

Dated:

2021

**DUNLEY ESTATE LIMITED**  
**and**  
**PERSIMMON HOMES LIMITED**  
**to**  
**FAREHAM BOROUGH COUNCIL**  
**and**  
**HAMPSHIRE COUNTY COUNCIL**

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**UNILATERAL UNDERTAKING**  
pursuant to Section 106 of the Town and Country  
Planning Act 1990 and other powers relating to  
land to the east of Crofton Cemetery and west of  
Peak Lane, Stubbington

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**Southampton & Fareham Legal Services Partnership**  
**Southampton City Council**  
**Civic Offices**  
**Southampton**  
**SO14 7LY**

**Ref: ENV-037516**

**BY:**

- (1) **DUNLEY ESTATE LIMITED** (Company Registration No 463118) whose registered address is at Dunley Park, Dunley, Whitchurch, RG28 7TU (“the Owner”); and
- (2) **PERSIMMON HOMES LIMITED** (Company Registration No 04108747) whose registered address is at Persimmon House, Fulford, York, YO19 4FE (“the Appellant”)

**TO:**

- (3) **FAREHAM BOROUGH COUNCIL** of Civic Offices, Civic Way, Fareham, Hampshire, PO16 7AZ (“the Borough Council”); and
- (4) **HAMPSHIRE COUNTY COUNCIL** of The Castle, Winchester, Hampshire, SO23 8UJ (“the County Council”).

**RECITALS**

- A The Borough Council and the County Council are the local planning authorities for the purposes of the Act for the area in which the Land is situated.
- B The County Council is the local highway authority (save in respect of trunk roads and special roads) for the purposes of the 1980 Act and the education authority for the area in which the Land is situated.
- C The Owner is the freehold owner of the Land registered with title absolute at HM Land Registry under Title Number HP701497.
- D The Appellant submitted the Application to the Borough Council which was refused by notice dated 18 February 2021.
- E The Appellant has submitted the Appeal to the Secretary of State.
- F The Owner and the Developer enter into this Deed to give the following obligations in the manner hereinafter appearing.
- G The Owner and the Appellant undertake that the Development shall be carried out only in accordance with the Permission.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1 DEFINITIONS**

- 1.1 In addition to the definitions set out below, a series of specific definitions are included in each of the Schedules to this Deed giving further defined terms and expressions to facilitate interpretation and unless stated to the contrary the specific definitions in the Schedules shall apply throughout this Deed where the relevant terms and expressions are used.
- 1.2 In this Deed the following expressions shall have the meanings indicated:

“1980 Act”	The Highways Act 1980
“Act”	The Town and Country Planning Act 1990 (as amended)

“Appeal”	The appeal submitted to the Secretary of State against the refusal of the Application by the Borough Council and given reference number APP/A1720/W/21/3275237
“Application”	The application for planning permission allocated reference number P/20/0522/FP for development comprising 206 dwellings, access road from Peak Lane maintaining link to Oakcroft Lane, stopping up of a section of Oakcroft Lane (from old Peak Lane to access road), with car parking, landscaping, substation, public open space and associated works.
“Borough Council’s Legal Costs”	The Borough Council’s legal costs in connection with the preparation and completion of this Deed
“Commence”	The carrying out of a “material operation” (as defined in section 56(4) of the Act) in connection with the Development save that for the purposes of this Deed and for no other purpose; operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements shall not be included (and “Commencement” and “Commenced” shall be construed accordingly)
“Completed”	Practically complete save for minor snagging items such that it is reasonably fit for occupation (and “Complete” and “Completion” shall have the same meaning)
“Contributions”	Any one or number of the financial contributions required to be made pursuant to this Deed, each of which shall be Index Linked
“County Council’s Costs”	The County Council’s technical and legal costs in connection with the preparation and completion of this Deed
“Decision Letter”	The decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Appeal is allowed
“Deed”	This undertaking made by deed
“Development”	The development of the Land in accordance with the Permission
“Enabling Powers”	Section 111 of the Local Government Act 1972 (as amended) Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity to or facilitating the enforcement of the obligations created by this Deed
“Index Linked”	For the purposes of Schedule One means adjusted in accordance with the Inflationary Index by multiplying in each case the payment due by a fraction whose denominator shall be the last Inflationary Index monthly figure published before the date of the resolution to grant planning permission and whose numerator shall be the last published (whether provisional or

	<p>not) Inflationary Index monthly figure available before the date on which payment is due but which for the avoidance of doubt shall not fall below the original payment figure; and</p> <p>for the purposes of the Solent Recreation Mitigation Strategy Contribution in Schedule Four means adjusted in accordance with the Inflationary Index by multiplying in each case the payment due by a fraction whose denominator shall be the last Inflationary Index monthly figure published before 1 April 2021 and whose numerator shall be the last published (whether provisional or not) Inflationary Index monthly figure available before the date on which payment is due but which for the avoidance of doubt shall not fall below the original payment figure;</p> <p>for the purposes of the Education Contribution in Schedule Three means adjusted from the base date of 4Q2018 price base (BCIS All-in TPI Index 322) to the index most recently published before date of each payment;</p> <p>for the purposes of the School Travel Plan Contribution in Schedule Three means adjusted in accordance with the Inflationary Index from the date of this Deed to the date of payment; and</p> <p>for the purposes of any other payment or financial contribution due under this Deed means adjusted in accordance with the Inflationary Index by multiplying in each case the payment due by a fraction whose denominator shall be the last Inflationary Index monthly figure published (whether provisional or not) before the date of this Deed and whose numerator shall be the last published Inflationary Index monthly figure available before the date on which payment is due but which for the avoidance of doubt shall not fall below the original payment figure</p>
<p>“Inflationary Index”</p>	<p>The Retail Prices Index all items excluding mortgage interest payments (RPIX) issued by the Office for National Statistics during any period when no such index exists the index which replaces the same or is the nearest equivalent thereto as the Borough Council or County Council shall reasonably nominate taking into account any official reconciliation of changes in its basis of calculation</p>
<p>“Interest”</p>	<p>Means interest at 4 per cent above the base lending rate of the Barclays Bank Plc (calculated on a daily basis from the date on which it fell due until the actual date of payment)</p>
<p>“the Land”</p>	<p>The land known as land east of Crofton Cemetery and west of Peak Lane shown for identification purposes only edged with a red line on Plan 1</p>
<p>“Occupation”</p>	<p>Occupation for the purposes permitted by the Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or</p>

	occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly
"Open Market Units"	the Residential Units which are general market housing for sale or rent on the open market and which are not Affordable Housing Units (as defined in Schedule Two)
"Plan 1"	The plan annexed hereto and marked "Plan 1" showing the Land edged red
"Planning Inspector"	The planning inspector appointed by the Secretary of State to determine the Appeal
"Permission"	The full planning permission subject to conditions to be granted pursuant to the Appeal
"Residential Units"	Individual units within the Development to be used for residential purposes (and for the avoidance of doubt this definition shall include Affordable Housing Units (as defined in Schedule Two), houses and flats as appropriate)
"Statutory Undertakers"	Organisations licensed by the government which include all utilities electricity, gas, water, telephone, cable telephone and television and other telecommunication companies
"Use"	Use of the Development for the purposes for which the Permission has been granted
"Working Day(s)"	Days on which banks in the City of London are open to the public

## 2 INTERPRETATION

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.4 Any reference to an act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.5 References to any party to this Deed 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 Borough Council and the County Council the successors to their respective statutory functions.
- 2.6 References to "the parties" shall mean the parties to this Deed and reference to a "party" shall mean any one of the parties.
- 2.7 The headings are for reference only and shall not affect construction.

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

### **3 STATUTORY AUTHORITY**

3.1 This Deed is made pursuant to Section 106 of the Act and the Enabling Powers.

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Borough Council and County Council as local planning authorities against the Owner, their successors in title and any person deriving title in the Land or any part of it from the Owner.

### **4 EFFECT OF THE UNDERTAKING**

4.1 The obligations contained in this Deed are conditional upon the Secretary of State (through his Planning Inspector or otherwise) granting the Permission PROVIDED THAT if the Secretary of State or his Planning Inspector expressly states in the Decision Letter that a particular obligation contained in this Deed does not satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 then such obligation shall not be enforceable by the Borough Council or the County Council.

4.2 This Deed takes effect on the date hereof provided that the covenants in clause 5.1 shall not take effect until the grant of the Permission.

### **5 THE OWNER'S COVENANTS**

5.1 The Owner hereby covenants with the Borough Council and the County Council that it will observe and perform the covenants on its part contained in Schedules One to Five (inclusive).

### **6 RELEASE AND LAPSE**

6.1 It is hereby agreed that the Owner shall not be liable for a breach of any of its obligations under this Deed (save for antecedent breaches) after it shall have parted with all of their respective interests in the Land.

6.2 It is further agreed that this Deed shall lapse and be of no further effect if:

6.2.1 the Permission shall lapse without having been Commenced; or

6.2.2 the Permission shall be varied or revoked other than with the consent of the Owner; or

6.2.3 the Permission is quashed following a successful legal challenge.

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

6.4 This Deed shall not be enforceable against Statutory Undertakers who have an interest in or arising purely in connection with their apparatus or operational land situated within the Development.

6.5 No obligation contained in this Deed shall be binding on any freehold or leasehold owners or occupiers of individual Residential Units, constructed pursuant to the Permission (or their respective mortgagees) or their successors in title save in respect of any restriction on

Occupation of such Residential Unit and (save for paragraphs 1.5 and 1.9 to 1.13 inclusive of Schedule Two) against a HARP (as defined in Schedule Two).

## **7 LOCAL LAND CHARGE**

- 7.1 This Deed is a local land charge and is given on the basis that it shall be registered as such by the Borough Council.
- 7.2 Upon the full compliance with any terms of this Deed the Owner and/or the Appellant may request that the Borough Council procure that this is noted in the register of local land charges relating to it as soon as reasonably practicable.

## **8 DUTY TO ACT REASONABLY**

- 8.1 All parties to this Deed acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any deed consent approval or expression of satisfaction is due from one party to another under the terms of this Deed the same shall not be unreasonably withheld or delayed.

## **9 NO FETTER ON DISCRETION OR WAIVER**

- 9.1 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Borough Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 9.2 No waiver (whether expressed or implied) by the Borough Council or the County Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Borough Council or County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

## **10 COVENANT AS TO TITLE**

- 10.1 The Owner hereby covenants with the Borough Council and the County Council that no person other than the parties to this Deed has any interest in the Land for the purposes of section 106 of the Act.

## **11 SEVERABILITY**

- 11.1 It is agreed that if any part of this Deed shall be declared unlawful or invalid by a court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

## **12 THE BOROUGH COUNCIL AND COUNTY COUNCIL'S COSTS AND MONITORING FEES**

- 12.1 The Appellant hereby covenants with the Borough Council that it will on or before the date of this Deed pay the Borough Council's Legal Costs.
- 12.2 The Appellant hereby covenants with the County Council that it will on or before the date of this Deed pay the County Council's Costs.
- 12.3 The Appellant hereby covenants that it will on or before the date of this Deed pay to the County Council the sum of FOUR THOUSAND FIVE HUNDRED POUNDS (£4,500) by way of fees for the monitoring of the obligations to the County Council under this Deed

## **13 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

- 13.1 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and for the avoidance of doubt the terms of this Deed may be varied by Deed between the parties and the Borough Council without the consent of any such third party.

