

SCHEDULE 1

Affordable Housing

1. RESTRICTION

- 1.1 The Identification reservation and delivery of Affordable Housing as part of the Development shall be strictly in accordance with the restrictions covenants and obligations and the delivery mechanisms described in this First Schedule
- 1.2 No Affordable Housing Unit constructed on the Site as part of the Development shall be occupied other than in accordance with the provisions of this Agreement

2. AFFORDABLE HOUSING SCHEME

- 2.1 The Owner shall submit the Affordable Housing Scheme to SDC for approval which may be submitted in Phases and shall obtain SDC's written approval of the Affordable Housing Scheme for each Phase prior to the Commencement of Development of that Phase and there shall be no Commencement of Development in any particular Phase until such time as the Owner has obtained approval of the Affordable Housing Scheme for that Phase
- 2.2 If Grant Funding is not available for all or any part of the Affordable Housing in a Phase not to cause or permit more than 70% of the Open Market Dwellings in that Phase to be Completed until either:
 - 2.2.1 an adjusted Affordable Housing Scheme has been agreed pursuant to paragraph 2.1 of this Schedule and the Owner has exchanged contracts with an Affordable Housing Provider in accordance with the provisions of paragraph 4.3 of this Schedule; or
 - 2.2.2 where no agreement is reached pursuant to paragraphs 2, 3 and 4 of this Schedule the provisions of clause 8 shall apply and the matter shall be referred to a Specialist

PROVIDED ALWAYS that the adjusted Affordable Housing Scheme agreed or imposed by the Specialist shall in no circumstances provide for less or more than 20% Affordable Housing to be constructed in any given Phase

- 2.3 In carrying out the Development of each Phase the Affordable Housing Units shall be provided and constructed strictly in accordance with the approved Affordable Housing Scheme for that Phase or as otherwise agreed in writing with SDC

- 2.4 All of the Affordable Housing Units shall be constructed to no less a standard than the Market Dwellings and to the Agreed Construction Standards

3. NUMBER AND TYPE OF AFFORDABLE HOUSING UNITS

- 3.1 Subject to the provisions of this Agreement 20% of all Dwellings comprising the Development and in each Phase of the Development shall be built provided and occupied in accordance with the terms of this Agreement as Affordable Housing Units and shall be used for no other purpose

- 3.2 The Affordable Housing Units shall be provided in accordance with the Affordable Housing Scheme and shall include the Wheelchair Accessible Units

4. RESTRICTION ON OCCUPATION

- 4.1 The Owner shall not commence the Development within any Phase until the Owner has made a bona fide offer or offers in writing to an AHP to enter into a contract for the sale and purchase of all of the Affordable Housing Units within the Phase and shall have first given SDC notice in writing of that offer and the name of the AHP
- 4.2 The Owner shall use reasonable endeavours to conclude the sale and purchase agreement for all the Affordable Housing Units within a Phase prior to the Commencement of Development of that Phase
- 4.3 There shall be no Completion of more than 30% of the Market Dwellings in any Phase until such time as the Owner has entered into a binding agreement for delivery and transfer to one or more Affordable Housing Provider of the Affordable Housing Units within that Phase on the terms and at a price which enables the Affordable Housing Provider to make the Affordable Housing Units thereon available for occupation at such prices and/or rents and service charges (according to the types of Affordable Housing Units concerned) and shall comply with the Homes and Communities Agency requirements at the time of such exchange and the Owner has provided to the Head of Housing written confirmation of such binding agreement;
- 4.4 There shall be no Completion of more than 50% of the Market Dwellings in any Phase until such time as 20% of the Affordable Housing Unit in that Phase have been completed and transferred to an AHP and the Owner has provided to the Head of Housing written confirmation of such transfer;
- 4.5 There shall be no Completion of more than 90% of the Market Dwellings in any Phase until such time as all of the Affordable Housing Units in that Phase have been completed and transferred to an AHP and the Owner has provided to the Head of Housing written confirmation of such transfer.

4.6 The Owner shall not transfer lease charge or grant any tenancy or licence of any Affordable Housing Land or Affordable Housing Unit or permit any Affordable Housing Unit or part thereof to be Occupied save in pursuant of a contract transfer or other legal deed with an Affordable Housing Provider.

5. **FORM OF TRANSFER**

5.1 The Owner covenants that any transfer to an AHP shall contain the following provisions:

5.1.1 the grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Units subject to that transfer;

5.1.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Dwellings within the Development;

5.1.3 the imposition of such covenants as the Owners shall reasonably require as are consistent with the sale of any Market Dwellings

6. **OCCUPATION OF AFFORDABLE HOUSING UNITS**

6.1 The Owner covenants with SDC to the intent that the obligations in this clause shall (subject to paragraph 6.3) bind the Affordable Housing Social Rented Units and be binding on the AHP to whom the Social Rented Dwellings are transferred and all future successors in title:

6.1.1 not to use the Social Rented Dwellings other than as Social Rented Dwellings which shall not be let other than at Target Rents to those applicants waiting for socially rented housing and who are on SDC's waiting list;

6.1.2 the service charges payable by the AHP as Tenant shall be fixed at a level which ensures that the AHP can let the Affordable Housing Social Rented Units at target rents without charging the AHP Tenants any service charge which the Tenant, if in receipt of housing benefits, would not be able to reclaim from housing benefits.

