

Dated: 2nd January 2024 ~~2023~~

- (1) John Crofton Price and Susan Ann Price
- (2) Two Rivers Housing
- (3) Eastington Community Land Trust Limited
- (4) Stroud District Council

**Town and Country Planning Act 1990  
Section 106 Agreement**

**Relating to: Land at Homeground, Eastington, Gloucestershire**

**Planning Application S.21/3014/FUL**

This **S106 Agreement** is made the 2nd of January .....~~2023~~ 2024

**BETWEEN:**

- (1) **JOHN CROFTON PRICE** of Alkerton Cottage, Puddleworth Lane, Eastington, Stonehouse, Gloucestershire GL10 3AH and **SUSAN ANN PRICE** of 3 Milton Grove, Stroud, Gloucestershire GL5 1NP ("**the Owner**")
- (2) **TWO RIVERS HOUSING** (Co. Regn. No. 04263691 and Charity Regn. No: 1104723 whose registered office is at Rivers Meet Cleeve Mill Lane, Newent Gloucestershire GL18 1DS ("**the Developer**")
- (3) **EASTINGTON COMMUNITY LAND TRUST LIMITED** a registered society under the Co-operative and Community Benefit Societies Act 2014 (registered no. RS007425) whose registered address is Hazel Cottage, Millend, Eastington, Stonehouse, Gloucestershire, GL10 3SF ("**the CLT**")
- (4) **STROUD DISTRICT COUNCIL** at Ebley Mill, Ebley Wharf, Stroud, Gloucestershire, GL5 4UB ("**the Council**")

**INTRODUCTION**

- A. The Council is the local planning authority for the purposes of the Act for the area in which the Site and Ecological Area is situated and is also the Housing Authority for the purposes of the Housing Act 1996 and is entitled to enforce the planning obligations contained in this Agreement
- B. The Owner is the registered proprietor of the freehold of the Site and Ecological Area with Title Absolute registered at the Land Registry comprising part of Title Number GR460096
- C. The CLT has submitted a Planning Application for the Site and Ecological Area
- D. The Council has approved the Site and Ecological Area as a Rural Exception Site
- E. The Owner intends to grant to the Developer a lease of the Site for the purpose of constructing and managing the Affordable Housing Units (as herein defined) and the Owner further intends to transfer the freehold reversion of the Site (subject to the said lease) to the CLT
- F. The Owner, the Developer and the CLT have agreed to comply with the covenants in this Deed and acknowledge that their interest in the Site and Ecological Area (as appropriate) shall take effect subject to this Agreement

- G. The parties agree that the obligations contained in this Agreement are compliant with the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)
- H. Each obligation undertaken in this Deed by the Owner is a planning obligation for the purposes of Section 106 of the Act

**OPERATIVE PART**

**1. DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings:

<b>“the Act”</b>	means the Town and Country Planning Act 1990 (as amended)
<b>“Affordable Housing”</b>	means affordable housing as that term is defined in Annex 2 of the National Planning Policy Framework dated September 2023 (as updated from time to time or as defined in any government documentation that shall supersede it) including Social Rented Units and Shared Ownership Units provided to specified Eligible Persons in Housing Need and Approved Purchasers respectively and:  (a) meeting the needs of Eligible Persons in Housing Need or Approved Purchasers (as the case may be) including availability at a cost low enough for them to afford determined with regard to local incomes and local house prices; and  (b) providing for the affordable housing to remain at an affordable price for future Eligible Persons in Housing Need or Approved Purchasers (as the case maybe) or for the subsidy to be recycled for alternative affordable housing provision within the District of Stroud
<b>“Affordable Housing Matrix”</b>	means the types of Affordable Housing Units set out in the Second Schedule hereto
<b>“Affordable Housing Plan”</b>	means the plan annexed hereto identifying the location and type of dwellings which shall be Affordable Housing unless otherwise agreed in writing with the Council and identified on the attached Proposed Site Layout Drawing No. 6255-P-120J

<p><b>“Affordable Housing Units”</b></p>	<p>means those Dwellings provided/to be provided as Affordable Housing comprising the Social Rented Units and the Shared Ownership Units to be Fully Serviced unless otherwise agreed in writing together with:</p> <ul style="list-style-type: none"> <li>- associated parking</li> <li>- soft landscaped areas</li> <li>- landscaping to private areas</li> </ul> <p>and <b>“Affordable Housing Unit”</b> shall be construed accordingly</p>
<p><b>“Application”</b></p>	<p>means the planning application for the Development and allocated application reference number S.21/3014/FUL</p>
<p><b>“Approval”</b></p>	<p>means approval in writing by the Council under hand of the Head of Development Management (or equivalent at the time) and the word <b>"Approved"</b> shall be construed accordingly</p>
<p><b>“Approved Purchasers”</b></p>	<p>means persons whose housing needs are not met by the market and are unable to compete in the local housing market as a result of the relationship between their income level and the rents or prices of such housing and who either:</p> <ul style="list-style-type: none"> <li>i) are in need of a Shared Ownership Unit; and</li> <li>ii) have registered through the Government’s pre-qualifying/signposting scheme for Shared Ownership homes or</li> <li>iii) whose needs are not met by the market (or as otherwise approved in writing by the Council); and <ul style="list-style-type: none"> <li>a. are Eligible Military Personnel; or</li> <li>b. have a Local Connection;</li> </ul> <p>or</p> <li>iv) are approved in writing by the Council as someone otherwise in need of Affordable Housing</li> </li></ul> <p>and <b>“Approved Purchaser”</b> shall be construed accordingly</p>
<p><b>“Commencement of the Development”</b></p>	<p>means the date on which any material operation (as defined in Section 56 of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance demolition work archaeological investigations for the purpose of assessing ground conditions remedial work in</p>

	respect of any contamination or other adverse ground conditions erection of any temporary means of enclosure the temporary display of site notices or advertisements and <b>"Commence"</b> shall be construed accordingly
<b>"Completed"</b>	means the point at which any Affordable Housing Unit is practically complete save for minor snagging items such that it is reasonably fit for Occupation or use and the word <b>"Completion"</b> shall be construed accordingly (and for the avoidance of doubt Completion shall not be achieved unless all the services to and from the Affordable Housing Unit are Fully Serviced)
<b>"Development"</b>	means the construction of 31 new affordable homes composed of one bed bungalows and maisonettes and two & three bed houses, all with associated access, parking, amenity and landscaping on the Site and Ecological Area (to the extent relevant) pursuant to the Planning Permission
<b>"Dwelling"</b>	means a house, bungalow or flat constructed on the Site pursuant to the Planning Permission together with its attendant curtilage
<b>"Ecological Area"</b>	means that area shown on the attached Proposed Site Layout Drawing No. 6255-P-120J which shall include not less than 0.2 hectares of grassland
<b>"Eligible Military Personnel"</b>	means such active and recent military personnel as defined by the Homes England Capital Funding Guide, Shared Ownership section 3.2.1
<b>"Eligible Persons in Housing Need"</b>	means persons whose housing needs are not met by the market and are unable to compete in the local housing market as a result of the relationship between their income level and the rents or prices of such housing and who either: <ul style="list-style-type: none"> <li>i) are in need of a Social Rented Unit;</li> <li>ii) are registered on the Homeseeker Plus Scheme;</li> <li>iii) meet the criteria set out within the allocations policy of the Homeseeker Plus Policy; and</li> <li>iv) have a Local Connection; or</li> <li>v) are approved in writing by the Council as someone otherwise in need of Affordable Housing</li> </ul>