## **14 NOTIFICATION OF COMMENCEMENT/OCCUPATION**

- 14.1 The Owner and the Appellant each covenant with the Borough Council and/or with the County Council as the case may be that they will:
- 14.1.1 notify the Borough Council and the County Council in writing of the date of Commencement of the Development within five Working Days of it occurring; and
  - 14.1.2 notify the Borough Council (and the County Council where appropriate) in writing of the date of Occupation for the first time of any part of the Development within five Working Days of it occurring;
  - 14.1.3 notify the County Council in writing within five Working days of Occupation of the 29<sup>th</sup> (twenty ninth) Residential Unit;
  - 14.1.4 notify the Borough Council in writing of the date of Occupation for the first time of Occupation of 50 (fifty) Residential Units within five Working Days of it occurring;
  - 14.1.5 notify the County Council in writing within five Working Days of Occupation of the 74<sup>th</sup> (seventy fourth) Residential Unit;
  - 14.1.6 notify the Borough Council in writing of the date of Occupation for the first time of 50% of the Residential Units;
  - 14.1.7 notify the Borough Council in writing of the date of Occupation for the first time of Occupation of 90 (ninety) Open Market Units within five Working Days of it occurring;
  - 14.1.8 notify the Borough Council in writing of the date of Occupation for the first time of the penultimate Open Market Unit within five Working Days of it occurring; and
  - 14.1.9 pay to the Borough Council and/or to the County Council upon written demand its or their reasonable fees for additional monitoring caused by the Owner's or Appellant's non-compliance with 14.1.1 to 14.1.8.

## **15 NOTICES**

- 15.1 Any notices required to be served by one party on another under this Deed shall be served by First Class prepaid post or by email in the following manner:
- 15.1.1 on the Borough Council at the address shown above or by email to [devcontrol@fareham.gov.uk](mailto:devcontrol@fareham.gov.uk) marked "for the attention of the Head of Development Management" and bearing the reference "s106-P/20/0522/FP";
  - 15.1.2 on the County Council at the address as detailed above marked for the attention of the Head of Legal and bearing the reference HLS/139768/CMR;
  - 15.1.2 on the Owner at the address as detailed above or as notified by the Owner in writing to the Borough Council; and
  - 15.1.3 on the Appellant to the Land and Planning Director at the address as detailed above or as notified by the Appellant in writing to the Borough Council.

## **16 INDEX LINKING**



16.1 Each and every one of the Contributions which are to be paid under the terms of this Deed shall be Index Linked.

## **17 PAYMENT OF THE CONTRIBUTIONS**

17.1 The Owner must pay the Contributions to the Borough Council and/or the County Council by either:

17.1.1 cheque made payable to Fareham Borough Council or Hampshire County Council as appropriate; or

17.1.2 by BACS or telegraphic transfer.

17.2 All payments must state the Application reference number and the address to which this Deed relates.

17.3 Payment by cheque shall be sent to the Borough Council or the County Council in accordance with the details set out in clause 17.1 identifying the obligation to which the payment relates.

## **18 INTEREST ON LATE PAYMENTS**

18.1 Any amount due from the Owner or the Appellant under this Deed which is not paid on the due date shall be payable with Interest.

## **19 MORTGAGEE CLAUSE**

19.1 Notwithstanding clause 3.2, no obligation in this Deed shall be binding on or enforceable against any other chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Land or any receiver appointed by such chargee or mortgagee or any person deriving title through such charge, mortgage or receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Land or part thereof to which such obligation relates

## **20 NOTIFICATION OF SUCCESSORS IN TITLE**

20.1 The Owner and the Appellant covenants with the Borough Council and the County Council that they will give immediate written notice to the Borough Council and County Council of any change of ownership of the Land if at such time the obligations contained within this Deed have not fully been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

## **21 VAT**

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

## **22 DISPUTE RESOLUTION**

22.1 Where it is provided in this Deed that a matter is to be approved (or another cognate expression is used) by the Borough Council or County Council and such approval has been refused or given conditionally in accordance with the provisions of this Deed and the Owner wishes to dispute such refusal or conditions, then the Owner may notify the Borough Council or County Council as appropriate that the matter is in dispute and:

- 22.1.1 the parties to the dispute shall first attempt to resolve that dispute or difference amicably including holding a meeting attended by at least one senior representative from each party within 10 Working Days of receipt of notice that a matter is in dispute;
- 22.1.2 if after a further 5 Working Days the parties are unable to resolve the dispute amicably pursuant to clause 22.1.1, one party may serve notice on the other party or parties (as the case may be) to the dispute of their intention to refer the dispute in accordance with clause 22.2 specifying in such notice:
- 22.1.2.1 the nature, basis and brief description of the dispute; and
- 22.1.2.2 the clause or paragraph of this Deed pursuant to which the dispute has arisen; and
- 22.1.2.3 a written request to concur as to the appropriateness of the professional qualifications of the person (or body) they propose to be appointed pursuant to clause 22.2.
- 22.2 Any such dispute or difference notified pursuant to clause 22.1.2 shall be referred to an independent and suitable person holding appropriate professional qualifications, in light of the subject matter in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 22.3 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 22.2 or as to the appropriateness of the professional body within 10 Working Days after any party has given the other parties to the dispute or difference a written request to concur as to the appropriateness of the professional qualifications of the person (or body) to be appointed pursuant to clause 22.2 then such question may be referred by any party to the president for the time being of the Law Society for him to appoint a solicitor to determine the appropriate professional body or person to resolve the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 22.4 Any expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than twenty Working Days after the conclusion of any hearing that takes place or twenty Working Days after he has received any final written representation pursuant to clause 22.5.
- 22.5 The expert shall be required to give notice to any of the said parties requiring them to submit to him within 10 Working Days of notification of his appointment written submissions and supporting material and the other parties will be entitled to make a counter written submission within a further 10 Working Days.
- 22.6 Nothing in this clause 22 shall be taken to fetter the ability of the Borough Council or County Council to carry out its statutory functions as local planning authority with power to enforce any breach of the obligations entered into by the Owner in this Deed or any other planning breach in respect of the Development.

