

PLEASE USE TRACK CHANGES TO MAKE AMENDMENTS IF POSSIBLE.

A DRAFT OF THIS UNDERTAKING SHOULD BE PROVIDED TO THE COUNCIL PRIOR TO SUBMISSION IN ORDER TO BE CONSIDERED BY LEGAL SERVICES FOR SUITABILITY.

<p>THIS PLANNING OBLIGATION BY DEED OF UNILATERAL UNDERTAKING</p>	
<p>is GIVEN the _____ day of _____ 20____</p>	
<p>BY [_____](hereinafter “the Owner”) [company number XXXXXXXX whose registered office is at [insert address]] who is the leasehold/freehold owner with title absolute of [_____] registered at HM Land Registry under title number [AB123456] shown edged in red on the Plan (hereinafter “the Land”)</p>	
<p>WHO (whenever the owner is more than one person JOINTLY and SEVERALLY) UNDERTAKES TO</p>	
<p>THE DISTRICT COUNCIL OF SEVENOAKS OF COUNCIL OFFICES ARGYLE ROAD SEVENOAKS KENT TN13 1HG (hereinafter “the Council”)</p>	
<p>TO PERFORM THE COVENANTS IN THIS DEED</p>	
<p>1. DEFINITIONS</p> <p>For the purposes of all provisions in this Deed the following expressions shall have the following meanings:</p>	
1990 Act	means the Town and Country Planning Act 1990 (as amended)
Affordable Housing Contribution	means the sum of £[_____] (pounds) to be used for the Affordable Housing Purpose
Affordable Housing Purpose	means the purpose or purposes set out in the Supplementary Planning Document - Affordable Housing
Application	means the application for planning permission submitted to the Council for the Development and allocated reference number XX/XXXXX
Commencement of Development	means the date on which a material operation (as defined in section 56(4) of the Act) comprises in the Development begins to be carried out OTHER THAN (for the purpose of this Deed only and for no

	<p>other purpose):</p> <ul style="list-style-type: none"> (a) Site clearance; (b) Demolition; (c) Site level re-modelling; (d) Archaeological investigations or excavation works; (e) Site preparation including, but not limited to, preparatory engineering works designed to lay foundations for the Development; (f) Investigations for the purpose of assessing ground conditions, including (but not limited to) exploratory boreholes, site or soil investigations; (g) Remediation works (h) Diversion, laying, construction, enlargement, repair, maintenance or cleansing of services to serve the Land; (i) Erection of fences or hoarding or other temporary means of enclosure; (j) Temporary display of site notices or advertisements; (k) Construction of temporary access and service roads; (l) Pegging out of roads or paths; or (m) Security works; <p>And Commence and Commencement shall be interpreted accordingly</p>
Development	means the Development of the Land as set out in the Application and as detailed in and as authorised by the Planning Permission
Index	means the Land Registry House Price Index - Kent based (or such other index as the Council may reasonably nominate in the event that the Land Registry Housing Price Index shall no longer be published or its name or methodology be materially altered)
Interest	means interest at 4(four) per cent above the base lending rate of Barclays Bank Plc from time to time in force
Monitoring Fee	means a fee of £300.00 (three hundred pounds) for monitoring and ensuring compliance with the provisions of this Deed
Notice of Payment	means the form of notice to be used to advise the Council when a payment has been made attached to this Deed at Appendix 2

Plan	means the plan attached to this Deed at Appendix 1
Planning Permission	means the planning permission subject to conditions granted pursuant to the Application or by the Secretary of State for Communities and Local Government on appeal.
Practical Completion	means the issue of a certificate of practical completion of the Development by an architect, engineer, project manager or other suitably qualified professional and Practically Complete shall be construed accordingly
Supplementary Planning Document - Affordable Housing	means the Supplementary Planning Document - Affordable Housing adopted by the Council on 13 October 2011
Working Day	means a day other than a Saturday or Sunday or public holiday in England

2. INTERPRETATION

Save as expressly provided otherwise by this Deed, the following principles of interpretation shall apply to this Deed:

- 2.1 Words importing the masculine gender include the feminine and vice versa.
- 2.2 Words importing the singular include the plural and vice versa.
- 2.3 Words importing persons include firms, companies, corporations, other corporate bodies and legal entities, and vice versa.
- 2.4 In the absence of contrary provision in this Deed, any reference to a statute includes any statutory modification, amendment, extension, re-enactment or replacement of it and every statutory instrument, regulation, order, direction or specification made or issued under such statute or deriving validity from it.
- 2.5 Any reference to the **Owner** includes any successors in title to the Owner.
- 2.6 Any reference to the **Council** includes any successor in function to the Council.
- 2.7 Any covenants and obligations given by the Owner will attach to the Land and each and every part of it and will bind the Owner's successors in title and assignees or any persons claiming by, under or through them.
- 2.8 The Interpretation Act 1978 will apply to this Deed.