	and <b>“Eligible Person in Housing Need”</b> shall be construed accordingly
<b>“Expert”</b>	means the independent expert appointed for the purposes of Clause 13
<b>“Family Associations”</b>	means having one or more parent, grandparent, adult child or sibling who have been continuously living within the relevant geographical area applicable pursuant to Paragraph 2.9 of the Third Schedule as the case may be for the period of 3 years immediately prior to the date that the Dwelling becomes vacant
<b>“First Occupation”</b>	means the date on which a Completed Dwelling is Occupied or used for the purposes permitted by the Planning Permission
<b>“Fully Serviced”</b>	means that the Affordable Housing Units shall be provided with full service provision which shall include as appropriate pedestrian and vehicular access and parking foul and surface water drainage mains water electricity and telecommunications access to allow the Occupation of the Affordable Housing Units which shall be connected to the appropriate services constructed for the remainder of the Development
<b>“Homeseeker Plus Policy”</b>	means the document so called and prepared and published and amended from time to time jointly by the local housing authorities in Gloucestershire and West Oxfordshire available at <a href="http://www.homeseekerplus.co.uk">www.homeseekerplus.co.uk</a> which governs the housing allocation procedure
<b>“Homeseeker Plus Scheme”</b>	means the Gloucestershire Homeseeker Choice Based Lettings scheme (or any replacement scheme) set out in the Homeseeker Plus Policy where applicants are invited to express interest in an available home in accordance with the procedure detailed in the Homeseeker Plus Policy

<p><b>“Homes England”</b></p>	<p>means the Homes England of 110 Buckingham Palace Road London SW1W 9SA or such successor body for the time being having or being entitled to exercise the power to regulate registered providers now conferred on such organisation under the Housing and Regeneration Act 2008 or any legislation amending or replacing the same and the national government agency for the administration of affordable housing subsidy and that funds new Affordable Housing and means any successor agency/organisation taking over such functions</p>
<p><b>“Homeswapper Scheme”</b></p>	<p>means the Government’s national HomeSwap Direct scheme</p>
<p><b>“Index Linked”</b></p>	<p>means adjusted according to any increase occurring between the date of this Deed and the date the relevant payment is made by applying the All Items Index of Retail Prices issued by the Office for National Statistics provided that during any period where no such index exists the index that replaces the same or such index compiled in such other manner as may be agreed by the Owner and the Council</p>

<p><b>“Interest”</b></p>	<p>means 4% per annum over the NatWest Bank plc base rate from time to time in force</p>
<p><b>“Lender”</b></p>	<p>means a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee 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 (each a <b>Receiver</b>))</p>
<p><b>“Lettings Plan”</b></p>	<p>means a plan produced by the Council and agreed in writing with the Owner and Registered Provider (acting reasonably) setting specific lettings requirements in accordance with the Homeseeker Plus Policy in respect of the Social Rented Units</p>
<p><b>“LEMP”</b></p>	<p>means the Landscape and Ecology Management Plan Version V1.1 dated May 2022 annexed hereto</p>

<p><b>“Local Connection”</b></p>	<p>means (in priority order):</p> <p>(a) (i) having Family Associations with the Primary Geographic Area; or</p> <p>(ii) for a continuous period of 3 years out of the last 5 years immediately prior to the date that the Social Rented Unit becomes vacant or the or Shared Ownership Unit becomes available for purchase having had their only or principal home within the Primary Geographic Area</p> <p>(b) for 6 out of the last 12 months immediately prior to the date that the Social Rented Unit becomes vacant or the or Shared Ownership Unit becomes available for purchase having:</p> <p>(i) had their only or principal home within the Primary Geographic Area; or</p> <p>(ii) been principally employed within the Primary Geographic Area</p> <p>(c) (i) having Family Associations within one or more of the Surrounding Parishes; or</p> <p>(ii) for a continuous period of 3 years out of the last 5 years immediately prior to the date that the Social Rented Unit becomes vacant or the or Shared Ownership Unit becomes available for purchase having had their only or principal home within one of the Surrounding Parishes</p> <p>(d) (i) having Family Associations within the administrative district of Stroud; or</p> <p>(ii) for a continuous period of 3 years out of the last 5 years immediately prior to the date that the Social Rented Unit becomes vacant or the or Shared Ownership Unit becomes available for purchase having had their only or principal home within the administrative district of Stroud</p>
<p><b>“Local Housing Allowance”</b></p>	<p>means the rent rate set annually by the Valuation Office (or any successor body thereof) for the area within which the Social Rented Units are located and which is used to calculate</p>