**23 JURISDICTION**

23.1 This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

**24 DELIVERY**

24.1 This Deed is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt the Deed shall be deemed not delivered despite being executed by the parties until such time as it is dated.

## SCHEDULE ONE

### HIGHWAYS AND TRAVEL PLAN OBLIGATIONS

#### DEFINITIONS

In this Schedule the following terms have the following meanings:

Completion Certificate Standard	In the case of the Highway Works completion to the full satisfaction of the County Council as evidenced by the issue of a certificate of completion by the County Council pursuant to a related Section 278 Agreement
Director	The Director of Economy, Transport and Environment at the County Council or his appointed representative for the time being or successor
Framework Travel Plan	The framework travel plan agreed by the County Council and attached at Appendix 2
Full Travel Plan	The final and full form travel plan based on the Framework Travel Plan such travel plan to be approved by the County Council
Highways Contribution	The sum of FIVE HUNDRED THOUSAND POUNDS (£500,000) (Index Linked) payable by the Owner to the County Council to be used towards provision of Stubbington Bypass and supporting infrastructure works including measures to minimise traffic and encourage sustainable modes within Stubbington Village
Highway Works	Access works and pedestrian infrastructure to connect to a new pedestrian refuge on Peak Lane as shown in principle in drawing 048.0013.001 Rev D attached hereto
Roundabout Contribution	The sum of FIFTY THOUSAND POUNDS (£50,000) (Index Linked) payable by the Owner to the County Council to be used towards improvements at the Peak Lane/Rowan Way/Longfield Avenue roundabout
S278 Agreement	An agreement under (inter alia) section 278 Highways Act 1980
Transport Contribution	The sum of TEN THOUSAND FIVE HUNDRED POUNDS (£10,500) (Index Linked) payable by the Owner to the County Council to be used towards bus infrastructure improvements
Travel Plan Approval Fee	The sum of £1,500 payable by the Owner to the County Council towards the costs incurred or to be incurred by the County Council in approving the Full Travel Plan
Travel Plan Monitoring Fee	The sum of £15,000 payable by the Owner to the County Council towards the costs to be incurred by the County Council in monitoring the Full Travel Plan
Travel Plan Bond	A bond approved by the County Council in a sum equivalent to the cost of implementation and compliance with the targets/measures of the Travel Plan (as estimated by the County Council) plus 10%

	thereof by a Surety acceptable to the Head of Legal Services
TRO Contribution	The sum of FIVE THOUSAND POUNDS (£5,000) (Index Linked) payable by the Owner to the County Council to be used towards provision of traffic regulation orders

The Owner covenants with the County Council as follows:

## **1 Highway Contributions**

1.1 The Owner covenants not to Commence nor permit Commencement of Development unless and until it has paid

1.1.1 the Highways Contribution (Index Linked) to the County Council; and

1.1.2 the Roundabout Contribution (Index Linked) to the County Council; and

1.1.3 the Transport Contribution (Index Linked) to the County Council; and

1.1.4 the TRO Contribution (Index Linked) to the County Council

## **2 Highway Works**

2.1 The Owner covenants not to Occupy nor permit Occupation of the Development unless and until the Highway Works have been carried out and completed to Completion Certificate Standard under a s278 Agreement entered into with the County Council

## **3 Travel Plan**

The Owner covenants:

3.1 Not to Commence nor permit Commencement of Development unless and until it has sent the first draft of the Full Travel Plan to the County Council for approval

3.2 Not to Occupy nor permit Occupation of any Residential Unit on the Land or any part thereof unless and until it has secured the County Council's written approval of the Full Travel Plan and has thereafter implemented and complied with the Travel Plan in accordance with the requirements and timetable of the approved Full Travel Plan

3.3 Without prejudice to the approved Full Travel Plan the Owner shall not Occupy nor permit Occupation of the Land (or any part thereof) unless and until it has appointed a travel plan co-ordinator for the whole of the Land to implement the Full Travel Plan and has notified the County Council in writing of such appointment

- 3.4 On demand and in any event prior to Commencement of Development to pay to the County Council the Travel Plan Approval Fee
- 3.5 Not to Occupy nor permit Occupation of the Land (or any part thereof) unless and until it has paid to the County Council the Travel Plan Monitoring Fee
- 3.6 Not to Occupy nor permit Occupation of the Land unless and until it has provided to the County Council the Travel Plan Bond to the effect that if in the opinion of the County Council acting reasonably the Owner unreasonably fails at any time within five years of Occupation of the Land to deliver the agreed measures / targets and/or comply with any/all of the measures/targets contained within the Full Travel Plan the surety shall pay to the County Council on demand such sum as may be certified by the Director to be required up to the amount of the Travel Plan Bond in order to remedy the failure to achieve and implement the agreed measures/targets contained within the Full Travel Plan or such alternative measures as the Director in his or her absolute discretion determines will achieve the overall aims of the Full Travel Plan or such alternatives measures as the Director in his or her absolute discretion determines will at no greater cost to the Owner achieve the overall aims of the Full Travel Plan
- 3.7 That if it or its successors in title Occupy the Land or any part thereof it or they will implement the Full Travel Plan relating to the Land or such part of the Land to be Occupied and shall use all reasonable endeavours to achieve the targets set therein

## SCHEDULE TWO

### AFFORDABLE HOUSING OBLIGATIONS

#### DEFINITIONS

In this Schedule the following terms have the following meanings:

“Affordable Housing”	Affordable housing as defined in the NPPF (Annex 2) or any subsequent amendment or modification or replacement of the NPPF or in any regulation statute or guidance issued and relating to affordable housing.
“Affordable Housing Contribution”	£23,060.00 (twenty three thousand and sixty pounds) to be put by the Borough Council towards the provision of Affordable Housing in the borough of Fareham
“Affordable Housing Land”	Those parts of the Land upon which the Owner is to construct or procure the construction of the Affordable Housing Units and including all curtilage thereto.
“Affordable Housing Units”	82 (eighty two) of the total number of Residential Units to be constructed in accordance with the Permission (together with associated car parking spaces to comply with the Borough Council’s minimum parking standards for residential dwellings) in the locations shown on Plan 2.
“Affordable Rent”	The sum of the rent element and the Service Charge payable from the date of first occupation in respect of the relevant Affordable Rent Unit which shall not exceed the lower of 80% of the Market Rent or Local Housing Allowance Levels PROVIDED THAT such rent in either case may be increased annually in accordance with the arrangements made for such rent increases established by Homes England.
“Affordable Rent Unit”	Those Affordable Housing Units let to applicants for Affordable Housing Units at Affordable Rent shown shaded yellow on Plan 2.
“Chargee”	Any mortgagee or chargee of the HARP or other party who has provided loan facilities to the HARP or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (however appointed) including any housing administrator.
“HARP”	A Housing Association Registered Provider of social housing registered with Homes England (and which has not been removed from the register) as defined in Section 80 of the Housing and Regeneration Act 2008 and selected by the Owner

	and which has or will enter into a Nominations Agreement with the Borough Council.
“HARP Transfer”	The transfer deed of the Affordable Housing Units to a HARP incorporating the Transfer Requirements
“Intermediate Units”	Those Affordable Housing Units to be offered by the HARP to applicants for Affordable Housing which meet the definition set out in paragraph (d) of the term Affordable Housing in Annex 2: Glossary of the NPPF (but not equity loans) or a subsequent or replacement tenure as may be agreed between the Borough Council and the Owner in writing and to be provided in accordance with the requirements of this Schedule Two and shown shaded purple on Plan 2.
“Local Housing Allowance Levels”	The rental allowance rate for a property of the size and in the location of the relevant Affordable Rent Unit calculated by reference to the tables maintained by the Valuation Office Agency (or such equivalent means of calculation that may vary or replace it) as updated from time to time.
“Market Rent”	An assessment of the best rent reasonably obtainable for a letting of an interest in property on the date of valuation assuming: <ul style="list-style-type: none"> <li>(a) a willing landlord and a willing tenant;</li> <li>(b) an arm’s length transaction;</li> <li>(c) that, prior to the date of valuation, there had been a reasonable period for the proper marketing of the interest, for the agreement of the rent and other letting terms, and for the completion of the letting;</li> <li>(d) that the lease terms are appropriate for a letting of the type and class of the subject property;</li> <li>(e) that both parties to the transaction had acted knowledgeably prudently and without compulsion; and</li> <li>(f) that the terms of this Deed are disregarded</li> </ul> and shall be approved in writing by the Borough Council
“NPPF”	The National Planning Policy Framework document published on 21 July 2021 and any subsequent revision or replacement of it together with any technical guidance and policy documents or circulars issued thereunder.
“Nominations Agreement”	A nominations agreement between the HARP and the Borough Council affording the Borough Council nomination rights in respect of the relevant Affordable Housing Unit.
“Nominations Policy”	The Borough Council’s allocations policy (or such other relevant policy as the Borough Council shall from time to time reasonably adopt).
“Open Market Value”	The open market value of the Affordable Housing Units with the benefit of the Permission but disregarding the fact that the



	Affordable Housing Units are constructed or are to be constructed for Affordable Housing purposes and assuming that there are no Affordable Housing restrictions thereon and further assuming that all the said units are private and available for sale on the open market and having regard to all other relevant circumstances and the Open Market Value shall be agreed between the Owner and the Borough Council or in default determined by an independent chartered surveyor (RICS qualified).
“Plan 2”	The plan annexed hereto marked “Plan 2” being drawing number A-02-010-TP Rev K showing the Intermediate Units shaded purple and the Affordable Rent Units shaded yellow
“Protected Tenant”	Any tenant who: <ul style="list-style-type: none"> <li>(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit or</li> <li>(b) has exercised any statutory right to buy (or equivalent contractual right) in respect of a particular Affordable Housing Unit or</li> <li>(c) has been granted a shared ownership lease by a HARP (or similar arrangement where a share of the Affordable Housing Unit is owned by the HARP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the HARP all the remaining shares so that the tenant owns the entire Affordable Housing Unit that is subject to the shared ownership lease.</li> </ul>
“Register”	The Borough Council’s LetSelect Register or such other register of applicants for housing as the Borough Council shall from time to time reasonably adopt.
“Service Charge”	The amount payable by the occupant of any Affordable Housing Unit for all communal services repairs maintenance improvements insurance of the building and curtilage plus estate management costs and ground rent.
“Staircasing”	In connection with the Intermediate Units the acquisition after the date of the initial purchase by the occupier of additional tranches of equity within the said unit and references to “Staircase” or “Staircased” shall be construed accordingly.
“Transfer Requirements”	The requirements of paragraph of 1.7 of this Schedule Two.

