

<u>THIS DEED</u> is made on the	[DATE]
By (the 'Owner')	[NAME]
of	[ADDRESS]
& (the 'Mortgagee')	[NAME OF MORTGAGEE]
incorporated and registered in England and Wales with company number	
	[NUMBER]
whose registered office is at	[REGISTERED ADDRESS]
To	ISLE OF WIGHT COUNCIL of County Hall, Newport, Isle of Wight, PO30 1UD (the 'Council')

BACKGROUND	
(A)	The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated
(B)	The Owner owns the Property subject to a mortgage in favour of the Mortgagee but otherwise free from incumbrances
(C)	The Owner has made the Planning Application and is proposing to carry out the Development
(D)	In accordance with the Council's Solent Special Protection Areas Supplementary Planning Document the Owner gives this undertaking to perform the obligations set out in this Deed to mitigate the impacts of the Development on the Solent Special Protection Area

AGREED TERMS	
<b>1.</b>	<b>Interpretation</b>
1.1	The definitions and rules of interpretation in this clause apply in this Deed:
	<p><b>'Commencement of Development'</b>; the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990</p> <p><b>Commenced</b> and <b>Commences</b> shall be construed accordingly</p> <p><b>'Commencement Date'</b>; the date of Commencement of Development</p> <p><b>'Development'</b>; the development of the Property described in the Planning</p>

	<p>Application</p> <p><b>‘Dwelling’</b>; a building or part of a building designed for residential occupation by a single household to be constructed or used on the Property in accordance with the Planning Permission and Dwellings shall be construed accordingly.</p> <p><b>‘GPDO 2015’</b>; the Town and Country Planning (General Permitted Development) (England) Order 2015</p> <p><b>‘Habitat Mitigation Contribution’</b>; the sum of £172 per Dwelling, as a contribution towards measures to mitigate the impacts of the Development on the Solent Special Protection Area</p> <p><b>‘Plan’</b>; the plan attached to this Deed</p> <p><b>‘Property’</b>; the freehold land at</p>
	[DESCRIPTION OF LAND]
	shown edged red on the Plan and registered at HM Land Registry with absolute title under title number
	[NUMBER]
	<b>‘Planning Application’</b> ; an application for Planning Permission or prior approval registered by the Council under reference number
	[NUMBER]
	<p><b>‘Planning Permission’</b>; the planning permission to be granted in respect of the Planning Application by either:-</p> <p>a) the Council; or,</p> <p>b) the Secretary of State under an appeal in respect of the Planning Application under the TCPA 1990; or</p> <p>c) by virtue of the GPDO 2015</p> <p><b>‘Prior Approval’</b>; an application to the Council that specified elements of the Development are acceptable in accordance with the GPDO 2015</p> <p><b>‘TCPA 1990’</b>; Town and Country Planning Act 1990</p> <p><b>‘Working Day’</b>; a day (other than a Saturday, Sunday or public holiday in England when banks in London are open for business</p>
1.2	A <b>person</b> includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)
1.3	A reference to a <b>company</b> shall include any company, corporation or other body corporate, wherever and however incorporated or established

1.4	Unless the context otherwise requires, words in the singular include the plural and in the plural shall include the singular
1.5	Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders
1.6	A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions
1.7	A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; provided that, as between the parties, no such amendment, extension or re-enactment shall apply to the deed to the extent that it would impose any new or extended obligation, liability or restriction, on, or otherwise adversely affect the rights of, any party
1.8	A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision
1.9	A reference to <b>writing</b> or <b>written</b> does not include faxes or emails
1.10	A reference to "this Deed" or to any other agreement or document referred to in this Deed is a reference to this Deed or such other document or deed as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time
1.11	References to clauses and plans are to the clauses and plans of this Deed
1.12	An obligation in this Deed on a person not to do something includes an obligation not to agree or allow that thing to be done
1.13	Any phrase introduced by the terms <b>including, include, in particular</b> or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms
1.14	Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually

NOW THIS DEED WITNESSES AS FOLLOWS:

2.1	This Deed is given under section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers
2.2	The obligations contained in this Deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are enforceable by the Council in accordance with section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns

2.3	With the exception of clause 2.8 this Deed shall come into effect on the date of grant of the Planning Permission
2.4	This Deed shall be determined and have no further effect if the Planning Permission expires before the Commencement of Development
2.5	The Owner covenants with the Council: <ul style="list-style-type: none"> <li>a) Not to cause or permit the Commencement of Development until the Habitat Mitigation Contribution has been paid to the Council.</li> <li>b) to give at least five Working Days written notice to the Council of the Commencement Date which notice shall be given to the Head of Planning and Housing Services at County Hall, Newport, Isle of Wight, PO30 1UD</li> </ul>
2.6	No person shall be liable for any breach of an obligation, restriction or covenant contained in this Deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest
2.7	This Deed is a local land charge and shall be registered as such by the Council
2.8	The Owner shall pay to the Council the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed:- <ul style="list-style-type: none"> <li>a) In respect of an application for Prior Approval, on the date of this Deed; or,</li> <li>b) In respect of a planning application approved by the Council, on the grant of Planning Permission; or,</li> <li>c) In respect of an appeal against the decision of the Council under the Planning Application to the Secretary of State, prior to the date of validation of the appeal by the Secretary of State</li> </ul>
2.9	The Owner warrants that no person other than the owner and the Mortgagee has any legal or equitable interest in the Property
2.10	The Mortgagee consents to the completion of this Deed and declares that its interest in the Property shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property
2.11	The Mortgagee shall not be personally liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Property

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

SIGNED AS A DEED by:	In the presence of:
[NAME OF OWNER]	[NAME OF WITNESS]
	[ADDRESS OF WITNESS]
..... SIGNATURE	..... SIGNATURE OF WITNESS
SIGNED AS A DEED by:	In the presence of:
[NAME OF OWNER]	[NAME OF WITNESS]
	[ADDRESS OF WITNESS]
..... SIGNATURE	..... SIGNATURE OF WITNESS
SUITABLE FORM OF EXECUTION TO BE PROVIDED BY MORTGAGEE	