



**CORNWALL
COUNCIL**
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THIS AGREEMENT is made *25th July* 2024

THE CORNWALL COUNCIL (1)

And

HAVILAND JOHN KENDALL (2)

And

KATIE LOUISE SHUTTKACKER AND KIM DODGE (3)

And

WAIN HOMES (SOUTH WEST) LIMITED (4)

PLANNING OBLIGATION BY AGREEMENT under

Section 106 of the Town and Country Planning Act 1990

Relating to

Land at Tencreek Farm, Plymouth Road, Liskeard, Cornwall, PL14 3PS

**Legal Service
The Cornwall Council
County Hall
Truro
Cornwall
TR1 3AY
Ref: PA22/03642**

THIS DEED is made *25th July* 2024

BETWEEN

- (1) **THE CORNWALL COUNCIL** of County Hall Treyew Road Truro TR1 3AY (**"the Council"**)
- (2) **HAVILAND JOHN KENDALL** of Ten creek Fam, Liskead, Cornwall, PL14 3PS (**"the Owner"**);
- (3) **KATIE LOUISE SHUTTKACKER and KIM DODGE** of c/o 7 Sandy Court, Ashleigh Way, Langage Business Park, Plymouth, PL7 5JX (**"the Promoter"**); and
- (4) **WAIN HOMES (SOUTH WEST) LIMITED** registered with company number 04187073 of Unit 2, Exeter International Office Park, Clyst Honiton, Exeter, EX5 2HL (**"the Developer"**)

WHEREAS

1. The Council is the Local Planning Authority for the purposes of this Deed for the area within which the land described in the First Schedule is situated and by whom the obligations contained in this Deed are enforceable.
2. The Owner is interested as freehold owner in the Land which is registered at the Land Registry with title absolute under title numbers CL260419, CL135790 and CL195060.
3. The Promoter has an interest in the Land by virtue of the Option Agreement and the Developer will acquire the Land from the Promoter following grant of Planning Permission.

4. The Developer has applied to the Council for planning permission for the Development on the Land and the Council is minded to grant approval of the Development pursuant to the Application subject to the Owner first entering into this Deed

NOW THIS DEED is made in pursuance of Section 106 of the 1990 Act and contains planning obligations and is a planning obligation for the purposes of that Section and **WITNESSES** as follows:

1. **DEFINITIONS AND INTERPRETATION**

It is agreed and declared as follows for the purposes of this Deed the following expressions shall have the following meanings:

- 1.1 **Definitions**

"1990 Act" means the Town and Country Planning Act 1990 (as amended)

"1999 Act" means The Contracts (Rights of Third Parties) Act 1999 as may be amended from time to time

"Actual Date" means the date on which a Dwelling is Practically Completed

"Anticipated Date" means the date on which the Owner anticipates that a Dwelling will be Practically Completed

"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 agreed with the Council):

- (a) In the case of Affordable Rented Dwellings
- i) an advertisement on the website of Cornwall Homechoice or such other similar website for advertising affordable homes which are ready for letting as agreed by the Council, and which shall also include a “coming soon” advertisement in the case of Initial Lettings; and
 - ii) Notification to relevant applicants on the Cornwall Homechoice register or any other similar register for people looking to rent affordable homes which may replace these
- (b) In the case of RP Shared Ownership Dwellings
- i), an advertisement on the website of any organisation promoting intermediate market housing, and which shall also include a “coming soon” advertisement in the case of Initial Sales; and
 - ii) , an advertisement on Rightmove or Zoopla or other leading UK property site as agreed in writing with the Council
- (c) In the case of all Affordable Dwellings:
- i). In the case of Initial Sales and Initial Lettings an advertising board on the development site;
 - ii). Notification to the relevant parish/town councils and Cornwall Council Electoral Division Member in the Parish of Menheniot and Town of Liskeard; and
 - iii). Such other advertising and social media channels as shall be agreed in writing by the Council

PROVIDED THAT all advertising shall contain such details of the Qualifying Person criteria as agreed by the Council and the term "Advertised" shall be construed accordingly

"Affordable Dwellings" means any one of the 50 (fifty) Dwellings (including any associated parking space(s) and residential curtilage) referred to in the Application and/or the approved Affordable Housing Scheme in accordance with the Affordable Housing Mix comprising:

- (a) Affordable Rented Dwellings; and
- (b) RP Shared Ownership Dwellings;

to be constructed on the Land pursuant to the Planning Permission and "Affordable Dwelling" means any one of the said dwellings

"Affordable Housing" means affordable housing for sale or rent for those whose needs are not met by the market and as defined in the National Planning Policy Framework July 2021 or any subsequent or equivalent policy that may replace it

"Affordable Housing Contribution" means the sum of forty six thousand pounds (£46,000) (which is inclusive of the Enabling Activity Fee) increased by the Percentage towards the provision of Affordable Housing;

"Affordable Housing Scheme" means a scheme for the provision of the Affordable Dwellings forming part of the Development in the form provided at Annex 5 to this Deed which shall include unless otherwise agreed with the Council:

Arrangements for the provision of the Affordable Dwellings:-

- (a) Details of the basis of calculation of any service charges, ground rents or management fees to be applied to the Affordable Dwellings;

- (b) Details of the construction and equipping of the Affordable Dwellings;
- (c) The name of the Registered Provider (if known);
- (d) Details of the Price of the relevant Affordable Dwellings;
- (e) Details of any Local Connection criteria applied to affordable dwellings;
- (f) Details of the design and quality standards to be applied to the Affordable Dwellings;
- (g) Location and tenure of the Category 2: Accessible and Adaptable Dwellings;
- (h) Location and tenure of any Category 3: Wheelchair User Dwellings; and
- (i) A scheme of Advertising of the Affordable Dwellings for Initial Sales and Initial Lettings

"Affordable Housing Land" means the plots forming part of the Land upon which the Affordable Dwellings are to be constructed

"Affordable Housing Mix" means the number size tenure and mix of Affordable Dwellings set out in Annex 1 of the Second Schedule or such other size tenure and mix as agreed in writing with the Council;

"Affordable Rent" a rent which does not exceed 80% of the local Open 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 rental 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%

"Affordable Rented Dwellings" means the thirty five (35) dwellings to be constructed on the Affordable Housing Land and let by a Registered Provider to Qualifying Persons, constructed to Space Standards, let at an Affordable Rent and "Affordable Rented Dwelling" means any one of the said dwellings

"Alternative Affordable Home" means either:

- (a) an Alternative Social Rented Dwelling an Alternative Affordable Rented Dwelling or an Alternative Intermediate Dwelling provided by a Registered Provider; or
- (b) an Alternative Intermediate Dwelling provided by a private developer and in either case located in the County

"Alternative Affordable Rented Dwelling" means an affordable dwelling made available to eligible persons whose needs are not adequately served by the commercial housing market subject to rent controls that require it to be offered to eligible persons in accordance with part VI Housing Act 1996 at a rent that is up to 80% of the local Open Market Rent;

"Alternative Intermediate Dwelling" means affordable dwellings for sale or rent at a cost above Alternative Affordable Rented Dwelling and Alternative Social Rented Dwelling levels but lower than the local Open Market Rent levels/Open Market Value to eligible persons;

"Alternative Social Rented Dwelling" means affordable dwellings where the rent is no higher than that determined by the National Rent Regime published from time to time by Homes England (or such other body who may replace the same);

"Application" means the application for full planning permission to carry out the Development and which was validated by the Council on 27 June 2022 and allocated planning reference PA22/03642.

"Assured Tenancy" means an assured tenancy or an assured shorthold tenancy under the Housing Act 1988 as amended by the Housing Act 1996 or such other similar form of periodic tenancy permitted under any statutory modification

"Category 1: Visitable Dwellings (M4(1))" means dwellings which are built to standards which require that

(1) Reasonable provision should be made for people to:

- a) gain access to; and
- b) use, the dwelling and its facilities.

as specified in the 'Requirement M4(1): Category 1 - Visitable dwellings' section of the Building Regulations 2010 Approved Document M 2015 edition or such similar standards and regulations that may replace these;

"Category 2: Accessible and Adaptable Dwellings (M4(2))" means dwellings which are built to standards which require that

(1) Reasonable provision must be made for people to:

- a) gain access to; and b) use, the dwelling and its facilities.

and

(2) The provisions made must be sufficient to:

a) meet the needs of occupiers with differing needs, including some older or disable people; and

b) to allow adaptation of the dwelling to meet the changing needs of occupants over time

as specified in the 'Optional Requirement M4(2) Category 2: Accessible and adaptable dwellings' section of the Building Regulations 2010 Approved Document M 2015 edition or such similar standards and regulations that may replace these;

"Category 3: Wheelchair User Dwellings (M4(3))" means dwellings which are built to standards which require that

(1) Reasonable provision must be made for people to:

a) gain access to; and

b) use, the dwelling and its facilities.

and

(2) The provisions made must be sufficient to:

a) allow simple adaptation of the dwelling to meet the needs of occupants who use wheelchairs;

as specified in the 'Optional Requirement M4(3) Category 3: Wheelchair user dwellings' section of the Building Regulations 2010 Approved Document M 2015 edition or such similar standards and regulations that may replace these;

"Commencement of Development" means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose):

(a) operations consisting of site clearance and survey;

(b) demolition work;

(c) archaeological investigations;

- (d) investigations for the purpose of assessing ground conditions;
 - (e) preparation and enabling works;
 - (f) remedial work in respect of any contamination or other adverse ground conditions;
 - (g) diversion and laying of services;
 - (h) erection of any temporary means of enclosure;
 - (i) the temporary display of site notices or advertisements; and
- “Commence” “Commencement of Development” and “Commence Development” shall be construed accordingly

“Completions Spreadsheet” means a spreadsheet (in the form at Annex 4) detailing the either the Actual Date or Anticipated dates (as applicable pursuant to the Second Schedule);

“Cornwall Homechoice” means a choice based scheme (as amended from time to time) developed and operated in partnership between Cornwall Council and local Registered Providers or any such successor scheme;

“County” means the County of Cornwall

“Development” means the development of the Land in accordance with the Planning Permission for the erection of 202 residential dwellings (Use Class C3) together with associated landscaping, open space, access, and infrastructure

“Dwelling” means any dwelling permitted pursuant to the Planning Permission and the term “Dwellings” shall mean all of them

“Eligibility Criteria” 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. Accommodation may 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;

“Enabling Activity Fee” means a financial contribution to help fund the Council’s additional costs of enabling Affordable Housing to be provided on alternative sites;

“Exempt Person” means any person who:

- (a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any similar or replacement statutory provision for the time being in force in respect of a particular Affordable Dwelling;
- (b) has exercised any statutory right to buy in respect of a particular Affordable Dwelling;
- (c) has been granted or has taken an assignment of a Shared Ownership Lease in respect of a particular Affordable Dwelling and the person has subsequently purchased 100% of the equity in the said Affordable Dwelling on final Staircasing

“Expert” means a person having appropriate qualifications and local knowledge and experience in the matters in dispute as agreed by the Relevant Parties or failing agreement such person as is nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Relevant Parties

"Homes England" means the body for the time being responsible for providing financial assistance to bodies including Registered Providers of social housing for the purpose of improving the supply and quality of housing in England now conferred on such body under the Housing and Regeneration Act 2008 or any legislation replacing or amending the same

"Household" means anyone who may reasonably be expected to reside with the Qualifying Person(s)

"Housing Application" means in the case of an Affordable Rented Dwelling a bid through Cornwall Homechoice or in the case of a RP Shared Ownership Dwelling an application for a specific property

'Index' means the percentage rise in the United Kingdom Consumer Price Index when the index figure published in the September before the day of rent review is compared with the published index figure in the preceding September but if the basis for calculation of the Consumer Price Index has changed and any method of calculation between the new and the old figures is officially published that method shall be used for the purposes of comparison under this provision

"Initial Letting" means the first tenancy following Practical Completion of the Affordable Dwelling

"Initial Sale" means the first sale following Practical Completion of the Affordable Dwelling

"Insecure" means accommodation which the Qualifying Person does not have a legal right to occupy in the long term

"Interest" means 4% above the Base-lending rate of the National Westminster Bank Plc from time to time or such other bank as the Council may notify the Owner

"Intermediate Rent" means a rent which does not exceed 80% of the local Open 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 rental 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%

"Land" means the Land referred to in the First Schedule and Recitals 1 and 2 hereof

"Letting Notice" means a notice which contains details of the property to be let and which shall include unless otherwise agreed with the Council:

- (a) the name and address of the landlord and Owner;
- (b) address of the property;
- (c) weekly or monthly rent;
- (d) amount and breakdown of any service charge per week, month or 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 Service Director – Planning & Housing.

"Local Connection" means a connection with the Town or County (as appropriate) which is demonstrated by that person or a member of their Household complying with any one of the following criteria to the reasonable satisfaction of the Council:

- (a) they have been permanently resident therein for a continuous period of at least three (3) years immediately prior to the date of a Housing Application and that residence is of their own choice; or
- (b) they have his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal or casual employment) therein for a continuous period of at least three (3) years immediately prior to the date of a Housing Application; or
- (c) they have 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 the date of a Housing Application and where there is independent evidence that the family member is in need of or can give support for the foreseeable future or on an ongoing basis; or
- (d) they have been permanently resident in the County for ten (10) out of the first sixteen (16) years of life; or

- (e) they are in such other special circumstances which the Council considers requires the applicant to reside therein as appropriate and which is consistent with the Cornwall 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 of Works and Pensions or such similar framework that may replace it

“Local Housing Market Area” means an area well related to the Land and judged as being a suitable location for affordable housing capable of meeting the housing needs of the Town and shall include the area within South East Cornwall community area partnership

“Minimum Local Connection” means a connection with the County and demonstrated by that person or a member of their Household complying with the following criteria to the reasonable satisfaction of the Council:

- (a) being permanently resident therein for a continuous period of at least 12 months immediately prior to the date of a Housing Application and that residence is of their own choice; or
- (b) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal or casual employment) therein immediately prior to the date of a Housing Application;

“Mortgagee” means either:

- (a) the mortgagee of the Land or any part thereof; or

- (b) the mortgagee of an individual Affordable Dwelling where the mortgagor has defaulted on the particular mortgage; or
- (c) any mortgagee or chargee of the Registered Provider 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 (howsoever appointed) including a housing administrator

"Mortgagee's Duty" means the tasks and duties set out in paragraph 6.2 of Part 2 of the Second Schedule of this Deed

"Occupation" means occupation for the purposes of residential use permitted by the Planning 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 and the terms "Occupied" "Occupy" and "Occupier" shall be interpreted accordingly;