The Owner covenants with the Borough Council as follows:-

**1 Affordable Housing**

- 1.1 The Owner shall at its own cost construct or procure construction of the Affordable Housing Units on the Land in accordance with the unit type, size and tenure mix set out in the table below (unless otherwise agreed in writing by the Borough Council):

<b>Tenure</b>	<b>Type of Accommodation</b>	<b>Plot Numbers</b>
Affordable Rent Units		
Affordable Rent	1 bed Residential Unit	036, 037, 038, 039
Affordable Rent	2 bed Residential Unit	020, 021, 022, 023, 028, 029, 030, 090, 091, 099, 100, 101, 149, 150, 151, 159, 160, 161, 168, 169, 170, 171, 178, 179
Affordable Rent	3 bed house	008, 009, 010, 011, 014, 015, 075, 076, 077, 092, 093, 094, 095, 096, 132, 133, 144, 145
Affordable Rent	4 bed house	026, 027, 146, 147
Intermediate Units		
Intermediate Units	2 bed Residential Unit	049, 050, 051, 052, 053, 054, 078, 079, 080, 087, 088, 089, 098, 103, 104, 108, 109, 110
Intermediate Units	3 bed Residential Unit	016, 017, 032, 033, 034, 035, 071, 072, 130, 131, 142, 143, 157, 158

- 1.2 The Affordable Housing Units shall not be constructed and provided otherwise than in accordance with the provisions of the table in paragraph 1.1 above unless otherwise agreed in writing by the Borough Council.
- 1.3 Subject to paragraphs 1.5 and 1.13 below from the date of practical completion of the Affordable Housing Units the Affordable Housing Units shall not be used other than as Affordable Housing.
- 1.4 The restrictions set out in this paragraph 1 of this Schedule Two shall not apply to the following:
- (a) any Protected Tenant or any successor in title to a Protected Tenant

- (b) any mortgagee or chargee of a Protected Tenant or other party who has provided loan facilities to the Protected Tenant or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise
  - (c) any purchaser from any of the parties named in paragraphs (a) and (b) above of an individual Affordable Housing Unit
- 1.5 Not to Occupy nor permit the Occupation of more than 90 (ninety) Open Market Units until:
  - (a) 100% of the Affordable Housing Units have been constructed and
  - (b) the freehold of the Affordable Housing Land has been transferred to the HARP with full title guarantee subject to the rights covenants and Staircasing provisions contained in this paragraph 1 of this Schedule Two and ready for immediate Occupation.
- 1.6 Each HARP Transfer shall include:
  - (a) a grant of full and free rights of access both pedestrian and vehicular from the public highway or roads intended to become public highway to the Affordable Housing Units
  - (b) a grant of full and free rights to the passage of services through service media on the Development up to and abutting the boundary to the Affordable Housing Land all such services to be connected to the mains and
  - (c) as far as reasonably possible the benefit of the same rights covenants obligations and other provisions as shall apply to the Open Market Units
- 1.7 Except as otherwise provided for in this paragraph 1 of this Schedule Two not to dispose of or let the Affordable Housing Units otherwise than in accordance with the Borough Council's Nominations Policy to persons or households on the Register unless otherwise agreed in writing by the Borough Council.
- 1.8 Not to let or otherwise permit the letting of any Affordable Rent Unit to any person other than in accordance with the following:
  - (a) at an Affordable Rent in respect of each Affordable Rent Unit
  - (b) that the rent at each re-letting is calculated prior to the grant of any new tenancy to ensure that it is an Affordable Rent
- 1.9 Unless otherwise agreed in writing the Intermediate Units shall be sold or leased on initial sales or letting for between 10% and 75% of the Open Market Value.
- 1.10 Unless otherwise agreed in writing the initial rent payable in respect of an Intermediate Unit shall not exceed 2.75% of the capital value of the unacquired percentage at the point of initial sale.
- 1.11 HARP shall apply any net capital receipt received as a result of any Staircasing or other staged purchase by a tenant of an Intermediate Unit to provide Affordable Housing in the Borough Council's administrative area (less reasonable costs incurred by the HARP as approved by the Borough Council).
- 1.12 Unless otherwise agreed in writing by the Borough Council any Chargee shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its

mortgage or charge shall give not less than 1 (one) month's prior written notice to the Borough Council of its intention to dispose and:

- 1.13.1 in the event that the Borough Council responds within 1 (one) month from receipt of the notice referred to above indicating that arrangement for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer
- 1.13.2 if the Borough Council does not serve its response to the notice referred to above within 1 (one) month of receipt of the said notice then the Chargee shall be entitled to dispose free of the restrictions set out in paragraph 1 of this Schedule Two which shall from time of completion of the disposal permanently cease to apply
- 1.13.3 if the Borough Council cannot within 2 (two) months of the date of service of its response under paragraph 1.13.1 above complete such a transfer then provided that the Chargee shall have complied with its obligations under this paragraph 1.13 the Chargee shall be entitled to dispose free of the restrictions set out in paragraph 1 of this Schedule Two which shall from the time of completion of the disposal permanently cease to apply

**PROVIDED THAT** at all times the rights and obligations in this paragraph 1.13 shall not require the Chargee to act contrary to its duties under the mortgage or charge **AND PROVIDED ALSO THAT** notwithstanding the other provisions of this paragraph 1.13 the Chargee shall not be required to dispose of the Affordable Housing Units (or any of them) for a consideration that is less than the amount due and outstanding to the Chargee under the terms of the relevant mortgage or charge including all accrued principal monies and interest and all costs and expenses incurred by the Chargee.

## **2 Affordable Housing Contribution**

- 2.1 To pay the Affordable Housing Contribution to the Borough Council prior to the Commencement of Development.
- 2.2 Not to Commence or permit Commencement of Development until the Affordable Housing Contribution has been paid in full to the Borough Council.