6.2 The Owner covenants with SDC to the intent that the obligations in this paragraph shall (subject to paragraph 6.3) bind the Affordable Housing Intermediate Dwelling Units and be binding on the AHP to whom the Intermediate Dwellings are transferred and all future successors in title:

6.2.1 not to use the Intermediate Dwellings other than as Intermediate Dwellings which shall not be occupied by anyone other than first time buyers or other households who cannot afford to buy their own home

and who have been identified as eligible for assistance in accordance with the prevailing national and local Affordable Housing policies where relevant and within the eligibility restrictions of the HomeBuy Scheme managed by the Homes and Communities Agency

6.2.2 the service charges payable by the Affordable Housing Provider as tenant shall be fixed at a level which ensures that the AHP can let the Affordable Housing Intermediate Dwellings without charging the Affordable Housing Provider's tenants any service charge which the tenant if in receipt of housing benefits would not be able to reclaim from housing benefit.

6.3 The parties hereby agree that the provisions of paragraphs 6.1 and 6.2 shall not apply to:

6.3.1 subject to 6.3.5 a mortgagee of the AHP that is the freehold owner of the Affordable Dwelling Units or any part thereof or a receiver or administrative receiver of the AHP to the intent that such mortgagee in possession receiver or administrator shall be entitled to dispose of the Affordable Dwelling or part thereof free of the obligations contained in paragraph 6.1 and 6.2; or

6.3.2 the owner of an Intermediate Dwelling who shall have staircased his interest in that unit such that he owns one hundred percent (100%) of the equity in that unit; or

6.3.3 the owner of an Affordable Housing Unit who shall have exercised his right to acquire that unit under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any similar or substitute right applicable

6.3.4 in the event of a default under any security referred to in paragraph 6.3.1 or in other circumstances warranting the intervention of the Homes and Communities Agency (whether or not under the Housing Act 1996 Part 1 Chapter IV of Schedule 1 Part IV) the transfer of the freehold of the Affordable Housing Units or any part of it to another AHP shall not be prevented

6.3.5 subject to and without prejudice to the powers and requirements of the Homes and Communities Agency under the Housing Act 1996 that in the event of a default under any security referred to in paragraph 6.3.1 the disposal of any reasonable interest in the Affordable Housing Units by the chargee or mortgagee in the exercise of its power of sale shall only be exercisable where the chargee or mortgagee has first followed the procedure set out in paragraph 6.3.6

6.3.6 That the procedure referred to in paragraph 6.3.5 shall be as follows:

- (i) the chargee or mortgagee shall give not less than three (3) months' prior notice to SDC of its intention to exercise its power of sale to enable SDC to secure the transfer of the Affordable Housing to another AHP or to SDC
- (ii) SDC shall then have three (3) months from the notice given to respond indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard the affordable housing character of the Affordable Housing Units
- (iii) If within the three (3) months SDC does not serve its response then the chargee or mortgagee shall be entitled to exercise its power of sale free of the restrictions in this Schedule 1
- (iv) if within three (3) months of the date of receipt by it of the notice SDC serves its response under paragraph 6.3.6(ii) then the chargee or mortgagee shall co-operate with such arrangements and use all reasonable endeavours to secure such transfer
- (v) SDC shall in formulating or promoting any arrangements give full consideration to protecting the interest of the chargee or mortgagee in respect of monies outstanding under the charge or mortgagee and other duty of the chargee or mortgagee to secure a proper price in exercising its power of sale
- (vi) if SDC or any other person cannot within nine (9) months of the date of service of its response under paragraph 6.3.6(ii) enter into a binding contract with the chargee or mortgagee to give effect to such transfer then provided that the chargee or mortgagee shall have complied with its obligations under this clause the chargee and mortgagee shall be entitled to exercise its power of sale free of the restrictions in this Schedule 1
- (vii) if the chargee or mortgagee does not wish to exercise its power of sale at any time after the giving of notice that it wishes to do so or SDC does not wish to continue with the exercise of its powers after the giving of its response indicating arrangements can be made to safeguard the affordable housing character of the Affordable Housing Units that party shall give to the other not less than seven (7) days written notice of its intention to discontinue

7. **Wheelchair Accessible Units.**

The Owner covenants with KCC to provide the Wheelchair Accessible Units on the Development near to the local centre/Sports Leisure & Community centre and further covenants that 3 one bedroom units and 1 two bedroom unit shall be completed prior to completion of 502 Dwellings and 3 one bedroom and 1 two bedroom unit shall be completed prior to completion of 678 Dwellings.

ANNEX ONE TO SCHEDULE ONE

Wheelchair Accessible Unit SPECIFICATION

SCHEDULE 2

Sport Leisure and Community Use

1. The Owner shall reserve the Sport Leisure and Community Land for development of the Sport Leisure and Community Centre and shall not carry out any development on the Sport Leisure and Community Land other than in accordance with this Schedule.
2. Within 12 months of the date of this Agreement the Owner shall pay the sum of £100,000 (One Hundred Thousand Pounds) (being the first part of the Sports Leisure and Community Contribution) to SDC for a study to determine the feasibility of building a Sports Leisure and Community Centre on the Sports Leisure and Community Land ("the Feasibility Study") (the area to apply to the Feasibility Study being shown as hatched red on Plan 6 attached hereto) PROVIDED ALWAYS that the Planning Permission is not the subject of any Challenge which has not been finally determined.
3. In the event that costs of the Feasibility Study exceed £100,000 then SDC may serve notice on the Owner requesting a further financial contribution from the Owner to meet those costs and the Owner shall pay the sum requested to SDC within 28 days of the request such further contribution not to exceed an additional £100,000. Following completion of the Feasibility Study SDC may in its absolute discretion elect to either:-
 - 3.1 Utilise the Sports Leisure and Community Contribution for the improvement of sports leisure and community facilities in the District of Shepway with priority being given to Hythe and in which case paragraph 4 below shall have effect; or
 - 3.2 Submit an application for planning permission for development of a Sports Leisure and Community Centre on the Sports Leisure and Community Land in which case paragraphs 5, 6 and 7 below shall have effect
4. Where SDC elects to utilise the Sports Leisure and Community Contribution for the improvement of sport leisure and community facilities in accordance with paragraph 3.1 or 6.2 the Owner shall pay to SDC the Sports Leisure and Community Contribution less the amount paid under paragraph 2 at the times and in the manner provided at paragraph 4.2 below and SDC shall be entitled to use the Sports Leisure and Community Contribution for the improvement of such facilities or as a contribution towards the provision of on or off site Affordable Housing and following receipt of the final tranche payment under paragraph 4.2.5 by SDC the Owner shall be free of the obligation in paragraph 1 of this Schedule.
 - 4.1 20% of the amount of the Sports Leisure and Community Contribution outstanding shall be paid prior to Completion of more than 50 Dwellings

- 4.2 A further 20% of the amount of the Sports Leisure and Community Contribution outstanding shall be paid prior to Completion of more than 100 Dwellings
- 4.3 A further 20% of the amount of the Sports Leisure and Community Contribution outstanding shall be paid prior to Completion of more than 150 Dwellings
- 4.4 A further 20% of the amount of the Sports Leisure and Community Contribution outstanding shall be paid prior to Completion of more than 200 Dwellings
- 4.5 The final 20% of the amount of the Sports Leisure and Community Contribution outstanding shall be paid prior to Completion of more than 250 Dwellings
5. Where SDC elects to make an application for planning permission for a Sports Leisure and Community Centre in accordance with paragraph 3 of this Schedule SDC may serve a notice on the Owner requesting a financial contribution from the Owner to meet the SDC's costs of preparing and submitting the planning application for the construction of the Sports Leisure and Community Centre including architects fees and any other relevant fees and the Owner shall pay the sum requested within 28 days of service of the notice PROVIDED THAT such notice cannot be served before the 100th Dwelling is completed and such sum shall not exceed a further £200,000.
6. If planning permission is granted for the Sports Leisure and Community Centre then SDC may in its absolute discretion either:-
 - 6.1 Give notice to the Owner that it intends to implement the planning permission in which case paragraph 7 below shall apply; or
 - 6.2 Give notice that it does not intend to implement the planning permission in which case paragraph 4 above shall apply with the amount to be paid to SDC under that paragraph further reduced by the amount paid to SDC in accordance with paragraph 5 above.
7. Where SDC gives notice under paragraph 6.1 that it intends to implement the planning permission the Owner shall within 18 months of receipt of that notice:-
 - 7.1 Carry out and complete works to the Sports Leisure and Community Land to remediate the Sports Leisure and Community Land of any contamination, grade and compact the Sports Leisure and Community Land above the flood plain in preparation for development and Provide Services for the benefit of the Sports Leisure and Community Land;
 - 7.2 Provide satisfactory vehicular access links to the Sports Leisure and Community Land including an Adoptable Highway, associated landscaping and public realm;

7.3 Offer to transfer that part of the Sports Leisure and Community Land identified in the planning permission referred to at paragraph 5 above Unencumbered to SDC for £1.00;

7.4 Pay the Sports Leisure and Community Contribution to the Council less the amounts already paid to the Council under paragraphs 2, 3 and 5 of this Schedule

PROVIDED ALWAYS that within 18 months of that notice SDC shall consult with the Owner regarding the detailed specification of the facilities to be provided as part of the Sports Leisure and Community Centre and shall take account of reasonable concerns raised by the Owner in respect of such facilities.

8. Any transfer of the Sport Leisure and Community Land shall contain the following provisions:

8.1 the grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Sport Leisure and Community Land subject to that transfer.

8.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Dwellings within the Development.

8.3 the imposition of a covenant requiring that the Sports Leisure and Community Land shall only be used for the provision of a Sports Leisure and Community Centre.

9. Where planning permission has been granted for the Sports Leisure and Community Centre and SDC has given notice under paragraph 6.1 above then there shall be no Completion of more than 250 Dwellings or such other number as has been agreed in writing with SDC until such time as the Owner has fulfilled its obligations under paragraphs 7.1 to 7.4 above and the Sports Leisure and Community Land has been transferred to SDC Unencumbered

10. PROVIDED FURTHER that the obligations in paragraphs 7.1 to 7.3 above shall only apply to that smaller area of the Sports Leisure and Community Land as is required in order to implement the Planning Permission

11. In the event that any planning permission granted for the Sport Leisure and Community Centre shall remain unimplemented within 8 years of the date of grant then provided that the Owner has paid the Sports Leisure and Community Contribution to SDC in full the Sports Leisure and Community Land shall revert Unencumbered to the Owner

12. In the event that planning permission is refused for the Sport Leisure and Community Centre and SDC elects not to submit a fresh application then paragraph 4 of this Schedule shall apply with the amount paid to SDC under that paragraph further reduced by the amount paid to SDC in accordance with paragraph 5 above.

SCHEDULE 3

Open Space and Landscaping

1. Management

- 1.1 Prior to the Commencement of Development the Owner shall submit and secure written approval of SDC for a Management Scheme for the provision and management of the Managed Areas unless otherwise agreed in writing with SDC
- 1.2 Within three months from SDC's approval of the Management Scheme pursuant to **paragraph 1.1** the Owner shall form the Management Company and shall produce to SDC a certified copy of the Certificate of Incorporation unless otherwise agreed in writing with SDC
- 1.3 The Managed Areas shall be maintained to the satisfaction of SDC including those matters identified in paragraph 1.5.4 of this Schedule from the date SDC has certified that the relevant Managed Area has been provided to its satisfaction and any ending upon the date of the transfer of the relevant Managed Area to the Management Company
- 1.4 Any built development within the Managed Area shall only be constructed for purposes ancillary to and in connection with the use of the land as Open Space
- 1.5 The Management Scheme will as a minimum:
 - 1.5.1 identify the location and specification for the laying out planting and (where appropriate) equipping of the Managed Areas;
 - 1.5.2 identify a programme for the delivery or phased delivery of the works to be carried out in accordance with the provisions of this Schedule and to be delivered in accordance with the Phases shown on Plan 2;
 - 1.5.3 secure the long term management of the Managed Areas including initial and long term funding arrangements to ensure the ongoing viability of the Management Company and a detailed specification and annual programme of maintenance replacement planting and repair; and
 - 1.5.4 secure a programme for the long term maintenance of the Managed Areas to include arrangements for:
 - 1.5.4.1 regular cutting fertilisation and weed treatment of any grassed area such arrangements to maintain the amenity and access by residents of the Development and to protect any edges sown with wild flowers;

- 1.5.4.2 regular weeding and maintenance of any planting beds and the regular pruning of all trees and bushes planted in accordance with the Management Scheme;
- 1.5.4.3 inspection of any trees and arrangements for maintenance replanting removal treating topping and lopping of any damaged specimens;
- 1.5.4.4 the removal of any waste found within the Managed Areas including a method of dealing with any green waste;
- 1.5.4.5 maintenance replacement and inspection as necessary of any equipment;
- 1.5.4.6 appropriate contact or contacts responsible for maintaining the Managed Areas; and
- 1.5.4.7 the management of the Lakeside Park in liaison with Kent Wildlife Trust in respect of those areas to be provided and laid out to mitigate the impact on bio-diversity arising from the Development

1.5.5 secure unrestricted public access to the Managed Areas

2. **Public Open Space**

- 2.1 There shall be no Commencement of Development in any Phase until such time as the Owner has submitted a scheme for the detailed provision of the Public Open Space Areas with that Phase in accordance with the Management Scheme and has secured the written approval from SDC of that Scheme.
- 2.2 The detailed scheme submitted pursuant to **paragraph 2.1** shall be implemented as approved to the reasonable satisfaction of SDC
- 2.3 The Owner shall serve written notice on SDC that the laying out of the Public Open Space Areas for each Phase has been completed and within 28 days of receipt of that notice SDC shall either certify that the laying out of the area of Public Open Space Areas has been completed to its reasonable satisfaction or provide written details of any additional works which are required such works to be completed by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the laying out of the Public Open Space Areas has been completed to its reasonable satisfaction
- 2.4 No more than 90% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from

SDC that the laying out of the Public Open Space in that Phase has been completed to SDC's reasonable satisfaction

- 2.5 Following the layout of each Public Open Space Area to SDC's reasonable satisfaction the Owner shall transfer the Public Open Space Area to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall be completed prior to the Completion of 90% of the Market Dwellings comprising the Phase within which the relevant Public Open Space Areas are located
- 2.6 On the date that each Public Open Space Area is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of the respective Public Open Space Area calculated in accordance with the Management Scheme
- 2.7 The Owner shall:
- 2.7.1 ensure that there is full and unfettered public access including for people with disabilities to the Public Open Space Areas once they have been laid out and completed to the reasonable satisfaction of SDC;
 - 2.7.2 not use the Public Open Space Areas for any purpose other than open space;
 - 2.7.3 not construct on the Public Open Space Areas any buildings or structures of any kind save as may be provided for in the Management Scheme for the Public Open Space Areas;
 - 2.7.4 carry out the maintenance and management of the Public Open Space Areas in accordance with the Management Scheme;

3. Children's Play Area

- 3.1 There shall be no Commencement of Development in any Phase until such time as the Owner has submitted a Scheme for the detailed provision of the Children's Play Area within that Phase in accordance with the Management Scheme and secured the written approval from SDC of that Scheme
- 3.2 The Owner shall layout equip and provide the Children's Play Area within each Phase of the Development in accordance with the details approved pursuant to paragraph 3.1 above and to the reasonable satisfaction of SDC
- 3.3 The Owner shall serve written notice on SDC that the laying out of the Children's Play Area for each Phase of the Development has been completed and within 28 days of that notice SDC shall either certify that the laying out of the Children's Play Area has been completed to its reasonable satisfaction or provide written details of any additional works which are required such works to be completed

by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the laying out of the Children's Play Area has been completed to its reasonable satisfaction

- 3.4 No more than 90% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from SDC that the laying out of the Children's Play Areas in that Phase has been completed to SDC's reasonable satisfaction
- 3.4 Following the laying out and equipping of each of the Children's Play Areas to SDC's reasonable satisfaction the Owner shall transfer the Children's Play Area to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall be completed prior Completion of 90% of the Market Dwellings comprising the Phase within which the relevant Children's Play Areas are located
- 3.5 On the date each Children's Play Area is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of that Children's Play Area as approved in accordance with the Management Scheme
- 3.6 The Owner shall:
 - 3.6.1 ensure that there is full and unfettered public access including for people with disabilities to the Children's Play Areas once they have been laid out and completed to the reasonable satisfaction of SDC;
 - 3.6.2 not use the Children's Play Areas for any purpose other than as LEAPs NEAP and LAP;
 - 3.6.3 not construct on the Children's Play Areas any buildings or structures of any kind save as may be provided for in the Management Scheme for the Children's Play Areas;
 - 3.6.4 carry out the maintenance and management of the Children's Play Areas in accordance with the Management Scheme;

4. **Lakeside Park**

- 4.1 The Owner shall layout and plant the Lakeside Park in accordance with the approved Management Scheme and to the reasonable satisfaction of SDC in the first planting season following completion of the first Phase
- 4.2 The Owner shall serve written notice on SDC that the laying out of the Lakeside Park has been completed and within 28 days of that notice SDC shall either certify that the laying out of the Lakeside Park has been completed to its

- reasonable satisfaction or provide written details of any additional works which are required such works to be completed by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the Lakeside Park has been laid out and completed to its reasonable satisfaction
- 4.3 No more than 50% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from SDC that the laying out of the Lakeside Park has been completed to SDC's reasonable satisfaction
- 4.4 Following the laying out and planting of the Lakeside Park to SDC's reasonable satisfaction the Owner shall transfer the Lakeside Park to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall take place prior to Completion of more than 90% of the Dwellings comprised in the Development
- 4.5 On the date the Lakeside Park is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of the Lakeside Park as approved in accordance with the Management Scheme
- 4.6 The Owner shall:
- 4.6.1 ensure that there is full and unfettered public access including for people with disabilities to the Lakeside Park once the laying out of the Lakeside Park has been completed to the reasonable satisfaction of SDC;
 - 4.6.2 not use the Lakeside Park for any purpose other than open space;
 - 4.6.3 not construct on the Lakeside Park any buildings or structures of any kind save as may be provided for in the Management Scheme;
 - 4.6.4 carry out the maintenance and management of the Lakeside Park in accordance with the Management Scheme;
5. **Footpaths and Cycleways**
- 5.1 There shall be no Commencement of Development in any Phase until such time as the Owner has submitted a detailed scheme for the provision of the Footpath and Cycleways in that Phase in accordance with the Management Scheme and has received written approval from SDC of that Scheme.
- 5.2 The detailed scheme submitted pursuant to **paragraph 5.1** shall be implemented as approved to the reasonable satisfaction of SDC

- 5.3 The Owner shall serve written notice on SDC that the laying out of the Footpaths and Cycleways for each Phase of the Development has been completed and within 28 days of receipt of that notice SDC shall either certify that the laying out of the Footpaths and Cycleways has been completed to its reasonable satisfaction or provide written details of any additional works which are required such works to be completed by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the laying out of the Footpaths and Cycleways have been completed to its reasonable satisfaction
- 5.4 No more than 90% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from SDC that the laying out of the Footpaths and Cycleways in that Phase has been completed to SDC's reasonable satisfaction
- 5.5 Following the layout of the Footpaths and Cycleways to SDC's reasonable satisfaction the Owner shall transfer the Footpaths and Cycleways to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall be completed prior to the Completion of 90% of the Market Dwellings comprising the Phase within which the relevant Footpaths and Cycleways are located
- 5.6 On the date that each Footpath and Cycleway is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of the respective Footpaths and Cycleways calculated in accordance with the Management Scheme
- 5.7 The Owner shall:
- 5.7.1 ensure that there is full and unfettered public access including for people with disabilities to the Footpaths and Cycleways once they have been laid out and completed to the reasonable satisfaction of SDC;
 - 5.7.2 not use the Footpaths and Cycleways for any purpose other than open space;
 - 5.7.3 not construct on the Footpaths and Cycleways any buildings or structures of any kind save as may be provided for in the Management Scheme for the Footpaths and Cycleways;
 - 5.7.4 carry out the maintenance and management of the Footpaths and Cycleways in accordance with the Management Scheme;
 - 5.7.5 keep the Footpaths and Cycleways open and available for pedestrians and cyclists in connection with the development at all times

- 6. Structural Landscape Buffer**
- 6.1 Within 18 months of the Commencement of any Site Preparation Works on Site the structural landscaping associated bunding to the corner of Dymnchurch Road and Boltophs Road and to the Southern Water Waste Water Plant all as shown on Plan 2 shall be completed to the satisfaction of SDC.
- 6.2 There shall be no Commencement of Development in any Phase until such time as the Owner has submitted a detailed scheme for the provision of the Structural Buffer within that Phase in accordance with the Management Scheme and has received the written approval of SDC to that Scheme
- 6.3 The detailed scheme submitted pursuant to **paragraph 6.2** shall be implemented as approved to the reasonable satisfaction of SDC
- 6.4 The Owner shall serve written notice on SDC that the laying out of the Landscape Buffer for each Phase of the Development has been completed and within 28 days of receipt of that notice SDC shall either certify that the laying out of the area of Landscape Buffer has been completed to its reasonable satisfaction or provide written details of any additional works which are required such works to be completed by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the laying out of the Landscape Buffer has been completed to its reasonable satisfaction
- 6.5 No more than 90% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from SDC that the laying out of the Structural Landscape Buffer in that Phase has been completed to SDC's reasonable satisfaction
- 6.6 Following the layout of each Landscape Buffer to SDC's reasonable satisfaction the Owner shall transfer the Landscape Buffer to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall be completed prior to the Completion of 90% of the Market Dwellings comprising the Phase within which that Landscape Buffer is located
- 6.7 On the date that each Landscape Buffer is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of the relevant Landscape Buffer calculated in accordance with the Management Scheme
- 6.8 The Owner shall:
- 6.8.1 not use the Landscape Buffer for any purpose other than open space;

- 6.8.2 not construct on the Landscape Buffer any buildings or structures of any kind save as may be provided for in the Management Scheme for the Landscape Buffer;
- 6.8.3 to carry out the maintenance and management of the Landscape Buffer in accordance with the Management Scheme;

7. **Water Area**

- 7.1 There shall be no Commencement of Development in any Phase until such time as the Owner has submitted a detailed scheme for the provision of the Water Area in accordance with the Management Scheme and has received the written approval of SDC to that Scheme
- 7.2 The detailed scheme submitted pursuant to **paragraph 7.1** shall be implemented as approved to the reasonable satisfaction of SDC
- 7.3 The Owner shall serve written notice on SDC that the laying out of the Water Area for each Phase of the Development has been completed and within 28 days of receipt of that notice SDC shall either certify that the laying out of the Water Area has been completed to its reasonable satisfaction or provide written details of any additional works which are required such works to be completed by the Owner within one month or within the next appropriate planting season as agreed in writing between SDC and the Owner. This procedure shall be repeated until SDC certifies that the laying out of the Water Area has been completed to its reasonable satisfaction
- 7.4 No more than 90% of the Market Dwellings comprised in a Phase shall be Completed until such time as the Owner has received written confirmation from SDC that the laying out of the Water Area in that Phase has been completed to SDC's reasonable satisfaction
- 7.5 Following the layout of each Water Area to SDC's reasonable satisfaction the Owner shall transfer the Water Area to the Management Company (unless otherwise agreed in writing with SDC) PROVIDED ALWAYS that such transfer shall be completed prior to the Completion of 90% of the Market Dwellings comprising the Phase within which the relevant Water Area is located
- 7.6 On the date that the Water Area is transferred to the Management Company the Owner shall pay to the Management Company such reasonable contribution for the future management and maintenance of the relevant Water Area calculated in accordance with the Management Scheme
- 7.7 The Owner shall:

- 7.7.1 not use the Water Area for any purpose other than open space provided that this shall not prevent use for fishing and sailing;
- 7.7.2 not construct on the Water Area any buildings or structures of any kind save as may be provided for in the Management Scheme for the Water Area;
- 7.7.3 carry out the maintenance and management of the Water Area in accordance with the Management Scheme

SCHEDULE 4

Railway Halt

1. The Owner shall co-operate with SDC and use all reasonable endeavours to secure the provision of the Railway Halt with the Rail Operator
2. The Owner shall reserve the Railway Halt Land for the provision of the Railway Halt in accordance with the provisions of this Schedule PROVIDED ALWAYS that the Railway Halt Land remains in the ownership and control of the Owner
3. Prior to Completion of the 750th Market Dwellings comprising the Development the Owner shall notify SDC that the Railway Halt Land is available for transfer and shall make a bonafide offer to transfer the Railway Halt Land to SDC or its nominee Unencumbered for a nominal consideration of £1 (One Pound)
4. The Owner's offer shall be capable of acceptance by SDC for a period of twelve (12) months ("the Offer Period") from the date of the notice given pursuant to **paragraph 3**
5. Where SDC elect to accept the offer to transfer the Railway Halt Land the Owner shall on completion of the transfer pay to SDC the Railway Contribution PROVIDED THAT any such election may only be made by SDC following the 750th Completion
6. In the event that the Railway Contribution or any part thereof is not applied for the purpose specified in paragraph 1 of this Schedule within 5 years of any payment then the Railway Contribution may be used by SDC as if it formed part of the Sports Leisure and Community Contribution and the amount of the Sports Leisure and Community Contribution shall be increased by an amount equivalent to the Railway Contribution.
7. In the event that SDC do not elect or fail to accept the offer to transfer the Railway Halt Land within the Offer Period the Owner shall be released from any further obligation to reserve the Railway Halt Land and shall be at liberty to make a planning application to SDC for an alternative use of the Railway Halt Land PROVIDED ALWAYS that if the Railway Halt Land is not transferred to SDC then at the end of the Offer Period the Owner shall pay the Railway Contribution to SDC to be applied towards the provision of the Supplementary Measures
8. In the event that the Railway Halt Land is transferred to SDC the Railway Halt Land shall be transferred together with pedestrian and cycle access across the Site from the public highway and the Railway Halt Land shall be laid out with all necessary services remediated and the land graded and compacted above the flood plain and ready for development and Unencumbered.

9. The Railway Halt Land shall revert Unencumbered and free from the obligations imposed in this Schedule to the Owner if it is not utilised in accordance with the provisions of this Schedule within 5 years of any transfer pursuant to paragraph 8 of this Schedule

SCHEDULE 5

Travel Plan

The Owner covenants with KCC and SDC that:

Travel Plan

1. Prior to the Commencement of the Development a Travel Plan that accords with best practice and the principles of PPG13 as well as KCC's Guidance on Transport Assessments and Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority for that part and KCC. The Travel Plan shall contain:-
 - 1.1 Details of measures designed to achieve and maintain an appropriate target modal shift of travel to and from the Development in accordance with PPG13 and KCC's Guidance on Transport Assessments and Travel Plans.
 - 1.2 Details of a schedule of monitoring and surveys at the site entrance and elsewhere to be provided to the Local Planning Authority to independently assess the actual modal split achieved against targets not less than once in every calendar year for a period of 10 years to be funded by the developer, meeting the requirements of the TRICS Standard Assessment Method for Travel Plan Impacts (SAM).
 - 1.3 The contact details of an individual who will be appointed as Travel Plan Co-ordinator with his/her job description and who will act as the contact point for the Local Planning Authority and the manor of the measures set out within the Travel Plan for a continuous period of 5 years commencing prior to the first Occupation of any Dwelling comprised within the Development.
 - 1.4 A mechanism for information to be provided to the Local Planning Authority annually (or as agreed in writing) as to the implementation of the measures set out in the Travel Plan.
 - 1.5 Any other measures reasonably required by the Local Planning Authority.
 - 1.6 The agreed Travel Plan must be subsequently implemented in full within three months of the occupation of the Development and thereafter maintained by the occupier of the Owner for a period of 5 years or until the Commencement of Development on the last Phase of the Development whichever is the later unless otherwise agreed in writing by the Local Planning Authority.
 - 1.7 Information on the measures designed to achieve and maintain the appropriate modal split from the site for the Local Planning Authority to monitor the performance of the plan and also the mechanism by which the Supplementary

Measures will be utilised to cover against failure to meet the agreed targets. This should be agreed with the Council in consultation with KCC.

Public Transport Plan

1. Prior to first Occupation of any part of the Development the Public Transport Plan shall be submitted to and approved by KCC setting out the following:
 - 1.1 the identity of public transport providers;
 - 1.2 the arrangements for the provision routing frequency and operation of a bus service through the Development;
 - 1.3 the process for monitoring and review;
 - 1.4 an implementation plan;
 - 1.5 The arrangements for provision of bus stops with covered seating.
2. The Public Transport Plan shall be implemented in the form approved by KCC throughout the Travel Plan Period in accordance with the programme to be approved pursuant to paragraph 1 of this Schedule

Part 2

Supplementary Measures

The Owner covenants with KCC that:

1. Prior to first Occupation of the Development the Owner shall
 - 1.1 establish the Supplementary Measures Account and provide details of the same to KCC
 - 1.2 pay the Supplementary Measures Fund into the Supplementary Measures Account for the purpose of implementing the Supplementary Measures in the circumstances provided for in paragraph 2
2. In the event of a variation from the agreed expected values approved as part of the Travel Plan the Travel Co-ordinator shall review circumstances prevailing at that time and make recommendations to KCC as to the need for Supplementary Measures to address such variation and thereafter upon receipt of a written request from KCC the Owner shall apply the Supplementary Measures Fund to the implementation of the Supplementary Measures PROVIDED THAT the maximum sum to be applied by the Owner in any calendar year shall not exceed £10,000 (Ten Thousand Pounds) and PROVIDED ALWAYS THAT at the end of the Travel Plan Period the Owner shall be discharged from any further obligation to

retain any part of the Supplementary Measures Fund for application towards the Supplementary Measures

SCHEDULE 6

Contributions

1. Highway Contribution

- 1.1 The Owner shall pay the Highways Contribution to KCC prior to the commencement of construction of any Building on the Site;
- 1.2 KCC shall apply the Highways Contribution in provision of the Highways Works and for no other purpose whatsoever;
- 1.3 In the event that the Highways Contribution or any part thereof is not applied for the purpose specified in paragraph 1.2 above within 5 years of payment then any unspent portion may be applied by KCC towards others KCC community facilities in the district of Shepway in consultation with SDC;

2. Pedestrian Route Improvement Contribution

- 2.1 The Owner shall pay the Pedestrian Route Improvements Contribution to KCC prior to the commencement of construction of any Building on the Site;
- 2.2 KCC shall apply the Pedestrian Route Improvements Contribution in provision of the Pedestrian Route Improvement Works and for no other purpose whatsoever;
- 2.3 In the event that the Pedestrian Route Improvements Contribution or any part of it is not applied for the purpose as specified in paragraph 2.2 above within 5 years of payment then any unspent portion may be applied by KCC towards others KCC community facilities in the district of Shepway in consultation with SDC.

3. Education Contribution

- 3.1 The Owner shall pay 50% of the Education Contribution to KCC prior to the first occupation of the 50th Dwelling to be Occupied and the balance of the Education Contribution to KCC prior to the first occupation of the 150th Dwelling to be Occupied;
- 3.2 KCC shall apply the Education Contribution towards the improvement of Palmmarsh School or the provision of extra primary school places within a 4 mile radius of the Development and any unspent portion may be applied by KCC towards other KCC community facilities in the District of Shepway in consultation with SDC;

4. Bus Contribution

- 4.1 The Owner covenants with KCC to pay the Bus Contribution to the Bus Operator and to procure the operation of the Bus Service prior to occupation of the 100th Dwelling comprising the Development or the practical completion of the Sports Leisure and Community Centre whichever is the earlier and thereafter for each year of the following five years (provided that the total Bus Contribution paid in the 5 year period shall not exceed £625,000);
- 4.2 The Bus Operator is to be approved by KCC such approval not to be unreasonably withheld;
- 4.3 The Bus Service shall comprise a new service which shall operate on Monday to Saturday between the hours of 07:00 and 19:00 on the route described in paragraph 4.4 below at 30 minute intervals or as otherwise agreed with KCC;
- 4.4 The route of the Bus Service is to be from Hythe Town Centre to the Development

5. Monitoring

The Owner shall pay the Monitoring Contribution to SDC and KCC in the following proportions prior to the Commencement of Development:

5.1 £20,000 to SDC

5.2 £5,000 to KCC

SCHEDULE 7

Employment Land

1. The Employment Land shall be used only for uses with Use Classes B1 of the Use Classes Order unless otherwise agreed in writing with the Council and PROVIDED THAT this limitation will cease to apply to such part of the Employment Land as may be the subject of a grant of planning permission for any alternative land use.
2. There shall be no Completion of more than 250 Dwellings until such time as the Owner has submitted and secured the written approval of SDC for a scheme to ensure the phased provision of the Employment Land (the "Employment Land Scheme")
3. The Employment Land Scheme shall include a development phasing plan and shall as a minimum provide for:-
 - 3.1 The remediation of contamination on the employment land;
 - 3.2 The grading and compacting of the Employment Land above the flood plain in preparation for development.
 - 3.3 The laying out of the Employment Land with satisfactory vehicle access including a road through the residential element of the Development which links to an Adoptable Highway
 - 3.4 The submission of a plan by the Owner showing the locations and boundaries of individual plots suitable for the construction of B1 units throughout the Employment Land ("the B1 Plots") including services vehicular access and the construction of a spine road serving each of the B1 Plots
4. There shall be no Completion of more than 300 Dwellings until such time as the Owner has received written confirmation from SDC that the Employment Land Scheme has been implemented and completed to the satisfaction of SDC PROVIDED THAT if SDC unreasonably fail to issue the written confirmation referred to herein within 30 days of a request to do so from the Owner following the completion of all works required under the Employment Land Scheme the restriction on Occupation in this paragraph shall not apply to the Employment Land.
5. There shall be no Completion of any Market Dwelling on the Development as identified on the Master Plan until such time as the Owner has submitted and secured the written approval of SDC for an Employment Marketing Strategy
6. The Employment Marketing Strategy shall as a minimum identify:

- 6.1 Arrangements for the identification of a marketing agent;
- 6.2 The terms of the offer of the Employment Land or any part thereof;
- 6.3 The arrangements for engagement with officers of SDC to assist with marketing of the Employment Land; and
- 6.4 The nature and method of the marketing exercise to be undertaken for a minimum period of 6 months for each Phase of the Employment Land commencing at a time to be agreed in writing between the Owner and SDC. .
7. The Owner shall implement the Employment Marketing Strategy as approved immediately following the Completion of 300th Dwelling comprised the Development as identified on the Master Plan or the provision of a serviced access to the Employment Land, whichever is the earliest event;
8. The Owner covenants with SDC with the intent of binding the Employment Land to sell or lease each of the serviced B1 Plots in accordance with the Approved Employment Land Scheme if an offer is received for the individual plot which is in line with the open market value or rental value from time to time of that plot and agreement is reached with a purchaser or lessee for such sale or lease in accordance with the Employment Marketing Strategy
9. The Owner shall provide SDC with a report on each anniversary of the approval of the Employment Marketing Strategy (unless otherwise agreed in writing with SDC) that shall include:
 - 9.1.1 the location duration and frequency of any advertising of the employment land with copies of such advertisements;
 - 9.1.2 details of any expressions of interest received for the Employment Land and the information sent in response with copies of all relevant correspondence;
 - 9.1.3 details of any offers to purchase made in respect of the Employment Land and a response thereto with copies of all relevant correspondence;
 - 9.1.4 copies of any marketing material distributed in relation to the Employment Land during the previous 12 month period and details of the distribution thereof;
 - 9.1.5 details of the precise areas of any parts of the Employment Land that have been disposed of in the previous 12 months (if any)

SCHEDULE 8

Surrender of Existing Planning Permissions

1. The Owner hereby covenants for themselves and their successors in title that as from the lawful commencement of any new development pursuant to Section 55 of the Town and Country Planning Act 1990 they will:-
 - 1.1 Surrender any and all planning permissions and mineral consents for the extraction of mineral deposits from the Site or the introduction of waste materials to the Land which remain extant including where appropriate those listed in paragraph 2 of this Schedule;
 - 1.2 Not to carry out and development, deposit and waste or extraction of minerals pursuant to such permissions or consents;
 - 1.3 Not to recommence any development deposit of waste or extraction of minerals pursuant to such permissions or consents without a further specific grant of planning permission of mineral consent as appropriate;
 - 1.4 Not to claim or seek to recover any compensation for the surrender of those permissions or consents from SDC or KCC.
2. The planning permissions and mineral consents referred to in paragraph 1 above include but are not limited to the following:-
 - 2.1 SH/74/595 dated 4 June 1976;
 - 2.2 SH/4/62/194 dated 18 October 1962;
 - 2.3 SH/77/816 dated 29 November 1977;
 - 2.4 SH/84/1038 dated 11 February 1985;
 - 2.5 SH/87/344 dated 2 June 1987;
 - 2.6 SH/96/95 dated 22 May 1997.

PROVIDED ALWAYS that the terms of this Schedule shall not compromise invalidate or alter the terms of the Planning Permission

THE COMMON SEAL of
THE KENT COUNTY COUNCIL
was hereto affixed to this deed in the
presence of:



)
)
)
)



Authorised Signatory



Member

THE COMMON SEAL of
THE DISTRICT COUNCIL OF SHEPWAY
was hereto affixed to this deed in the
presence of:

)
)
)
)



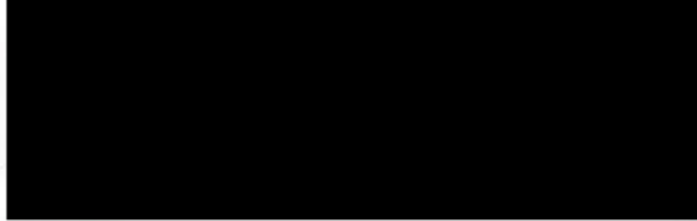
~~Solicitor to the Council~~

Authorised Signatory

5329

SIGNED as a deed by
NICKOLLS PROPERTIES LIMITED
acting by a director and its secretary
or two directors

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)
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Director

Director / Secretary