreed in each Approved Sub-Phase Employment and Skills Plan (Construction) as being the target number of each such opportunity that the Owner will aim to provide in the construction of the Development during the Construction Phase; and **Work Placement** means a work experience placement in the construction trade provided during the Construction Phase in the construction of the Development with a length of no less than four (4) weeks.

2 **Employment and Skills Plan (Construction)**

2.1 The Owner covenants with the Council:

- 2.1.1 six (6) weeks prior to the Implementation Date to submit to the Council for its written approval the Employment and Skills Plan (Construction) (having first consulted with the Council by providing a draft and not less than 40 Working Days

for comments to be provided to ensure that views of relevant stakeholders are incorporated);

- 2.1.2 to implement the Approved Employment and Skills Plan (Construction) to the reasonable satisfaction of the Council and in the event of non-compliance with this paragraph the Owner shall upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance;
- 2.1.3 that the Employment and Skills Plan (Construction) submitted pursuant to paragraph 2.1.1 of this Schedule 5 shall include the following matters in respect of the Development:
- (a) the planned Implementation Date and the planned Commencement Date;
 - (b) the estimated date of Practical Completion of the Development;
 - (c) the estimated floorspace (gross internal area in square meters) within the Development;
 - (d) the estimated total number of construction Job vacancies that are likely to arise during the Construction Phase in the construction of the Development based on a construction labour forecast, identifying occupation(s) (where known);
 - (e) the estimated total number of construction Apprentice Post and Work Placement opportunities in the construction of the Development during the Construction Phase including level, trade/occupation area, course name(s) and training provider(s) (where known);
 - (f) the Target Number of construction Jobs for Local Residents during the Construction Phase and strategies for delivering that Target Number;
 - (g) how the aims, objectives and requirements in paragraphs [5, 6] and [7] of this Schedule 5 shall be achieved;
 - (h) arrangements for managing the delivery during the Construction Phase of Apprenticeship Posts, including targeted strategies to engage and recruit Local Residents who are under 25 (twenty-five) years of age (without prejudice to accepting Local Residents who are over 25 (twenty-five) years of age);
 - (i) arrangements for managing the delivery during the Construction Phase of Work Placements, including details of how the programme(s) will be delivered, by whom (where known), and Target Number of Work Placements and target groups of beneficiaries;
 - (j) arrangements for marketing of Employment Opportunities during the Construction Phase to prioritise Local Residents and to ensure regular engagement with the Council in respect of any vacancies, together with other agencies nominated by the Council from time to time;

- (k) arrangements for supporting local supply chains during the Construction Phase including prioritising businesses located within the Borough and to ensure regular engagement with the Council, together with other agencies nominated by the Council from time to time;
- (l) arrangements for provision of training opportunities for employees in Job or Work Placement positions and associated costs for the delivery of such training; and
- (m) data to be collected and provided to the Council for the purposes of monitoring compliance with the Approved Employment and Skills Plan (Construction) in accordance with paragraph [7] of this Schedule 5;

2.1.4 that it shall use Reasonable Endeavours to ensure that a minimum of 20% of the total value of contracts which procure goods and services during the Construction Phase shall be fulfilled by contractors and/or subcontractors located within the Borough unless otherwise agreed in writing by the Council; and

2.1.5 that it shall ensure in relation to the Construction Phase that its prospective and actual contractors and sub-contractors are made aware of the Approved Employment and Skills Plan (Construction), including any variations and/or updates to the Approved Employment and Skills Plan (Construction) as applicable as are agreed in writing between the Owner and the Council; and

2.2 that it shall not Implement the Development nor permit or cause or suffer Implementation until the Employment and Skills Plan (Construction) has been approved by the Council in writing.

3 **Employment and Skills Plan (Operational)**

3.1 The Owner covenants with the Council:

3.1.1 six (6) weeks prior to first Occupation to submit to the Council for its written approval the Employment and Skills Plan (Operational) (having first consulted with the Council by providing a draft and not less than 30 Working Days for comments to be provided to ensure that views of relevant stakeholders are incorporated);

3.1.2 to implement the Approved Employment and Skills Plan (Operational) to the reasonable satisfaction of the Council and in the event of non-compliance with this paragraph the Owner shall upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance;

3.1.3 that the Employment and Skills Plan (Operational) submitted pursuant to paragraph 2.1.1 of this Schedule 5 shall include the following matters in respect of the Development:

- (a) the planned date of first Occupation;
- (b) how the aims, objectives and requirements in paragraphs [5, 6 and 7] of this Schedule 5 shall be achieved;

- (c) arrangements for managing the delivery during the Operational Phase of Apprenticeship Posts, including targeted strategies to engage and recruit Local Residents who are under 25 (twenty-five) years of age (without prejudice to accepting Local Residents who are over 25 (twenty-five) years of age);
 - (d) arrangements for managing the delivery during the Operational Phase of Work Placements including details of how the programme(s) will be delivered, by whom (where known), and the Target Number of such placements and target groups of beneficiaries;
 - (e) arrangements for marketing of Employment Opportunities during the Operational Phase to prioritise Local Residents and to ensure regular engagement with the Council in respect of any vacancies, together with other agencies nominated by the Council from time to time ;
 - (f) arrangements for supporting local supply chains during the Operational Phase including prioritising businesses located within the Borough and to ensure regular engagement with the Council, together with other agencies nominated by the Council from time to time;
 - (g) arrangements for notifying the Occupiers of the Commercial Floorspace of the support that the Council (and other agencies) can provide to assist with the employment of Local Residents and access to local supply chains; and
 - (h) arrangements for provision of training opportunities for employees in Job or Work Placement positions and associated costs for the delivery of such training;
- 3.1.4 that it shall procure in relation to the Operational Phase that its contractors and sub-contractors are made aware of the Approved Employment and Skills Plan (Operational), including any variations and/or updates to the Approved Employment and Skills Plan (Operational) as applicable as may be agreed in writing between the Owner and the Council; and
- 3.1.5 that it shall not Occupy the Development nor permit or cause or suffer Occupation until the Employment and Skills Plan (Operational) has been approved by the Council in writing.

4 Sub-Phase Employment and Skills Plan (Construction)

4.1 The Owner covenants with the Council:

- 4.1.1 six (6) weeks prior to the Implementation of a Sub-Phase to submit to the Council for its written approval the Sub-Phase Employment and Skills Plan (Construction) for that Sub-Phase (having first consulted with the Council by providing a draft and not less than 30 Working Days for comments to be provided to ensure that views of relevant stakeholders are incorporated);
- 4.1.2 to implement each Approved Sub-Phase Employment and Skills Plan (Construction) to the reasonable satisfaction of the Council and in the event of

non-compliance with this paragraph the Owner shall upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance;

- 4.1.3 that the Sub-Phase Employment and Skills Plans (Construction) submitted pursuant to paragraph [4.1.1] of this Schedule 5 shall detail how the principles set out in the Approved Employment and Skills Plan (Construction) shall be implemented during the construction of the relevant Sub-Phase;
- 4.1.4 that it shall procure in relation to the Construction Phase of a Sub-Phase that its contractors and sub-contractors are made aware of the relevant Approved Sub-Phase Employment and Skills Plan (Construction), including any variations and/or updates to such plan as may be agreed in writing between the Owner and the Council; and
- 4.1.5 that it shall not Implement nor permit or cause or suffer Implementation of a Sub-Phase until the Sub-Phase Employment and Skills Plan (Construction) for that Sub-Phase has been approved by the Council in writing.

5 Sub-Phase Employment and Skills Plan (Operational)

5.1 The Owner covenants with the Council:

- 5.1.1 six (6) weeks prior to the Occupation of a Sub-Phase to submit to the Council for its written approval the Sub-Phase Employment and Skills Plan (Operational) for that Sub-Phase (having first consulted with the Council by providing a draft and not less than 40 Working Days for comments to be provided to ensure that views of relevant stakeholders are incorporated);
- 5.1.2 to implement each Approved Sub-Phase Employment and Skills Plan (Operational) to the reasonable satisfaction of the Council and in the event of non-compliance with this paragraph the Owner shall upon notice from the Council forthwith take any steps reasonably and properly required by the Council to remedy such non-compliance;
- 5.1.3 that the Sub-Phase Employment and Skills Plans submitted pursuant to paragraph [4.1.1] of this Schedule 5 shall include the same matters in respect of that Sub-Phase of the Development as set out in paragraph [2.1.3] of this Schedule 5 and shall be in accordance with the Approved Employment and Skills Plan (Operational);
- 5.1.4 that it shall procure in relation to the Operational Phase of a Sub-Phase that Occupiers of Commercial Floorspace are made aware of the relevant Approved Sub-Phase Employment and Skills Plan (Operational), including any variations and/or updates to such plan as may be agreed in writing between the Owner and the Council; and
- 5.1.5 that it shall not Occupy nor permit or cause or suffer Occupation of a Sub-Phase until the Sub-Phase Employment and Skills Plan (Operational) for that Sub-Phase has been approved by the Council in writing.

6 Delivery of the Employment and Skills Targets

6.1 The Owner undertakes to the Council to use Reasonable Endeavours:

6.1.1 to provide (or to procure the provision of) during the Construction Phase:

- (a) 20% of the total on-site Jobs forecast in the Approved Employment and Skills Plan as the Target Number for Jobs for Local Residents;
- (b) one Apprentice Post for each 56 on-site Jobs forecast in the Approved Employment and Skills Plan (Construction) up to a maximum Target Number of [10] Apprentice Posts in each Sub-Phase, such Apprentice Posts to be filled by a Local Resident or Local Student; and
- (c) two Work Placements per Apprentice Post;

6.1.2 during the Construction Phase to:

- (a) advertise upcoming Job vacancies relating to the construction of the Development through the Council's communications channels (either by means of uploading vacancy details directly to the Council's electronic communications channels in the manner advised by the Council or, if agreed with the Council, by providing one or more links to an external electronic communications channel and/or providing printed promotional material for distribution by the Council) with, in all cases, a minimum deadline of five Working Days for applications for Construction Phase Jobs;
- (b) advertise details of any other types of unfilled Employment Opportunities relating to the construction of the Development through the Council's communications channels (either by means of uploading application details directly to the Council's electronic communications channels in the manner advised by the Council or, if agreed with the Council, by providing one or more links to an external electronic communications channel and/or providing printed promotional material for distribution by the Council);
- (c) provide or procure the provision of training opportunities for employees in a Job or Work Placement position; and
- (d) procure that its contractors and subcontractors will provide a minimum number of hours (to be set out in the Employment and Skills Plan (Construction)) of engagement with local skills providers (including further education, higher education and independent training providers) for the purpose of assisting with the education and training of Local Residents and Local Students to achieve the Target Numbers;

6.1.3 to employ an Employment Co-ordinator for the lifetime of the Development;

6.1.4 that it (and its contractors, sub-contractors) will, as a minimum, pay all Apprentices engaged during the Development the National Minimum Wage for the relevant age group;

6.1.5 in respect of the Operational Phase(s):

- (a) to notify the Council once per annum in writing of all Occupiers of the Commercial Floorspace (including contact details) for the purposes of the Council liaising with such Occupiers to promote how it and other agencies can provide support to assist with the employment of Local Residents and access to local supply chains;
- (b) to include within any transfer, lease, tenancy or licence that each Occupier of the Commercial Floorspace shall, upon the request of the Council, participate in at least one meeting per annum with the Council and other agencies to discuss Employment Opportunities and procuring goods and services from local supply chains;

6.2 The Council and the Owner shall use all reasonable but commercially prudent endeavours to agree that as part of any Sub-Phase Employment and Skills Plan (Construction) that such plan prioritises the development of a local talent pool and local supply chain such that it supports the needs of the Development and the meeting of the Target Numbers contained within the relevant Sub-Phase Employment and Skills Plan (Construction).

7 **Monitoring and compliance**

7.1 For the purposes of discussing the performance of the Owner's obligations required by this Schedule 5 and the arrangements for monitoring the delivery of those obligations, the Owner covenants with the Council:

- 7.1.1 to provide (or procure the provision) to the Council within ten (10) Working Days of approval of the Employment and Skills Plan (Construction) and each Sub-Phase Employment and Skill Plan (Construction) one (1) or more dates for a face-to-face meeting with the Council (and, subject to the Council acting reasonably with respect to the same, such meeting is to take place within 28 Working Days of the relevant approval or within such other period as may be agreed with the Council);
- 7.1.2 to participate in (or procure representation at) upon the request of the Council a minimum of two (2) meetings per year with the Council during the Construction Phase to review the Approved Employment and Skills Plan (Construction) and any Approved Sub-Phase Employment and Skills Plans (Construction) with the Employment Co-ordinator and any contractors and sub-contractors (and to agree that any such meeting may take place at the Site if the Council so requests);
- 7.1.3 twice per year during the Construction Phase to provide to the Council (or procure the provision of), upon the request of the Council and through such systems as the Council reasonably requires (which may include the use of an electronic portal), monitoring data about progress against the Target Number(s) of Employment Opportunities for Local Residents;
- 7.1.4 to submit to the Council (or procure the submission of) during the Construction Phase at intervals of twelve (12) months commencing from the first anniversary of Commencement (or at such other intervals as may be agreed with the Council) one or more progress reports, to include a description of activities undertaken,

any variation to any forecast Target Number(s) of Employment Opportunities for Local Residents and/or projected activities;

- 7.1.5 to submit to the Council (or procure the submission of) an Employment and Skills Final Report no later than three (3) months after the Practical Completion of each Sub-Phase of the Development, to include a narrative description of activities undertaken (including performance against the Target Number(s) and any variation to any forecast number thereof and/or projected activities) and a description of outputs and benefits achieved for Local Residents arising from performance of the Approved Employment and Skills Plan (Construction) and the relevant Approved Sub-Phase Employment and Skills Plan (Construction);
- 7.1.6 following receipt of each Employment and Skills Final Report to participate in a meeting with the Council to review performance against the Approved Employment and Skills Plan (Construction) and the relevant Approved Sub-Phase Employment and Skill Plan (Construction) and to discuss improvements which may be implemented for later Sub-Phases and any variations required to the Approved Employment and Skills Plan (Construction) and/or other Sub-Phase Employment and Skills Plans (Construction) save that any variations must be approved in writing by the Council;
- 7.1.7 where the Council acting reasonably (and after having given the Owner written notice of its provisional assessment in respect of the application of this paragraph) considers that an Employment and Skills Final Report submitted to it and/or such other information as is available to the Council demonstrate that there has been a shortfall in delivery against any of the Target Number(s) of Employment Opportunities for Local Residents (as set out in the Approved Sub-Phase Employment and Skill Plan or in default of specification therein as set out in this Schedule 5), and where the Owner cannot demonstrate to the satisfaction of the Council that Reasonable Endeavours have been used to achieve those Target Numbers, the Council may serve written notice on the Owner a demand for an Employment and Skills Compliance Payment setting out the quantum of such payment and the basis for its calculation; and
- 7.1.8 where the Owner receives written notice from the Council demanding an Employment and Skills Compliance Payment, subject to paragraph 7.2 and 7.3 below, payment will be made by the Owner to the Council within the timescale stipulated in that written notice (which will be not less than 28 (twenty-eight) Working Days).
- 7.2 In the event that the Owner disagrees with the Council's position regarding the Employment and Skills Compliance Payment provisions of this Schedule 5 (including, for the avoidance of doubt, the requirement for or level of a requested Employment and Skills Compliance Payment) the Owner may elect to refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure.
- 7.3 If as a part of his decision the expert concludes that an ES Compliance Payment must be paid because in his judgment there has been a shortfall in delivery against any of the Target Number(s) of Employment Opportunities for Local Residents (as set out in the Approved Sub-Phase Employment and Skill Plan or in default of specification therein as set out in this Schedule 5) and the Owner is not able to demonstrate the use of Reasonable Endeavours

to achieve those Target Numbers, the expert must also confirm the quantum of that payment in writing. The Owner shall pay the ES Compliance Payment within the timescale specified by the expert, which shall be no less than 28 (twenty-eight) Working Days.

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Schedule 6

Open Space

- 1 In this Schedule 6 and this Agreement unless the context requires otherwise, the following words and expressions shall have the following meanings:

Inspection Fee means the sum representing the reasonable and proper costs incurred by the Independent Assessor in carrying out an inspection of the Open Space or any part thereof and for producing the associated Verification Report and the final Verification Report in accordance with this Schedule 6;

Marketplace Open Space means the hard landscaped public space to be provided with an indicative area of 14,600 sqm as part of the Development in accordance with the Planning Permission and applicable Reserved Matters Approval, the location of which is indicatively shown shaded pink on the Primary Open Space Areas Plan, or as subsequently varied by the written agreement of the Council and shown on an updated plan;

Open Space means all those publicly accessible areas, spaces between buildings and private communal amenity areas within the Development, in accordance with the Planning Permission and all Reserved Matters Approvals (save for those areas or spaces which are intended for exclusive occupation and use by a single household of the Development), including (but not limited to):

- (a) the Primary Open Space Areas;
- (b) play spaces and facilities;
- (c) all public realm and landscaped areas within the Site, including any public art and heritage interpretation panels;
- (d) all areas to be open for use by the general public at large;
- (e) all internal roads, parking areas and paths, save for any areas dedicated as public highway and adopted as public highway maintainable at the public's expense;
- (f) all sustainable urban drainage systems required within the Development pursuant to the Planning Permission and any Reserved Matters Approvals; and
- (g) any Public Realm Improvements (as defined in Schedule [12]) which are not adopted by a public authority;

Open Space Bond means the bond or bonds for the purpose of providing for non-compliance in respect of the delivery of the Power Park and Swanscombe Gate in accordance with the terms of this Schedule for the Open Space Bond Sum from the National House Building Council or a reputable Surety satisfactory to the Council substantially in the form attached to this Agreement at Appendix [] and the term **Replacement Bond** means any Bond given by a subsequent owner to the Council in respect of the Power Park or Swanscombe Gate and shall be interpreted in accordance with the meaning of clause 8.1.1 of this Agreement;

Open Space Bond Sum means a sum equal to the reasonable estimated cost of undertaking the works to which the relevant Bond relates plus a 10% (ten percent) contingency to be approved in writing by the Council pursuant to this Schedule 6;

Open Space Certificate means a certificate to the effect that the Open Space or such part of it as may be specified has been Practically Completed to the satisfaction of the Council save for such minor outstanding works as the Council may agree;

Open Space Maintenance Contribution means the maintenance contributions to be applied to maintaining the Open Space or any specified part for the period of 10 years from transfer of the last part of the Open Space forming part of the Development, to the Management Company, the quantum of such sum to be agreed in each case in writing with the Council and calculated on the basis of the estimated costs of maintenance for the assumed period of maintenance for the relevant Open Space on the assumption that the Management Company is to maintain the Open Space for the period of 10 years from the last part of the Open Space forming part of the Development plus a 10% contingency allowance;

Open Space Transfer Terms means the following terms relating to the transfers of the Open Space to the Management Company which shall include the following:

- (a) to transfer the fee simple estate free from leasehold interests or financial charges;
- (b) all easements and rights necessary in relation to access for the benefit of the Open Space;
- (c) all exceptions, reservations and covenants required for the benefit of the Development (and the future use of the same) in relation to drainage, services (including but not limited to rights to passage and running of services (and drainage) rights to lay, construct, inspect, connect to, adjust, cleanse, maintain, repair, alter, renew) rights of access onto the Open Space (with all necessary workmen, materials, plant and machinery) together with rights of support and access of light and air; and
- (d) restrictive covenants on behalf of the Management Company:
 - i not to use or permit the Open Space to be used for any purpose other than for the provision of grassed areas and/or play areas and/or parking areas and/or roads and/or open areas and/or for recreation in accordance with this Agreement, the Planning Permission, any relevant Reserved Matters Approvals and relevant Approved Sub-Phase Open Space Plan (as applicable) [for the lifetime of the relevant part of the Development](#) save for Permitted Closures;
 - ii not to close the recreational parts of the Open Space as identified in the Approved Overarching Open Space Plan and any relevant Approved Sub-Phase Open Space Plan or seek to restrict access to those parts; and

- iii not to use or permit the Open Space to be used in a manner which may be or become a legal nuisance, annoyance, disturbance or cause material damage to the rest of the Development,

and for the avoidance of doubt such terms and any amendments or variations of them must be approved in writing by the Council;

Overarching Open Space Plan means an indicative plan which identifies and details the following:

- (a) the approximate location, distribution and quantum of the Open Space proposed within the Development and its intended use, including the recreational parts which shall be open for use by the public at large 24 hours a day for 365 days a year save for Permitted Closures and for the avoidance of doubt the minimum quantum of Open Space shall be 9.5 acres for the whole Development;
- (b) the phasing and programme for the delivery of the Open Space;
- (c) the arrangements that will be put in place to ensure that the Open Space once Practically Complete is managed and maintained and is always kept in a clean and tidy state by the Owner up until the transfer to the Management Company, the arrangements to include (but not limited to) the following;
 - i walls and enclosures within the public realm;
 - ii the cleansing of public areas (including the removal of litter and graffiti and measures for dealing with marine litter);
 - iii the indicative arrangements that will be put in place to ensure that the Open Space is managed and maintained (including but not limited to the details listed at limb (c) above) and is always kept in a clean and tidy state by the Management Company for the lifetime of the Development following the transfer of the Open Space from the Owner;
 - iv the indicative planting and lighting strategy principles that will be followed by the Management Company within the Open Space;
 - v the planting and lighting strategy that will be followed by the Management Company within the Open Space;
 - vi the safety and security provisions that will be put in place within the Open Space, including CCTV and on-site security measures; and
 - vii the proposed form of transfer of the Open Space from the Owner to the Management Company,

such plan to be in accordance with the Planning Permission and any applicable Reserved Matters Approvals and the term **Approved Overarching Open Space Plan** shall be construed accordingly to refer to the Overarching Open Space Plan approved pursuant to this Schedule 6 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Permanent Finish means the Open Space (excluding the Primary Open Space Areas) which has been constructed to a Temporary Finish and which further construction has been undertaken in accordance with the Permanent Finish Specification to the standard required to achieve Practical Completion;

Permanent Finish Specification means the specification for any Permanent Finish of any Open Space (excluding the Primary Open Space Areas) as set out and approved by the Council as part of the relevant Reserved Matters Approval;

Permitted Closures means the purposes for which the Owner may from time to time temporarily restrict or prevent access to the Open Space or any separate part thereof but only for so long as is reasonably necessary, and for the following purposes:

- (a) for a maximum of one day per year to assert rights of proprietorship preventing any additional public rights from coming into being by means of prescription or any process of law PROVIDED THAT there shall be no such closure if the entire Open Space has been closed for an entire day or more for any of the other purposes specified in this definition during the preceding year;
- (b) in the interests of public safety generally or for the purposes of maintenance, repair, cleansing, renewal or resurfacing of the Open Space;
- (c) the laying, cleaning, maintenance and repair of any cables, wires, pipes, drains or ducts over, along or beneath the Open Space;
- (d) the inspection, maintenance, repair, renewal, rebuilding or demolition or development of any building or buildings on land adjoining the Open Space (including the erection of scaffolding);
- (e) in cases of emergency or danger to the public where such closure is necessary in the interests of public safety or otherwise for reasons of public safety or at the request of the emergency services; or
- (f) with the prior written approval of the Council for any reasonable and proper purpose, which may include the holding of temporary leisure and entertainment events, markets and festivals,

PROVIDED THAT the Owner shall (i) take reasonable steps to minimise the duration and extent of any such closures and (ii) re-open the Open Space as soon as is reasonably practicable;

Power Park means the landscaped public park with an indicative area of 12,820 sqm to be provided as part of the Development in accordance with the Planning Permission and applicable Reserved Matters Approval, to include allotments and play space and all boundary features to mitigate impacts on the Swanscombe Peninsula Site, the location of which is indicatively shown shaded blue on the Primary Open Space Areas Plan

Practically Complete means for the purposes of this Schedule 6 only, issue of a certificate of practical completion by the Owner's architect or other appropriate professional that the relevant Open Space has been planted, laid out and constructed and is available for use in

accordance with the Planning Permission, relevant Reserved Matters Approvals, the Approved Overarching Open Space Plan and the relevant Approved Sub-Phase Open Space Plans;

Primary Open Space Areas means the Marketplace, Power Park and, Riverwalk Gardens and Swanscombe Gate;

Primary Open Space Areas Plan means the plan showing indicatively the Primary Open Space Areas located at Appendix [2] to this Agreement;

Proving Period means in relation to each Sub-Phase the period of two (2) years immediately following the later of:

- (g) the date of issue of the Verification Report by the Independent Assessor for that Sub-Phase; and
- (h) the date of Occupation of the final Dwelling in that Sub-Phase,

unless otherwise agreed in writing with the Council;

Riverwalk Gardens means the green link with an area of approximately 13,450 sqm through the Site connecting to the River Thames to be provided as part of the Development in accordance with the Planning Permission and the applicable Reserved Matters Approval, the location of which is indicatively shown shaded orange on the Primary Open Space Areas Plan;

Sub-Phase Open Space Plan means a plan for a Sub-Phase providing details of the proposed location, size, distribution and delivery of the Open Space on a Plot by Plot basis, maintenance and management of the Open Space in that Sub-Phase, including but not limited to the Primary Open Space Areas and all those parts which are to be open for use by the general public at large save, such details to be in accordance with the principles approved as part of the Approved Overarching Open Space Plan, the Planning Permission and any applicable Reserved Matters Approvals and the term **Approved Sub-Phased Open Space Plan** shall be construed accordingly to refer to the Phased Open Space Plan approved pursuant to this Schedule 6 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Surety such reputable bank or other financial institution as may be nominated by the Owner and approved by the Council for the purposes of the Open Space Bond;

Survey on Recreational Impacts means a survey to quantitatively assess the residual recreational impacts of the Development on the Swanscombe Peninsula Site and such surveys shall, for the avoidance of doubt, take account of the cumulative effect of the Development as a whole including any Occupied parts of the Development;

Residual Recreational Impacts Mitigation Plan means a plan setting out the mitigation measures considered to be appropriate to mitigate any residual recreational impacts (including when considered cumulative effects) of the Development (or relevant part thereof) on the Swanscombe Peninsula Site arising from the results of a Survey on Recreational Impacts, to be developed by the Owner in consultation with the Council, Natural England and other interested stakeholders (as relevant) and which may comprise:

- (a) visitor management and management regimes including: restricting park access to visitors; providing information and signage in relation to pathway use to limit trampling; restricting dog access during wintering periods; and
- (b) the construction on the Site of dense hedges and/or embankments/natural screens to reduce visitors accessing sensitive areas and/or the potential for visual disturbance,

Swanscombe Gate means the wildlife garden with an area of approximately 3,350 sqm to be provided as part of the Development in accordance with the Planning Permission and the applicable Reserved Matters Approval, the location of which is indicatively shown shaded purple on the Primary Open Space Areas Plan;

Swanscombe Peninsula Site means the site of Special Scientific Interest shown edged [] on plan [];

Swanscombe Peninsula Site Working Group means a group which is established by the Owner (in consultation with Natural England and/or other relevant stakeholders) to consider the results of the Survey on Recreational Impacts and information in respect of the impacts of the Swanscombe Peninsula Site from other activities and development in the vicinity of the Swanscombe Peninsula Site;

Temporary Finish means the Open Space (excluding the Primary Open Space Areas) which has been completed to a temporary standard to facilitate the construction of another part of the Development and which has been approved by the Council in accordance with the Temporary Finish Specification;

Temporary Finish Specification means the specification for any Temporary Finish of any Open Space within a Sub-Phase (excluding the Primary Open Space Areas) as set out and approved by the Council as part of the relevant Reserved Matters Approval; and

Verification Report means the report to be produced by the Independent Assessor following inspection of the Open Space or any part thereof in a Sub-Phase to verify whether that Open Space has been satisfactorily completed in accordance with this Agreement and any conditions attached to the Planning Permission and relevant Reserved Matters Approvals.

2 **Provision of Open Space**

2.1 The Owner covenants:

- 2.1.1 to submit the Overarching Open Space Plan to the Council for its written approval prior to Commencement and the submission of any Reserved Matters Applications proposing Dwellings; and
- 2.1.2 not to Commence the Development or permit or cause or suffer the same until the Council has approved in writing the Overarching Open Space Plan;
- 2.1.3 to submit a Sub-Phase Open Space Plan for each Sub-Phase no later than submission of any Reserved Matters Application proposing Dwellings for that Sub-Phase; and

- 2.1.4 not to Commence the Development of a Sub-Phase unless and until the Sub-Phase Open Space Plan for that Sub-Phase has been approved in writing by the Council.

2.2 The Owner covenants:

- 2.2.1 prior to Commencement of the Power Park and Swanscombe Gate or any part thereof, to deliver to the Council details of the relevant works to deliver those and the Open Space Bond Sum for them for the Council's written approval, such details to include a cost estimate to carry out the works to deliver the Power Park or Swanscombe Gate or the relevant part thereof which shall be certified by a surveyor and provided to the Council on an open book basis;
- 2.2.2 not to Commence or cause or permit or suffer Commencement of the Power Park and Swanscombe Gate or the relevant part thereof until the Owner has agreed the Open Space Bond Sum for them with the Council;
- 2.2.3 prior to the Commencement of the Power Park or Swanscombe Gate or the relevant part thereof, to deliver to the Council without any costs to the Council an executed Open Space Bond (for the Open Space Bond Sum as agreed by the Council) for the relevant works;
- 2.2.4 not to Commence or cause or permit the Commencement of the Power Park or Swanscombe Gate or the relevant part thereof until the Owner has delivered to the Council without any costs to the Council an executed Open Space Bond (for the Open Space Bond Sum as agreed by the Council) for the relevant works;
- 2.2.5 prior to Commencement of a part of the Open Space to submit to the Council for its written approval details of the estimated Open Space Maintenance Contribution to be paid in respect of that Open Space which shall be certified by a surveyor and provided to the Council on an open book basis;
- 2.2.6 not to Commence or cause or permit or suffer Commencement of the relevant Open Space until the Open Space Maintenance Contribution to be paid in respect of that Open Space has been agreed in writing by the Council;
- 2.2.7 to carry out and Practically Complete Swanscombe Gate in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6 prior to first Occupation of any Dwelling;
- 2.2.8 not to Occupy any Dwelling until Swanscombe Gate has been Practically Completed in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6;
- 2.2.9 to carry out and Practically Complete the Power Park in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6 prior to Occupation of 519th Dwelling or 50% of the Dwellings to be constructed within the Parkland Neighbourhood (whichever occurs first);

- 2.2.10 not to Occupy more than 519 Dwellings or 50% of the Dwellings to be constructed within the Parkland Neighbourhood until the Power Park has been Practically Completed in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6;
- 2.2.11 to carry out and Practically Complete the Marketplace Open Space in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6 prior to bringing any Commercial Unit within the Marketplace into use or Occupation;
- 2.2.12 not to bring any Commercial Unit within the Marketplace and/or the Stadium into use or Occupation until the Marketplace Open Space has been Practically Completed in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6;
- 2.2.13 to carry out and Practically Complete the Riverwalk Gardens in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6 prior to Occupation of any part of the relevant Sub-Phase that comprises the Riverwalk Gardens;
- 2.2.14 not to Occupy the Sub-Phase (or any part thereof) containing the Riverwalk Gardens until the Riverwalk Gardens has been Practically Completed in accordance with the Planning Permission, the relevant Reserved Matters Approvals, the relevant Approved Sub-Phase Open Space Plan and paragraph 3 of this Schedule 6;
- 2.2.15 to carry out and complete any Open Space within a Sub-Phase in accordance with the relevant Approved Open Space Plan and not to Occupy any building contained within a Plot until any Open Space directly abutting such building has been Practically Completed and in any event not to Occupy more than 90% of the Dwellings in any Sub-Phase until all Open Space has been Practically Completed in accordance with the relevant Approved Open Space Plan subject to clause 4 below;
- 2.2.16 to maintain and manage the Open Space in a Sub-Phase in accordance with the relevant Approved Sub-Phase Open Space Plan for the lifetime of the Development (save that, for the avoidance of doubt, following the transfer of the Open Space (or the relevant part)) to the Management Company, the Management Company will be responsible for the maintenance and management of such); and
- 2.2.17 no later than the expiration of three (3) months from the date of completing the sale of the final Dwelling in a Sub-Phase, to ensure that all parts of the Open Space in the relevant Sub-Phase have been transferred to the Management Company (where applicable) in accordance with the Approved Overarching Open Space Plan.

3 Construction of the Open Space

- 3.1 Prior to Commencement of the Development the Owner shall appoint the Independent Assessor and shall notify the Council of the name and qualifications of the Independent Assessor, such Independent Assessor to be approved by the Council and such appointment to provide that the Independent Assessor will owe a duty of care to the Council in discharging its obligations (and the terms of appointment shall be first approved by the Council).
- 3.2 The Owner shall at their own cost carry out and complete the Open Space:
- 3.2.1 in a good and workmanlike manner;
 - 3.2.2 using only materials approved by the Independent Assessor; and
 - 3.2.3 in compliance with all relevant legislation, statutory orders and regulations and any requirement and codes of practice of local and other competent authorities affecting the Open Space.

4 Certificate of Practical Completion

- 4.1 The Owner may construct any of the Open Space (excluding the Primary Open Space Areas) to a Temporary Finish where necessary to facilitate the construction of another part of the Development in accordance with the Temporary Finish Specification approved as part of a relevant Reserved Matters Approval.
- 4.2 If the Owner constructs any part of the Open Space to a Temporary Finish in accordance with paragraph 4.1 above, the Owner shall finish such part of the Open Space to its Permanent Finish in accordance with the Permanent Finish Specification approved as part of a relevant Reserved Matters Approval in an expeditious manner as soon as reasonably practicable and in general accordance with the periods set out in the relevant Reserved Matters Approvals.
- 4.3 In the event of non-compliance with paragraph 4.2 above the Council may issue a notice to the Owner requiring the Owner construct the relevant part of the Open Space to its Permanent Finish with 2 (two) months of the date of receipt of such notice and unless agreed otherwise in writing by the Council following the service of such notice the Owner shall at its own expense take any steps reasonably and properly required to do so.
- 4.4 Following Practical Completion of the Open Space or specific part thereof in a Sub-Phase in accordance with this Schedule 6, the Owner shall apply to the Independent Assessor in writing for a Verification Report in relation to that Open Space.
- 4.5 The Owner covenants to pay the Inspection Fees of the Independent Assessor and to be responsible for all reasonable and proper costs of the Independent Assessor.
- 4.6 As soon as reasonably practicable (and in any event within twenty (20) Working Days following the Owner's application for the issue of a Verification Report pursuant to paragraph 4.1) the Owner shall procure that the Independent Assessor shall:
- 4.6.1 inspect the Open Space to which the application relates; and
 - 4.6.2 either:

- (a) issue to the Owner and Council the Verification Report for the Open Space to which the application relates; or
- (b) provide the Owner (where necessary) with a definitive written list of any works reasonably required to be carried out and any remedial works required (**Additional Works**) to ensure that the Open Space is completed to the reasonable satisfaction of the Independent Assessor.

4.7 The Owner must carry out any Additional Works without delay and at their own cost.

4.8 The Additional Works shall be subject to the same inspection procedure set out in paragraphs 4.1 to 4.7 of this Schedule 6 until such time as the Open Space is completed to the reasonable satisfaction of the Independent Assessor.

4.9 As soon as reasonably practicable (and in any event within 20 (twenty) Working Days of a satisfactory inspection and the delivery of the Verification Report in accordance with paragraph 4.6.2(a)) the Open Space Certificate shall be issued to the Owner by the Council.

5 The Proving Period

5.1 During each Proving Period the Owners shall at their own cost and to the satisfaction of the Independent Assessor remedy and make good any damage or defect in the relevant Open Space applicable to the Sub-Phase.

5.2 On the expiry of the Proving Period for the Open Space in a Sub-Phase the Owner shall procure the delivery of a final Verification Report from the Independent Assessor in respect of that Sub-Phase and the Council shall discharge the Open Space Bond applicable to the Sub-Phase in full (unless the Council has had to call upon the Open Space Bond).

6 Open Space Transfers

6.1 The Owner covenants with the Council that any transfer of the Open Space or part thereof to a Management Company shall comply with the following:

6.1.1 any transfer shall be in accordance with the Open Space Transfer Terms for a consideration of £1 (one pound);

6.1.2 the Owner shall pay all reasonable and properly incurred legal costs in connection with such transfer;

6.1.3 the Owner shall provide to the Council details of the arrangements to ensure that the Management Company has sufficient financial resources available to it, including how a service charge will be levied to cover the costs of maintenance, to undertake the maintenance of the relevant Open Space in accordance with the relevant Approved Sub-Phase Open Space Plan; and

6.1.4 the Owners shall furnish to the Council a copy of all completed transfers of the Open Space.

6.2 The Owner further covenants to include in the transfers of the Open Space as appropriate to the Management Company:

- 6.2.1 a covenant by the Management Company to maintain the Open Space for lifetime of the relevant part of the Development in accordance with the relevant Approved Sub-Phase Open Space Plan and to levy a service charge to cover the costs of maintenance of the relevant Open Space and to allow the general public at large access to the recreational parts of the Open Space 24 hours a day for 365 days each year subject to the Permitted Closures;
 - 6.2.2 a covenant by the Management Company not to transfer the Open Space into the ownership of the individual owner Occupiers of the Dwellings; and
 - 6.2.3 an obligation on the Management Company that, should the Council so require, the Management Company shall enter into a direct covenant with the Council to perform the obligations set out in paragraph 6.2 and 7 of this Schedule 6
- 6.3 At the same as transferring the Open Space to a Management Company the Owner shall pay to the Management Company the amount of the Open Space Maintenance Contribution to be paid in respect of that Open Space agreed in writing by the Council in accordance with paragraph 2.2.5 above.

7 Use of the Open Space

- 7.1 The entire Open Space (excluding private communal amenity areas) shall be managed by the Owner (and subsequently by any Management Company following transfer of the Open Space subject to paragraph 6 of this Schedule 6) so as to ensure and allow the public at large for 24 hours a day for 365 days each year to use and pass on foot and on bicycle (as relevant) across the Open Space from the date on which the relevant Open Space has been Practically Completed subject to:

- 7.1.1 such reasonable regulations as the Owner may implement from time to time which may (amongst other things) be considered necessary to ensure safety for users and to deal with anti-social behaviour; and
- 7.1.2 the Permitted Closures as to use or purpose and without payment.

8 Swanscombe Peninsula

- 8.1 The Owner covenants;
- 8.1.1 to submit a Survey on Recreational Impacts and Residual Recreational Impacts Mitigation Plan at the following intervals:
 - (a) not later than the submission of the first Reserved Matters Application which contains one or more Dwellings;
 - (b) not later than the submission of the first Reserved Matters Application which seeks for approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 20% of the Dwellings across the entire Development;
 - (c) not later than the submission of the first Reserved Matters Application which seeks for approval for Dwellings which when constructed would be

anticipated to result in the delivery of more than 40% of the Dwellings across the entire Development;

- (d) not later than the submission of the first Reserved Matters Application which seeks for approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 60% of the Dwellings across the entire Development;
- (e) not later than the submission of the first Reserved Matters Application which seeks for approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 80% of the Dwellings across the entire Development;
- (f) not later than the submission of the first Reserved Matters Application which seeks for approval for Dwellings which when constructed would be anticipated to result in the delivery of 100% of the Dwellings across the entire Development;

8.1.2 not to Commence:

- (a) any part of the Development subject to a Reserved Matters Approval containing one or more Dwellings;
- (b) any part of the Development subject to a Reserved Matters Approval which grants approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 20% of the Dwellings across the entire Development;
- (c) any part of the Development subject to a Reserved Matters Approval which grants approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 40% Dwellings across the entire Development;
- (d) any part of the Development subject to a Reserved Matters Approval which grants approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 60% Dwellings across the entire Development; or
- (e) any part of the Development subject to a Reserved Matters Approval which grants approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 80% Dwellings across the entire Development;
- (f) any part of the Development subject to a Reserved Matters Approval which grants approval for Dwellings which when constructed would be anticipated to result in the delivery of more than 100% of the Dwellings across the entire Development;

until the Council has agreed in writing the Survey on Recreational Impacts and the Residual Recreational Impacts Mitigation Plan submitted in connection with it; and

- 8.1.3 To implement (at their own cost) the mitigation measures set out in the most recently approved Residual Recreational Impacts Mitigation Plan (if any) as soon as is reasonably practicable following its approval and not to Occupy nor cause nor permit Occupation of any Dwellings which are identified in the most recently approved Residual Recreational Impacts Mitigation Plan until aforementioned mitigation measures have been implemented (if any).
- 8.1.4 The Owner shall use all reasonable but commercially prudent endeavours to establish and operate the Swanscombe Peninsula Site Working Group in consultation with Natural England and/or other relevant stakeholders and shall invite the Council to attend meeting of the Swanscombe Peninsula Site Working Group;;
- 8.1.5 The Owner shall bear responsibility for the cost of establishing and the administration of the Swanscombe Peninsula Site Working Group but for the avoidance of doubt this shall not include the cost of time for persons attending the Swanscombe Peninsula Site Working Group or other costs.
- 8.1.6 Where, following the results of the Survey on Recreational Impacts:
- (a) the Swanscombe Peninsula Site Working Group identifies that alternative measures to the measures detailed in the Residual Recreational Impacts Mitigation Plan are effective to address any residual recreational impacts (including when considered cumulative effects) of the Development (or relevant part thereof) on the Swanscombe Peninsula Site; and
 - (b) these alternative measures are of no greater cost to the Owner than the relevant measures contained in the Residual Recreational Impacts Mitigation Plan; and
 - (c) the Owner has agreed the delivery of those measures with the relevant stakeholders,
- the Owner or relevant stakeholder (as is agreed between them) shall undertake such alternative measures within such time periods as may be agreed in writing by the Council.

Schedule 7

River Infrastructure Works

- 1 In this Schedule 7 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

De-culverting Works means works to de-culvert and provide daylight to the River Ebbsfleet and to install two new bridges over the de-culverted section of the River Ebbsfleet, which works shall be in accordance with the Planning Permission, including details approved pursuant to the relevant condition of the Planning Permission and any applicable Reserved Matters Approval;

Initial Proving Period means, in relation to each element of the River Infrastructure Works, the period of 2 (two) years immediately following the date of issue of the final Verification Report by the Independent Assessor for that element of the River Infrastructure Works;

Inspection Fee means the sum representing the reasonable and proper costs incurred by the Independent Assessor in carrying out an inspection of the River Infrastructure Works (or an element of them) and for producing the associated Verification Report;

Proving Period means, in relation to each element of the River Infrastructure Works, the period of 10 (ten) years immediately following the date of issue of the final Verification Report by the Independent Assessor for that element of the River Infrastructure Works;

River Infrastructure Bond means a bond or bonds for the River Infrastructure Bond Sum in relation to the River Infrastructure Works (or an element of them) from the National House Building Council or a Surety substantially in the form attached to this Agreement at Appendix [1] which may be called upon by either the Council or the Management Company responsible for the River Infrastructure Works (or relevant element thereof);

River Infrastructure Bond Sum means a sum equal to the reasonable estimated cost of undertaking the River Infrastructure Works (or an element of them) plus a 10% (ten percent) contingency to be approved in writing by the Council pursuant to this Schedule 7;

River Infrastructure Transfer Terms means the following terms relating to the transfer of the River Infrastructure Works to the Management Company (as applicable) which shall include the following:

- (a) to transfer the fee simple estate free from leasehold interests or financial charges;
- (b) all easements and rights necessary in relation to access for the benefit of the River Infrastructure Works;
- (c) all exceptions reservations and covenants required for the benefit of the Development (and the future use of the same) in relation to drainage, services (including but not limited to rights to passage and running of services (and drainage) rights to lay, construct, inspect, connect to, adjust, cleanse, maintain, repair, alter, renew) rights of access onto the River Infrastructure Works (with all necessary workmen, materials, plant

and machinery) together with rights of support and access of light and air; and

- (d) restrictive covenants on behalf of the Management Company:
 - i not to use or permit the River Infrastructure Works to be used for any purpose other than in accordance with this Agreement, the Planning Permission and any Reserved Matters Approval (as applicable) for the lifetime of the relevant part of the Development; and
 - ii not to use or permit the River Infrastructure Works to be used in a manner which may be or become a legal nuisance, annoyance, disturbance or cause material damage to the rest of the Development;

and, for the avoidance of doubt, such terms must be approved and any amendments or variations to them must be agreed in writing with the Council;

River Infrastructure Works Management Plan means:

- (a) the maintenance, management and monitoring arrangements for the De-culverting Works (following Practical Completion) approved pursuant to the relevant condition(s) of the Planning Permission; and
- (b) the maintenance, management and monitoring arrangements for the Tidal Defence Works (following Practical Completion) approved pursuant to the relevant condition(s) of the Planning Permission,

and the term **Approved River Infrastructure Works Management Plan** shall be construed accordingly to mean the River Infrastructure Works Management Plan(s) approved pursuant to the relevant condition(s) of the Planning Permission;

River Infrastructure Works means river infrastructure works comprising the following two elements:

- (a) the Tidal Defence Works; and
- (b) the De-Culverting Works;

Tidal Defence Works means works to install new tidal defences, which works shall be in accordance with the Planning Permission, including details approved pursuant to Condition [35] and the relevant Reserved Matters Approval;

Surety such reputable bank or other financial institution as may be nominated by the Owner and approved by the Council for the purposes of the River Infrastructure Bond; and

Verification Report means a report to be produced by the Independent Assessor following inspection of the River Infrastructure Works (or any element thereof) to verify whether the River Infrastructure Works (or an element of them) have been satisfactorily completed in accordance with this Agreement and the relevant Conditions and Reserved Matters Approvals.

2 Provision of the River Infrastructure Bond

2.1 The Owner covenants:

- 2.1.1 prior to Commencement of an element of the River Infrastructure Works, to deliver to the Council details of the River Infrastructure Bond Sum for that element of the River Infrastructure Works for the Council's written approval, such details to include a cost estimate to carry out the relevant River Infrastructure Works, which shall be certified by a surveyor and provided to the Council on an open book basis;
- 2.1.2 not to Commence or cause or permit or suffer Commencement of an element of the River Infrastructure Works until the Owner has agreed with the Council the River Infrastructure Bond Sum for that element of the River Infrastructure Works;
- 2.1.3 prior to Commencement of an element of the River Infrastructure Works, to deliver to the Council (at no cost to the Council) an executed River Infrastructure Bond for that element of the River Infrastructure Works; and
- 2.1.4 before the expiration of three (3) months from the date of receipt of the final Verification Report in relation to an element of the River Infrastructure Works, to execute and deliver a transfer or transfers of that element of the River Infrastructure Works to the Management Company (where applicable).

3 Construction of the River Infrastructure Works

- 3.1 Prior to Commencement of the Development the Owner shall appoint the Independent Assessor and shall notify the Council of the name and qualifications of the Independent Assessor, such Independent Assessor to be approved by the Council and such appointment to provide that the Independent Assessor will owe a duty of care to the Council in discharging its obligations (and the terms of appointment shall be first approved by the Council).
- 3.2 The Owner shall at its own cost carry out and complete the River Infrastructure Works:
 - 3.2.1 in a good and workmanlike manner;
 - 3.2.2 using only materials approved by the Independent Assessor; and
 - 3.2.3 in compliance with all relevant legislation, statutory orders and regulations and any requirement and codes of practice of local and other competent authorities affecting the River Infrastructure Works.

4 Verification Reports

- 4.1 Following Practical Completion of each element of the River Infrastructure Works, the Owner shall apply to the Independent Assessor in writing for a Verification Report in relation to that element of the River Infrastructure Works.
- 4.2 The Owner covenants to pay the Inspection Fees of the Independent Assessor and to be responsible for all reasonable and proper costs of the Independent Assessor incurred in the carrying out of its obligations under this Schedule 7.

4.3 As soon as reasonably practicable (and in any event within 20 (twenty) Working Days following the Owner's application for the issue of a Verification Report pursuant to paragraph 4.1), the Owner shall procure that the Independent Assessor shall:

4.3.1 inspect the relevant element of the River Infrastructure Works; and

4.3.2 either:

(a) issue to the Owner and Council a Verification Report for the relevant element of the River Infrastructure Works; or

(b) provide the Owner (where necessary) with a definitive written list of any works reasonably required to be carried out and any remedial works required (**Additional Works**) to ensure that the relevant element of the River Infrastructure Works is completed to the reasonable satisfaction of the Independent Assessor.

4.4 The Owner must carry out, without delay and at its own cost, any Additional Works identified by the Independent Assessor pursuant to paragraph 4.3.2 of this Schedule 7.

4.5 Any Additional Works identified by the Independent Assessor pursuant to paragraph 4.3.2 of this Schedule 7 shall be subject to the same inspection procedure set out in paragraphs 4.1 to 4.4 of this Schedule 7 until such time as the relevant element of the River Infrastructure Works is completed to the reasonable satisfaction of the Independent Assessor.

5 The Proving Period

5.1 During each Proving Period the Owner shall, at its own cost and to the satisfaction of the Independent Assessor, remedy and make good any damage or defect in the relevant element of the River Infrastructure Works.

5.2 On the expiry of each Initial Proving Period, the Council shall discharge 60% of the value of the River Infrastructure Bond applicable to the relevant element of the River Infrastructure Works (less any sums that the Council has had to call upon from the River Infrastructure Bond).

5.3 On the expiry of each Proving Period, the Council shall discharge the remainder of the value of the River Infrastructure Bond applicable to the relevant element of the River Infrastructure Works (less any sums that the Council has had to call upon from the River Infrastructure Bond).

6 River Infrastructure Transfers

6.1 The Owner covenants with the Council that any transfer of the River Infrastructure Works to a Management Company (where applicable) shall comply with the following:

6.1.1 any transfer shall be in accordance with the River Infrastructure Transfer Terms for a consideration of £1 (one pound);

6.1.2 the Owner shall pay all reasonable and properly incurred legal costs in connection with such transfer;

- 6.1.3 the Owner shall provide to the Council details of the arrangements to ensure that the Management Company has sufficient financial resources available to it to undertake the maintenance of the relevant River Infrastructure Works in accordance with the River Infrastructure Works Management Plan(s); and
- 6.1.4 the Owner shall furnish to the Council a copy of all completed transfers of the River Infrastructure Works.
- 6.2 The Owner further covenants to include in any transfers of the River Infrastructure Works to a Management Company (where applicable):
- 6.2.1 a covenant by the Management Company to only permit the River Infrastructure Works (or an element of them) to be used in accordance with this Agreement, the Planning Permission, any Reserved Matters Approval and the River Infrastructure Works Management Plan(s);
- 6.2.2 a covenant by the Management Company to maintain, manage and monitor the River Infrastructure Works for the lifetime of the Development (or until such time as the River Infrastructure Works are transferred to the Environment Agency or such other statutory body with responsibility for the operation and maintenance of flood risk assets), in accordance with the River Infrastructure Works Management Plan(s);
- 6.2.3 a covenant by the Management Company not to transfer the River Infrastructure Works into the ownership of the individual Occupiers of the Development; and
- 6.2.4 an obligation on the Management Company that, should the Council so require, the Management Company shall enter into a direct covenant with the Council to perform the obligations set out in paragraph 6.2 of this Schedule 7.

Schedule 8

Maintenance of Navigational PLA Services

- 1 In this Schedule 8 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Microwave Link Path means the licenced communications path (airway) used by the PLA for data communications between the PLA's Port Control Centre and the PLA's navigational network in this region;

Mitigation Measures means the mitigation measures considered by the PLA to be appropriate to mitigate any potential loss or interference with navigation sensors and / or communications whether on a temporary or permanent basis including but not limited to:

- (a) a temporary backup telecommunications capability which is able to ensure continuation of data communications while the Development is constructed;
- (b) relocation to an equally convenient location of any part of the hardware, equipment or support structure at the PLA's Port Control Centre or at its operational radar site at Northfleet Kent or at both provided or supporting the navigation sensors and / or communications as may be required and to the extent necessary as a result of the Development or its construction, whether temporarily or permanently;
- (c) the creation of any new Microwave Link Paths that may need to be created as a result of the construction of the Development involving a third location, including payment of the reasonable costs of finding such location, the acquisition of rights to use the location and all necessary consents such as planning, licensing and the provision of a support structure and equipment and setting up sufficient microwave links at such third location;

Navigational Communications means the transmissions to and from the PLA in connection with monitoring of the river, managing navigational safety and communication with users of the tidal River Thames and any equipment associated with such transmissions or reception of such;

Overarching Impact Assessment Report means a written assessment procured from the PLA at the cost of the Owner of any potential loss of or interference with the operation of the navigation sensors and / or communications as a result of the Development to include but not limited to:

- (a) assessing the extent to which the Development impacts on navigational sensors and /or communications;
- (b) details of the height of any cranes that will be present on the Site, their radial swing diameter, taking account of the loads they are expected to be carrying during the construction of the Development, and the extent to which any one or more of the cranes (with or without its load) will be

located within or will when in use be within the Navigation Links Path and the possible impacts of this on the Navigational Communications; and

- (c) the Mitigation Measures proposed by the Owner, in agreement with the PLA, the costs of such Mitigation Measures (to be borne by the Owner), details of the suitably qualified professionals who will carry out the Mitigation Measures, and the timings for the carrying out of the Mitigation Measures prior to the potential loss or significant interference arising,

and the term **Approved Overarching Impact Assessment Report** shall be construed accordingly to refer to the Overarching Impact assessment Report approved pursuant to this Schedule 8 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time);

Phased Impact Assessment Report means a written assessment by a suitably qualified individual prepared on behalf of the Owner of any potential loss of or interference with the operation of microwave links as a result of a Phase or Sub-Phase of the Development to include but not limited to:

- (a) assessing the extent to which the Development impacts on navigational sensors and /or communications; and
- (b) details of the height of any cranes that will be present on the Site, their radial swing diameter, taking account of the loads they are expected to be carrying during the construction of the Development, and the extent to which any one or more of the cranes (with or without its load) will be located within or will when in use be within the Navigation Links Path and the possible impacts of this on the Navigational Communications; and
- (c) the Mitigation Measures proposed by the Owner, in agreement with the PLA, the costs of such Mitigation Measures (to be borne by the Owner), details of the suitably qualified professionals who will carry out the Mitigation Measures, and the timings for the carrying out of the Mitigation Measures prior to the potential loss or significant interference arising,

and the term **Approved Phased Impact Assessment Report** shall be construed accordingly to refer to the Phased Impact Assessment Report approved pursuant to this Schedule 8 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council from time to time); and

PLA means the Port of London Authority (or successor organisations to its functions relevant to this Agreement) whose principal office address is at London River House, Royal Pier Road, Gravesend, Kent, DA12 2BG.

2 Overarching Impact Assessment Report

2.1 The Owner shall not Commence Development until it has submitted an Overarching Impact Assessment Report to the PLA and a copy to the Council and the Council has given its written approval to the same following consultation with the PLA.

2.2 If the Council does not approve the Overarching Impact Assessment Report or any part of it (and in particular one or more of the Mitigation Measures proposed) it shall set out in

writing to the Owner within 10 Working Days of receipt of the submitted Overarching Impact Assessment Report what concerns it has with the report and why it is not agreed.

- 2.3 The Owner shall then revise the Overarching Navigation Links Report (as appropriate) and resubmit the said report and paragraphs 2.1 and 2.2 shall apply mutatis mutandis until the Overarching Navigation Links Report is agreed.
- 2.4 Once the Overarching Impact Assessment Report has been agreed the Owner shall wholly at its own cost comply with the Approved Overarching Impact assessment Report and any Mitigation Measures approved by or requested by the Council within it.
- 2.5 The Council shall liaise with the PLA to monitor the navigational sensors and/or communications during the construction of the Development and shall notify the Owner in writing within ten Working Days of it finding a loss of or interference which in the PLA's reasonable opinion is caused by disturbance due to the construction of the Development or the Development itself and such notification shall contain full details of the Mitigation Measures the Council (in consultation with the PLA) requires the Owner to take wholly at the Owner's cost and the time scales in which the Mitigation Measures are required to be carried out by the Owner.
- 2.6 If the Mitigation Measures are not carried out by the Owner in accordance with the Overarching Navigation Links Report and/or within the timescales set out in the notification referred to in paragraph 2.5 above or such longer period as the Council and the Owner shall agree in writing then the Council or anyone appointed on its behalf (including the PLA) may carry out the Mitigation Measures itself and the costs it incurs in so doing including any value added tax will be payable by the Owner on demand on an indemnity basis.

3 Phased Navigation Links Reports

- 3.1 The Owner shall not Commence Development of a Phase or Sub-Phase or allow or permit Commencement of a Phase or Sub-Phase until it has submitted the relevant Phased Navigation Links Report in respect of the relevant Phase or Sub-Phase to the Council and the Council has given its written approval to the same following consultation with the PLA.
- 3.2 If the Council does not approve the relevant Phased Navigation Links Report or any part of it (and in particular one or more of the Mitigation Measures proposed) it shall set out in writing to the Owner within 10 Working Days of receipt of the submitted Phased Navigation Links Report what concerns it has with the relevant Phased Navigation Links Report and why it has not agreed the said report.
- 3.3 The Owner shall then revise the Phased Navigation Links Report (as appropriate) and resubmit the said report and paragraphs 3.1 and 3.2 shall apply mutatis mutandis until the Overarching Navigation Links Report is agreed.
- 3.4 Once the relevant Phased Navigation Links Report has been agreed the Owner shall wholly at its own cost comply with the relevant Approved Phased Navigation Links Report and perform any Mitigation Measures approved by or requested by the Council prior to the Commencement of the relevant Phase or Sub-Phase.
- 3.5 The Owner shall not Commence Development of the relevant Phase or Sub-Phase unless and until the Mitigation Measures approved in the relevant Approved Phased Navigation Links Report have been implemented.

- 3.6 Within one week of the Commencement of the relevant Phase or Sub-Phase the Owner shall give to the Council and the PLA written confirmation of such Commencement of the relevant Phase or Sub-Phase.
- 3.7 The Council shall liaise with the PLA to monitor the Navigational Communications using the Navigation Links Path during the construction of the relevant Phase or Sub-Phase and notify the Owner in writing within ten Working Days of it finding a loss of or interference with the Navigation Communications which in the PLA's reasonable opinion is caused by disturbance to the performance of the Navigation Links Path due to the construction of the relevant Phase or Sub-Phase or the Phase or Sub-Phase itself and such notification shall contain full details of the Mitigation Measures the Council (in consultation with the PLA) requires the Owner to take wholly at the Owner cost and the time scales in which the Mitigation Measures are required to be carried out by the Owner.
- 3.8 If the Mitigation Measures for the relevant Phase or Sub-Phase are not carried out by the Owner in accordance with the relevant Approved Phased Navigation Links Report and/or within the timescales set out in the notification referred to in paragraph 3.6 above or such longer period as the Council and the Owner shall agree in writing then the Council or anyone appointed on its behalf (including the PLA) may carry out the Mitigation Measures for the relevant Phase or Sub-Phase itself and the costs it incurs in so doing including any value added tax will be payable by the Owner on demand on an indemnity basis.
- 3.9 The Parties agree that the terms of paragraph 3 of this Schedule 8 shall apply mutatis mutandis to all Phases or Sub-Phase for the Development.

Schedule 9

Travel Planning

- 1 In this Schedule 9 and this Agreement unless the context requires otherwise, the following words and expressions shall have the following meanings:

Annual Travel Plan Review means a single annual study reviewing and monitoring the provisions of all Travel Plans in effect within the Monitoring Period that has ended immediately prior to such study being carried out and to include those matters set out in paragraph 4.2 of this Schedule 9;

Annual Travel Plan Review Fee means a fee of £5,000 (Index Linked) being the County Council's costs of assessing an Annual Travel Plan Review, payable to the County Council;

Bus Ticket means a Thameside (Fastrack) bus ticket lasting one year from date of issue to the relevant Occupier or employee, to be offered and provided as set out in paragraph 5 of this Schedule 9, or the equivalent monetary value in MaaS credits, should this project be operational or due for implementation in the vicinity of and serving the Development at the time or in the near future to when a Bus Ticket is required to be offered to Occupiers of the Development in accordance with this Schedule 9, to be offered and provided as set out in paragraph 5 of this Schedule 9;

Commercial Sub-Phase means a Sub-Phase which will or does contain any Commercial Units;

Commercial Travel Plan means in relation to a Commercial Sub-Phase the travel plan to be submitted to and approved by the Council in consultation with the County Council in accordance with this Schedule 9 and the Framework Travel Plan to encourage sustainable travel to and from the Development by Occupiers and visitors of the Commercial Floorspace (including the Commercial Units) and to reduce reliance on travel by private car and to meet the aims and ambitions of the Transport Assessment and Travel Plan, such plan to include (but not be limited to) the following details in relation to the relevant Sub-Phase:

- (a) details of the Travel Plan Co-ordinator;
- (b) targets for the increase of sustainable travel to and from the Commercial Floorspace within the relevant Commercial Sub-Phase, including modal share targets, and a corresponding reduction of travel by less sustainable means;
- (c) an example Travel Information Pack to be distributed to the employees of the Commercial Floorspace;
- (d) details of how the Bus Ticket (or MaaS credits) will be advertised and provided to all employees of businesses operating from the Commercial Units;
- (e) details of the management strategies to be employed for any on-Site car parks for use by businesses operating from the Commercial Units;

- (f) details of the Annual Travel Plan Reviews and the proposed methodology in relation to the Commercial Travel Plan; and
- (g) details of the measures that will be implemented to encourage sustainable travel to and from the Site and reduce private car use,

and, for the avoidance of doubt,

(i) the Commercial Travel Plan for the Stadium shall form part of the Events Management Plan submitted pursuant to the relevant condition of the Planning Permission and the term **Approved Commercial Travel Plan** shall be construed accordingly to mean the Commercial Travel Plan approved by the Council pursuant to this Schedule 9 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the Council in writing from time to time);

(ii) the requirement for a Commercial Travel Plan to be submitted in relation to each Commercial Sub-Phase shall be in accordance with the thresholds set out in the relevant County Council guidance in use at the time;

Cycle Voucher means a voucher to the sum of £50 per residential Dwelling towards the cost of a cycle or cycle equipment offered;

Framework Travel Plan means the 'Framework Travel Plan' submitted with the Planning Application as contained at Appendix M of the Transport Assessment Addendum dated August 2023 and prepared by Vectos (part of SLR);

Interim Mobility Hub means a temporary mobility / transport hub which where provided shall be provided within a central location in the Development in accordance with the relevant condition of the Planning Permission;

Match Day means a day when the Stadium is in use for a typical sports event;

Mobility Hub means a mobility / transport hub to be provided within a central location in the Development in accordance with the relevant condition of the Planning Permission;

Mobility as a Service (MaaS) App means an app which provides details of a digital real-time transport information service that enables users to plan, book and pay for a range of public and private transport options, including multi-modal tickets and the use of new transport modes within a defined geographical area;

Monitoring Period means:

- (a) the period 12 calendar months prior to the submission of the first Annual Travel Plan Review for a Travel Plan; or
- (b) following the first Annual Travel Plan Review the period of 12 calendar months from the date of an Annual Travel Plan Review.

Parking Management Plan means the parking management plan to be submitted and approved pursuant to the relevant condition of the Planning Permission (and any subsequent amendment, update or replacement of such approved plan that may be approved in writing by the County Council from time to time);

Residential Sub-Phase means a Sub-Phase that will or does contain Dwellings;

Residential Travel Plan means in relation to a Residential Sub-Phase where over one hundred (100) Dwellings are proposed the travel plan to be submitted to and approved by the Council in accordance with this Schedule 9 and the Framework Travel Plan to encourage sustainable travel to and from the Development by Occupiers and visitors of the Dwellings and to reduce reliance on travel by private car and to meet the aims and ambitions of the Transport Assessment to include (but not limited to) the following details in relation to the relevant Sub-Phase:

- (c) details of the Travel Plan Co-ordinator;
- (d) targets for the increase of sustainable travel to and from the Development (based on the trip generator targets set out in the Transport Assessment and updated on submission of each Travel Plan to reflect the number of Dwellings that are Occupied across the Site at the point of submission of the relevant Travel Plan), including modal share targets, and a corresponding reduction of travel by less sustainable means;
- (e) an example of a Travel Information Pack to be distributed to the Occupiers of the Dwellings;
- (f) details of how the Bus Ticket (or MaaS credits) will be provided to first Occupiers of the Dwellings and widely advertised;
- (g) details of the management strategies to be employed for any on-Site car parks;
- (h) details of the Annual Travel Plan Reviews and the proposed methodology in relation to the Residential Travel Plan;
- (i) details of the measures that will be implemented to encourage sustainable travel to and from the Site and reduce private car use.

and the term **Approved Residential Travel Plan** shall be construed accordingly to mean the Residential Travel Plan approved by the Council pursuant to this Schedule 9 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the County Council in writing from time to time);

Transport Assessment means the assessment dated September 2022 and its addendums dated August 2023 and January 2024 prepared by Vectos (part of SLR) submitted in support of the Planning Application;

Transport Review Group means a group to be established to monitor compliance with the Residential Travel Plans and the Commercial Travel Plans, meetings of which shall be chaired by the Travel Plan Co-ordinator and attended by representatives of the Council, the County Council, the Owner, the Management Company and to which bus operators shall also be invited and permitted to attend and shall as a minimum discuss and/or undertake the following duties:

- (a) progress of the Development in terms of build out;

- (b) the on-going transport related impacts of the Development;
- (c) transport related activities, including any complaints that have been made in respect of the Development;
- (d) review and approve/reject the Travel Plan Co-ordinator's proposed methodology for monitoring the effectiveness of the Travel Plans;
- (e) review the results of any Annual Travel Plan Review;
- (f) assess the success of the Travel Plans, whether additional remedial measures are required to meet the Travel Plan targets and how the Travel Plan Co-ordinator will implement the remedial measures;

and for the avoidance of doubt in respect of the Transport Review Group only the Owner, the Council and the County Council shall hold voting rights and each shall receive one vote only and in the event of the Council and the County Council merging to a single entity voting rights would be reviewed in order to determine whether the County Council and the Council still need one vote each or whether these two votes should be merged into a single vote under the new structure;

Travel Information Packs means packs to be provided to Occupiers of the Development to include:

- (a) details of the Mobility Hub;
- (b) details of the Interim Mobility Hub;
- (c) details of the car clubs on site including the membership and driving credit offered, and plans for expansion of the service;
- (d) local bus information including bus service numbers and routes, bus stop locations, ticket prices, service frequencies and the free public transport (Fastrack) ticket (or MaaS credits, should this project be operational or due for implementation at the time or in the near future in the vicinity of and serving the Development) offered to residents and employees;
- (e) local rail information including location of stations, rail routes, ticket prices and service frequencies;
- (f) walking and cycling options, including maps showing walking and cycling routes, distance to local facilities, local cycle training opportunities, local cycle hire facilities and costs, and the location of on-Site cycle parking facilities;
- (g) the provision of maps, timetables and other suitable literature and Internet website links;
- (h) details of the Mobility as a Service (MaaS) project and app, should this be operational or due for implementation at the time or in the near future in the vicinity of and serving the Development;
- (i) details of any parking restrictions and parking management on site; and

- (j) other information to promote the awareness of the benefits of reducing car travel to and from the Development;

Travel Plan Co-ordinator means the person appointed by the Owner to be responsible for securing and monitoring the implementation of the Travel Plans for the whole of the Development in accordance with this Schedule 9 by carrying out the Travel Plan Co-ordinator Duties;

Travel Plan Co-ordinator Duties means the duties of the Travel Plan Co-ordinator which shall be as follows:

- (a) to be the primary and single point of contact for Travel Plan matters and for travel issues for the Site;
- (b) to regularly liaise with the Council, the County Council and the Occupiers on relevant Travel Plan matters;
- (c) to co-ordinate and chair Transport Review Group meetings to discuss Travel Plans and Travel Information Packs, monitor compliance with the Travel Plans, consider Annual Travel Plan Reviews and agree necessary actions and further changes to the Travel Plans and Travel Information Packs if necessary;
- (d) to promptly circulate minutes of any meeting of the Transport Review Group;
- (e) to report to the Transport Review Group progress of the Development, any transport related issues, complaints or future developments;
- (f) to produce the Travel Plans in accordance with this Schedule 9, including seeking necessary approval from the Council after consultation with the County Council;
- (g) to produce and distribute as necessary Travel Information Packs;
- (h) to liaise with and inform Occupiers of the requirements of the Travel Plans from time to time;
- (i) to liaise and engage with sustainable travel operators to keep abreast of updates and to discuss potential improvements to sustainable travel options for Occupiers and visitors to the Site;
- (j) to regularly liaise with travel plan co-ordinators for other near-by development sites (as may be notified to the Travel Plan Co-ordinator by the County Council from time to time);
- (k) to produce a methodology for Annual Travel Plan Reviews, such methodology to be agreed by the Transport Review Group;
- (l) to undertake Annual Travel Plan Monitoring and Reviews in accordance with this Schedule 9 including the Monitoring of the Car Club in accordance with Schedule 10 and to update the Travel Plans and Travel Information Packs from time to time as agreed and to produce detailed

reports for the Transport Review Group confirming whether or not targets have been met and proposing any necessary mitigations or other actions; and

- (m) to manage and implement any remedial measures agreed with the Transport Review Group, using the Transport Contingency Fund;

Travel Plans means the Residential Travel Plans and the Commercial Travel Plans and each of them as the context requires and the term **Approved Travel Plans** shall be construed accordingly to mean the Travel Plans approved by the Council pursuant to this Schedule 9;

Travel Plan Contingency Fund means the sum of £50,000 which shall be paid to the Council upon first Occupation of the Development and made available to the Transport Review Group to fund sustainable transport initiatives;

Travel Plan Contingency Fund Top-Up a contribution equal to £300 (subject to Indexation) multiplied by the number of Dwellings or Commercial Units within the relevant Plot, which sums shall be held by the County Council to fund sustainable transport initiatives in the event that targets within the Approved Travel Plans are not met.

2 **Travel Plans**

The Owner covenants to:

- 2.1 no less than three months prior to Occupation of any Dwelling in a Residential Sub-Phase, submit to the Council for written approval the Residential Travel Plan for that Sub-Phase;
- 2.2 not to Occupy or permit or cause Occupation of any Dwelling in a Residential Sub-Phase until the Residential Travel Plan for that Sub-Phase has been approved in writing by the Council following consultation with the County Council;
- 2.3 not less than three months prior to Occupation of any Commercial Unit in a Commercial Sub-Phase, submit to the Council for written approval the Commercial Travel Plan for that Sub-Phase;
- 2.4 not to Occupy or permit or cause Occupation of any Commercial Unit in a Commercial Sub-Phase until the Commercial Travel Plan for that Commercial Sub-Phase has been approved in writing by the Council following consultation with the County Council;
- 2.5 to appoint the Travel Plan Co-Ordinator (for all Travel Plans) a minimum of three months prior to first Occupation of the Development and procure that a Travel Plan Co-Ordinator is appointed and that they comply with the Travel Plan Co-ordinator Duties (including that they procure the provision of the Travel Information Packs to Occupiers within not more than 20 Working Days of first Occupation of any Dwelling or Commercial Unit) until five (5) calendar years after the date on which the entire Development is Practically Complete and to notify the Council and the County Council in writing of the name, address, telephone number and email address of the person appointed (including as may be updated on any new person appointed from time to time);
- 2.6 to procure the full implementation and compliance with the Travel Plans until five (5) calendar years after the date on which the entire Development is Practically Complete;

- 2.7 not to Occupy or permit or suffer Occupation of the Development in breach of the obligations contained at paragraphs 2.5 to 2.6 (inclusive).

3 Transport Review Group

- 3.1 Prior to Occupation of any part of the Development the Owner shall ensure that the Transport Review Group is established and that this shall at the minimum comprise of:

- 3.1.1 a representative of the Owner;
- 3.1.2 the Travel Plan Co-ordinator;
- 3.1.3 a representative of the Management Company;
- 3.1.4 a representative of the County Council; and
- 3.1.5 a representative of the Council,

and the Owner shall also invite and permit a representative of the local bus operator and other transport operators as appropriate to be members of and to attend the transport Review Group.

- 3.2 The Owner shall ensure that the Transport Review Group is established and has met at least once prior to first Occupation of the Development. The Owner shall procure that the Transport Review Group meets at least once every 12 months thereafter (unless a revised timetable is proposed and agreed by the members of the Transport Review Group) until five (5) calendar years after the date on which the entire Development is Practically Complete.

4 Annual Travel Plan Reviews

- 4.1 The Owner shall produce or procure the production of an Annual Travel Plan Review of all Approved Travel Plans which have been in effect for a period of more than 12 months, the first such review to be undertaken and submitted no later than 12 months from the date of first Occupation of the Commercial Floorspace in the relevant Commercial Sub-Phase or any Dwelling in the relevant Residential Sub-Phase (as applicable) and thereafter procure the production of an Annual Travel Plan Review of all Approved Travel Plans which have been in effect for a period of more than 12 months no later than each anniversary of the date of submission of the first review until five (5) calendar years after the date of the Practical Completion of the Development.

- 4.2 The Annual Travel Plan Reviews shall set out and evidence, to the Transport Review Group's reasonable satisfaction, how the Approved Travel Plans have been implemented during the previous year and shall include the following:

- 4.2.1 measures introduced and actions taken to promote the Approved Travel Plans;
- 4.2.2 the results of one x seven (7) day continuous automatic traffic counters on all vehicular access points to and from the Development subject to the requirement that the seven-day period includes at least one Match Day (unless otherwise agreed by the Transport Review Group) to monitor performance against the Travel Plans targets and objectives;

- 4.2.3 survey results of use of sustainable travel modes by Occupiers and visitors to the Development, including surveys at all pedestrian and cycle access points to the Development, use of car clubs, cycle hire facilities and local public transport;
- 4.2.4 a review of the effectiveness of the Parking Management Plan;
- 4.2.5 details of controls that are in place to ensure that residents of the Development are prevented from seeking permits for off Site on street parking;
- 4.2.6 a review of strategies to manage any car parks within the Site;
- 4.2.7 details of any complaints received by the Owner, the Travel Plan Co-ordinator, the Council, the County Council or the Transport Review Group in relation to on-street parking in the local area or other transport related issues;
- 4.2.8 the effectiveness of the operation and usage of the Mobility Hub or Interim Mobility Hub;
- 4.2.9 a summary of the public transport provision and usage, and the suitability of bus routes and bus stops including numbers of passengers using the Fastrack bus service;
- 4.2.10 details of cycle parking and cycle usage by Occupiers and visitors to the Development;
- 4.2.11 the availability and usage of Car Clubs (as defined in Schedule 10) both within the Site and its vicinity, including the take-up of the free membership and driving credit;
- 4.2.12 take-up and usage of the free annual Bus Ticket or MaaS credits) by Occupiers of the Dwellings and employees of businesses within the Commercial Floorspace;
- 4.2.13 the use and operation of the Fastrack Corridor;
- 4.2.14 In respect of the Stadium, a summary of the statistics obtained from a car park occupancy survey which should be undertaken across one day from 7:00 am to 7:00 pm during a neutral weekday as well as one day from 7:00 am to 7:00 pm during a neutral weekend;
- 4.2.15 a summary of the suitability of any new forms of public transport including use of the Mobility as a Service should this be operational or due for implementation at the time or in the near future in the vicinity of and serving the Development;
- 4.2.16 a statistical summary of the modal split of employees/residents/users disclosed by the monitoring surveys;
- 4.2.17 the progress of the Approved Travel Plans in achieving targets as set by the Transport Assessment and identifying any amendments to the Travel Plans to be agreed by the Transport Review Group in the event that targets are not achieved; and

- 4.2.18 a plan for future measures to be implemented to encourage sustainable travel to and from the Development by residents, Occupiers and visitors and reduce reliance on travel by private car and to meet the aims and ambitions of the Transport Assessment; and Travel Plan.
- 4.3 In the event that the Transport Review Group consider that the Annual Travel Plan Review shows that an Approved Travel Plan has failed to meet its objectives and/or targets in any material respect or otherwise failed to encourage sustainable travel to and from the Development by residents, Occupiers and visitors and reduce reliance on travel by private car in a material manner, then the Owner shall:
- 4.3.1 submit to the County Council a revised Residential Travel Plan and/or Commercial Travel Plan (as applicable) setting out the proposed remedial measures for the County Council's approval in line with the decisions of the Transport Review Group; and
- 4.3.2 implement any remedial measures approved by the Transport Review Group within three months of the submission of the revised Residential Travel Plan and/or Commercial Travel Plan (as applicable), and if there are not sufficient funds available in the contingency fund, then as soon as the required funds become available.
- 4.4 In the event that remedial measures are required in accordance with paragraph [4.3] of this Schedule 9, the Owner shall submit to the Transport Review Group a monitoring report six (6) months following implementation of the remedial measures and in the event that the monitoring report shows that the remedial measures have failed to meet their objectives and/or targets in accordance with the relevant Residential Travel Plan and/or Commercial Travel Plan (as applicable) in any material respect, the Owner shall repeat the steps set out under paragraph [4.3] and this paragraph [4.4] until the traffic generation is back in line with the targets for the appropriate stage of the development the Transport Review Group's reasonable satisfaction;
- 4.5 In the event that an Annual Travel Plan Review shows that there have been complaints received in regard to on street-parking above, then the Transport Review Group shall have full discretion to decide whether annual on-street parking surveys shall be a requirement of the Annual Travel Plan Reviews.
- 4.6 The Owner shall pay the Annual Travel Plan Review Fee to the County Council at the start of each five (5) year monitoring period.
- 5 **Bus Tickets and Cycle Voucher**
- 5.1 The Owner covenants:
- 5.1.1 to offer Bus Tickets to:
- (a) the first Occupiers of each Dwelling (limited to an offer of one Bus Ticket to each Occupier and limited to a maximum of 2 Occupiers per Dwelling) within 10 Working Days of the relevant Occupier first Occupying their relevant Dwelling; and

- (b) each full-time employee of a business operating from a Commercial Unit (limited to an offer of one Bus Ticket to each full-time employee and limited to those full-time employees who start their employment at the relevant Commercial Unit within the first year of Occupancy of the relevant Commercial Unit),

PROVIDED THAT the Owner shall be entitled to offer any such ticket on terms that require it to be returned to the Owner if an Occupier of a Dwelling ceases to live in the Development or (as relevant) an employee ceases to be employed by a business operating in the Development and for the avoidance of doubt the Occupier at 5.1.1(a) above and the employee at 5.1.1(b) above shall have twelve (12) months from the date the offer is first made to claim the Bus Ticket and IN THE EVENT at first Occupation Fastrack is not running past the Site and the Owner is required to provide an Alternative Bus Service paragraphs 5.1.1(a) and 5.1.1(b) shall be delayed until Fastrack runs past the Site (unless otherwise agreed in writing by the County Council at the time of first Occupation);

- 5.1.2 to provide a Bus Ticket to each full-time employee or Occupier referred to in paragraph 5.1.1 above that is offered a Bus Ticket and confirms in writing to the Owner that they would like to receive a ticket, within 10 Working Days of the Owner receiving such written confirmation;
- 5.1.3 to offer Cycle Vouchers to:
 - (a) the first Occupiers of each Dwelling within 20 Working Days of the relevant Occupier first Occupying their relevant Dwelling and for the avoidance of doubt the Occupier shall have twelve (12) months from the date the offer is first made to claim the Cycle Voucher;
- 5.1.4 not to Occupy or permit or suffer Occupation of the Development in breach of the obligations at paragraph 5.1.1 to 5.1.3 above.

6 Travel Plan Contingency Fund

6.1 The Owner covenants:

- 6.1.1 to calculate and pay to the County Council the Travel Plan Contingency Fund Top Up for each Plot prior to the first Occupation of the relevant Plot.

6.2 In the event that an Annual Travel Plan Review shows that there has been a failure to achieve trip generation figure targets contained within the Approved Travel Plans then the Transport Review Group will determine if the failures are an official breach of the Approved Travel Plans or if the breaches are as a result of circumstances beyond the Owner's control:

- 6.2.1 In the event that the Transport Review Group determine that there has been an official breach the County Council shall notify the Owner of the amount of the Travel Plan Contingency Fund Top-Up which will be released to help fund transport initiatives pursuant to paragraph 6.3 PROVIDED THAT the County Council shall not be permitted to require the release of any of the Travel Plan Contingency Fund Top-Up in the event that any material failure to achieve trip generation figure targets contained within Approved Travel Plans is as a consequence of the actions of the Council or the County Council (including where

anticipated public transport services which they are to provide are not provided or public transport services in existence which they are providing are cancelled).

- 6.3 The County Council shall hold the Travel Plan Contingency Fund and any Travel Plan Contingency Fund Top-Up, and such monies may be utilised and spent by the Transport Review Group principally to achieve the Approved Travel Plan targets in accordance with the Transport Assessment however, in the event that these targets are met then the Travel Plan Contingency Fund (but for the avoidance of doubt not the Travel Plan Contingency Fund Top-Up) may be used to fund any of the following (at the discretion of the Transport Review Group):
- 6.3.1 walking and cycling improvements within the Development;
 - 6.3.2 off Site walking and cycling improvements;
 - 6.3.3 enhanced cycle parking provision;
 - 6.3.4 further mobility hub measures;
 - 6.3.5 enhanced bus service provision;
 - 6.3.6 travel incentives; or
 - 6.3.7 any other measures deemed appropriate.
- 6.4 The County Council shall upon the receipt of a written request from the Owner repay to the Owner the sum of any Travel Plan Contingency Fund Top-Up held by the County Council on the date which is six (6) calendar years after the date of the Practical Completion of the Development by not later than 20 Working Days after receipt of the written request.

Schedule 10

Car Club

- 1 In this Schedule 10 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Car Club means a scheme for sharing private car and van facilities to be made available to the Occupiers of the Development and the general public the use of which shall be monitored by the Transport Review Group through the relevant Annual Travel Plan Reviews required to be submitted pursuant to Schedule 9;

Car Club Membership means 1 (one) year's free Car Club membership and a credit of £50 (fifty pounds) towards using the Car Club;

Car Club Operator means a car club operator accredited in the United Kingdom, who will be responsible for the operation and management of the Car Club and Car Club Spaces, including bookings and charges;

Car Club Spaces means the no less than three (3) of the car parking spaces to be provided within the Development (with fast charge electric vehicle charging points as a minimum) to be used exclusively by the Car Club,

Car Club Sub-Phase means a Sub-Phase identified within the Approved Overarching Car Club Scheme as containing one or more Car Club Spaces and Car Club Vehicles;

Car Club Vehicle means an electric or hybrid vehicle owned or provided by the Car Club Operator for the Car Club;

Overarching Car Club Plan means a plan which provides details of the following matters:

- (a) the Sub-Phases within which it is proposed the Car Club Spaces will be located, the proposed timetable for delivery of the Car Club Spaces and Car Club Vehicles within the relevant Sub-Phases, such timetable must secure that the Owner shall:
 - i use reasonable endeavours to provide the Car Club Space and Car Club Vehicle before first Occupation of any Dwelling; and
 - ii in any event, the delivery of at least one (1) Car Club Space and Car Club Vehicle prior to first Occupation of the 50th Dwelling to be constructed as part of the Development;
- (b) the indicative specification of the Car Club Spaces (in particular, but not limited to, the specification of the electric vehicle charging points);

such plan to be in accordance with the Planning Permission and any applicable Reserved Matters Applications, and the term **Approved Overarching Car Club Plan** shall be construed accordingly to refer to the Overarching Car Club Plan approved pursuant to this Schedule 10 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the County Council from time to time);

Sub-Phase Car Club Plan means the plan for a Car Club Sub-Phase, such plan to include:

- (a) the location of the Car Club Spaces proposed within the relevant Car Club Sub-Phase which shall be available for use by the Occupiers of the Development and the general public;
- (b) the specification of the Car Club Vehicles to be provided within the relevant Sub-Phase;
- (c) the identity of the proposed Car Club Operator for the relevant Sub-Phase;
- (d) the arrangements that will be put in place within the relevant Sub-Phase to ensure that the Car Club Spaces are managed and maintained by the Car Club Operator for the lifetime of the Development;
- (e) the arrangements that will be put in place within the relevant Sub-Phase to ensure that the Car Club Spaces will be accessible by Occupiers and employees of the Development for the lifetime of the Development; and
- (f) arrangements that will be put in place to offer and make relevant Occupiers of the Development aware of their entitlement to Car Club Membership and driving credit,

such details to be in accordance with the principles approved as part of the Approved Overarching Car Club Plan and the term **Approved Sub-Phase Car Club Plan** shall be construed accordingly to refer to the Sub-Phase Car Club Plan approved pursuant to this Schedule 10 (and any subsequent amendment, update or replacement of such approved plan that may be approved by the County Council from time to time).

Car Club

- 2 The Owner hereby covenants with the County Council:
 - 2.1 to submit the Overarching Car Club Plan to the County Council for its approval in writing prior to Occupation of any part of the Development;
 - 2.2 not to Occupy or permit or suffer Occupation of any part of the Development until the Overarching Car Club Scheme has been approved in writing by the County Council;
 - 2.3 prior to Occupation of a Car Club Sub-Phase, to submit a Sub-Phase Car Club Plan to the County Council for its written approval;
 - 2.4 not to Occupy or permit or suffer Occupation of a Car Club Sub-Phase until the County Council has approved the relevant Sub-Phase Car Club Plan in writing;
 - 2.5 to provide the Car Club Space and use all reasonable but commercially prudent endeavours to procure the Car Club Vehicle before first Occupation of any Dwelling and, in any event, to deliver one (1) Car Club Space and Car Club Vehicle prior to first Occupation of the 50th Dwelling to be constructed as part of the Development;
 - 2.6 not to Occupy or cause or permit Occupation of 50 or more Dwellings until:
 - 2.6.1 the first Car Club Space and Car Club Vehicle is available for use in accordance with the provisions of this Schedule 10;

- 2.6.2 a contract has been entered into with a Car Club Operator for the provision of the Car Club at the Car Club Space provided pursuant to paragraph 2.6.1 above in accordance with the details approved within the relevant Approved Sub-Phase Car Club Plan and the County Council has been notified of such;
- 2.7 to provide a second Car Club Space and use all reasonable but commercially prudent endeavours to procure a second Car Club Vehicle prior to first Occupation of more than 300 Dwellings ;
- 2.8 not to Occupy or cause or permit Occupation of more than 300 Dwellings until:
- 2.8.1 the second Car Club Space and second Car Club Vehicle is available for use in accordance with the provisions of this Schedule 10; and
- 2.8.2 a contract has been entered into with a Car Club Operator for the provision of the Car Club at the Car Club Space provided pursuant to paragraph 2.8.1 above in accordance with the details approved within the relevant Approved Sub-Phase Car Club Plan and the County Council has been notified of such;
- 2.9 to provide a third Car Club Space and to use all reasonable but commercially prudent endeavours to procure a third Car Club Vehicle prior to first Occupation of more than 1,500 Dwellings;
- 2.10 not to Occupy or cause or permit Occupation of more than 1,500 Dwellings until:
- 2.10.1 the third Car Club Space and third Car Club Vehicle is available for use in accordance with the provisions of this Schedule 10; and
- 2.10.2 a contract has been entered into with a Car Club Operator for the provision of the Car Club at the Car Club Space provided pursuant to paragraph 2.10.1 above in accordance with the details approved within the relevant Approved Sub-Phase Car Club Plan and the County Council has been notified of such.
- 2.11 During the operation of the Car Club, the Owner shall maintain the Car Club Spaces for the sole use of the Car Club in accordance with the details approved in the Approved Overarching Car Club Plan and the Approved Sub-Phase Car Club Plans and shall procure the continued operation of the Car Club for the lifetime of the Development in accordance with the foregoing provisions of this paragraph, subject to the following:
- 2.11.1 if any Annual Travel Plan Review pursuant to Schedule 10 demonstrates that a Car Club is no longer an effective, necessary or required measure, subject to the Owner providing satisfactory written evidence to the County Council that this is the case and the County Council confirming its agreement in writing that the Car Club is no longer an effective, necessary or required measure, the Owner shall thereafter no longer be required to procure continued operation of the Car Club or to retain the Car Club Spaces for use by the Car Club;
- 2.11.2 the provisions of paragraph 2.11.1 above shall apply mutatis mutandis to any Annual Travel Plan Review which demonstrates that part of the Car Club is no longer an effective, necessary or required measure;

- 2.11.3 if a Car Club Operator confirms in writing that it no longer requires one or more Car Club Spaces, subject to the Owner providing satisfactory written evidence to the Council and the County Council confirming its agreement in writing that there is no demand for the Car Club Space from another Car Club Operator to operate a Car Club from that space or spaces, the Owner shall no longer be required to maintain the relevant space or spaces as Car Club Spaces for use by the Car Club;
- 2.11.4 if a Car Club Operator ceases to exist, or ceases (otherwise than following termination of any agreement with the Car Club Operator by the Owner) to operate the Car Club (or part of it) on the Site, subject to the Owner providing satisfactory written evidence to the County Council and the County Council confirming its agreement in writing that there is no demand from another Car Club Operator to operate a Car Club (or relevant part) from the Site and/or that there is demand only for a reduced Car Club, the Owner shall no longer be required to procure the operation of a Car Club (or relevant part) from the Site and/or shall only be required to procure a reduced operation as relevant.

AND FOR THE AVOIDANCE OF DOUBT if the contract for the provision of the Car Club at the first Car Club Space has been entered into between the Owner and the Car Club Operator under paragraph 2.10.2 above concludes and in the opinion of the Transport Review Group the Car Club is not yet self-sufficient the Owner shall use all reasonable but commercially prudent endeavours to enter into a further contract for a period agreed to be appropriate by the Transport Review Group to enable the Car Club to become self-sufficient.

3 Car Club Membership

3.1 The Owner covenants:

3.1.1 to offer:

- (a) Car Club Membership to the first adult Occupiers of each Dwelling (limited to an offer of one Car Club Membership to each Occupier and limited to a maximum of 2 Occupiers per Dwelling) within 10 Working Days of their Occupation commencing, such offer to be available to claim for up to three (3) months after first occupation of the associated Dwelling;

3.1.2 if an adult Occupier of a Dwelling accepts an offer made pursuant to paragraph 3.1.1(a) of this Schedule 10, to provide Car Club Membership to that Occupier PROVIDED THAT the Occupier has a valid driving licence and provides evidence of the same and FURTHER PROVIDED THAT the Car Club Operator may refuse to grant membership of the Car Club to any Occupier that does not meet the eligibility criteria for such membership; and

3.1.3 not to Occupy or permit or suffer Occupation of the Development in breach of the obligations at paragraphs 3.1.1 and 3.1.2 above.

Schedule 11

Management Company

- 1 In this Schedule 11 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Management Schemes means the Approved Overarching Open Space Plan, any Approved Phased Open Space Plans and the Approved River Infrastructure Works Management Plan; and

Parking Management Company means the private limited company to be established or procured by the Owner (and registered at Companies House) the purpose of which will (amongst other things) manage and maintain all parking areas (including the car park for the Stadium) and all internal roads and paths, save for any areas dedicated as public highway and adopted as public highway maintainable at the public's expense.

2 Establishment of the Management Company

- 2.1 The Owner covenants with the Council not to cause or permit the Occupation of any of the Dwellings or the Commercial units until they have at their own expense:

- 2.1.1 set up or appointed a Management Company;
- 2.1.2 ensured that the Management Company has at least two named persons as directors and one company secretary that are eligible to be appointed and (if required) removed and replaced by the members of the Management Company;
- 2.1.3 procured through the Management Company documentation (as set out in paragraph 2.2 below) that the Management Company will hold at least one (1) public meeting per year;
- 2.1.4 procured that the Management Company is responsible for the upkeep and on-going maintenance of the Open Space and the River Infrastructure Works in accordance with the relevant Management Schemes;
- 2.1.5 procured that the Management Company has and maintains for the lifetime of the Development appropriate public liability insurance to a minimum value of £5 million (the **Insurance Policy**);
- 2.1.6 procured that the Management Company, should the Council so require, shall enter into a direct covenant with the Council to perform the obligations set out in this Agreement relating to Open Space and the River Infrastructure Works; and

- 2.2 The Management Company shall report annually to the Council to confirm that it has complied with and/or continues to comply with its obligations at paragraphs 2.1.2 to 2.1.5 of this Schedule 11 within the previous calendar year, the first such report to be submitted to the Council within 10 Working Days of the date of expiry of one calendar year from Occupation of the first Dwelling and within 10 Working Days of each anniversary of that date thereafter.

3 Establishment of the Parking Management Company

3.1 The Owner covenants with the Council not to cause or permit the Occupation of any of the Dwellings or the Commercial units until they have at their own expense:

- 3.1.1 set up or appointed a Parking Management Company;
- 3.1.2 ensured that the Parking Management Company has at least two named persons as directors and one company secretary that are eligible to be appointed and (if required) removed and replaced by the members of the Parking Management Company;
- 3.1.3 procured through the Parking Management Company documentation (as set out in paragraph 2.2 below) that the Management Company will hold at least one (1) public meeting per year;
- 3.1.4 procured that the Parking Management Company is responsible for the upkeep and on-going maintenance of the parking areas (including the car park for the Stadium);
- 3.1.5 procured that the Parking Management Company has and maintains for the lifetime of the Development appropriate public liability insurance to a minimum value of £5 million (the **Insurance Policy**);
- 3.1.6 procured that the Parking Management Company, should the Council so require, shall enter into a direct covenant with the Council to perform the obligations set out in the Parking Management Plan.

3.2 The Parking Management Company shall report annually to the Council to confirm that it has complied with and/or continues to comply with its obligations at paragraphs 3.1.2 to 3.1.6 of this Schedule 11 within the previous calendar year, the first such report to be submitted to the Council within 10 Working Days of the date of expiry of one calendar year from Occupation of the first Dwelling and within 10 Working Days of each anniversary of that date thereafter.

4 Management Company Funding

4.1 The Owner covenants with the Council to:

- 4.1.1 include in each transfer or lease of a Dwelling which is transferred or leased an obligation to contribute an annual amount to the Management Company which together with fair contributions from other purchasers or lessees of the Dwellings shall be sufficient to enable the Management Company to discharge its obligations under this Agreement in relation to the Management Schemes;
- 4.1.2 procure that the buyer or lessee of each Dwelling within the Development which is transferred or leased shall upon any subsequent sale or letting of such Dwelling they will procure that the incoming buyer or lessee shall enter into direct covenants with the Management Company to pay the annual amounts referred to in paragraph 3.1.1 of this Schedule 11 to the Management Company.

- 4.2 No Dwelling shall be occupied unless in respect of the Dwelling in question the provisions of this paragraph 4 have been observed and performed.

5 Management Company Documents

- 5.1 Prior to first Occupation of any Dwelling or Commercial Unit, the Owner covenants with the Council to provide to the Council for its written approval the following information and documents relating to the Management Company and Parking Management Company, and not to Occupy or permit or cause Occupation of any Dwelling or Commercial Unit until the Council has given its written approval to the same, such approval not to be unreasonably withheld or delayed:

- 5.1.1 the name and company number of the Management Company and Parking Management Company;
- 5.1.2 a copy of the company certificate of incorporation and articles and memorandum of association;
- 5.1.3 a copy of its rules (which shall require at least one (1) public meeting to be held per year and a minimum of seven (7) days written notice to be given of each meeting to all company members and suitable facilities to be arranged for its meetings) and regulations and operational manuals;
- 5.1.4 details of the names and addresses of all directors, members and the company secretary at the date of incorporation (which for the avoidance of doubt shall not include the names of individual Occupiers of Dwellings);
- 5.1.5 details of the financial resources that are available to the Management Company and Parking Management Company (as appropriate) including evidence that there are or will be adequate resources in place to undertake the management and maintenance in accordance with the Management Schemes and Car Park Management Plan (as appropriate) for the lifetime of the Development;
- 5.1.6 a copy of the Insurance Policy; and
- 5.1.7 details of how owners and Occupiers will be entitled to become members of the Management Company or Parking Management Company.

6 Alternative Management Company

- 6.1 In the event that the Management Company or the Parking Management Company is dissolved for any reason whatsoever, the Owner shall promptly and without delay establish or appoint a new Management Company or new Parking Management Company in accordance with this Schedule 11.

- 6.2 The Management Company or the Parking Management Company may not transfer its responsibilities in respect of the Open Space and the River Infrastructure Works or the parking areas (including the car park for the Stadium) and all internal roads and paths (as the case may be) unless:

- 6.2.1 the transfer is to another Management Company or Parking Management Company (as appropriate) which has been approved by the Council in writing;

- 6.2.2 the Council has received evidence to confirm that the new Management Company or Parking Management Company (as appropriate) shall comply with the requirements in paragraph 2 of this Schedule 11; and
- 6.2.3 the Council has received documents in relation to the new Management Company or Parking Management Company(as appropriate) in accordance with paragraph 5.1.1 to 5.1.7 (inclusive) of this Schedule 11.

Schedule 12

Highway and Public Realm Improvement Works

- 1 In this Schedule 12 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Alternative Bus Service means a bus service which is procured by the Owner to serve the Development and as a minimum the bus service shall:

- (a) operate 7 days a week, including bank holidays;
- (b) operate between the hours of 0600 to 2200;
- (c) operate at a frequency of at least every 15 minutes at peak times [(0700 – 1000 and 1600 – 1800 on weekdays and between 1000 and 1400 at weekends and on bank holidays (unless other hours are agreed by the Transport Review Group (as defined in Schedule 9) to represent peak hours and subject to the number of peak hours within any given day not increasing beyond 6 hours in total) and at least every 30 minutes at off peak times; and
- (d) provide a direct link from the site to the following destinations: Gravesend Town Centre, Gravesend Railway Station; Ebbsfleet International Railway Station;

Approved Highway Works means Highway Works identified in an Approved Sub-Phase Highway Works Scheme;

Bus Stop Works means the re-location of the existing bus stops on the A226 Galley Hill Road (North) and on the A226 Stonebridge Road (located outside the existing stadium) in line with the future layout of the junction between Galley Hill Road and Lower Road as indicatively shown on the plan attached at Appendix 2 of this Agreement;

Bus Highway Works means the Fastrack Corridor Works and the Bus Stop Works;

Bus Highway Works Scheme means a scheme setting out the layout and programme for the delivery of necessary Bus Highway Works, such scheme to be prepared in accordance with and/or amending or updating, as necessary, the Approved Overarching Highway Works Scheme, and the term **Approved Bus Highway Works Scheme** shall be construed to mean the Bus Highway Works Scheme approved by the Council, pursuant to this Schedule 12 (and any subsequent amendment, update or replacement of such approved scheme that may be approved by the Council from time to time) following consultation with the County Council;

Fastrack Corridor means a permanent fastrack, bus, walking and cycling corridor to be provided as part of the Development which is shown for indicative purposes on the Fastrack Corridor Plan and is to be delivered pursuant to the relevant condition of the Planning Permission which shall be meet the following criteria:

- (a) Minimum 6.75 metre Fastrack only carriageway;

- (b) Minimum of 3.0 metre shared use footway/cycleway on one side of the carriageway and 2.0 metre footway and 3.0 metre segregated cycle route on the other side of the carriageway (unless otherwise approved by the County Council); and
- (c) A 1.0 metre demarcated buffer;

Fastrack Corridor Plan means the plan with reference [XXX] appended to this Agreement at [Appendix 2];

Fastrack Corridor Works means the construction of the Fastrack Corridor in accordance with the Planning Permission and any details approved thereunder as indicatively shown on the Fastrack Corridor Plan (as defined in Schedule [9]);

Highway Agreement means an agreement with the County Council pursuant to sections 38 and/or 278 of the Highway Act 1980 (as relevant) for the completion and / or adoption of the Highway Works and the completion of the Bus Highway Works;

Highway Works means the Onsite Highway Works and the Offsite Highway Works;

Offsite Highway Works means those works required to existing adopted public highways outside the Site to secure access to the Site;

Onsite Highway Works means any works to existing adopted public highways within the Site or any new roads to be constructed and proposed to be dedicated and adopted as public highway maintainable at the public's expense;

Overarching Highway Works Scheme means an indicative scheme identifying Highway Works and Bus Highway Works which are likely to be required as part of the Development and the indicative programme for the delivery of the Highway Works and Bus Highway Works, and the term **Approved Overarching Highway Works Scheme** shall be construed to mean the Overarching Highway Works Scheme approved by the County Council, pursuant to this Schedule 12 (and any subsequent amendment, update or replacement of such approved scheme that may be approved by the County Council from time to time);

Public Realm Audit means an audit of the wider public realm outside but within the immediate vicinity of the Site as requested by the Council using the parameters of the Walking and Cycling Audit set out within the Transport Assessment (as defined in Schedule 9 thereto);

Public Realm Improvements means improvements and enhancements to the public realm outside but within the immediate vicinity of the Site that are required to mitigate the impacts of the Development and/or improve or enhance the design and functioning of the Development on Site and which may include (but are not limited to) improvements/enhancements to walking/cycling links, transport connectivity, local amenity and public spaces, planting and street furniture, signage and wayfinding, street lighting and CCTV;

Sub-Phase Highway Works Scheme means a scheme setting out the layout and programme for the delivery of necessary Highway Works for a particular Sub-Phase, such scheme to be prepared in accordance with and/or amending or updating, as necessary, the Approved Overarching Highway Works Scheme, and which shall include and be informed

by the results of an updated junction capacity assessment in respect of the impacts of the Development and the term **Approved Sub-Phase Highway Works Scheme** shall be construed to mean the Sub-Phase Highway Works Scheme approved by the County Council, pursuant to this Schedule 12 (and any subsequent amendment, update or replacement of such approved scheme that may be approved by the County Council from time to time);

Walking and Cycling Audit means the audit of the wider public realm outside but within the immediate vicinity of the Site as detailed in the Transport Assessment (as defined in Schedule 9 thereto); and

Walking and Cycling Audit Contribution means the financial contribution of seventy-five thousand pounds (£75,000) Index Linked to be paid by the Owner in accordance with this Schedule 12 and to be used by the County Council towards implementing some or all of the measures set out as part of the Walking and Cycling Audit or any other Public Realm Improvements.

2 **Overarching Highway Works Scheme**

2.1 The Owner covenants with the Council and County Council:

- 2.1.1 prior to Commencement of Development, to submit the Overarching Highway Works Scheme to the Council for approval;
- 2.1.2 to confirm in writing as part of the Overarching Highways Works Scheme whether an Alternative Bus Service shall be provided based on whether Fastrack is already running past the Site (either along Galley Hill Road or Grove Road) with the Alternative Bus Service being required if Fastrack past the Site has not been established; and
- 2.1.3 not to Commence the Development, nor permit or suffer Commencement of the Development, until the Overarching Highway Works Scheme has been approved in writing by the Council following consultation with the County Council.

3 **Alternative Bus Service**

3.1 The Owner covenants with the Council and County Council as follows:

- 3.1.1 in the event the Alternative Bus Service is to be provided prior to the first Occupation of the Development:
 - (a) to provide the Alternative Bus Service prior to the first Occupation of the Development and not to Occupy the Development until the Alternative Bus Service has been established and is serving the Site;
 - (b) to provide the Alternative Bus Service until either:
 - i Fastrack resumes its previous route along the A226 Galley Hill Road or alternatively routes along Grove Road; or
 - ii the Fastrack Corridor has been Practically Completed in accordance with the Approved Fastrack Corridor Plan and the Highway Agreement(s) to the written reasonable satisfaction of the County Council

(whichever is earliest),

and for the avoidance of doubt the costs to the Owner of providing the Alternative Bus Service shall not exceed four million pounds (£4,000,000) and any revenue generated by the Alternative Bus Service shall be reinvested toward the provision of the Alternative Bus Service

- 3.1.2 In the event that when the Alternative Bus Service ceases to operate there is any excess revenue that remains unspent this shall be returned to the Owner.

4 **Bus Highway Works**

- 4.1 The Owner covenants with the Council and the County Council as follows:

- 4.1.1 unless otherwise agreed in writing with the County Council, the Owner covenants not to Commence the Bus Highway Works (or a part of them) until a Highway Agreement has been entered into with the County Council in respect of the Bus Highway Works (or any relevant part of them) to secure the delivery of those Bus Highway Works and their adoption by the County Council as public highway maintainable at the public's expense;

- 4.1.2 to submit to the Council for its written approval following consultation with the County Council the Bus Highway Works Scheme prior to Commencement of the Development;

- 4.1.3 not to Commence the Development until the Council has approved in writing the Bus Highway Works Scheme following consultation with the County Council;

- 4.1.4 to Practically Complete the Bus Highway works in accordance with the Approved Bus Highway Works Scheme and the Highway Agreement(s) entered into in connection with the Bus Highway works:

- (a) prior to the first Occupation of the Development; or
- (b) in the event that the Alternative Bus Service is to be provided prior to the first Occupation of the Development prior to the Occupation of 930 Dwellings;

- 4.1.5 not to:

- (a) Occupy the Development; or
- (b) (b) in the event that the Alternative Bus Service is to be provided prior to the first Occupation of the Development more than 930 Dwellings,

until the Bus Highway works have been Practically Completed in accordance with the Approved Bus Highway Works Scheme and the Highway Agreement(s) to the written reasonable satisfaction of the County Council;

- 4.2 Not to Occupy (nor cause, nor permit nor suffer to be caused or permitted, the Occupation of) a Sub-Phase within which the Bus Highway Works (or a part of them) are located unless and until the County Council has confirmed in writing that the Bus Highway Works within

that Sub-Phase have been Practically Completed to its reasonable satisfaction in accordance with the Highways Agreement entered into in relation to such works.

5 Sub-Phase Highway Works

5.1 The Owner covenants with the Council and the County Council:

5.1.1 prior to or on submitting the first Reserved Matters Application in respect of a Sub-Phase, to submit a Sub-Phase Highway Works Scheme for that Sub-Phase to the Council for its approval in consultation with the County Council; and

5.1.2 not to Commence a Sub-Phase, nor permit or suffer Commencement of a Sub-Phase, until the Sub-Phase Highways Works Scheme for that Sub-Phase has been approved in writing by the Council following consultation with the County Council.

5.2 Unless otherwise agreed in writing with the Council in consultation with the County Council, the Owner covenants with the Council not to Commence the Approved Highway Works (or a part of them) until a Highway Agreement has been entered into with the County Council in respect of the Approved Highway Works (or the relevant part of them) to secure the delivery of those Approved Highway Works and their adoption by the County Council as public highway maintainable at the public's expense.

5.3 The Owner covenants to Practically Complete the Approved Highway Works in accordance with the Highway Agreement(s) entered into pursuant to paragraph [5.2] above and the Approved Sub-Phase Highway Works Scheme prior to first Occupation of the relevant Sub-Phase unless otherwise agreed in writing by the Council.

5.4 Unless otherwise agreed in writing with the Council in consultation with the County Council, the Owner covenants with the Council not to Occupy nor cause or permit the Occupation any Sub-Phase until the Highway Works in the relevant Sub-Phase (as identified within the relevant Approved Sub-Phase Highways Works Scheme) have been Practically Completed in accordance with the Highway Agreement entered into pursuant to paragraph [5.2] above and the County Council has issued a provisional certificate confirming the same has been issued in accordance with the Highway Agreement relating to the relevant Highway Works.

5.5 The Owner further covenants:

5.5.1 to Practically Complete such internal roads and pathways which are not Highway Works which are required to provide safe and suitable pedestrian, cycle and vehicular access from any Dwelling or Commercial Unit to the public highway (including public highway within the Development) from a building within a Plot prior to Occupation of the relevant building within such Plot in accordance with the Planning Permission and any applicable Reserved Matters Approval; and

5.5.2 not to Occupy or permit or suffer Occupation of any Plot in breach of paragraph 5.5.1.

6 Public Realm Improvement Works

6.1 The Owner covenants with the County Council:

- 6.1.1 three (3) months prior to first Occupation of the Development, to pay the Walking and Cycling Audit Contribution to the County Council in cleared funds;
 - 6.1.2 not to Occupy or permit or cause Occupation of any part of the Development until the Walking and Cycling Audit Contribution has been paid to the County Council in full;
- 6.2 The Owner covenants with the Council:
 - 6.2.1 prior to first Occupation of the Development, to undertake and to submit to the Council for written approval the Public Realm Audit;
 - 6.2.2 not to Occupy or permit or cause Occupation of any part of the Development until the Public Realm Audit has been approved in writing by the Council.

Schedule 13

Traffic Regulations Orders/Parking Restrictions

- 1 In this Schedule 13 and this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meaning:

Framework Car Park Management Plan means the 'Framework Car Park Management Plan' dated August 2023 prepared by Vectos (part of SLR) and submitted in support of the Planning Application;

Parking Investigation means an investigation or survey of the Roads to assess on-street car parking pressures at the date of the investigation/survey, such investigations and surveys to be carried out in accordance with the Framework Car Park Management Plan by suitably qualified transport consultants;

Parking Restrictions means restrictions to on-street car parking on the Roads which may be introduced under the Road Traffic Regulation Act 1984 or any similar statutory provisions;

Parking Restrictions Plan means a plan to be submitted to the County Council for approval alongside each Reserved Matters Application identifying any necessary Parking Restrictions to be secured as part of the relevant Reserved Matters Development and the term **Approved Parking Restrictions Plan** shall be construed accordingly to mean the Parking Restrictions Plan approved by the County Council pursuant to this Schedule 13; and

Roads means the roads within the parking survey area shown on Figure 4.1 of the Framework Car Park Management Plan.

2 **Parking Investigations**

- 2.1 The Owner covenants with the County Council as follows:

- 2.1.1 prior to Occupation of the Development, to procure a Parking Investigation and to submit the results of that Parking Investigation to the County Council for its approval;
- 2.1.2 not to Occupy or permit or cause Occupation of the Development until the results of the Parking Investigation has been approved in writing by the County Council;
- 2.1.3 in the event that following receipt of any Parking Investigation the County Council, reasonably requires further information to assess on-street parking pressures on the Roads and requests the same as soon as practicably possible after receipt of the investigation, to supply to the County Council such information within 20 Working Days of such a request (or such other time period as may be agreed in writing by the County Council);
- 2.1.4 to pay within 20 Working Days of receipt of an invoice, the County Council's costs of assessing any Parking Investigation submitted pursuant to paragraph 2.1.1 above ; and
- 2.1.5 if the County Council refuses to approve the Parking Investigation or has not issued a decision in relation to the same, within 30 Working Days of receipt of

the Parking Investigation, either Party may refer the matter to an expert for determination pursuant to the Dispute Resolution Procedure;)

- 2.1.6 to procure a further Parking Investigation on each of the first, fifth and tenth anniversaries of first Occupation of the Development unless and until Parking Restrictions are introduced following a prior Parking Investigation;
- 2.1.7 in the event that following receipt of a further Parking Investigation submitted pursuant to paragraph 2.1.6 above the County Council reasonably requires further information to assess on-street parking pressures on the Roads and requests the same as soon as practicably possible after receipt of the investigation, to supply to the County Council such information within 20 Working Days of receipt of a request from the County Council for the information (or such other time period as may be agreed in writing by the County Council);
- 2.1.8 to pay, within 20 Working Days of receipt of an invoice, the County Council's reasonable costs of assessing the results of the Parking Investigation; and
- 2.1.9 if the County Council confirms in writing that as a result of a Parking Investigation submitted pursuant to paragraph 2.1.6 above it considers Parking Restrictions are necessary, to make an application to the County Council within two months of receiving the notification for the necessary orders and to pay the County Council's reasonable costs of introducing the Parking Restrictions and, for the avoidance of doubt, such costs shall include the making of any necessary orders (including, but not limited to, publicity of such orders and any formal consultations) .

3 Parking Restrictions Plan

3.1 The Owner covenants with the County Council:

- 3.1.1 to submit, alongside each Reserved Matters Application, a Parking Restrictions Plan to the County Council for its approval;
- 3.1.2 not to Commence or permit or suffer Commencement of a Reserved Matters Development until the County Council has approved the relevant Parking Restrictions Plan;
- 3.1.3 to fully implement and obtain necessary orders for the required Parking Restrictions in accordance with the relevant Approved Parking Restrictions Plan prior to Occupation of each Reserved Matters Development; and
- 3.1.4 not to Occupy or permit or cause Occupation of a Reserved Matters Development until the Parking Restrictions for that Reserved Matters Development, as identified within the relevant Approved Parking Restrictions Plan, have been made and have taken legal effect.

Schedule 14

Council's obligations

- 1 In this Schedule 14 only, unless the context requires otherwise, the following words and expressions shall have the following meanings:

Contributions means any financial contribution paid to the Council pursuant to this Agreement.

- 2 The Council covenants with the Owner as follows:

- 2.1 to place the Contributions in an interest-bearing account until their expenditure in accordance with this Agreement;
- 2.2 to expend the Contributions solely for the purpose for which the relevant Contribution was paid as soon as possible following receipt of the relevant Contributions;
- 2.3 to make available a representative of the Council and require them to attend the Transport Review Group;
- 2.4 upon the request of the Owner, to provide to the Owner, no more than once per year after the payment of a Contribution or instalment thereof, details of how that Contribution or instalment has been spent;
- 2.5 at the Owner's written request, to repay (together with all interest accrued) to the person who made the payment any sums not expended or committed to expenditure by way of formal Council resolution and/or contractual arrangement from the Contributions at the date ten (10) years after Practical Completion of the relevant Phase of the Development or the payment to the Council of the relevant Contribution or, where a Contribution is paid in instalments, payment of the relevant instalment (whichever occurs later);
- 2.6 on the written request of the Owner at any time after an obligation of the Owner under this Agreement has been performed or otherwise discharged, the Council will issue a written confirmation of such performance or discharge (subject to the payment by the Owner of the Council's reasonable and proper costs of providing such confirmation); and
- 2.7 following the performance and full satisfaction of all the terms of this Agreement, or if this Agreement is determined pursuant to clause [9], the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this Agreement (and subject to the payment by the Owner of the Council's reasonable and proper costs and charges of such cancellation).

Schedule 15

County Council Financial Contributions

- 1 The County Council covenants with the Owner as follows:
 - 1.1 to use all sums received from the Owner under the terms of this Agreement for the purposes specified in this agreement for which they are to be paid;
 - 1.2 upon the request of the Owner, to provide to the Owner, no more than once every five years after the payment of a Contribution or instalment thereof, details of how that Contribution or instalment has been spent;
 - 1.3 at the payee's request and subject to Clause 1.1 above to return any part of the sums aforesaid which shall not have been used for the purposes set out in this Agreement after a period of ten (10) years from the date of Practical Completion PROVIDED THAT the County Council shall not be obliged to return any part of any contribution to the Owner which has been spent or contractually committed prior to the date of the request;
 - 1.4 to use reasonable endeavours to negotiate and to enter into any Highways Agreement which is required to entered into in accordance with the terms of this Agreement; and
 - 1.5 to make available a representative of the County Council to attend the Transport Review Group.

Schedule 16

Dispute Resolution Procedure

1 Referral to an expert

Any dispute between the parties arising out of or in connection with this Agreement may be referred to an expert in accordance with this Schedule 16 save for any dispute in relation to matters of the law or the interpretation of this Agreement which shall be subject to the jurisdiction of the courts.

2 Choice of expert

2.1 If the dispute relates to:

2.1.1 the construction of rights and liabilities of any party; or

2.1.2 the terms or conditions to be embodied in any deed or document appertaining thereto,

it shall be referred to a solicitor or barrister agreed upon by the parties or, in default of agreement, appointed at the request of any party by or on behalf of the Chairman for the time being of the Bar Council, the President for the time being of the Law Society (or the duly appointed deputy of such Chairman or President, or any other person authorised by him to make appointments on his behalf) or any person in an equivalent subsequent role.

2.2 If the dispute relates to any other matter not referred to in paragraph 2.1 of this Schedule 16, it shall be referred to an expert agreed upon by the parties to the dispute or, in default of agreement, appointed at the request of any party to the dispute by or on behalf of:

2.2.1 the President for the time being of the Royal Institution of Chartered Surveyors;

2.2.2 the President for the time being of the Royal Institute of British Architects;

2.2.3 the President for the time being of the Institution of Chartered Arbitrators;

2.2.4 the President for the time being of the Institute of Chartered Accountants;

2.2.5 the President for the time being of the Institution of Civil Engineers;

2.2.6 the Director for the time being of the Combined Heat and Power Association; or

2.2.7 (in each such case referred to at paragraphs 2.2.1 to 2.2.6 above) the duly appointed deputy of such President or Director, or any other person authorised by him to make appointments on his behalf,

or any person in an equivalent subsequent role.

2.3 For the purposes of this Schedule 16, an expert is a person qualified to act in relation to the relevant dispute having not less than 10 years' professional experience in the area to which the dispute relates.

- 2.4 If an expert nominated or appointed pursuant to the foregoing provisions of this paragraph shall die or decline to act another expert may be appointed in his place in accordance with the provisions of this paragraph 2.

3 Submissions and timescales

- 3.1 If a dispute between the parties arising out of or in connection with this Agreement is referred to an expert in accordance with this Schedule 16:
- 3.1.1 each party may make written representations within 10 Working Days of the expert's appointment (and must copy such written representations to the other party to the dispute);
 - 3.1.2 each party will have a further 10 Working Days to make written comments on the other's representations (and must copy such written comments to the other party);
 - 3.1.3 the expert shall be at liberty to:
 - (a) call for such written evidence from the parties; and/or
 - (b) seek such legal or other expert assistanceas he may reasonably require;
 - 3.1.4 the expert must not take any oral representations from the parties without giving both parties the opportunity to be present, to give evidence and to cross-examine each other;
 - 3.1.5 the expert must have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
 - 3.1.6 the expert is to use all reasonable endeavours to publish his decision within 25 Working Days of his appointment.

4 Determination and decision

- 4.1 The expert shall act as an expert and not as an arbitrator. He shall consider any written representation submitted to him within the periods specified in this Schedule 16 and shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own professional judgement.
- 4.2 The expert shall give notice of his decision with reasons in writing and his decision will be final and binding on the parties hereto save in the case of fraud or manifest error.
- 4.3 If for any reason the Expert fails to make a decision and give notice thereof in accordance with this Schedule 16, the party or parties may apply to the president of the Law Society for a substitute to be appointed in his place (which procedure may be repeated as many times as necessary).

Costs

Responsibility for the costs of referring a dispute to an expert under this Schedule 16 (including all costs connected with the appointment of the expert, the expert's own costs and other professional costs of each party in connection with the dispute) shall be decided by the expert or in the event that he makes no determination, such costs will be borne by the parties to the dispute in equal shares.

Schedule 17

Schedule of obligations

- 1 The following provisions shall be exceptions to clause 1.9 of this Agreement and shall only bind the interest or estate held by and be enforceable against all persons who hold any interest or estate in the relevant part of the Site as set out as follows: ¹³

Obligation	Party liable

¹³ TBC

Appendix 1

Commencement Notice

To: By email : planning.obligations@gravesham.gov.uk (preferred option)

By post: Gravesham Borough Council, Section 106 Officer, Planning Department, Civic Centre, Windmill Street, Gravesend Kent DA12 1AU

Planning application number: 20221064

Section 106 dated: [] 20[]

Development Site Address: Northfleet Harbourside

In accordance with the terms of the above Section 106 Agreement, **I give you notice** that the following event has been reached: [please complete as appropriate]

either:

1 Prior to commencement of works on the Development Site

Work is expected to commence on the Development Site on [insert date].

This notification should be sent at least 28 days prior to commencement of works on the Development Site as required under clause 4.2.2 of the Section 106 Agreement.

or:

2 Works have commenced on Site

Work commenced on the Development Site on [insert date].

This notification should be sent within 14 days after commencement of works on the Development Site as required under clause 4.2.2 of the Section 106 Agreement.

or:

3 A Payment Date(s) has occurred

Obligation type: [insert each Contribution, e.g. Education Contribution]

Payment Date: [insert the deadline by which each relevant Contribution was due to be paid and confirmation of whether such Contribution has been paid;

This notification should be sent within 14 days after Trigger Date occurred as required under clause 4.2.2 of the Section 106 Agreement.

From:

Company: [insert]

Address: [insert (required for invoicing)]

Email address: [insert]

Please send this notification to:

By email: [insert email address] (preferred option)

By post: [insert address]

Appendix 2

Plans¹⁴

Plan 1 - Site Plan

[Plan 2 - Owners Land]

[Plan 3 – Neighbourhoods Plan]

[Plan 4 – Primary Open Space Areas Plan]

[Plan 5 – Fasttrack Corridor Plan]

[Plan 6 – Bus Stop Works Plan]

[Plan 7 - Swanscombe Peninsula Site Plan]

¹⁴ Plans to be provided to GBC and KCC for approval

Appendix 3
[Nomination Agreement]

Appendix 4

Confirmatory Deed

Under Section 106 of the Town and Country Planning Act 1990

Supplemental deed

dated 20[]

Parties

- (1) **[Northfleet Central 1 Ltd]** (company number 14068802) whose registered office is at Kuflink Stadium, Stonebridge Road, Northfleet, Kent DA11 9GN] (the **Owner**);
- (2) [] (company number []) whose registered office is [] (the **Chargee**);
- (3) **Gravesham Borough Council** of Civic Centre Windmill Street, Gravesend, Kent DA12 1AV (the **Council**); and
- (4) **Kent County Council** of County Hall, Maidstone, Kent ME14 1XQ (the **County Council**).

Introduction

- (A) [List final parties to Original Deed] entered into the Original Deed.
- (B) The Council is the local planning authority for the purpose of the Planning Act for the area in which the Site is situated and entitled to enforce the obligations of the Original Deed for which it (the Council) is a beneficiary.
- (C) The County Council is a local planning authority for the purpose of the Planning Act for the area in which the Site is situated and entitled to enforce the County Council Obligations contained within the Original Deed for which it (the County Council) is a beneficiary.
- (D) On [] the Developer became the [freehold / leasehold] owner of the Land.
- (E) [The Chargee has a registered charge dated [] over the Land.]
- (F) This Supplemental Deed is supplemental to the Original Agreement and is being entered into pursuant to clauses [5.1.3 and 5.1.4] of the Original Deed and condition [] of the Planning Permission which require the Developer [and the Chargee] to enter into this Supplemental Deed to bind the Land before the Development can be Commenced on the Land.

Agreed terms

1 Definitions and interpretation

1.1 In this Deed where the context so admits:

- 1.1.1 references to clauses, paragraphs and schedules are references to those clauses, paragraphs and schedules in the Original Deed; and

1.1.2 words and phrases whose meanings are not set out in clause 1.2 below have the same meanings as in the Original Deed.

1.2 The following terms have the following meanings unless inconsistent with the context:

1.2.1 **Land** means part of the Remaining Land acquired by the Developer on [] forming part of Phase [] as identified edged [] on the attached plan and registered at HM Land Registry under title number[s] [];

1.2.2 **Original Deed** means the section 106 agreement dated [] 2025 [(as varied)] between [List Parties]; and

1.2.3 **Relevant Obligations** means the obligations in the Original Deed.

2 **Legal effect**

2.1 This Supplementary Deed is supplemental to the Original Deed and contains planning obligations under section 106 of the Planning Act, section 111 Local Government Act 1972, section 1 Localism Act 2011 and all other enabling powers and is enforceable by the Council and (in respect of the County Council Obligations only) the County Council in respect of the Owner's interest in the Land and is registerable as a local land charge.

2.2 This Supplemental Deed will take effect upon the date hereof.

3 **The Owner's covenants**

The Owner undertakes to the Council [and County Council] so as to bind its interest in the Land that:

3.1 the Land will be bound by the Relevant Obligations on the same terms as if it had originally formed part of the land bound under the Original Deed and the relevant covenants in the Original Deed were set out herein in full; and

3.2 it will observe and perform the Relevant Obligations in the Original Deed so far as they relate to the Land and remain to be observed, performed and/or complied with, and further that, subject to the terms of the Original Deed, the Relevant Obligations shall be binding on successors in title and persons deriving title to the Land through them.

4 **[Chargee**

4.1 The Chargee acknowledges and declares that:

4.1.1 This Supplemental Deed has been entered into by the Owner with the Chargee's consent;

4.1.2 The Land shall be bound by the Relevant Obligations on the same terms as if it had originally formed part of the land bound under the Original Deed and the relevant covenants in the Original Deed were set out herein in full; and

4.1.3 The security of the Chargee's charge over the Site shall take effect subject to Relevant Obligations; and

4.1.4 The Chargee shall not be liable for any breach of the provisions of the Original Deed unless and until such Chargee is a mortgagee in possession of the whole or any part of the Land in which case it will be bound by the obligations in relation to that part of the Land as if it were a person deriving title from the Owner

4.2 The Parties agree that any future mortgagee or chargee of the Land or any part of it shall not be liable for any breach of the Relevant Obligations unless and until such future mortgagee or chargee is a mortgagee in possession of the whole or any part of the Land in which case it will be bound by the obligations as if it were a person deriving title from the Owner.]

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

Signed as a deed on behalf of

Appendix 5
Open Space Bond

DATED _____ 202[^{*}]

[OWNER]

- and –

[SURETY]

- and –

GRAVESHAM BOROUGH COUNCIL

BOND

relating to obligations in S106 Agreement for the establishment of Open Space

Civic Centre
Windmill Street
Gravesend
Kent DA12 1AU

THIS BOND dated the _____ day of _____ 202[*]

MADE BETWEEN

- (1) **[OWNER]** (Company number [] whose registered office is situate at [] ("the Owner"))
- (2) **[SURETY]** of [] ("the Surety")
- (3) **GRAVESHAM BOROUGH COUNCIL** of Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU ("the Council")

Preliminary and Definitions

Agreement means an Agreement dated the [] day of [] 20[] between (1) Gravesham Borough Council (2) Kent County Council (3) [Northfleet Central 1 Ltd];

Bond Sum means the sum of [] being the amount of the Open Space Bond Sum for the works to deliver the relevant part of [the Power Park / Swanscombe Gate];

Independent Assessor means any suitably qualified surveyor appointed for the purposes of Schedule 6 of the Agreement in order to ensure that [the [relevant part of the] Power Park / Swanscombe Gate] is provided in accordance with the Agreement, the Planning Permission, any Reserved Matters Approvals and any other relevant consents;

Open Space Certificate is as defined in Schedule 6 of the Agreement;

Open Space Bond Sum has the same meaning as defined in Schedule 6 of the Agreement

[Power Park is as defined in Schedule 6 of the Agreement;]

Proving Period is as defined in Schedule 6 of the Agreement;

Site has the same meaning as defined in clause 1 of the Agreement; and

[Swanscombe Gate is as defined in Schedule 6 of the Agreement;]

Verification Report means report to be produced by the Independent Assessor following issue of the Open Space Certificate for the [[relevant part of the] Power Park / Swanscombe Gate] in accordance with Schedule 6 of the Agreement.

NOW THIS DEED WITNESSETH as follows:

- 1 The Owner and the Surety are jointly and severally bound to the Council for the Bond Sum.
- 2 The Council may call for the Surety to make payment if the Owner (or any subsequent owner of the Site or part thereof) shall fail to complete any part of [the Power Park] [Swanscombe Gate] due in accordance with the provisions of the Agreement in respect of the [Power Park] [Swanscombe Gate].

- 3 Any claim hereunder shall be accompanied by a statement signed by the Council's solicitor that the amount claimed represents the amount of the works which the Council is proposing to place a contract to deliver and that such payment then due has not yet been paid and such statement shall be conclusive evidence (and admissible as such) that any sums stated therein are properly due and payable to the Council.
- 4 Without prejudice to the generality of the foregoing the Council shall not be required to take any legal action against the Owner (or any subsequent owner of the Site or part thereof) to enforce the relevant obligations in the Agreement nor be required to resolve any dispute with the Owner regarding the ability call on this Bond in accordance with its terms before seeking to call on this Bond,
- 5 The Surety shall within 20 working days after service of any claim pay the Council the sum specified in such claim and shall not be entitled to delay or withhold payment for any reason notwithstanding any objection by the Owner or any other party PROVIDED ALWAYS that the maximum aggregate liability of the Surety shall in no circumstances exceed the Bond Sum.
- 6 The Council shall repay to the Surety any sums received in accordance with paragraph 5 and which are not spent by the completion of the works in which they were paid to the Council in respect of.
- 7 The Council may make as many separate claims under this Bond as it considers appropriate provided that they shall not exceed in aggregate the Bond Sum.
- 8 In accordance with paragraph 5.2 of Schedule 6 of the Agreement on expiry of the Proving Period for [the [relevant part of the] Power Park / Swanscombe Gate] and provided that the Council is in receipt of a final Verification Report from the Independent Assessor, the Council will discharge the Bond Sum applicable to [the [relevant part of the] Power Park / Swanscombe Gate].
- 9 Without prejudice to the generality of clause 5 the obligations of the Surety under this Bond shall not be affected by any act, omission or matter which might (but for this clause) operate to release or discharge such obligations in whole or in part, including without limitation:
- 9.1 any time or waiver or accommodation or credit granted to the Owner or the Surety or any abstention from enforcing the Council's rights against the Owner or the Surety;
- 9.2 any variation of or amendment to the Agreement (and references to the Agreement in this Bond shall be references to the Agreement as so varied or amended from time to time);
- 9.3 any obligation on the part of the Owner being void;
- 9.4 any sale or disposal of the Site or part thereof;
- 9.5 the bankruptcy, liquidation or insolvency of the Owner or the presentation of a petition for the making of an administration order in respect of the Owner or the making of any such order or the appointment of (or giving of notice to appoint) an administrator in respect of the Owner;
- 9.6 any thing or matter that would or might have discharged or affected any liability if the Surety's obligation under this Bond had been secondary rather than primary.

- 10 This deed gives no rights under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.
- 11 This Bond shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Bond.
- 12 The Council shall on request of the Owner and / or the Surety enter into any Replacement Bond (as that term is defined in the Agreement) which substantially accords with the form of this Bond and on entering into such Replacement Bond it is agreed by the Council that all liabilities of the Owner and the Surety under this Bond shall cease save in respect of any subsisting breach at the time that the Replacement Bond is entered into.

THIS BOND has been executed as a deed and is delivered the day and year first before written

THE COMMON SEAL of)
GRAVESHAM BOROUGH COUNCIL)
was hereunto affixed in the presence of:)

Authorised Officer

THE COMMON SEAL of)
[OWNER])
was affixed to this Deed)
in the presence of:)

Director

Director/Secretary

THE COMMON SEAL of)
[SURETY])
was affixed to this Deed)
in the presence of:)

Director

Director/Secretary

Appendix 6
River Infrastructure Bond

DATED _____ 202[*]

[OWNER]

- and –

[SURETY]

- and –

GRAVESHAM BOROUGH COUNCIL

BOND

relating to obligations in S106 Agreement for the establishment of River Infrastructure Works

Civic Centre
Windmill Street
Gravesend
Kent DA12 1AU

THIS BOND dated the _____ day of _____ 202[*]

MADE BETWEEN

- (1) **[OWNER]** (Company number [] whose registered office is situate at [] ("the Owner"))
- (2) **[SURETY]** of [] ("the Surety")
- (3) **GRAVESHAM BOROUGH COUNCIL** of Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU ("the Council")

Preliminary and Definitions

Agreement means an Agreement dated the [] day of [] 20[] between (1) Gravesham Borough Council (2) Kent County Council (3) [Northfleet Central 1 Ltd];

Bond Sum means the sum of [] being the amount of the River Infrastructure Bond Sum in respect of [*the relevant element of the River Infrastructure Works*];

De-Culverting Works is as defined in Schedule 7 of the Agreement;

Independent Assessor means any suitably qualified surveyor appointed for the purposes of Schedule 7 of the Agreement in order to ensure that the River Infrastructure Works (or an element of them) are provided in accordance with the Agreement, the Planning Permission, any Reserved Matters Approvals and any other relevant consents;

Initial Proving Period is as defined in Schedule 7 of the Agreement;

Proving Period is as defined in Schedule 7 of the Agreement;

River Infrastructure Bond Sum has the same meaning as defined within Schedule 7 of the Agreement in relation to [*the relevant element of the River Infrastructure Works*];

River Infrastructure Works has the same meaning as defined in Schedule 7 of the Agreement; and

Site has the same meaning as defined in clause 1 of the Agreement;

Tidal Defence Works is as defined in Schedule 7 of the Agreement; and

Verification Report means report to be produced by the Independent Assessor following the completion of the River Infrastructure Works in accordance with Schedule 7 of the Agreement.

NOW THIS DEED WITNESSETH as follows:

- 1 The Owner and the Surety are jointly and severally bound to the Council for the Bond Sum.

- 2 The Council may call for the Surety to make payment if the Owner (or any subsequent owner of the Site or part thereof) shall fail to complete any part of the River Infrastructure Works in accordance with the provisions of the Agreement.
- 3 Any claim hereunder shall be accompanied by a statement signed by the Council's solicitor that the amount claimed represents the amount of the works which the Council is proposing to place a contract to deliver and that such payment then due has not yet been paid and such statement shall be conclusive evidence (and admissible as such) that any sums stated therein are properly due and payable to the Council.
- 4 Without prejudice to the generality of the foregoing and for the purposes of this Bond only the Council shall not be required to take any legal action against the Owner (or any subsequent owner of the Site or part thereof) to enforce the relevant obligations in the Agreement nor be required to resolve any dispute with the Owner regarding the ability call on this Bond in accordance with its terms seeking to call on this Bond.
- 5 The Surety shall within 20 working days after service of any claim pay the Council the sum specified in such claim and shall not be entitled to delay or withhold payment for any reason notwithstanding any objection by the Owner or any other party PROVIDED ALWAYS that the maximum aggregate liability of the Surety shall in no circumstances exceed the Bond Sum.
- 6 The Council shall repay to the Surety any sums received in accordance with paragraph 5 and which are not spent by the completion of the works in which they were paid to the Council in respect of.
- 7 The Council may make as many separate claims under this Bond as it considers appropriate provided that they shall not exceed in aggregate the Bond Sum.
- 7.1 In accordance with paragraph 5.2 of Schedule 7 of the Agreement on expiry of the Initial Proving Period and provided the Council is in receipt of a final Verification Report from the Independent Assessor, the Council will discharge [60%] of the value of the Bond Sum.
- 8 In accordance with paragraph 5.3 of Schedule 7 of the Agreement on expiry of the Proving Period further to receipt of a final Verification Report from the Independent Assessor, the Council will discharge the Bond Sum.
- 9 Without prejudice to the generality of clause 5 the obligations of the Surety under this Bond shall not be affected by any act, omission or matter which might (but for this clause) operate to release or discharge such obligations in whole or in part, including without limitation:
- 9.1 any sale or disposal of the Site or part thereof by the Owner;
- 9.2 any time or waiver or accommodation or credit granted to the Owner (or any subsequent owner of the Site or part thereof) or the Surety or any abstention from enforcing the Council's rights against the Owner or the Surety;
- 9.3 any variation of or amendment to the Agreement (and references to the Agreement in this Bond shall be references to the Agreement as so varied or amended from time to time);
- 9.4 any obligation on the part of the Owner (or any subsequent owner of the Site or part thereof) being void;

- 9.5 the bankruptcy, liquidation or insolvency of the Owner or the presentation of a petition for the making of an administration order in respect of the Owner or the making of any such order or the appointment of (or giving of notice to appoint) an administrator in respect of the Owner;
- 9.6 any thing or matter that would or might have discharged or affected any liability if the Surety's obligation under this Bond had been secondary rather than primary.
- 10 This deed gives no rights under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.
- 11 This Bond shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Bond.
- 12 The Council shall on request of the Owner and / or the Surety enter into any Replacement Bond (as that term is defined in the Agreement) which substantially accords with the form of this Bond and on entering into such Replacement Bond it is agreed by the Council that all liabilities of the Owner and the Surety under this Bond shall cease save in respect of any subsisting breach at the time that the Replacement Bond is entered into.

THIS BOND has been executed as a deed and is delivered the day and year first before written

THE COMMON SEAL of)
GRAVESHAM BOROUGH COUNCIL)
 was hereunto affixed in the presence of:)

Authorised Officer

THE COMMON SEAL of)
[OWNER])
 was affixed to this Deed)
 in the presence of:)

Director

Director/Secretary

THE COMMON SEAL of)
[SURETY])
 was affixed to this Deed)
 in the presence of:)

Director

Director/Secretary

Appendix 7

Travel Plan Threshold

Use Class	Threshold
B2 General industrial	5000sqm
B8 Storage or Distribution	4000sqm
C1 Hotels	100 Bedrooms
C2 Residential institutions	100 parking spaces
C3 Dwellinghouses	100 houses or flats
C4 Houses in multiple occupation	100 bedrooms
E(a) Display or retail sale of goods, other than hot food	1000sqm
E(b) Sale of food and drink for consumption (mostly) on the premises	1000sqm
E(c) Provision of:	
E(c)(i) Financial services,	2500sqm
E(c)(ii) Professional services (other than health or medical services), or	2500sqm
E(c)(iii) Other appropriate services in a commercial, business or service locality	2500sqm
E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)	1000sqm
E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)	2500sqm
E(f) Creche, day nursery or day centre (not including a residential use)	2500sqm
E(g) Uses which can be carried out in a residential area without detriment to its amenity:	3000sqm
E(g)(i) Offices to carry out any operational or administrative functions,	2500sqm
E(g)(ii) Research and development of products or processes	3000sqm
E(g)(iii) Industrial processes	5000sqm
F1 Learning and non-residential institutions	
F1(a) Provision of education	All locations
F1(b) Display of works of art (otherwise than for sale or hire)	Individually Assessed
F1(c) Museums	Individually Assessed
F1(d) Public libraries or public reading rooms	Individually Assessed
F1(e) Public halls or exhibition halls	Individually Assessed
F1(f) Public worship or religious instruction (or in connection with such use)	Individually Assessed
F1(g) Law courts	Individually Assessed
F2 Local community	
F2(a) Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres	1000sqm

F2(b) Halls or meeting places for the principal use of the local community	1000sqm
F2(c) Areas or places for outdoor sport or recreation (not involving motorised vehicles or firearms)	1000sqm
F2(d) Indoor or outdoor swimming pools or skating rinks	1000sqm
Sui Generis	Individually Assessed

Appendix 8

Temporary Integrated Facility Agreement for Lease and Lease Heads of Terms

Background	
These heads of terms are provided as an indication of the terms that Council, NHS Kent and Medway and/or relevant Nominated Persons and the Owner will require in respect of the Temporary Integrated Facility Agreement for Lease and the Temporary Integrated Facility Lease (the “agreement for lease” and “lease” in this heads of terms). The agreement for lease and lease will, except where otherwise stated in these heads of terms, will be on institutionally acceptable market standard terms and will reflect the nature and circumstances of the premises, the Plot on which the premises are to be located and the broader Development.	
Agreement for Lease	
Tenant	The Council, NHS Kent and Medway and/or relevant Nominated Persons. Where the Tenant is the Nominated Person and the Landlord acting reasonably is not satisfied with the covenant strength of the Tenant to perform the covenants within the Agreement for Lease and/or Lease a guarantee satisfactory to the Landlord will be required.
Landlord	The parties acknowledge that the Owner may grant leases out of its interest in the Site. Where leasehold interests have been granted in respect of the relevant part of the Site on which the Premises will be located then the Owner will procure that the relevant leasehold owner enters into the agreement for lease with the Council.
Conditions	The agreement for lease will be conditional on (i) obtaining acceptable challenge-free detailed planning permission for the premises and (ii) commencement of construction of the premises / building which the premises are to be located and the Owner shall use all reasonable but commercially prudent endeavours to procure the satisfaction of those conditions. If either or both of those conditions are not satisfied on or before a long stop date agreed between the parties to the agreement for lease (or any later date that the parties agree in writing) then any party may terminate the agreement for lease by the giving of written notice.
Landlord's Works / Specification	The Landlord's Works shall comprise the delivery of the Temporary Integrated Facility in accordance with the Approved Temporary Integrated Facility Specification (the “Landlord's Works”). The Landlord may make minor variations to the Landlord's Works (e.g. variations which are not material in the context of the works as a whole or which do not materially adversely affect occupation of the premises, substitution of equivalent or better materials, required by law or a competent authority or necessary to enable the Landlord to comply with its obligations) without the consent of the Tenant (in its discretion). For any variation which is not a minor variation the Tenant's consent (not to be unreasonably withheld or delayed) shall be required.

	The Landlord shall use all reasonable but commercially prudent endeavours to carry out the Landlord's Works within the timescales agreed for delivery within the agreement for lease (such timescales to be subject to reasonable extensions of time for matters beyond the Landlord's control).
Development Costs	The Landlord shall be responsible for all development costs incurred in relation to the Landlord's Works.
Lease Grant	The lease will be entered into within 30 working days of the date of practical completion of the Landlord's Works unless otherwise agreed between the parties.
Lease	
Premises and Rights	The location and size of the premises will be determined by agreement between the Landlord and the Tenant pursuant to the section 106 agreement. The parties acknowledge that (as at the date of these heads of terms) the premises may be stand-alone premises or comprised within a larger building and that the final position on this will be required to be accounted for in the final terms of the lease.
Term	5 years following the grant of the lease, subject to extension by a period of 1 year on a rolling basis where the lease for the Permanent Integrated Facility has not yet commenced. The lease will be excluded from the provisions of the Landlord and Tenant Act 1954. The lease will contain provisions necessary for it to determine in connection with any lease of a Permanent Integrated Facility commencing.
Permitted Use	The permitted use for the premises will be for the provision of primary healthcare services to serve the Development and other local residents (provided always that the premises must not be used for a pharmacy or as a drop-in centre related to drug or alcohol abuse).
Premium and Rent	No premium shall be payable under the terms of the lease. The rent payable under the lease shall be a peppercorn.
Rent Review	Not applicable.
Rent Free Period	The rent shall be payable on and from the term commencement date.
Service Charge	The tenant shall pay a fair and reasonable proportion of service charge costs relating to services in relation to the building in which the premises are to be located and the estate. Service charges shall be payable quarterly in advance on the usual quarter days

Outgoings and Utilities	The tenant shall be responsible for paying all outgoings, rates and taxes in respect of the premises and all utilities consumed in respect of the premises.
Non-Occupation Option	The lease will not contain any break rights for the Landlord or the Tenant. Where necessary to facilitate redevelopment or major works, the Landlord will have the right from time to time at its own cost to lift and shift the premises to an alternative location (provided the alternative location shall be of substantially the same size as the premises and shall be capable of beneficial use and occupation by the Tenant for the Permitted Use).
Renewal Rights	The lease shall be subject to a right of renewal on the same terms in the event that a lease of the Permanent Integrated Facility will not have been entered into in accordance with the Agreement for Lease relating to the Permanent Integrated Facility at the time of this lease expiring.
Repair	The Tenant shall maintain and keep the premises in good and substantial repair and condition. The tenant will be obliged to keep the premises in good decorative order and will clean, treat and redecorate the premises regularly in a good and workmanlike manner. The Tenant will not store or deposit refuse on the premises (other than in designated receptacles) and will remove refuse from the premises as often as reasonably necessary.
Alterations	The Tenant must not carry out any (i) external structural alterations to the premises; (ii) work to the exterior of the premises (or the building in which the premises are located) or any common parts of the Plot or estate. The Tenant must not carry out any (i) internal structural alterations; (ii) internal non-structural alterations; (iii) works to connect into any conduits which do not exclusively serve the premises, without the consent of the Landlord (not to be unreasonably withheld or delayed). The Tenant may carry out internal non-structural alterations which are not visible from the outside of the premises without the Landlord's consent (and the Tenant will give sufficient details of such alterations to the Landlord within one month of their completion). At the expiry or sooner determination of the lease, unless the Landlord agrees otherwise, the Tenant will be obliged to reinstate the alterations and will return the premises to the Landlord in the state of repair and condition required by the lease.
Alienation	The Tenant shall not transfer, underlet, mortgage, hold on trust, share possession of the premises or otherwise deal with the whole or any part of the premises save as set out below.

	The Tenant may transfer the whole of its interest in the premises subject to: (a) certain conditions, including (i) where reasonably required by the Landlord, that an AGA and (if applicable) GAGA is entered into in any case in such form as the Landlord reasonably requires (ii) where reasonably required by the Landlord, the transferee procures a guarantee in favour of the Landlord (acting reasonably) and in a form reasonably required by the Landlord or such other security as the Landlord may reasonably require; (iii) all rents and service charges due are discharged prior to the transfer; and (b) the Landlord's consent (not to be unreasonably withheld or delayed) being obtained to the transfer.
Insurance	The insurance provisions included in the lease will ultimately depend on the nature of the premises. Where the premises form part of a broader building, then provisions requiring the Landlord to insure the against usual insured risks and the Tenant to pay an insurance rent on a fair and reasonable basis, payable on demand will likely be required. Different provisions may be required where the premises are stand-alone. The Tenant must supply the Landlord with reasonable evidence from time to time that such insurance is subsisting.
Indemnity	The Tenant will provide a standard tenant's indemnity in favour of the Landlord.
Forfeiture	The lease will contain usual forfeiture provisions.
SDLT	The Tenant will be responsible for paying any SDLT payable in respect of the grant of the lease in the usual way.

Appendix 9

Permanent Integrated Facility Agreement for Lease and Lease Heads of Terms

Background	
These heads of terms are provided as an indication of the terms that Council, NHS Kent and Medway and/or relevant Nominated Persons and the Owner will require in respect of the Permanent Integrated Facility Agreement for Lease and the Permanent Integrated Facility Lease (the “agreement for lease” and “lease” in this heads of terms). The agreement for lease and lease will, except where otherwise stated in these heads of terms, will be on institutionally acceptable market standard terms and will reflect the nature and circumstances of the premises, the Plot on which the premises are to be located and the broader Development.	
Agreement for Lease	
Tenant	The Council, NHS Kent and Medway and/or relevant Nominated Persons. Where the Tenant is the Nominated Person and the Landlord acting reasonably is not satisfied with the covenant strength of the Tenant to perform the covenants within the Agreement for Lease and/or Lease a guarantee satisfactory to the Landlord will be required.
Landlord	The parties acknowledge that the Owner may grant leases out of its interest in the Site. Where leasehold interests have been granted in respect of the relevant part of the Site on which the Premises will be located then the Owner will procure that the relevant leasehold owner enters into the agreement for lease with the Council.
Conditions	The agreement for lease will be conditional on (i) obtaining acceptable challenge-free detailed planning permission for the premises and (ii) commencement of construction of the premises / building which the premises are to be located and the Owner shall use all reasonable but commercially prudent endeavours to procure the satisfaction of those conditions. If either or both of those conditions are not satisfied on or before a long stop date agreed between the parties to the agreement for lease (or any later date that the parties agree in writing) then any party may terminate the agreement for lease by the giving of written notice.
Landlord's Works / Specification	The Landlord's Works shall comprise the delivery of the Permanent Integrated Facility in accordance with the Approved Permanent Integrated Facility Specification (the “Landlord's Works”). The Landlord may make minor variations to the Landlord's Works (e.g. variations which are not material in the context of the works as a whole or which do not materially adversely affect occupation of the premises, substitution of equivalent or better materials, required by law or a competent authority or necessary to enable the Landlord to comply with its obligations) without the consent of the Tenant (in its discretion). For any variation which is not a minor variation the Tenant's consent (not to be unreasonably withheld or delayed) shall be required.

	The Landlord shall use all reasonable but commercially prudent endeavours to carry out the Landlord's Works within the timescales agreed for delivery within the agreement for lease (such timescales to be subject to reasonable extensions of time for matters beyond the Landlord's control).
Development Costs	The Landlord shall be responsible for all development costs incurred in relation to the Landlord's Works.
Lease Grant	The lease will be entered into within 30 working days of the date of practical completion of the Landlord's Works unless otherwise agreed between the parties.
Lease	
Premises and Rights	The location and size of the premises will be determined by agreement between the Landlord and the Tenant pursuant to the section 106 agreement. The parties acknowledge that (as at the date of these heads of terms) the premises may be stand-alone premises or comprised within a larger building and that the final position on this will be required to be accounted for in the final terms of the lease.
Term	A period of not more than 99 years from the term commencement date. The lease will be excluded from the provisions of the Landlord and Tenant Act 1954.
Permitted Use	The permitted use for the premises will be for the provision of primary healthcare services to serve the Development and other local residents (provided always that the premises must not be used for a pharmacy or as a drop-in centre related to drug or alcohol abuse).
Premium and Rent	No premium shall be payable under the terms of the lease. The rent payable under the lease shall be a peppercorn.
Rent Review	Not applicable.
Rent Free Period	The rent shall be payable on and from the term commencement date.
Service Charge	The tenant shall pay a fair and reasonable proportion of service charge costs relating to services in relation to the building in which the premises are to be located and the estate. Service charges shall be payable quarterly in advance on the usual quarter days
Outgoings and Utilities	The tenant shall be responsible for paying all outgoings, rates and taxes in respect of the premises and all utilities consumed in respect of the premises.
Redevelopment Rights and Non-Occupation Option	The lease will not contain any break rights for the Landlord or the Tenant. Where necessary to facilitate redevelopment or major works, the Landlord will have the right from time to time at its own cost to lift and shift the premises to an alternative location (provided the alternative

	location shall be of substantially the same size as the premises and shall be capable of beneficial use and occupation by the Tenant for the Permitted Use). Where the Tenant has not operated the premises for the Permitted Use for a continuous period of two years at any time during the term (excluding the initial first six months following the grant of the lease), then the Landlord will have an option to require the surrender of the lease to the Landlord for nominal consideration.
Renewal Rights	The lease shall not include any renewal rights.
Repair	The Tenant shall maintain and keep the premises in good and substantial repair and condition. The tenant will be obliged to keep the premises in good decorative order and will clean, treat and redecorate the premises regularly in a good and workmanlike manner. The Tenant will not store or deposit refuse on the premises (other than in designated receptacles) and will remove refuse from the premises as often as reasonably necessary.
Alterations	The Tenant must not carry out any (i) external structural alterations to the premises; (ii) work to the exterior of the premises (or the building in which the premises are located) or any common parts of the Plot or estate. The Tenant must not carry out any (i) internal structural alterations; (ii) internal non-structural alterations; (iii) works to connect into any conduits which do not exclusively serve the premises, without the consent of the Landlord (not to be unreasonably withheld or delayed). The Tenant may carry out internal non-structural alterations which are not visible from the outside of the premises without the Landlord's consent (and the Tenant will give sufficient details of such alterations to the Landlord within one month of their completion). At the expiry or sooner determination of the lease, unless the Landlord agrees otherwise, the Tenant will be obliged to reinstate the alterations and will return the premises to the Landlord in the state of repair and condition required by the lease.
Alienation	The Tenant shall not transfer, underlet, mortgage, hold on trust, share possession of the premises or otherwise deal with the whole or any part of the premises save as set out below. The Tenant may transfer the whole of its interest in the premises subject to: (a) certain conditions, including (i) where reasonably required by the Landlord, that an AGA and (if applicable) GAGA is entered into in any case in such form as the Landlord reasonably requires (ii) where reasonably required by the Landlord, the transferee procures a

	guarantee in favour of the Landlord (acting reasonably) and in a form reasonably required by the Landlord or such other security as the Landlord may reasonably require; (iii) all rents and service charges due are discharged prior to the transfer; and (b) the Landlord's consent (not to be unreasonably withheld or delayed) being obtained to the transfer.
Insurance	The insurance provisions included in the lease will ultimately depend on the nature of the premises. Where the premises form part of a broader building, then provisions requiring the Landlord to insure the against usual insured risks and the Tenant to pay an insurance rent on a fair and reasonable basis, payable on demand will likely be required. Different provisions may be required where the premises are stand-alone. The Tenant must supply the Landlord with reasonable evidence from time to time that such insurance is subsisting.
Indemnity	The Tenant will provide a standard tenant's indemnity in favour of the Landlord.
Forfeiture	The lease will contain usual forfeiture provisions.
SDLT	The Tenant will be responsible for paying any SDLT payable in respect of the grant of the lease in the usual way.

THE COMMON SEAL OF **GRAVESHAM**)
BOROUGH COUNCIL (acting in its capacity of)
local planning authority) was hereunto affixed on)
the authority of:)
) Authorised signatory

Authorised signatory

executed as a deed by ¹⁵)
)
acting by [**name of director**], a director and)
[**name of director or secretary**], a director or)
its secretary) Director

Director/Secretary

)
THE COMMON SEAL OF **KENT COUNTY**)
COUNCIL was hereunto affixed on the authority)
of:)
) Authorised signatory

Print name

¹⁵ Execution blocks to be inserted for all other parties