## SCHEDULE THREE

### EDUCATION

#### DEFINITIONS

In this Schedule the following terms have the following meanings:

Education Contribution	The sum of NINE HUNDRED AND SEVENTY EIGHT THOUSAND FOUR HUNDRED AND FORTY FOUR POUNDS (£978,444) towards education infrastructure at Crofton Anne Dale Infant and Junior Schools and Crofton Secondary schools which contribution is needed to mitigate the impact of the development on educational facilities
School Travel Plan Contribution	The sum of FORTY TWO THOUSAND POUNDS (£42,000) towards the production of and monitoring fees for school travel plans which will be revenue funding and can include additional cycle or scooter storage

The Owner covenants with the County Council as follows:

1. School Travel Plan Contribution

- 1.1 To pay to the County Council the School Travel Plan Contribution prior to Commencement of Development
- 1.2 Not to Commence nor permit Commencement of Development unless and until the School Travel Plan Contribution has been paid to the County Council

Education Contribution

- 2.1 Not to Occupy nor permit Occupation of more than TWENTY NINE (29) Residential Units unless and until it has paid HALF (50%) of the Education Contribution (Index Linked) to the County Council; and
- 2.2 Not to Occupy nor permit Occupation of more than SEVENTY FOUR (74) Residential Units unless and until it has paid the remainder of the Education Contribution (Index Linked) to the County Council

## SCHEDULE FOUR

### ENVIRONMENTAL OBLIGATIONS

#### DEFINITIONS

In this Schedule the following terms have the following meanings:

“Ecological Mitigation Land”	The land north of Oakcroft Lane shown edged blue on the Ecological Mitigation Land Plan
“Ecological Mitigation Land Maintenance Contribution”	£331,975.00 (three hundred and thirty one thousand nine hundred and seventy five pounds) to be used by the Borough Council towards the maintenance of the Ecological Mitigation Land
“Ecological Mitigation Land Plan”	Drawing PERSC22805 20 showing the Ecological Mitigation Land edged blue and showing how the Ecological Mitigation is to be laid out prior to its transfer to the Borough Council in order to enhance its suitability for use by Brent Geese and waders
“Ecological Mitigation Land Transfer”	A transfer of the Ecological Mitigation Land in the form attached to this Deed at Appendix 3
“Ecological Land Management Plan”	The Ecological Management Plan, prepared by Ecosa dated September 2020 (Final Document) Rev 1 attached to this Deed at Appendix 4
“Solent Recreation Mitigation Strategy”	The Solent Recreation Mitigation Strategy published December 2017 (or such amended or replaced version published from time to time)
“Solent Recreation Mitigation Strategy Contribution”	£131,830.00 (one hundred and thirty one thousand eight hundred and thirty pounds) towards the Solent Recreation Mitigation Strategy

The Owner covenants with the Borough Council as follows:

#### **1 Solent Recreation Mitigation Strategy Contribution**

- 1.1. To pay the Solent Recreation Mitigation Strategy Contribution to the Borough Council prior to the Commencement of Development.
- 1.2. Not to Commence the Development unless the Solent Recreation Mitigation Strategy Contribution has been paid in full to the Borough Council.

#### **2 Ecological Mitigation Land**

- 2.1 Not to Occupy or permit Occupation of more than 50 (fifty) Residential Units until the Ecological Mitigation Land has been laid out in accordance with the Ecological Mitigation Land Plan to the reasonable written satisfaction of the Borough Council.

- 2.2 Not to Occupy or permit Occupation of more than 50 (fifty) Residential Units until the Owner has (by executing and sending an Ecological Mitigation Land Transfer to the Borough Council and releasing the same to the Borough Council for completion) offered to transfer the freehold interest in the Ecological Mitigation Land PROVIDED THAT no such offer shall be made prior to the laying out of the Ecological Mitigation Land in accordance with paragraph 2.1.
- 2.3 To pay the Ecological Mitigation Land Maintenance Contribution in full to the Borough Council on or before completion of the transfer referred to in paragraph 2.2 above.
- 2.4 The Ecological Mitigation Land shall be managed and maintained in accordance with the Ecological Management Plan in perpetuity.

## SCHEDULE FIVE

### OPEN SPACE OBLIGATIONS

#### DEFINITIONS

In this Schedule the following terms have the following meanings:

“Common Space”	any areas of open or greenspace forming part of the Land which do not form part of the Open Space or Play Area or Ecological Mitigation Land or On-Site Routes and which lies outside the curtilage of any Residential Unit.
“Interim Open Space and Play Area Management Plan”	A plan setting out how the Open Space and Play Area will be managed and maintained prior to its transfer to the Management Company as and when it or parts of it becomes available for use by members of the public in accordance with the timetable for delivery in the approved Scheme of Works.
“Managed Land”:	the On-Site Routes, the Common Space, the Play Area and the Open Space
“Management Company”:	a limited company set up inter alia for the purposes of securing the future management of the Managed Land through strict adherence to the Management Plan.
“Management Plan”:	<p>a written scheme submitted to the Borough Council which demonstrates the method by which the Managed Land will be managed and how the Managed Land will be transferred to a Management Company and thereafter maintained and financed so as to fulfil the following objectives:</p> <p>a. to ensure that each lessee/owner of the Residential Units pays a reasonable service charge for the maintenance and management of the Managed Land;</p> <p>b. to ensure that sufficient funds are raised from time to time to ensure that the requirements of the Management Plan are fully funded and thereafter adhered to; and</p> <p>c. to provide a means by which the Borough Council may verify compliance with the Management Plan.</p>
“Minimum Requirement”	A size not less than that calculated in accordance with Table 1 at Appendix 1.
“On-Site Routes”	the roads, footpaths and footways to be constructed within the Development.
“Open Space”	Land to be provided as public open space comprising that part of the Land shown shaded green on Plan 3 PROVIDED THAT the publically accessible open space shall not be less than the Minimum Requirement (not including the Play Area), which for



	the avoidance of doubt shall not include any sustainable drainage features
“Plan 3”	The plan annexed hereto and marked “Plan 3” showing the Open Space shaded green and the Play Area hatched red
“Play Area”	The area of land of not less than 400 sq metres in size shown hatched red on Plan 3
“Play Area Equipment”	At least five items of children’s outdoor play equipment constructed to a standard and using such materials as shall be specified in the approved Scheme of Works
“Scheme of Works”	<p>A scheme of works to include the means and timetable for the formation, laying out and provision of the Open Space and the Play Area, which must include:-</p> <ul style="list-style-type: none"> <li>• a scaled plan or plans identifying the location of the Open Space and the Play Area;</li> <li>• timescales for delivery of the Open Space and Play Area (which shall include any phased delivery of the Open Space and Play Area);</li> <li>• specifications and building materials;</li> <li>• surfacing and boundary treatment;</li> <li>• details of the Play Area Equipment;</li> <li>• provision (if any) of dog waste bins and associated signage;</li> <li>• street furniture, lighting and any other proposed structures or sculptures; and</li> <li>• cycle and pedestrian paths.</li> </ul>