"Option Agreement" means the agreement dated 10 April 2020 between (1) Haviland John Kendall and (2) Katie Louise Shuttkacker and Kim Dodge;

"Offer" means an offer in writing made by the Owner to the Registered Provider in the form set out and completed in accordance with Annex 2 of the Second Schedule

"Open Market Dwellings" means the Dwellings other than the Affordable Dwellings;

“Open Market Rent” means a rent valued using the definition of the International Valuations Standard Committee as adopted by the Royal Institution of Chartered Surveyors and approved by the Council

“Open Market Value” means the price which 100% of the freehold or long leasehold interest (as the case may be) in the relevant Affordable Dwelling would fetch if sold on the open market by a willing vendor and disregarding the obligations and restrictions contained in this Deed and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and in accordance with the Shared Ownership Lease;

“Percentage” means the increase in the percentage rise in the United Kingdom General Index of Retail Prices (All Items) when the last published index figure before the day of payment is compared with the last published index figure before the date of this Agreement but if the basis for calculation between the new and the old figures is officially published that method shall be used for the purposes of comparison under this provision

“Phase” means each phase of construction of the Development identified in a phasing plan approved by the Council and pursuant to the Planning Permission;

“Plan” means the plan referred to in the First Schedule and annexed hereto labelled ‘Plan’

“Planning Administration Fee” means a fee of £5572 (five thousand five hundred and seventy two pounds) to cover the expenses incurred by the Council in monitoring compliance with the obligations contained in this Deed

"Planning Permission" means the planning permission to be granted pursuant to the Application

"Practical Completion" means the practical completion of the Dwellings as evidenced by the issue of a certificate by an architect, surveyor or other suitably qualified professional person confirming that the construction of the Dwelling is completed internally and externally and "Practically Completed" shall have the same meaning

"Price" means the sum agreed with the Owner by the Registered Provider without the input of any Subsidy for the provision of the Affordable Dwellings

"Qualifying Person" means person(s) who (unless otherwise agreed with the Council):

- (a) has / have a Local Connection with the Town; or
- (b) If no person satisfying the requirement of (a) above has been identified by the Owner in consultation with the Council on the date of Advertising by the Owner of the relevant Affordable Dwelling a person who has a Local Connection with the Town or the County or,
- (c) in the case of RP Shared Ownership Dwellings if no person satisfying the requirements of (a) or (b) has been identified by the Owner in consultation with the Council within a period of 70 days of Advertising the relevant RP Shared Ownership Dwelling a person who has a Local Connection with the Town or the County or a person who has the Minimum Local Connection

PROVIDED

- (1) that priority will always be given to a person who has a Local Connection with the Town followed by a person who has a Local Connection with the County

- (2) that the Council reserves the right not to allow the letting of an Affordable Rented Dwelling to a Qualifying Person with a Local Connection with the Town should the letting result in an under occupancy of the Affordable Rented Dwelling by more than one bedroom; and
- (3) that in the case of a dwelling which has been constructed or adapted to meet the needs of disabled persons the sale or letting of an Affordable Dwelling should be allocated in accordance with the following priority:

a) a disabled person or

b) a person aged 55 or over or

c) any person

who EITHER

(i) satisfies the Eligibility Criteria; or

(ii) is releasing an Alternative Affordable Home elsewhere; or

(iii) who has been accepted onto Cornwall Homechoice and

who on the date of Advertising has a Local Connection with the County PROVIDED that the Affordable Dwelling has first been offered to any disabled person who satisfies the requirements in EITHER (i) or (ii) OR (iii) AND who on the date of Advertising has a Local Connection with the Town followed by any disabled person who satisfies the requires in Either (i) or (ii) OR (iii) AND who on the date of Advertising has a Local Connection with the County followed by any person aged 55 years or older who satisfies the requirements in EITHER (i) or (ii) OR (iii) AND who on the date of Advertising has a Local Connection with the Town followed by any person who satisfies the requirements of (i) or (ii) or (iii) AND who on the date of Advertising has a Local Connection with the

Town followed by any person aged 55 years or older who satisfies the requires in Either (i) or (ii) OR (iii) AND who on the date of Advertising has a Local Connection with the County followed by any person who satisfies the requirements in Either (i) or (ii) OR (iii) AND who on the date of Advertising has a Local Connection with the County

SAVE THAT where an Affordable Dwelling is subject to the provisions of The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 such person(s) that fall within Regulation 3 (3) of those regulations shall not be required to have a Local Connection with the Town or County

“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 common parts and the maintenance of any communal gardens or landscaping areas that directly benefit the Affordable Dwelling

“Registered Provider” means a body which is:

- a) registered as a provider of social housing under part 2 of the Housing and Regeneration Act 2008 or such other class of body as may be constituted under any legislation replacing that provision (and which shall include the Council as a provider of social housing) and
- b) approved by the Council

“Relevant Parties” means the parties to this Deed or their successors in title and/or assigns and in the case of the Council includes any statutory successors as local planning authority

“ RP Shared Ownership Dwellings” means the fifteen (15) dwellings to be constructed on the Affordable Housing Land and which are owned and managed by or in partnership with a Registered Provider, constructed to Space Standards and which are subject to a Shared Ownership Lease and a **“ RP Shared Ownership Dwelling”** means any of the said dwellings

“Section 73 Permission” means any planning permission granted pursuant to Section 73 of the 1990 Act which varies and/or removes the condition imposed on the Planning Permission subject to which any such planning permission is granted

"Shared Ownership Lease" means

a lease substantially in the form approved or published by Homes England whereby the tenant having paid an initial premium calculated by reference to a maximum of 75% of the Open 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 and whereby the tenant may in successive tranches purchase up to 100% of the equity in the unit:

PROVIDED THAT such rent per annum shall:

- (a) initially be at a level not exceeding 2.5% of the full Open Market Value of the Registered Provider's retained share of the relevant affordable unit; and
- (b) not be at a level which is in conflict with any applicable Homes England restrictions relating to charges payable by the tenant

"Space Standards" means homes built to the minimum gross internal floor areas and storage (m²) for the relevant property type and size as set out in the Department for Communities and Local Government document 'Technical Housing Standards --

Nationally Described Space Standards' first published in May 2015 or any other similar standards that may replace these

"Staircasing" the purchase by the owner of an individual RP Shared Ownership Dwelling of additional equity in their RP Shared Ownership Dwelling;

"Subsidy" means capital grant funding provided by the Council and/or Homes England or other such body as may succeed it

"Town" means the Parish of Menheniot and town of Liskeard within the County

"Working Days" means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory Bank Holiday and the term "Working Day" shall be construed accordingly

1.2 Interpretation

1.2.1 The expressions "the Council" "the Owner", "the Promoter" and "the Developer" shall include their successors in title and assigns and any person(s) or body corporate deriving title through or under them

1.2.2 Words importing the masculine gender only shall include all other genders and vice versa

1.2.3 Words importing the singular shall include the plural and vice versa

1.2.4 Words importing persons shall include companies and corporations and vice versa

- 1.2.5 Where any party consists of two or more persons companies or corporations the Deed expressed to be made by that party and the conditions and provisions contained in this Deed shall be deemed to have been made jointly and severally by the persons named as that party
- 1.2.6 Save where a contrary intention is expressed a reference herein to a clause or Schedule shall be deemed to be a reference to a clause or Schedule of this Deed and reference to a sub-clause paragraph or Part shall be deemed to be a reference to a sub clause or paragraph or Part of the clause or Schedule in which such reference appears
- 1.2.7 All references 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
- 1.2.8 The clause and paragraph headings herein are for ease of reference only and shall not affect the interpretation of this Deed

2. STATUTORY PROVISIONS

- 2.1 This Deed is made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Owner's interest in the Land and to the intent that the obligations on the part of the Owner herein contained falling within the provisions of Section 106 of the 1990 Act shall be planning obligations for the purposes of Section 106 of the 1990 Act and

are enforceable by the Council as local planning authority in accordance therewith but subject as hereinafter provided

- 2.2 No person shall be liable for breach of a covenant contained in this Deed after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenants prior to parting with such interest
- 2.3 This Deed shall take effect from the date hereof save for the obligations contained within Schedule 2 of this Deed which are conditional upon the grant of Planning Permission and the Commencement of Development PROVIDED THAT if the Planning Permission is revoked, withdrawn without the Owners consent or expires by the effluxion of time then this Deed shall cease to have effect provided always that at the time of the said revocation no Development has Commenced;
- 2.4 The provisions of the 1999 Act shall not apply to this Deed and no third party shall have any rights to enforce the terms of this Deed
- 2.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable, then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 2.6 In the event the Council shall at any time grant a Section 73 Permission after the date of this Deed:
- (i) obligations in this Deed will relate to and bind any and all such Section 73 Permission without the need to enter into a subsequent deed of variation or new agreement pursuant to section 106 of the 1990 Act; and

- (ii) the definitions of Application, Development and Planning Permission shall include reference to any such subsequent planning applications for the Section 73 Permission, the development permitted by the Section 73 Permission and the Section 73 Permission itself and this Deed shall hereafter take effect and be read and construed accordingly;

PROVIDED THAT

- (iii) nothing in this clause will fetter the discretion of the Council in determining any planning application for a Section 73 Permission and the appropriate planning obligations required in connection with the determination of any such planning application and any such further planning obligation or amendment by deed in connection with any Section 73 Permission in the event the Council considers it necessary.

2.7 This Deed shall not be enforceable against:

- 2.7.1 Save for Schedule 2 Part 2, Part 3 and Part 4 and the restrictions on Occupation and use set out therein, an individual owner occupier of a single Dwelling or their respective mortgagee or chargee;
- 2.7.2 Save for Schedule 2 Part 2, Part 3 and Part 4 and the restrictions on Occupation and use set out therein, a Registered Provider or their respective Mortgagee;
or
- 2.7.3 or any statutory undertaker or other person who owns or acquires any part of the Land.

- 2.8 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 Planning Permission subject to this Deed) granted after the date of this Deed.

3. COVENANTS

The Owner covenants with the Council to fulfil the obligations and restrictions specified in this Deed

4. OWNER'S FURTHER AGREEMENT

The Owner further agrees as follows:

- 4.1 To supply to the Council (within 21 days of the Council's written request to do so (which shall be limited to three times a year)) such information as the Council within its reasonable discretion considers that it requires in order to determine whether the terms and conditions of this Deed are being observed

4.2 DEVELOPERS COVENANTS

The Developer covenants with the Council to pay the Council's reasonable legal fees and any costs incurred in the negotiation preparation and execution of this Deed on completion of this Deed; and

- 4.3 To pay the Council's Planning Administration Fee on completion of this Deed

5. REGISTRATION

The parties hereby consent to the registration of this Deed as a Local Land Charge by the Council

6. PROMOTER & DEVELOPER AKNOWLEDGEMENT

The Promoter acknowledges and agrees that this Deed has been entered into by the Owner at their request and with their consent and that the Land shall be bound by the obligations contained in this Deed.

The Developer acknowledges and agrees that this Deed has been entered into by the Owner at their request and with their consent and that the Land shall be bound by the obligations contained in this Deed.

7. NOTICES

Any notice consent or approval required to be given under this Deed to any party to this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class post to the address of the party aforesaid or such other address for service as shall have been previously notified by the party to the other parties

8. SETTLEMENT OF DISPUTES

8.1 Any dispute arising out of the provisions of this Deed shall be referred to the Expert for the determination of that dispute PROVIDED THAT the provisions of this clause shall be without prejudice to the right of any party to seek the resolution of any matter relating to the Deed by the courts and / or in accordance with Section 106(6) of the 1990 Act

8.2 The Expert shall be appointed jointly by the Relevant Parties who are in dispute

8.3 The decision of the Expert shall be final and binding upon the Relevant Parties and subject to the following provisions:-

- (1) the charges and expenses of the Expert shall be borne equally between the Relevant Parties who are in dispute unless the Expert shall otherwise direct;
- (2) the Expert shall give the Relevant Parties who are in dispute an opportunity to make representations and counter representations to him before making his decision;
- (3) the Expert shall make his decision within the range of any representations made by the Relevant Parties who are in dispute themselves;
- (4) where there is a dispute as to the amount of any contribution the Owner shall pay its estimate of such contribution to the Council at the time specified in this Deed and shall pay any difference between that figure and the amount determined by the Expert within 28 days of the Expert's decision together with Interest thereon calculated (in accordance with this Deed) from the date the payment was required until the date it is made

9. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales and where there is a conflict between the two the laws of England shall prevail

10. COVENANTS BY THE COUNCIL

10.1 The Council covenants with the Owner and the Developer:

10.1.1 Following receipt of a written request (limited to three occasions per year) from the Owner, to provide written confirmation of the discharge of the

obligations contained in this Deed when satisfied that such obligations have been performed;

10.1.2 Where the approval, consent, expression of satisfaction, agreement, confirmation or certification of Council is required for any purpose under or in connection with the terms of this Deed such approval, consent, expression of satisfaction, agreement, confirmation, or certification shall not be unreasonably withheld or delayed; and

10.1.3 To use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid;

11. VAT

All contributions paid in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

12. Future Mortgagee

A Mortgagee with a charge over the Land or part of the Land after the date of this Agreement shall have no liability under this Agreement unless it takes possession of the Land or part thereof or it becomes a mortgagee or chargee in possession in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

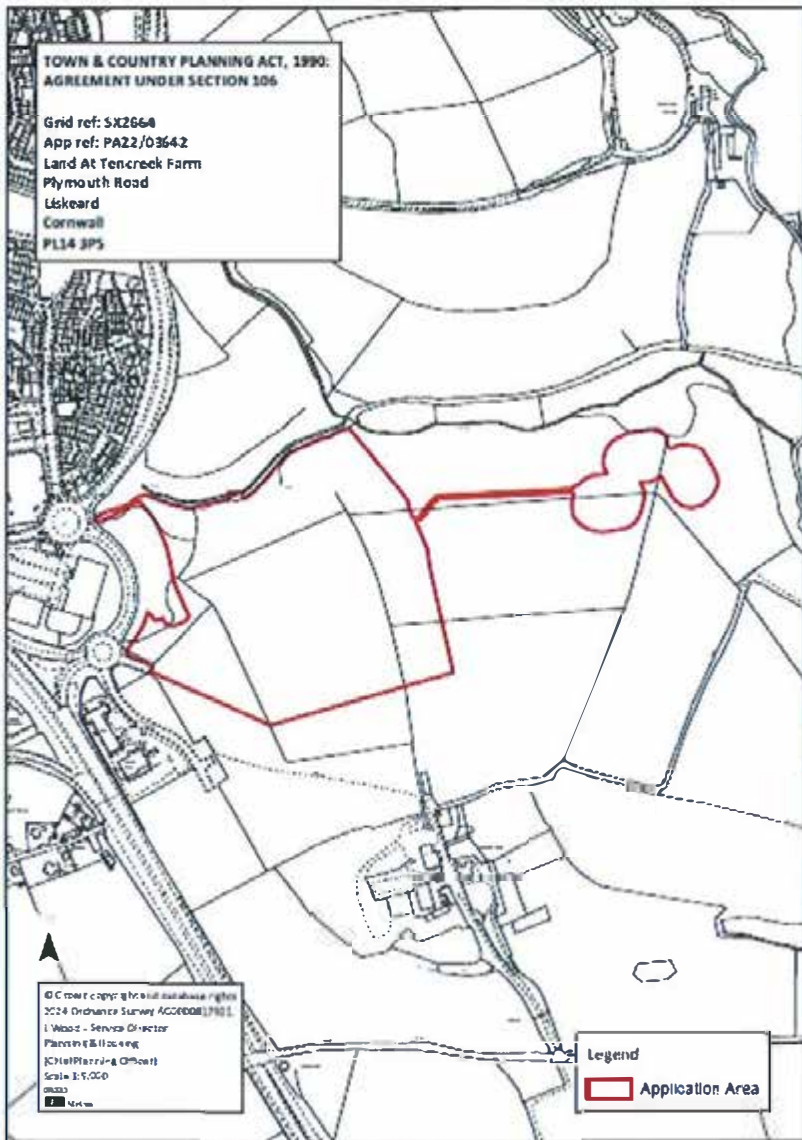
IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

THE FIRST SCHEDULE

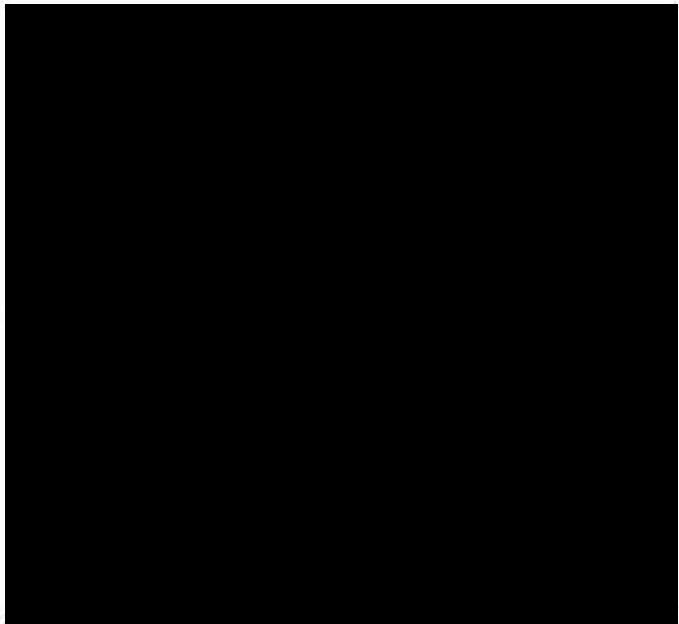
("the Land")

ALL THAT piece or parcel of land known as Tencreek Farm, Plymouth Road, Liskeard, Cornwall, PL14 3PS, **ALL OF WHICH** said land is shown for identification purposes only edged with a red line on the Plan

The Plan



07 1864



THE SECOND SCHEDULE

("the Obligations and Restrictions")

PART 1 – NOTICE

1 NOTICE OF COMMENCEMENT

- 1.1 Prior to Commencement of Development the Owner shall serve notice on the Council clearly addressed and marked for the attention of the Head of Planning and Regeneration for the Council confirming the proposed date for the Commencement of Development;
- 1.2 No Development shall Commence until the Owner has served notice on the Council clearly addressed and marked for the attention of the Head of Planning and Regeneration for the Council confirming the date for the Commencement of Development in accordance with paragraph 1.1 of this Schedule.

PART 2 – AFFORDABLE HOUSING – GENERAL PROVISIONS

1 ACCESSIBLE AND ADAPTABLE DWELLINGS

- 1.1 A minimum of 44 of the Dwellings shall be constructed to Category 2: Accessible and Adaptable Dwellings (M4(2)) in accordance with the Affordable Housing Mix
- 1.2 A minimum of 6 of the Affordable Dwellings shall be constructed to Category 3: Wheelchair User Dwellings (M4(3)) in accordance with the Affordable Housing Mix

2 DETAILS OF THE AFFORDABLE HOUSING

- 2.1 No Development shall Commence until the Affordable Housing Scheme has been submitted to and has been approved in writing by the Council (such approval not to be unreasonably withheld or delayed by the Council)
- 2.2 Subject to the other provisions of this Deed to provide on the Affordable Housing Land (and to do so in perpetuity subject to paragraph 6 of this Schedule) the Affordable Dwellings in accordance with the Affordable Housing Mix and the approved Affordable Housing Scheme.

3 PHASING AND TIMING FOR PROVISION OF THE AFFORDABLE HOUSING

3.1 Not to permit or otherwise allow the Commencement of any Dwellings above ground floor slab level until

a) a Completions Spreadsheet has been served on the Council detailing the Anticipated Dates in respect of all of the Dwellings; and

a) the Owner has served upon the Registered Provider and the Council the Offer to transfer the fifty (50) Affordable Rented Dwellings and RP Shared Ownership Dwellings and the relevant Affordable Housing Land to the Registered Provider; and

b) entered into a binding contract for the transfer of the Affordable Dwellings and the relevant Affordable Housing Land to the Registered Provider at the Price and in accordance with the Affordable Housing Scheme approved pursuant to paragraph 2.1 of Part 2 of the Second Schedule incorporating Transfer Terms (as set out at paragraph 4.1 below)

3.2 Not to permit or allow the Occupation of more than 25% of any Open Market Dwellings within a Phase until 25% of the Affordable Dwellings within that Phase have been Practically Completed and transferred to an RP as evidenced by an updated Completions Spreadsheet which details the Actual Dates and Anticipated Dates in respect of the Dwellings;

3.2.1 Not to permit or allow the Occupation of more than 50% of any Open Market Dwellings within a Phase until 50% of the Affordable Dwellings within that Phase have been Practically Completed and transferred to an RP as evidenced by an updated Completions Spreadsheet which details the Actual Dates and Anticipated Dates in respect of the Dwellings; and

- 3.2.2 Not to permit or allow the Occupation of more than 75% of any Open Market Dwellings within a Phase until 100% of the Affordable Dwellings within that Phase have been Practically Completed and transferred to an RP as evidenced by an updated Completions Spreadsheet which details the Actual Dates and Anticipated Dates in respect of the Dwellings; and

4 TRANSFER OF AFFORDABLE HOUSING

- 4.1 The Owner shall transfer the Affordable Dwellings and the relevant Affordable Housing Land at the Price with full title guarantee to the Registered Provider free from any encumbrances WITH the benefit of full and free rights of access both pedestrian and vehicular over any relevant access road to be built to a standard capable of adoption by the Council in its capacity as highway authority from the boundary of each of the relevant Affordable Dwellings to any relevant adopted highway (and vice versa) and full and free unrestricted rights for all services and conducting media and drains or sewers to be laid and constructed to each relevant Affordable Dwelling to a standard capable of adoption by the respective service providers and upon such further terms as may be agreed with the Registered Provider ("the **Transfer Terms**").
- 4.2 If at any time after three (3) months of the Registered Provider's and the Council's receipt of the Offer the Owner has despite using its best endeavours been unable to enter into a contract for the transfer of the relevant Affordable Dwellings to the Registered Provider upon the terms specified then the Owner shall be entitled to offer the homes to a further Registered Provider at the Price in accordance with the approved Affordable Housing Scheme

5 OCCUPATION OF THE AFFORDABLE DWELLINGS

- 5.1 The Owner shall not permit or otherwise allow any of the Affordable Dwellings to be Occupied otherwise than as:
- 5.1.1 as the sole private residence of the Occupier; and
 - 5.1.2 by a Qualifying Person who at the time of the commencement of his Occupation of the Affordable Dwelling with or without his Household EITHER has been accepted onto Cornwall Homechoice (in respect of Affordable Rented Dwellings) OR is either releasing an Alternative Affordable Home elsewhere or satisfies the Eligibility Criteria (in respect of both Affordable Rented Dwellings and RP Shared Ownership Dwellings) PROVIDED THAT nothing shall prevent any former joint owner spouse partner civil partner or other co-habitant from continuing to reside at the Affordable Dwelling after the Qualifying Person ceases to reside there; and
 - 5.1.3 by a purchaser of an RP Shared Ownership Dwelling in accordance with paragraph 3 of Part 3 of this Second Schedule

6 EXEMPTIONS

- 6.1 Paragraphs 2.2 and 5 of Part 2 and the whole of Part 3 and Part 4 of the Second Schedule of this Deed shall not be binding on:
- 6.1.1 any Exempt Person or any mortgagee or chargee of the Exempt Person or any person deriving title from the Exempt Person or any successor in title thereto and their respective mortgagees and chargees; or
 - 6.1.2 any Mortgagee or any purchaser including their successors in title from such bodies provided that in all cases the Mortgagee shall have complied with the Mortgagee's Duty EXCEPT FOR AND FOR THE AVOIDANCE OF DOUBT any

disposal under 6.2.1 where the Affordable Dwelling is safeguarded as an Affordable Dwelling

6.2 The Mortgagee shall prior to seeking to dispose of the Affordable Dwellings or Affordable Housing Land pursuant to any default under the terms of its mortgage or charge give not less than 6 weeks' prior notice to the Council of its intention to dispose and:

6.2.1 in the event that the Council responds within 6 weeks from receipt of the notice indicating that arrangements for the transfer of the Affordable Dwellings can be made in such a way as to safeguard them as Affordable Dwellings then the Mortgagee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer;

6.2.2 if the Council does not serve its response to the notice served under 6.2.1 within 6 weeks then the Mortgagee shall be entitled to dispose free of the restrictions set out in paragraph 2.2 and 5 of Part 2 and the whole of Part 3 and Part 4 of the Second Schedule which provisions shall determine absolutely

6.2.3 if the Council or any other person cannot within 4 weeks of the date of service of its response under paragraph 6.2.1 above secure a binding contract for sale then provided that the Mortgagee shall have complied with its obligations under paragraph 6.2 the Mortgagee shall be entitled to dispose free of the restrictions set out in paragraph 2.2 and 5 of Part 2, and the whole of Part 3 and Part 4 of the Second Schedule which provisions shall determine absolutely

6.2.4 if the Council cannot within 6 weeks of the date of service of its response under paragraph 6.2.1 above secure a completed transfer then provided that the Mortgagee shall have complied with its obligations under paragraph 6.2 the

Mortgagee shall be entitled to dispose free from the restrictions set out in paragraph 2.2 and 5 of Part 2, and the whole of Part 3 and Part 4 of the Second Schedule which provisions shall determine absolutely

PROVIDED THAT for the avoidance of doubt such Mortgagee shall not be under any obligation to dispose of the Affordable Dwellings for any sum less than the monies outstanding pursuant to the said mortgage or charge inclusive of interest, costs and charges.

In the event that an Exempt Person wishes to dispose of an Affordable Dwelling and the Registered Provider exercises any rights of pre-emption in the Shared Ownership Lease then the Registered Provider shall continue to be bound by the terms of this agreement

6.3 Any Mortgagee shall only be liable for any breach of the obligations in this Deed that it has itself caused whilst mortgagee in possession but shall not be liable itself for any pre-existing breach

PART 3 – RP SHARED OWNERSHIP DWELLINGS

The Owner covenants as follows;

1. Not to permit or otherwise allow any of the RP Shared Ownership Dwellings to be sold other than:
 - 1.1 in accordance with the terms of the Shared Ownership Lease; and
 - 1.2 to a Qualifying Person who is either releasing an Alternative Affordable Home elsewhere or satisfies the Eligibility Criteria
2. Not to permit or otherwise allow any of the RP Shared Ownership Dwellings to be sold on the Initial Sale or any subsequent sale prior to:

- 2.1 the submission to and subsequent approval by the Council of a scheme of Advertising for the RP Shared Ownership Dwellings; and
 - 2.2 advertising the relevant RP Shared Ownership Dwelling in accordance with the scheme of Advertising approved in accordance with 2.1 above
3. On any sale other than the Initial Sale of the RP Shared Ownership Dwelling in the event that the Registered Provider or the owner of an RP Shared Ownership Dwelling is unable to sell an RP Shared Ownership Dwelling in accordance with paragraph 1.2 within a period of 90 days of Advertising the RP Shared Ownership Dwelling may be sold to any willing purchaser in accordance with 1.1 above and such person shall remain bound by the terms of this Deed
4. The Owner shall if so required by the Council or its agent provide to the Council or its agent all necessary documentation as stipulated in Annex 3 as evidence that the prospective purchaser satisfies the obligations contained in this Deed within 14 days of a written request PROVIDED THAT such written verification is served upon the Council clearly addressed and marked for the urgent attention of the Service Director – Planning and Housing.
5. Not to permit or otherwise allow any RP Shared Ownership Dwelling to be let otherwise than:
 - (a) with the written consent of the Council and the Registered Provider;
 - (b) to a Qualifying Person who is either releasing an Alternative Affordable Home elsewhere or satisfies the Eligibility Criteria;
 - (c) at an Intermediate Rent (unless otherwise agreed in writing with the Council);

- (d) on the basis of an Assured Tenancy for a fixed term of not less than six (6) months unless otherwise agreed in writing with the Council; and
 - (e) in accordance with the terms of the Shared Ownership Lease;
6. Unless otherwise agreed in writing with the Council not to permit or otherwise allow any RP Shared Ownership Dwelling to be let prior to:
- a) the submission to and approval by the Council of a scheme of Advertising;
 - b) Advertising of the RP Shared Ownership Dwelling in accordance with the approved scheme; and
 - c) service upon the Council of a Letting Notice
7. Not to permit or otherwise allow the RP Shared Ownership Dwelling to be let until the Owner has submitted written verification to the Council or its agent that the prospective tenant satisfies the obligations contained in this Deed and the Council or its agent has given its approval that the prospective tenant satisfies the obligations contained in this Deed (such approval not to be unreasonably withheld) and if no response is given by the Council or its agent within 14 days of receipt of the written verification from the Owner then approval will be deemed to have been given PROVIDED THAT such written verification is served upon the Council and clearly addressed and marked for the attention of the Service Director – Planning & Housing

The Owner shall if so required by the Council or its agent provide to the Council or its agent (together with the written verification detailed in paragraph 8 above) all necessary documentation as stipulated in Annex 3 as evidence that the prospective tenant satisfies the obligations contained in this Deed

PART 4 – AFFORDABLE RENTED DWELLINGS

The Owner covenants as follows:

1. Not to permit or otherwise allow any of the Affordable Rented Dwellings to be let other than:
 - 1.1 to a Qualifying Person who has been accepted onto Cornwall Homechoice or any other policy and agreement that may replace these whether or not the Owner or the Registered Provider is a member of the Cornwall Homechoice scheme; and
 - 1.2 at a sum not exceeding the Affordable Rent
2. To serve upon the Council a Letting Notice each time an Affordable Rented Dwelling becomes available for letting
3. Not to permit or otherwise allow any of the Affordable Rented Dwellings to be offered for Initial Letting or any subsequent letting prior to the submission to and subsequent approval by the Council of the scheme of Advertising
4. Not to permit or otherwise allow any of the Affordable Rented Dwellings to be offered for Initial Letting or any subsequent letting prior to the carrying out of the scheme of Advertising approved in accordance with paragraph 3 above
5. Not to grant a tenancy of the relevant Affordable Rented Dwelling until the Owner has submitted written verification to the Council or its agent that the prospective tenant satisfies the obligations contained in this Deed and the Council or its agent has given its approval that the prospective tenant would satisfy the obligations contained in this Deed (such approval not to be unreasonably withheld) and if no response is given by the Council or its agent within 14 days of receipt of written verification from the Owner then approval will be deemed to have been given PROVIDED THAT such written

verification is served upon the Council clearly addressed and marked for the urgent attention of the Service Director – Planning & Housing

6. The Owner shall if so required by the Council or its agent provide to the Council or its agent (together with the written verification detailed in paragraph 5 above) all necessary documentation as stipulated in Annex 3 as evidence that prospective tenants satisfy the obligations contained in this Deed

PART 5 - AFFORDABLE HOUSING CONTRIBUTION

The Owner covenants as follows:

1.1 To pay to the Council the Affordable Housing Contribution increased by the Percentage in the following instalments:

1.1.1 50% of the Affordable Housing Contribution shall be paid to the Council prior to the Occupation of the 1st Open Market Dwelling; and

1.1.2 The remaining 50% of the Affordable Housing Contribution shall be paid to the Council prior to the Occupation of the 38th Open Market Dwelling

1.2 Not to Occupy or to permit the Occupation of the 1st Open Market Dwelling until 50% of the Affordable Housing Contribution has been paid pursuant to paragraph 1.1.1, Part 5 of this Schedule;

- 1.3 Not to Occupy or permit Occupation of more than 37 Open Market Dwellings until the remaining 50% of the Affordable Housing Contribution has been paid pursuant to paragraph 1.1.2, Part 5 of this Schedule.

The Council's covenants with the Owner

2. The Council covenants with the Owner to apply the Affordable Housing Contribution to the provision of Affordable Housing in the Town and the Parish of Menheniot PROVIDED THAT if the Council has been unable to allocate the Affordable Housing Contribution or any part thereof in the Town within 3 years of receipt of the Affordable Housing Contribution by the Council, the Council may apply the Affordable Housing Contribution or any part thereof in the Local Housing Market Area PROVIDED THAT if the Council has been unable to allocate the Affordable Housing Contribution or any part thereof in the Local Housing Market Area within 6 years of receipt of the Affordable Housing Contribution by the Council the Council may apply the Affordable Housing Contribution or any part thereof in the County
3. The Council hereby covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid
4. The Council covenants to return any sums remaining unspent or uncommitted (and money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) after 10 years from the date of receipt to the person by whom the moneys were paid

PART 6 – CONTRIBUTIONS

In this Schedule 2, Part 6 and this Deed unless the context requires otherwise the following words and expressions shall have the following meanings:

“Education Contribution” means the sum of £300,960 increased by the Percentage towards the provision of additional Education Facilities required as a consequence of the Development;

“Education Facilities” means the construction or extension of education infrastructure facilities at Liskeard School and Community College notwithstanding that a contract or contracts may have been let before the date hereof;

“Healthcare Contribution” means the sum of £55,000 increased by the Percentage towards the provision of Health Care Facilities required as a consequence of the Development;

“Health Care Facilities” means the provision of additional capacity for the provision of primary health care services that a contract or contracts may have been let before the date hereof;

“Transport Contribution” means the same of £196,000 increased by the Percentage towards the provision of and/or improvements to the Liskeard Town Transport Strategy;

"Qualifying Dwelling" means Dwellings which are not Affordable Dwellings and which are 2 or more bedrooms noting that "Qualifying Dwellings" shall be interpreted accordingly;

"Off Site Public Open Space" means the provision and/or improvements of open space facilities at Rapsons Field or on land south of Liskeard Business Park, and outdoor sports improvements at Lux Park or Roundbury and/or the creation or improvement of open space within Menheniot Parish and/or adjoining Liskeard Parish

"Off – Site Public Open Space Contribution" means the sum of;

£13,608 increased by the Percentage for teenage provisions at Rapsons Field or on land south of Liskeard Business Park; and

£139,432 increased by the Percentage for outdoor sports improvements at Lux Park or Roundbury and/or the creation or improvement of open space within Menheniot Parish and/or adjoining Liskeard Parish;

"SAC" means The Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA – Strategic Mitigation Plan

"SAC Contribution" means the sum of £371 per Dwelling totalling £74,942 increased by the Percentage towards the monitoring and mitigation of the SAC as a consequence of the Development;

Owners Covenants

1. The Owner Covenants with the Council as follows:
 - 1.1. To pay 50% of the Off-Site Public Open Space Contribution, the Education Contribution, the Transport Contribution and the Health Care Contribution prior to 50% Occupation of the Market Dwellings;
 - 1.2. Not to allow or permit Occupation of more than 50% Occupation of the Market Dwellings until 50% of the Off-Site Public Open Space Contribution, the Education Contribution, the Transport Contribution and the Health Care Contribution have been paid in accordance with paragraph 1.1;
 - 1.3. To pay the remaining 50% of the Off-Site Public Open Space Contribution, the Education Contribution, the Transport Contribution and the Health Care Contribution prior to 75% Occupation of the Market Dwellings;
 - 1.4. Not to allow or permit Occupation of more than 75% Occupation of the Market Dwellings until the remaining 50% of the Off-Site Public Open Space Contribution, the Education Contribution, the Transport Contribution and the Health Care Contribution have been paid in accordance with paragraph 1.3;
 - 1.5. To pay the SAC Contribution prior to Commencement of the Development

Council's Covenants

2.1 The Council covenants with the Owner to apply the Education Contribution, the Off-Site Public Open Space Contribution, the Transport Contribution and the SAC Contribution for the purpose which they were paid and for no other purpose whatsoever and to return any sums remaining unspent or uncommitted after 5 years from the date of receipt (notwithstanding that the monies may be used towards a contract already let before the date hereof) to the person by whom the moneys were paid.

2.2 The Council covenants with the Owner that they shall receive the Healthcare Contribution as agent for NHS Kernow and that only on receipt of build reports/ invoices for the Health Care Facilities from NHS Kernow shall they transfer the Healthcare Contribution to NHS Kernow (notwithstanding that the monies may be used towards a contract already let before the date hereof).

