

NOW THIS DEED WITNESSES as follows:-

1. This Agreement is a planning obligation for the purposes of section 106 of the 1990 Act and all other enabling powers
2. In this Agreement unless the context otherwise requires:-

1990 Act	means the Town and Country Planning Act 1990 (as amended)
Accessible Adaptable Standards	means the Affordable Dwellings to be constructed in accordance with Part M of Schedule 1 to the Building Regulations 2010 together with Optional Requirement M4(2): Category 2 - Accessible and adaptable dwellings set out in Approved Document M (2): Category 2- Access to and use of buildings
Affordable Dwellings	means each unit of Affordable Rented Housing and Shared Ownership Housing (or such other form of Affordable Housing as might be agreed between the parties) to be delivered on the Site pursuant to this Agreement
Affordable Housing	means (subject to the provisions of this Agreement) housing which is defined in the National Planning Policy Framework at Annex 2 (as amended from time to time) or otherwise by the Government which includes social rented, affordable rented and shared ownership housing provided to eligible household whose needs are not met by the market including provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision and in relation to which eligibility is determined with regard to local incomes and local house prices
Affordable Housing Units Layout and Mix Plan	means the plan which identifies the size distribution and mix of the Affordable Dwellings (which shall be calculated on a 17.5% formulaic basis as a representative mix of the Development unless otherwise agreed with the Council) and in accordance with this Agreement
Affordable Rent	a rent which does not exceed 80% of the Market Rent (inclusive of any service charges) for the relevant property type and in any event should not exceed the published Local Housing Allowance for the relevant property type and in the relevant property market area allowing for any modifications to a level of allowance as published from time to time by the Government SAVE THAT the rent charged under all lettings may be increased annually by a proportion equivalent to an increase by the Index plus 1% or any relevant increase determined from time to time by the Regulator for Social Housing.

Affordable Rented Housing	means rented housing let by an AHP to households who are eligible for social rented housing let at an Affordable Rent
AHP	means: (a) registered housing provider; or (b) similar organisation which primary purpose is the provision of Affordable Housing and is approved the Council
Alternative Affordable Home	means either: (a) an affordable rented dwelling provided by an AHP; or (b) an intermediate rented dwelling or an intermediate home ownership dwelling provided either by an AHP or a private developer as defined by National Planning Policy Framework and in either case located in Teignbridge District
Application	means the application for planning permission submitted by or on behalf of the Applicant and dealt with by the Council under reference 15/02468/MAJ for outline planning permission for the Development
Application Viability Appraisal	means the original viability appraisal by Savills (UK) Limited submitted by the Applicant with the Application dated May 2016 together with the Agreed Appraisal Extract dated the 10 th June 2016 and assessed by Council's viability assessors DVS
Biodiversity Off-setting Mechanism Strategy	means a strategy approved by the Council to deal with any significant net loss (if any) of biodiversity on the Site resulting from the Development
Care/Extra Care Development	means a facility to provide occupiers with care and support for assisted living falling within Use Classes C2/C3
Care/Extra Care Development Land	means that part of the Site on which the Care/Extra Care Development is permitted
Care/Extra Care Development Land Marketing Strategy	means the strategy for the marketing of the Care/ Extra Care Development Land at no more than Market Value which shall as a minimum include arrangements for: (a) erection of boards on the Site advertising the Care / Extra Care Land (subject to receiving any advertisement consents from the Council that may be required) (b) the preparation of detailed particulars and liaison with recognised providers as to availability and the amount of Affordable Housing proposed as elements of the Care/Extra Care Development utilising the cascade set out in paragraph 3.13 of the DA2 North West Secmaton Lane Dawlish Framework Plan;

- (c) the placing of adverts within the appropriate regional and national press advertising the Care /Extra Care Development Land's availability; and
- (d) Web/Internet marketing

Cirl Bunting Habitat	means suitable off-site replacement Cirl Bunting Habitat suitable for breeding and overwintering to be identified by the Owner and approved in writing by the Council following consultation with the Royal Society for the Protection of Birds such approval not to be unreasonably withheld or delayed with such land being held as Cirl Bunting Habitat in perpetuity
Cirl Bunting Habitat Contribution	means the sum of £148,386 as a contribution to the improvement of Cirl Bunting Habitat on the Site or the provision of off-site replacement Cirl Bunting Habitat.
Commencement of Development	means the carrying out of the first material operation (as defined in section 56(4)(a) of the 1990 Act) forming part of the Development other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions erection of any temporary means of enclosure, the temporary display of site notices or advertisements, ecological works and "Commence Development" and other such expressions shall be construed accordingly
Commercial Drainage Contribution	means the sum of £4 per net square metre of non-residential floor space forming part of the Development
County	means the County of Devon
County Local Connection	means a connection with the County and demonstrated by that person or a member of their Household to the reasonable satisfaction of the Council: (a) being permanently resident therein immediately prior to advertising (in accordance with the approved Scheme of Advertising) and that residence is of their own choice; or (b) being formerly permanently resident therein for a continuous period of five (5) years; or (c) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein immediately prior to advertising (in accordance with the approved Scheme of Advertising); or (d) having a connection though a close family member (normally mother, father, brother, sister, son or daughter) where the family member is currently resident therein and has been so for a continuous period of at least five (5) years immediately prior to

	advertising (in accordance with the approved Scheme of Advertising); or (e) being in such other special circumstances which the Council considers requires the applicant to reside therein as appropriate and which is consistent with the Devon Homechoice policy
Custom Build Dwelling	means a dwelling authorised by the Permission which will either be constructed by or the construction commissioned by the person or persons who intend to live in the said dwelling in accordance with Policy WE7 of the Teignbridge Local Plan
Custom Build Plot	means the plot on the Development upon which the Custom Build Dwelling is to be constructed to be disposed of at Market Value
Designated Site	means the site or sites identified by the Council in Dawlish to provide permanent Sustainable Alternative Natural Green Space as infrastructure to mitigate the impact of development upon the Exe Estuary SPA and Dawlish Warren SAC
Development	means the residential development providing up to 409 residential units, community based buildings consisting of shop/cafe, employment space, extra care unit, parking area for local school, new vehicular access from Secmaton Lane, public open space, landscaping and infrastructure to which the Permission relates
Devon Homechoice	means a choice based scheme developed and operated in partnership between the Council and the AHP (or successor scheme of Affordable Housing Allocation)
Dwelling	means a dwelling (including a house flat or maisonette) to be constructed pursuant to the Permission within Class C3
Employment Development	means the employment uses comprising uses as offices or other uses falling within Use Class B1 forming part of the Development
Employment Development Land	means that part of the Site on which the Employment Development is permitted
Employment Development Land Marketing Period	means the marketing of the Employment Development Land in accordance with the Employment Development Land Marketing Strategy for the period of 2 years
Employment Development Land Marketing Strategy	means the strategy for the marketing of the Employment Development Land at no more than Market Value which shall as a minimum include arrangements for: (a) erection of boards on the Site advertising the Employment Development Land (subject to receiving any advertisement consents from the Council that may be required) (b) the preparation of detailed particulars;

	(c) the placing of adverts within the appropriate regional and national press advertising the Employment Development Land's availability; and (d) Web/Internet marketing
Expert	means the person appointed by the parties hereto pursuant to the provisions of this Agreement
Fully Serviced	means a plot to which all necessary service connections have been provided to the boundary, including road access and utility services
Grant Funding	means grant funding provided by the Homes England or any successor in function thereof
Health Contribution	means the sum of £400 per Dwelling as a financial contribution towards the provision of additional and improved health facilities at the Barton Surgery Dawlish
Household	means anyone who may reasonably be expected to reside with the Qualifying Persons(s)
Housing Need	means being homeless or threatened with homelessness or living in accommodation which in the opinion of the Council is Insecure or unsuitable and being unable to purchase or rent reasonably suitable accommodation in the open market for property in the locality where the Affordable Dwelling is situated taking into account the person's income and capital and other financial circumstances AND for the purpose of this definition, accommodation may (only) be unsuitable on the grounds of cost, overcrowding, unfitness or lack of basic amenities or because of a person's infirmity, physical disability, mental disability or specific social or care needs
Index	means the Consumer Price Index
Insecure	means accommodation which the Qualifying Person does not have a legal right to occupy in the long term
Interest	means interest at 4% above the base lending rate of the Bank of England from time to time
Letting Notice	means a notice the content of which is to be agreed with the Council which contains details of the property to be let and which shall include unless otherwise with the Council: (a) the name and address of the landlord and owner (b) address of the property (c) weekly or monthly rent (not to exceed the Affordable Rent); (d) amount and breakdown of any service charge per week/month/ annum; (e) details of any additional charges; (f) any age or other occupancy restrictions;

- (g) property type;
- (h) property size;
- (i) heating type;
- (j) details of mains services in the property;
- (k) availability of parking space/garage;
- (l) any disabled adaptations;
- (m) provision of any support services;

and which is delivered to the Council clearly addressed and marked for the urgent attention of the Business Manager Housing PROVIDED THAT for the avoidance of doubt an advertisement for the Affordable Dwelling placed on Devon Homechoice and approved by the Council shall be considered a Letting Notice for the purposes of the Second Schedule

Library Contribution	means the financial sum of £59 per Dwelling towards Dawlish Library
Link Bridge	means the link bridge to be provided as part of the works to provide an internal link road in the vicinity of the Development
Link Road Bridge Contribution	means the sum of £1,163 per Dwelling as a financial contribution towards the provision of a Link Bridge
Local Connection	means a connection with the Primary Area, the Secondary Area, the Tertiary Area or the County as appropriate and demonstrated by that person or a member of their Household to the reasonable satisfaction of the Council: (a) being permanently resident therein immediately prior to advertising (in accordance with the approved Scheme of Advertising) and that residence is of their own choice; or (b) being formerly permanently resident therein for a continuous period of five (5) years; or (c) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein immediately prior to advertising (in accordance with the approved Scheme of Advertising); or (d) having a connection through a close family member (normally mother, father, brother, sister, son or daughter) where the family member is currently resident therein and has been so for a continuous period of at least five (5) years immediately prior to advertising (in accordance with the approved Scheme of Advertising); or (e) being in such other special circumstances which the Council considers requires the applicant to reside therein as appropriate and which is consistent with the Devon Homechoice policy as amended from time to time

Local Housing Allowance	means the flat rate rental allowance providing financial assistance towards the housing costs of low income households for different rental market areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department for Work and Pensions or such similar framework that may replace it
Manager for Housing	means the Council's manager for the time being of Affordable Housing
Market Rent	means a rent valued using the definition contained in the RICS Red Book (RICS Valuation - Professional Standards)
Market Value	means the estimated amount for which an asset or liability should exchange on the valuation date as defined in the RICS Red Book (RICS Valuation - Professional Standards)
Marketed Appropriately	means marketing with a reputable estate agent at a price which the Council considers is realistic and achievable
Marketing Period	means a period of not less than 12 months in which the Custom Build Plots will be Marketed Appropriately, which will commence once the Custom Build Plots are Fully Serviced, levelled, accessible by road, have defined boundaries and are available for immediate purchase and development
Marketing Terms	means the Owner's terms and conditions of the sale of the Custom Build Plots which shall be no more restrictive or onerous as the Owner's terms and conditions for the sale any of the Open Market Dwellings
Non-Infrastructure SPA and SAC Mitigation Contribution	means the sum of £800 per Dwelling payable to the Council as a financial contribution towards the provision of non-infrastructure measures for mitigation of impacts upon the Exe Estuary SPA and Dawlish Warren SAC
Occupation	means 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 occupation in relation to security operations relating solely to any of the Dwellings or development authorised by the Permission or demolition and "Occupied" and "Occupy" shall be construed accordingly
Open Market Dwelling	means any dwelling to be constructed pursuant to the Permission which are not Affordable Dwellings
Open Space	means the open space to be provided within the Site in accordance with the terms of this Agreement and specifically in accordance with the Open Space Plan

Open Space Plan	means the open space plan or plans to be approved by the Council in accordance with the terms of this Agreement showing the location of Open Space within the Site
Open Space Specification	means the specification of the Open Space within the Site
Permission	means the outline permission subject to conditions to be granted by the Council under reference 15/02468/MAJ
Phase	means a phase of the Development comprising an area of land identified as a phase in the Phasing Plan
Phasing Plan	means a plan agreed with the Council to indicate the phased development of the Site
Plan	means the plan annexed hereto
Play Areas	means the provision of play space and active recreation (LEAP) areas within the Site in accordance with this Agreement and having a minimum area of 600m ²
Play Plan	means the plan approved by the Council for the Play Areas
Play Specification	means the specification for the provision of the Play Areas within the Site
Play Works	means the works necessary to provide the Play Areas in accordance with the Play Plan and Play Specification
Primary Area	means the town and parish of Dawlish
Public Art Provisions	means the provision of public art within the Site up to a maximum cost to the Owner of £40,000
Qualifying Person	means person(s) who (unless otherwise agreed in writing with the Council) has/have on the date of advertising (in accordance with the Scheme of Advertising) by the Owner of the relevant Affordable Dwelling a Local Connection with (a) the Primary Area; or (b) if no person satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council within a period of 28 days of advertising (in accordance with the approved Scheme of Advertising) the relevant Affordable Dwelling a person who has a connection with the Primary Area or the Secondary Area; or (c) if no person satisfying the requirements of (a) or (b) above has been identified by the Owner in consultation with the Council within a period of 56 days of advertising (in accordance with the approved Scheme of Advertising) the relevant Affordable Dwelling a person who has a connection

	with the Primary Area or the Secondary Area or the Tertiary Area; or
	(d) if no person satisfying the requirements of (a), (b) or (c) above has been identified by the Owner in consultation with the Council within a period of 84 days of advertising (in accordance with the approved Scheme of Advertising) the relevant Affordable Dwelling a person who has a connection with the Primary Area or the Secondary Area or the Tertiary Area or a County Local Connection
Reasonable Service Charge	means a sum that covers the contributions required from time to time for those services and facilities which are of a nature and to a standard reasonably required in connection with the Affordable Dwelling such as maintaining repairing and keeping secure the relevant Affordable Dwelling and its common parts the cleaning and lighting of the common parts and the maintenance of any communal gardens or landscaping areas that directly benefit the Affordable Dwelling
Red Rock Community Facilities Contribution	means the sum of £727 per Dwelling as a financial contribution towards the provision of additional and improved facilities at the Red Rock Community Centre Dawlish
Retail Development Land	means that part of the Site upon which retail development is permitted
Retail Land Marketing Strategy	means the strategy for the marketing of the Retail Development Land at no more than Market Value which shall as a minimum include arrangements for: (a) erection of boards on the Site advertising the Retail Development Land (subject to receiving any advertisement consents from the Council that may be required); (b) the preparation of detailed particulars; (c) the placing of adverts within the appropriate regional and national press advertising the Retail Development Land's availability; and (d) Web/Internet marketing
Reserved Matters Approvals	means a reserved matters approval or reserved matters approvals granted in relation to the Reserved Matters Submission
Reserved Matters Submission	means any reserved matters application(s) made pursuant to the Permission
Residential Drainage Contribution	means the sum of £1,000 per Dwelling
Review Date	means three years from the Commencement of Development
Scheme of Advertising	means the advertising for sale or letting of any interest in the relevant Affordable Dwelling in accordance with a scheme to be approved by the Council (such approval

not to be unreasonably withheld or delayed) which scheme shall include unless otherwise agree with the Council:

(a) in the case of Affordable Rented Housing an advertisement on the website of Devon Homechoice or such other similar website for advertising affordable homes which are ready for letting as agreed by the Council; or

(b) in the case of Intermediate Affordable Housing an advertisement on the website of Help to Buy South West being the Government appointed help to buy agent for Devon or any successor organisation

Secondary Area	means the Parishes of Teignmouth, Bishopsteignton, Ashcombe, Mamhead and Starcross, Devon
Shared Ownership Housing	means a dwelling which is subject to a Shared Ownership Lease
Shared Ownership Lease	means a lease substantially in the form approved or published by Homes England whereby the tenant having paid an initial premium of no more than 75% of the Market Value of the particular unit pays a rent in respect of the remaining equity held by the Owner plus (if appropriate) a Reasonable Service Charge PROVIDED THAT such rent per annum shall: (a) initially be at a level not exceeding 2.75% of the full Market Value of the AHP's retained share of the relevant Affordable Dwelling; and (b) not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant
Site	means the land against which this Agreement may be enforced as described in the First Schedule
Sustainable Travel Voucher	means a voucher to be provided by the Owner which will entitle the holder to redeem the voucher with a 12 month period following first Occupation of the relevant Dwelling on application against the cost of using sustainable transport modes (such as the cost of bus travel in the vicinity of the Site or the cost of bicycle or cycling equipment) to a maximum value of £300 per household
Teignbridge Local Plan	means the development plan adopted by the Council covering the period 2013-2033
Tertiary Area	means the administrative area of Teignbridge District Council
Traffic Regulation Order	means a traffic order made by the County Council to prevent right hand turns into Elm Grove Road EX7 0BY
Travel Pack	means the package of travel information produced and to be provided to the first residents of each of the Dwellings to be constructed on the Site by the Owner

aimed at encouraging residents of the Development to use sustainable modes of transport (including a location plan of bus stops near to the Site a bus timetable and bus route plan cycle route map and any other information which the County Council and/or the Owner considers appropriate towards promoting sustainable transport objectives) and which is approved by the County Council

Viability Review	means an up-to-date professional market appraisal of the viability of the Development prepared for and submitted by the Owner to the Council using the methodology in the Application Viability Appraisal limited to the Construction Costs and Other Construction Costs (as set out in the Application Viability Appraisal of the Development) which shall be indexed by reference to the relevant indices agreed in advance with the Council
Welcome Pack	means a welcome pack for new residents of the Dwellings to be constructed on the Site containing a Travel Pack, a Sustainable Travel Voucher and any other information which the Owner and/or County Council considers appropriate towards promoting sustainable transport objectives
Wheelchair Accessible	means dwellings which are accessible internally and externally to wheelchair users - fully compliant with Part M 4 Level 3 of the Building Regulations
Working Days	means any Monday to Friday (other than Bank or Public Holidays)

3. Construction of this Agreement

- 3.1 Where in this Agreement reference is made to any clause paragraph Schedule or recital such reference (unless the context otherwise requires) is a reference to a clause paragraph or Schedule or recital in this Agreement
- 3.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 3.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and firms and all such words shall be construed as being interchangeable in that manner
- 3.4 Wherever there is more than one person named as party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise

3.5 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

3.6 Reference to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County Council the successors to their respective statutory functions

4. Legal Basis

4.1 This Agreement is made as a deed pursuant to section 106 of the 1990 Act, section 111 Local Government Act 1972 and section 1 Localism Act 2011 and all other statutory and other enabling powers

4.2 The covenants restrictions and requirements imposed upon the Owner under the Agreement create planning obligations pursuant to section 106 of the 1990 Act and are enforceable by the Council and by the County Council as local planning authorities against the Owner

5. Conditionality

5.1 This Agreement is conditional upon the grant of the Permission

6. Owner's Covenants with the Council

6.1 The Owner covenants with the Council as set out in the Second Schedule, Third Schedule, Fourth Schedule, Fifth Schedule, Sixth Schedule, Seventh Schedule, Eighth Schedule, Ninth Schedule, Tenth Schedule, Eleventh Schedule, Twelfth Schedule, Thirteenth Schedule, Fourteenth Schedule and Fifteenth Schedule

7. Owner's Covenants with the County Council

7.1 The Owner covenants with the County Council as set out in the Sixteenth Schedule

8. Council's Covenants to the Owner

- 8.1 The Council covenants with the Owner as set out in the Seventeenth Schedule

9. County Council's Covenants to the Owner

- 9.1 The County Council covenants with the Owner as set out in the Eighteenth Schedule

10. Affordable Housing Viability Review

- 10.1 The Council and the Owner agree to comply with their respective obligations in the Nineteenth Schedule

11. Miscellaneous

- 11.1 The Owner shall pay to the Council and the County Council on completion of this Agreement the reasonable legal costs of the Council and the County Council incurred in the negotiation preparation and execution of this Agreement
- 11.2 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 11.3 This Agreement shall be registerable as a local land charge by the Council.
- 11.4 Where any agreement approval consent or expression of satisfaction is required by the Owner from either the Council or the County Council under the terms of this Agreement such agreement approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement consent approval or expression of satisfaction shall be given on behalf of the Council by the Business Manager Development Management and by the County Council by the Head of Planning and Transportation and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party
- 11.5 At any time after fulfilment of a planning obligation contained in this Agreement the Council or the County Council shall upon the written request of the Owner issue to the Owner a certificate confirming compliance with an fulfilment of the relevant planning obligation and following the performance and satisfaction of all the planning obligations contained in this Agreement the Council shall forthwith effect the cancellation of all entries made in the register of local land charges in respect of this Agreement

11.6 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or enforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement

11.7 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development

11.8 No person shall be liable for any breach of the any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site or the part of the Site to which obligations or other provisions relate but without prejudice to liability for any subsisting breach arising prior to parting with such interest

SAVE FOR the Affordable Dwellings and any Dwellings that are prevented by the obligations in this Agreement to be Occupied until the matters required to be undertaken have been performed to the satisfaction of the Council this Agreement shall not be enforceable against the owner occupiers or tenants of individual Dwellings (which for the avoidance of doubt cannot include the Owner or Applicant) nor against those deriving title from them; nor against any mortgagees or chargees of any individual Dwelling or receivers appointed by any such mortgagee or chargee (subject to compliance in the case of Affordable Dwellings with Second Schedule paragraph 1.17)

AND as a consequence of the release given in this clause this Agreement may be modified varied or released without the consent or approval of any such owner occupier tenant mortgagee chargee or receiver without them being a party to any document or deed required to affect such modification variation or release but such document or deed shall take effect as if they had been a party to such document or deed

11.9 This Agreement shall not be binding on nor enforceable against any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage telecommunications services or public transport services

11.10 The provisions of this Agreement may be varied by the parties hereto by written agreement under Section 106A of the 1990 Act and that agreement shall not (for the avoidance of doubt) require the consent or approval of the parties referred to in clause 11.8 above

12. Notice of Commencement and Occupation

12.1 The Owner shall give the Council and the County Council written notice of:

- (a) Commencement of Development of each Phase;
- (b) first Occupation of any Dwelling of each Phase;
- (c) Occupation of 60% of the Dwellings in each Phase; and
- (d) Occupation of 80% of the Dwellings in each Phase

AND such notice shall be marked for the attention of the relevant officers specified in clause 11.4 above and provided no later than 10 Working Days before the relevant event is anticipated to occur

13. Waiver

13.1 No waiver (whether expressed or implied) by the Council or the County Council or any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent either the Council or the County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default

14. Indexation and Interest

14.1 Any sum payable by the Owner and referred to the Schedules hereto shall unless otherwise provided in the Agreement be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum if payable provided that if the Index shall cease to exist there shall be submitted such other index of building costs as shall be specified by the Council or by the County Council (as appropriate) acting reasonably

14.2 If any payment due to be paid by the Owner under this Agreement is paid late Interest will be payable from the date payment is due to the date of payment

15. VAT

15.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable

16. Jurisdiction

16.1 This Agreement is governed by an interpreted in accordance with the Law of England and Wales