The Owner covenants with the Borough Council as follows:

**1 Open Space and Play Area**

- 1.1 Not to Commence the Development unless the Scheme of Works and the Interim Open Space and Play Area Management Plan has been submitted to and approved in writing by the Borough Council.
- 1.2 To complete to the reasonable satisfaction of the Borough Council the Open Space and Play Area in accordance with the approved Scheme of Works.
- 1.3 Unless otherwise agreed in writing with the Borough Council, not to Occupy or permit the Occupation of more than 50 (fifty) Residential Units unless the Play Area has been constructed and equipped in accordance with the approved Scheme of Works to the Council’s reasonable satisfaction and is available and accessible for safe use by members of the public.
- 1.4 Unless otherwise agreed in writing with the Borough Council, not to Occupy or permit the Occupation of the penultimate Open Market Unit unless:
  - 1.4.1 The Open Space has been laid out in accordance with the approved Scheme of Works to the Council’s reasonable satisfaction; and

- 1.4.2 The Open Space and Play Area have been transferred to the Management Company together with such reasonably necessary rights, access and easements to permit the Management Company to access the Open Space for management and maintenance purposes and for the public to access the Open Space.
- 1.5 Until such time as the Open Space and Play Area are transferred to a Management Company to comply with the Interim Open Space and Play Area Management Plan.
- 1.6 To keep the Open Space and Play Area in a tidy condition and free from rubbish and suitable for use by the public.
- 1.7 Not to develop the Open Space or Play Area nor build nor erect any buildings upon the Open Space or Play Area nor cause or permit any building or erection upon the Open Space or Play Area except in each case any such erection forming part of the Scheme of Works.

## **2 Managed Land and On-Site Routes**

- 2.1 To submit the Management Plan to the Borough Council for its approval within three months of the Commencement of Development.
- 2.2 In the event the Owner fails to submit the Management Plan in accordance with paragraph 2.1 above, the Owner shall cease to carry out the Development on the Land PROVIDED THAT in such case the Development may recommence upon submission of the Management Plan.
- 2.3 Within six months of the Commencement of Development, the Owner shall submit the details of the proposed Management Company including draft memorandum and articles of association to the Borough Council for its approval.
- 2.4 Not to Occupy or cause or permit to be Occupied any Residential Unit unless the Management Plan and details of the proposed Management Company have been approved in writing by the Borough Council PROVIDED THAT if the Borough Council fail to respond in writing in respect of the Management Plan or Management Company within 28 days of receipt the Borough Council shall be deemed to have approved it/them.
- 2.5 To thereafter maintain the Managed Land in accordance with the Management Plan.
- 2.6 Not to Occupy or cause or permit to be Occupied any Residential Unit or to sell or cause or permit any Residential Unit to be sold at the Development other than by way of a transfer or lease unless it shall:
  - 2.6.1 include a covenant from the transferee or lessee of the Residential Unit to contribute a fair and reasonable proportion by way of service charge towards the cost of maintaining and managing the Managed Land in accordance with the Management Plan and this Schedule PROVIDED THAT the service charge in relation to any Affordable Housing Unit shall comply with any relevant restrictions as to service charge set out in Schedule Two to this Deed and in any event shall not exceed the amount of the service charge attributable to the equivalent Open Market Unit type;
  - 2.6.2 in which the Owner covenants with the transferee or lessee of the Residential Unit to maintain and manage, or to procure maintenance and management of the Managed Land through the Management Company in accordance with the Management Plan, and this Schedule to the Deed, and following the transfer of the Managed Land to the Management Company to require the Management Company to apply any service charge received from the transferee or lessee of a Residential Unit for such management and maintenance.

- 2.7 Not to Occupy more than fifty percent (50%) of the Residential Units until the Owner has incorporated the Management Company.
- 2.8 Unless otherwise agreed with the Borough Council acting at its sole discretion, upon completion of the On-Site Routes or such part thereof, to make the On-Site Routes available for use by the public PROVIDED THAT nothing in this Deed shall prevent the Owner from displaying appropriate notices or lodging appropriate statements to prevent the public claiming use as of right or public or private rights of way accruing over it nor any part in the case of emergency or for safety, maintenance and repair requirements (and nothing shall prevent the reasonable use of the relevant areas by emergency, operational, refuse or maintenance/servicing vehicles).

## APPENDIX 1

Table 1

### Calculating Open Space based on units comprised in the Development

<b>Unit Size</b>	<b>Square metres per unit</b>
1 Bed	20.70
2 Bed	29.40
3 Bed	38.70
4 Bed	46.35
5+ Bed	49.80
Studio	15.00
Elderly 1bed	15.00
Elderly 2 bed	18.00

## **APPENDIX 2**

### **Framework Travel Plan**

## **APPENDIX 3**

### **Ecological Mitigation Land Transfer**

**APPENDIX 4**

**Ecological Land Management Plan**

**IN WITNESS** whereof the parties hereto have executed this Deed on the day and year first before written

EXECUTED AS A DEED by )  
DUNLEY ESTATE LIMITED )  
in the presence of: )

Director:

Director/Secretary:

EXECUTED AS A DEED by )  
PERSIMMON HOMES LIMITED )  
in the presence of: )

Director:

Director:

Witness: