

DATED

31 July

2018

DOVER DISTRICT COUNCIL

and

KENT COUNTY COUNCIL

and

[REDACTED]

and

[REDACTED]

PLANNING OBLIGATION BY DEED OF AGREEMENT

Under Section 106 of the Town and Country Planning Act
1990 (as amended)

Relating to the Development of Land at White Post Farm, 24
Sandwich Road, Ash, Canterbury, Kent CT3 2AF

THIS DEED OF AGREEMENT is made the 31st day of July 2018

BETWEEN:-

- (1) **DOVER DISTRICT COUNCIL** of White Cliffs Business Park, Dover, Kent CT16 3PJ ("the Council")
- (2) **KENT COUNTY COUNCIL** of County Hall, Maidstone, Kent ME14 1XQ ("the County Council")
- (3) [REDACTED]
[REDACTED] (acting as the trustees of the estate of [REDACTED]) ("the Owners")

WHEREAS:-

- (1) The Owners are the trustees of the estate of [REDACTED] in which the fee simple of the land described in the First Schedule hereto ("the Property") has vested.
- (2) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Property is situated.
- (3) The County Council is a local planning authority within the meaning of the 1990 Act and is a Principal Council within the meaning of Section 270(1) of the Local Government Act 1972 and the Local Education Authority and the Local Highway Authority for the area in which the Property is situated.
- (4) The Owners submitted the Application to the Council on 3rd November 2016.
- (5) The Council refused the Application and the Owners have submitted the Appeal for determination by the Secretary of State.

NOW THIS DEED WITNESSETH as follows:-

1. DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following

meanings:

“1990 Act”	means the Town and Country Planning Act 1990 as amended;
“Affordable Housing”	means housing for sale or rent for those whose needs are not met by the market as defined in the NPPF;
“Affordable Housing Land”	means the land within the Property upon which the Affordable Housing Units are to be constructed;
“Affordable Housing Scheme”	<p>means the scheme submitted in accordance with the Planning Permission which shall include details of:</p> <p>(i) the numbers, type, tenure and location on the Property of the Affordable Housing Units;</p> <p>(ii) the timing of the construction of the Affordable Housing Units and their phasing in relation to the occupancy of the Market Housing Units;</p> <p>(iii) the arrangements for the transfer of the Affordable Housing Units to a Registered Provider;</p> <p>(iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing Units; and</p> <p>(v) the occupancy criteria to be used for determining the identity of the occupiers of the Affordable Housing Units and the means by which such occupancy criteria shall be enforced;</p>
“Affordable Housing Units”	means that part of the Development comprising 30% of the Dwellings which shall be constructed as Affordable Housing in accordance with the approved Affordable Housing Scheme and “an Affordable Housing Unit” shall be construed accordingly;
“the Appeal”	means the appeal to the Secretary of State following the refusal of the Application by the Council given appeal reference

	APP/X2220/W/17/3187592;
“the Application”	means the application made to the Council for planning permission for the erection of up to 30 dwellings, creation vehicular access and parking (existing barns to be demolished) at the Property under Reference No. DOV/16/01247;
“Chargee”	means any mortgagee or chargee of the Registered Provider, the successors in title to such a mortgagee or chargee, or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;
“Chargee’s Duty”	means the tasks and duties set out in Part I of the Second Schedule paragraph 1.5;
“Charging Schedule”	means a charging schedule as detailed in Regulation 2(1) of the CIL Regulations;
“CIL Regulations”	means the Community Infrastructure Levy Regulations 2010 (as amended);
“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 Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;
“Council Contributions”	means the Health Contribution, the SPA Contribution, the Off-Site Play Space Contribution and the Off-Site Sports Contribution;

“County Council Contributions”	means the Libraries Contribution, Secondary Education Contribution and the Footpath Contribution;
“Date of Practical Completion”	means the date of issue of a certificate of practical completion by the Owners’ architect or, if the Development is constructed by a party other than the Owners, by that other party’s architect;
“Decision Letter”	means the decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Appeal is allowed;
“Development”	means the erection of up to 30 dwellings, creation vehicular access and parking (existing barns to be demolished), as permitted by the Planning Permission;
“Dwelling(s)”	means a dwelling to be constructed pursuant to the Planning Permission;
“Expert”	means a person of relevant technical expertise appointed by the parties or by the President for the time being of the Royal Institution of Chartered Surveyors pursuant to clause 13 (Dispute Resolution);
“Footpath Contribution”	means a contribution of £24,000 towards improvements to the Burfords Alley Public Footpath to accommodate the impact of the additional use as a result of the Development;
“HCA”	means the Homes and Communities Agency created pursuant to the Housing and Regeneration Act 2008 exercising the functions in relation to the funding of affordable housing and now known as Homes England and includes any successor body exercising similar functions;
“Health Contribution”	means a contribution of £6,412 towards the expansion of Ash Surgery, Chilton Place, Ash;

“Index”	shall mean the General Building Cost Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation;
“Infrastructure”	has the meaning ascribed in Section 216(2) of the Planning Act 2008;
“Interest”	means interest at 4% per annum above the base lending rate of Nat West Bank Plc from time to time;
“Libraries Contribution”	means a contribution of £42.02 per Dwelling towards additional shelving and display units in Dover Library to accommodate the impact of the additional demand placed on the library facilities serving the Development;
“Market Housing Units”	means the Dwellings constructed in accordance with the Planning Permission which are not Affordable Housing Units;
“the NPPF”	means the National Planning Policy Framework published in March 2012 (as subsequently amended or replaced);
“the Obligations”	means the obligations on the part of the Owners in clause 5 and in the Second Schedule and the Third Schedule to this Agreement and “Obligation” shall be construed accordingly;
“Occupation” and “Occupy” and “Occupied”	means occupation for the purposes 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;
“Off-Site Play Space Contribution”	means a contribution of £17,400 towards the maintenance of the Queens Road, Ash equipped play area to accommodate the impact of the additional demand placed on the play facilities serving the Development;
“Off-Site Sports Contribution”	means a contribution of £10,900 towards the improvement of the changing facilities at the existing sports pavilion at Ash Recreation

	Ground to accommodate the impact of the additional demand placed on the sports facilities serving the Development;
“Planning Inspector”	means the inspector appointed by the Secretary of State to determine the Appeal;
“Planning Permission”	means any outline planning permission issued by the Secretary of State in determining the Appeal;
“Protected Tenant”	<p>means any tenant who:</p> <ul style="list-style-type: none"> • has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of an Affordable Housing Unit; or • has exercised any statutory right to buy (or any equivalent contractual right) in respect of an Affordable Housing Unit; or • was granted a shared ownership lease (or similar arrangement where a share of an Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) by the Registered Provider in respect of an Affordable Housing Unit and has subsequently purchased all the remaining shares from the Registered Provider so that the tenant owns the entire Affordable Housing Unit;
“Registered Provider”	means a registered provider of social housing within the meaning of Section 80(2) of the Housing and Regeneration Act 2008 (including any statutory replacement or amendment) as registered with the HCA or any other body who may lawfully provide or fund affordable housing from time to time and who is approved in writing by the Council;

“Relevant Agreement”	means an agreement to secure planning obligations under section 106 of the 1990 Act and which related to planning permission granted for development where such agreement has been entered into on or after 6 April 2010 and “Relevant Agreements” shall be construed accordingly;
“Relevant Date”	means the date prescribed by paragraph (b) of the definition of 'relevant determination' in Regulation 123(4) of the CIL Regulations in respect of a determination of an application for planning permission being 6 April 2015 or any other date as may be prescribed in Regulation 123(4) of the CIL Regulations or by the Secretary of State as the case may be;
“Secretary of State”	means the Secretary of State for Housing, Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers given under sections 77, 78 and 89 of the 1990 Act;
“Secondary Education Contribution”	means a contribution of £2,359.80 per applicable Dwelling towards phase 3 expansion of the Roger Manwood School to accommodate the impact on school places as a result of the Development and to ensure there is adequate educational provision as a result of the demand placed on the school as a result of population growth arising from the Development;
“SPA Contribution”	means the sum of £1,624 towards the improvements to and/or maintenance of the Thanet Coast and Sandwich Bay SPA to accommodate the additional use generated by the Development;

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural

meaning and vice versa.

- 2.3 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 interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 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.
- 2.6 Reference to any party to this Agreement shall include the successors in title to that party and to any 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.

3. LEGAL BASIS

- 3.1 This Agreement 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.
- 3.2 The covenants, restrictions and requirements imposed upon the Owners under this Agreement create planning obligations pursuant to Section 106 of the 1990 Act and are enforceable by the Council as local planning authority and where applicable by the County Council as the education and highway authority against the Owners.

4. CONDITIONALITY

- 4.1 The provisions of this Agreement are conditional upon the Commencement of Development save for the provisions of this clause and clauses 7.1, 9, 14 and 15 which shall come into effect immediately upon completion of this Agreement.
- 4.2 If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in the Decision Letter that any Obligation:

- 4.2.1 is not a material planning consideration; or
- 4.2.2 can be given no weight in determining the Appeal; or
- 4.2.3 does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the CIL Regulations; or
- 4.2.4 requires funding or provision towards a project or towards a type of Infrastructure where the Council has in addition to this Agreement following the Relevant Date entered into five (5) or more Relevant Agreements which provide for the funding or provision towards the same project or towards that type of Infrastructure,

then such Obligation shall not be enforceable pursuant to this Agreement and shall cease to have effect within this Agreement save as set out in the Decision Letter.

- 4.3 In the event that the Secretary of State or the Planning Inspector grants the Planning Permission for the Development then if at the date of the grant of the Planning Permission a Charging Schedule has been approved by the Council and has come into effect any contribution payable under the terms of this Agreement which is for an Infrastructure project or type of Infrastructure set out in the Charging Schedule shall cease to be payable.

5. THE OWNERS' COVENANTS

- 5.1 The Owners covenant with the Council as set out in the Second Schedule.
- 5.2 The Owners covenant with the County Council as set out in the Third Schedule.
- 5.3 The Owners covenant with the Council and the County Council:
 - 5.3.1 to give them one month's prior written notice of their intention to Commence Development; and
 - 5.3.2 to give them notice within one week of when Commencement of Development has occurred.

6. THE COUNCILS' COVENANTS

- 6.1 The Council and the County Council covenant respectively with the Owners as set out in the Fourth Schedule.

7. MISCELLANEOUS

- 7.1 The Owners shall pay on completion of this Agreement the reasonable and proper legal costs of the Council to a maximum of £1025 and the County Council to a maximum of £1,380 incurred in the negotiation and execution of this Agreement.
- 7.2 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Agreement confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title or a statutory successor to a party hereto.
- 7.3 This Agreement shall be registerable as a local land charge by the Council.
- 7.4 Any notice to the Owners shall be sent to the Owners at the address (if any) specified in this sub-clause or to such address and/or for the attention of such person as the Owners may notify to the Council in writing.
- 7.5 Where the agreement, approval, consent or expression of satisfaction is required from the Owners by the Council and/or the County Council or vice versa under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 7.6 (a) The Council and/or the County Council (as relevant) will upon the written request of the Owners at any time after the obligations hereunder have been performed or otherwise discharged provide the Owners with written confirmation of such performance or discharge as soon as reasonably practicable.
- (b) Following the performance and satisfaction of all the obligations contained in this Agreement and subject to a written request made by or on behalf of the Owners the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.
- 7.7 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 unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

7.8 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development and the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7.9 No person shall subject as hereinafter provided be liable to observe or perform the Owners' obligations under this Agreement or for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Property or the part of the Property in respect of which the breach relates.

7.10 This Agreement shall not be binding or enforceable against:

7.10.1 owners, occupiers or tenants of individual Dwellings nor against those deriving title from them nor their mortgagees or chargees save for Part I of the Second Schedule where the relevant Dwelling is an Affordable Housing Unit and where the owners, occupiers or tenants of such Affordable Housing Units shall subject to para 1.4 of Part I of the Second Schedule be bound by the Affordable Housing provisions set out in Part I of the Second Schedule;

7.10.2 a Registered Provider save for the provisions of Part I of the Second Schedule;

7.10.3 any statutory undertaker or other person who acquires any part of the Property or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport service; or

7.10.4 any person benefitting only from an easement or licence in relation to the Property.

7.11 Subject to Clause 7.12 nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with a planning permission (other than

the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

- 7.12 If the parties shall so agree in writing in relation to any planning permission granted as a result of any application under Section 73 of the 1990 Act affecting the Planning Permission the parties shall comply with the terms of this Agreement as if the definition of the Planning Permission in this Agreement had been replaced by the description of the said planning permission granted as a result of any application under Section 73 of the 1990 Act affecting the Planning Permission with the intention that the provisions of this Agreement will apply as if the definition of the Planning Permission in this Agreement were the new planning permission granted as a result of such application and a memorandum of that agreement shall be endorsed on the face of the Agreement which is recorded on the planning register.
- 7.13 It is acknowledged and declared that this Agreement has been entered into by the Owners with the intent that the planning obligations shall be binding on the Property and that the security of any future mortgage/charge over the Property shall take effect subject to this Agreement PROVIDED THAT any mortgagee/chargee of that part of the Property to which a breach relates shall only be liable for any breach that itself has caused whilst mortgagee in possession and shall not be liable for any pre-existing breach but FOR THE AVOIDANCE OF DOUBT any successor in title to any mortgagee/chargee will subject to clause 7.10 be responsible as successor in title to the Owners for (i) any obligation(s) still to be performed and (ii) any obligation(s) which has not been satisfied in full because there has been a breach which has not been remedied or only partially remedied.
- 7.14 The liability of the Owners under any covenants or obligations entered into by them in this Agreement is limited to the assets of the estate of Lily Josephine Deal ("the Estate") for the time being vested in them and any covenants and obligations in this Agreement shall not impose any personal liability on them or either of them or any successor trustee for the time being or their respective estates or effects and there shall be no further liability on any of the aforementioned trustees who make up the trustees of the Estate once they cease to be a trustee of the Estate.

8. WAIVER

No waiver (whether expressed or implied) by the Council or the County Council or the Owners of 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 the Council or the County Council or the Owners from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. CHANGE IN OWNERSHIP

The Owners agree with the Council and the County Council to give the Council and County Council written notice within 28 days of any change in ownership of its interest in the Property occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of that part of the Property or unit of occupation purchased by reference to a plan PROVIDED THAT this obligation shall not apply to the sale or lease of any individual Dwelling or any disposal to any of the statutory utilities for their operational purposes or to any mortgage or charge on the Property.

10. INDEXATION

Any sum which becomes payable under this Agreement shall be increased or decreased by an amount equivalent to the increase or decrease in the Index from the date hereof until the date on which such sum is payable.

11. INTEREST

In the event of any delay in making payment required under this Agreement Interest shall be payable on the amount payable from the date that the relevant payment falls due to the date of actual payment.

12. VAT

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

13. DISPUTE RESOLUTION

13.1 If any dispute arises between any or all of the parties with respect to a matter falling for determination under this Agreement (other than over an issue of law or interpretation of this Agreement), and the dispute persists 6 weeks after it is raised in writing by any party then

13.1.1 the dispute may at the instance of any disputing party be referred to an Expert;

13.1.2 in the absence of agreement within 21 days of the notice invoking this clause, then the disputing party(ies) may seek nomination of an Expert by the President for the time being of the Royal Institution of Chartered Surveyors and nomination shall be final.

13.2 An Expert shall;

13.2.1 not be liable in the making of his or her decision save to the extent in law as provided in relation to the decisions of an expert;

13.2.2 give each disputing party the opportunity to comment on the representations of the other

13.2.3 make a decision that is final and conclusive as between the disputing parties to such dispute (except in regard to matters of law or in the case of manifest error); and

13.2.4 be replaced by a fresh appointee in the event of him or her becoming at any time unable or unwilling for any reason to proceed to discharge his or her functions such fresh appointee to be appointed in the manner prescribed in clause 13.1; and

13.2.5 make his or her decision within 6 weeks of being appointed.

13.3 The costs of appointing an Expert under clause 13.1 shall be shared equally by the parties involved in the dispute except where the Expert takes the view that one party has acted unreasonably in which case the Expert shall have binding discretion as to apportionment of those costs.

14. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

15. DELIVERY

The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

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

THE FIRST SCHEDULE

The Property

ALL THAT land and property situate at White Post Farm, 24 Sandwich Road, Ash,
Canterbury, Kent CT3 2AF as is comprised within the register of Title Number K485108 and
K713300 and shown edged red on the Plan annexed hereto

Authorised Signatory



604/2012

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Promat

land ownership plan

16, 28, 7

THE SECOND SCHEDULE

The Obligations in favour of the Council

PART I: Affordable Housing

1. The Owners covenant with the Council:
 - 1.1 Not to permit or allow the Commencement of Development until the Affordable Housing Scheme has been agreed in writing by the Council.
 - 1.2 Unless otherwise agreed as part of the Affordable Housing Scheme that no more than 75% of the Market Housing Units shall be Occupied until all of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential occupation, and written notification of that has been received by the Council.
 - 1.3 From the Date of Practical Completion of the Affordable Housing Units they shall not be used other than as Affordable Housing in accordance with the approved Affordable Housing Scheme, save that this obligation shall not be binding on:
 - 1.3.1 any Protected Tenant, any mortgagee or chargee of a Protected Tenant or any person deriving title from a Protected Tenant, or any successor in title to a Protected Tenant and their respective mortgagees and chargees;
 - 1.3.2 any Chargee provided that he has first complied with the Chargee's Duty; or
 - 1.3.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor; or
 - 1.3.4 any assignee of a shared ownership lease where that assignee's predecessor in title to the shared ownership lease has met the following three criteria:

- 1.3.4.1 he has served upon the Registered Provider written notice of intention to assign the whole of the shared ownership lease (other than by way of mortgage);
 - 1.3.4.2 has not received within eight (8) weeks thereof from the Registered Provider details of a nominee purchaser; and
 - 1.3.4.3 has used reasonable endeavours to exchange contracts with, or completed the assignment to the nominee purchaser (if there is no prior exchange of contracts), provided that the assignment completes within a year from the date of service of the written notice of intention to assign.
- 1.4 Unless otherwise agreed as part of the Affordable Housing Scheme that no more than 95% of the Market Housing Units shall be Occupied until the Affordable Housing Units have been transferred to the Registered Provider such transfer to include the following:
 - 1.4.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Land;
 - 1.4.2 full and free rights to the passage of water, soil, electricity, gas and other services through the pipes, drains, channels, wires, cables and conduits in the adjoining land up to and abutting the boundary to the Affordable Housing Land, all such services to be connected to the mains; and
 - 1.4.3 a reservation of all rights of access and passage of services and rights of entry necessary for the purposes of the Development.
- 1.5 The Chargee shall, before seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge, give not less than four weeks prior notice to the Council of its intention to dispose, and the

following provisions shall apply, provided that the rights and obligations in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage:

- 1.5.1 if the Council responds within four weeks from receipt of the Chargee's notice and indicates that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing, the Chargee shall co-operate with those arrangements and use its best endeavours to secure the transfer;
- 1.5.2 if the Council or any other person cannot within ten weeks of the date of service of its response under paragraph 1.5.1 secure the transfer then, provided that the Chargee has complied with its obligations under paragraph 1.5.1, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 1 which shall then cease to apply to those units;
- 1.5.3 if the Council does not serve its response to the Chargee's notice within four weeks, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 1 which shall then cease to apply to those units.

PART II: Financial Contributions

1. The Owners covenants with the Council that no Dwelling shall be Occupied unless the Owners shall first have paid to the Council the Council Contributions PROVIDED THAT the SPA Contribution shall only be payable if following an appropriate assessment pursuant to Regulation 24 of the Conservation of Habitats and Species Regulations 2017 (if any) the Secretary of State or the Planning Inspector expressly state in the Decision Letter that such a contribution would mitigate or contribute to the mitigation of any harm to the Thanet Coast and Sandwich Bay SPA.
2. The Owners further covenants to give the Council 14 days prior written notice of the anticipated date for reaching of the trigger specified in paragraph 1 above.

THE THIRD SCHEDULE

The Obligations in favour of the County Council

PART I: Financial Contributions

1. The Owners covenants with the County Council that no Dwelling shall be Occupied unless the Owners shall first have paid to the County Council the County Contributions.
2. The Owners further covenants to give the County Council 14 days prior written notice of the anticipated date for reaching the trigger(s) specified in paragraph 1 above.

THE FOURTH SCHEDULE

The Councils' Covenants

1. The Council and the County Council hereby covenant with the Owners to use all contributions received by them from the Owners under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
2. The Council and the County Council hereby covenant with the Owners that if they have not applied or made arrangements for the application of all or any part of the contributions received by them from the Owners under the terms of this Agreement within ten years from the date of receipt of the same in accordance with this Agreement (time being of the essence thereof) then the contribution concerned or unexpended proportion thereof (as the case may be) shall become repayable on demand to the Owners **PROVIDED ALWAYS** that if before the expiry of the said ten year period there is any contract or contracts in existence to which the said contribution is attributable in the absolute discretion of the Council or the County Council (as appropriate) which contract or contracts shall be completed after the expiry of the said ten year period any sum to be repaid to the Owners shall be repaid following payment of the final account in respect of any and all such contracts and the sum to be repaid shall be less all costs incurred and/or paid to provide the said infrastructure pursuant to such contract or contracts.
3. The Council and the County Council hereby further covenant with the Owners that they shall if requested by the Owners produce to the Owners within 28 days of such request a statement of account as to how the contributions received by them from the Owners under the terms of this Agreement or any part thereof shall have been applied.

The **COMMON SEAL** of
DOVER DISTRICT
COUNCIL was hereunto affixed
in the presence of:-



Authorised Signatory

The **COMMON SEAL** of
KENT COUNTY
COUNCIL was hereunto
affixed in the presence of:-



Authorised Signatory

604/2012

SIGNED as a Deed by

in the presence of:-



Witness Signature: _____

Witness name: (block capitals)

Witness Address: _____

SIGNED as a Deed by

in the presence of:-



Witness Signature: _____

Witness name: (block capitals)

Witness Address: _____