ANNEX 1**("the Affordable Housing Mix")**

Tenure	Property Type	M4(1) Plots	M4(2) Plots	M4(3) Plots	Total
Affordable Rented Dwellings	1 Bed/2 Person Maisonette	37, 39, 40, 61, 63, 64	36, 38, 41, 60, 62, 65		12
	1.5 Bed/2 Person Bungalow			66, 68, 197	3
	2 Bed/3 Person Bungalow			67, 198, 199	3
	2 Bed/4 Person House		69, 97, 98, 99, 100, 103, 104		7
	3 Bed/6 Person House		101, 102, 194, 195, 196, 200, 201, 202		8
	4 Bed/7 Person House		187, 188		2
	Sub-Total	6	23	6	35
RP Shared Ownership	2 Bed/4 Person House		42, 43, 44, 70, 191, 192, 193		7
	3 Bed/5 Person House		87, 105, 106, 107		4
	3 Bed/6 Person House		58, 59, 189, 190		4
	Sub-Total	0	15	0	15
	Grand Total	6	38	6	50

ANNEX 2

("the Offer")

Date:

Name of Owner:

Name of development:

Name of Registered Provider:

- 1) The Owner offers the Registered Provider [*title absolute*] of the [*Affordable Rented Dwellings*] [*RP Shared Ownership Dwellings*] [*Rent to Buy Dwellings*] [*Social Rented Dwellings*] shown edged red on the attached plan ("The Affordable Dwellings") for the consideration of £[]
- 2) The Registered Provider confirms its agreement to enter into a contract for the transfer of The Affordable Dwellings within [90] days of service of this notice of Offer
- 3) Where the Affordable Dwellings are transferred to the Registered Provider, the Registered Provider shall at all times let or sell The Affordable Dwellings in accordance with the provisions of the Section 106 Agreement dated and relating to this development
- 4) Unless otherwise agreed with the Council the terms for the transfer of The Affordable Dwellings to the Registered Provider shall be compliant with the requirements of the Homes England's Procurement Strategy and Affordable Housing Capital Funding Guide (or equivalent successor documents) which outline the criteria, procedures and audit arrangements for all affordable housing schemes including the use of Grant, and of its recovery in the event of future resale.

5) Where the Registered Provider agrees to take transfer of The Affordable Dwellings in accordance with the terms of this Notice it shall sign and return this notice of Offer together with formal written notification within 30 days of service of this notice of Offer.

Signed (Registered Provider):

Dated:

ANNEX 3

(Evidence of Qualifying Persons)

The Owner shall verify to the Council or its agent that the prospective purchaser or tenant meets the terms of this Deed by obtaining appropriate documentation from section A and B and C below or such other evidence or confirmation as the Council or its agent shall deem necessary or sufficient and if required by the Council or its agent provide copies of such evidence to the Council or its agent

SECTION A:

Proof of identity (of prospective purchaser or tenant and where applicable close family member)

A current and valid passport

UK residence permit

A valid UK driving licence

National Insurance number card

Marriage certificate

Medical card

Letters about asylum from the Home Office

Section B:

Local connection

Residency – sufficient evidence to cover the relevant local connection period for prospective purchaser/tenant/close family member as appropriate

Utility bills (gas electric phone etc)

Council tax bills

Bank/Building Society account/credit card statements

State benefit books or receipts showing rent paid

Payslips showing home address

Written certification from either a Solicitor / Social Worker / Probation Officer / Inland Revenue Officer / Police Officer / Teacher or Doctor

Employment – sufficient evidence to cover the relevant local connection period

Payslips showing employer's address

Employer's letter confirming length and terms of employment (including hours worked if applicable)

Section C:

Eligibility Criteria

Tenancy or licence agreement

Rent book showing name and address of applicant

Where applicable letter from friend or family member confirming residence at their address

P60 annual statement of earnings for the most recent complete tax year

Payslips covering last 3 months

For self-employed persons a set of accounts no older than 12 months

Bank/Building Society account or other statements showing savings/capital

Evidence of any other income including state benefits

Annex 5
(“Affordable Housing Scheme”)

Arrangements for the provision of the Affordable Dwellings

Obligation	Evidence required
Details of the basis of calculation of any service charges or management fees to be applied to the Affordable Dwellings	Detailed breakdown of service charge costs or management fees costs, if applicable, and accompanying evidence.
Details of the construction and equipping of the Affordable Dwellings	A specification document detailing the type of construction, external and garden finishes, and internal fittings as agreed with the Registered Provider, or similar in the case of intermediate homes for sale
The name of the Registered Provider if available at that time	Provide name and contact of the Registered Provider
Details of any Local Connection criteria applied to affordable dwellings	Confirmation that the Local Connection criteria set out within the S106 is understood
Arrangements for the transfer of the Affordable Dwellings	Details of when the affordable dwellings will be transferred to the Registered Provider or individual purchaser
Details of the design and quality standards to be applied to the Affordable Dwellings	Provide details of any specific features such as solar panels and confirmation of dwelling sizes meeting NDSS
Location and tenure of the Category 2: Accessible and Adaptable Dwellings	Provide a schedule of plot numbers and detailed floor plan(s), including external requirements to show how these standards will be met.
Location and tenure of any Category 3: Wheelchair User Dwellings	Provide a schedule of plot numbers and detailed floor plan(s), including external requirements to show how these standards will be met.
A scheme of Advertising of the Affordable Dwellings for Initial Sales and Initial Lettings	Provide information required in accordance with the definition of Advertising

07 1864

EXECUTED as a DEED by THE CORNWALL
COUNCIL whose Common Seal was hereunto
affixed in the presence of:

Authorised Officer



Print Name SARAH JOPLING



EXECUTED as a DEED by WAIN HOMES
(SOUTH WEST) LIMITED)
acting by a director and its secretary/two directors.)

Signature of Director:

Signature of Secretary

Print Name

M. C. HARRISON

In the presence of :

Signature (witness)

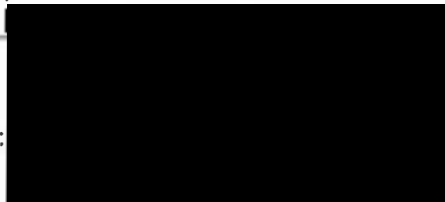
Print Name : Joe Yorke

Address : 38 Aquila Drive
Sherford
Plymouth
PL9 8GW

Occupation : Business owner.

SIGNED as a DEED by HAVILAND JOHN KENDALL

In the presence of:



Signature



Signature (Witness):

Print Name: ASA

Address: THE FLAT, YELVERTON
GOLF CLUB, GOLF LINKS ROAD
PLZEN

Occupation: GOLF TEACHING PRO

SIGNED as a DEED by KATIE LOUISE SHUTTKACKER

In the presence of:



Signature



Signature (Witness):

Print Name: Jon Wood

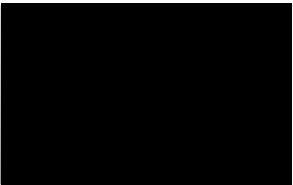
Address: HIGHER LAMPETHO FARM
FOWEN
COENWAN, PL23 1JU

Occupation: _____

SIGNED as a DEED b
In the presence of:



Signature



Signature (Witness)

Print Name: Ben

Address: THE FLAT, YELVERION
GOLF CLUB, GOLF LINKS ROAD
PL20 6RN

Occupation: GOLF TEACHING PRO