3. ENABLING PROVISIONS

This Deed is a planning obligation for the purposes of Section 106 of the 1990 Act and the covenants given by the Owner under this Deed are enforceable by the Council as local planning authority against the Owner pursuant to Section 106(3) of the 1990 Act.

4. COMMENCEMENT

This Deed shall come into effect upon the date of this Deed.

5. THE OWNER'S COVENANTS

The Owner covenants with the Council as follows:

- 5.1. To give the Council not less than ten Working Days written notice of the date of [its intention to Commence Development][Practical Completion]. Such notice to be sent via email to planning.enforcement@sevenoaks.gov.uk or by letter to Planning Enforcement, Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG quoting Planning Permission **XX/XXXXXX**
- 5.2 [Before or immediately upon Commencement of Development][Upon Practical Completion of the Development] to pay to the Council the Affordable Housing Contribution and the Monitoring Fee by electronic bank transfer sent to the Council's bank account at Barclays Bank Plc 80 High Street Sevenoaks Kent sort code 20-76-63 account number 60692026 quoting Planning Permission number **XX/XXXXXX** as a reference:
- 5.3 At the time of payment of the Affordable Housing Contribution and the Monitoring Fee to send notice to the Council by email to finance@sevenoaks.gov.uk in the form of the Notice of Payment appended to this Deed
- 5.4 At or before the date of this Deed to pay the Council's reasonably incurred legal fees of £XXXXX to be paid in the same manner as set out in clause 5.2 above quoting reference xxxxxxxxxxxxxxxxxxxxxxxxxxxx

6. GENERAL

- 6.1 It is not intended that any of the provisions of this Deed shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties to this Deed save for, for the avoidance of doubt, the exercise by the Council of its functions in its capacity as the local planning authority
- 6.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after he shall have parted with his entire interest in the Land but without prejudice to his liability for any subsisting breach arising prior to parting with such interest.
- 6.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed but this Deed shall apply to any planning permission subsequently granted ("Subsequent Permission") under section 73 or 73A of the 1990 Act which permits non-compliance with any of the conditions attached to the Planning Permission and the Planning Permission shall be construed to include the Development as stated in the Subsequent Permission PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application(s) under section 73 or 73A of the 1990 Act or the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to

a determination under section 73 or 73A of the 1990 Act whether by way of a new deed or supplemental deed pursuant to section 106 of the 1990 Act or a modification agreement pursuant to section 106A of the 1990 Act.

6.4 This Deed is a Local Land Charge and shall be registered as such.

7. JURISDICTION

7.1 The construction, validity and performance of this Deed shall be governed by the laws of England and Wales.

7.2 The Owner undertakes to irrevocably submit to the exclusive jurisdiction of the English courts.

8. INDEXATION

The Affordable Housing Contribution shall be increased by an amount equivalent to the increase in the Index from the date of this Deed until the date on which such sum is payable pursuant to the provisions of this Deed.

9. INTEREST

If any payment due under the provisions of this Deed is paid more than seven days after the due date Interest shall be payable in addition to such sum from the date payment is due to the date of payment.

IN WITNESS whereof the Owner [and the Chargee] [has/have] executed this document as a Deed on the day and year first before written

SIGNED AS A DEED by

in the presence of:-

Name of Witness

Occupation

Address

SIGNED AS A DEED by

in the presence of:-

Name of Witness

Occupation

Address

EXECUTED AS A DEED by

LIMITED (xii)

Acting by a director and its secretary

Signature director

Signature secretary

Or

EXECUTED AS A DEED by affixing the Common Seal of

A COMPANY LIMITED

In the presence of:-

Signature director

Signature secretary/director

Or

EXECUTED AS A DEED by

A COMPANY LIMITED

Signature director.....

Acting by a single director in the presence of

Name of Witness

Occupation

Address

Appendix 1 - THE PLAN

Appendix 2 - NOTICE OF PAYMENT

Notice of Payment to be sent electronically by email to finance@sevenoaks.gov.uk

Email title - PLANNING OBLIGATION DATED THE DAY OF 20__
PLANNING PERMISSION XX/XXXXX
LAND AT []

Date as per email

From []

To THE DISTRICT COUNCIL OF SEVENOAKS

Council Offices

Argyle Road

Sevenoaks

Kent

TN13 1HG

In accordance with clause 5.2 of the above deed, I have arranged for the total sum of £[] being the Affordable Housing Contribution (Indexed) of £[] and the Monitoring Fee of £[] to be paid by electronic bank transfer to the Council's bank account at Barclays Bank Plc, 80 High Street, Sevenoaks, Kent, sort code 20-76-63 account number 60692026.

In accordance with clause 5.3 of the above deed, I am sending this Notice of Payment to the Council.

As the payment fulfils all the obligations of the above deed, I request that the registration of the deed as a Local Land Charge be cancelled in accordance with rule 8(1)(b) of the Local Land Charges Rules 1977.

Yours faithfully