	the maximum housing benefit entitlement for each Tenant thereof or any scheme which supercedes it
<b>“Market Value”</b>	means the price which the interest of a leaseholder purchaser or purchaser’s successor of a Shared Ownership Unit would fetch if sold on the open market by a willing seller and on the assumption that the purchaser or purchaser’s successor wishing to sell his interest holds 100% of the property’s leasehold equity and disregarding: (i) any mortgage of the leaseholder’s interest; (ii) any interest in or right over the property created by the leaseholder (iii) any improvement made by the leaseholder or any predecessor in title of his; and (iv) any failure by the leaseholder or any predecessor in title to carry out obligations in respect of repair and decoration.
<b>“Monitoring Fee”</b>	the sum of <b>£2,161</b> (two thousand one hundred and sixty one pounds) Index Linked to be paid by the Owner to the Council to monitor compliance with this Agreement
<b>“Net Capital Receipts”</b>	means shall be the amount received by the Owner after deduction of all legal and other costs reasonably incurred in connection with the transaction that release the equity and any sums to be repaid to a grant or mortgage provider
<b>“Occupation”</b>	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 and the word <b>“Occupied”</b> shall be construed accordingly
<b>“Plan 1” and “Plan 2”</b>	means the plans attached hereto and respectively so marked
<b>“the Planning Permission”</b>	means the planning permission granted pursuant to the Application
<b>“Registered Provider”</b>	means any one of the following:

	<p>(a) a body that meets the definition of 'Housing Association' in section 1(1a) of the Housing Associations Act 1985; or</p> <p>(b) a Registered Provider as defined in Section 80 of the Housing and Regeneration Act 2008, or body registered with Homes England; or</p> <p>(c) a body approved or accredited by Homes England or equivalent successor body whose terms of approval or accreditation have been evidenced to the satisfaction of the Council in writing; or</p> <p>(d) other body nominated by the Council;</p> <p>(e) any other body previously agreed in writing by the Council</p>
<b>"Relevant Market Value"</b>	means at price that is not greater than the Relevant Percentage of the Market Value
<b>"Relevant Percentage"</b>	means the percentage of the property's leasehold equity then held by the purchaser or purchaser's successor of a Shared Ownership Unit wishing to sell his interest in the dwelling
<b>"Rural Exception Site"</b>	means a residential site delivered as affordable housing in accordance with Delivery Policy HC4 of the Stroud District Local Plan dated November 2015 and paragraph 78 of the National Planning Policy Framework
<b>"Primary Geographical Area"</b>	means the traditional hamlets of Eastington the boundary of which is shown edged red on Plan 2 (and for the avoidance of doubt does not include the settlement of Great Oldbury)
<b>"Sales Plan"</b>	means for the Shared Ownership Units a plan produced by the Affordable Housing Provider and agreed in writing by the Council and the Owner setting out the price of each Shared Ownership Unit and the method of marketing the Shared Ownership Units to Approved Purchasers
<b>"Service Charge"</b>	means a charge made to the occupiers of individual Dwellings or in the case of the Social Rented Units and the Shared Ownership Units a charge made to the Affordable Housing Provider to cover the reasonable cost of the yearly maintenance and management of common parts communal gardens or landscaping areas of the Development that directly benefit the Affordable Housing Units to a standard reasonably

	required but for the avoidance of doubt shall not include any charge made in respect of the provision of health care services and utilities supplied to or used by occupiers of an individual Dwelling
<b>“Severn Estuary Mitigation Contribution”</b>	Means the sum of <b>£11,935.00</b> (eleven thousand nine hundred and thirty five pounds) for expenditure on environmental and ecological measures to mitigate the impact of the Development on the Severn Estuary Special Area of Conservation, Special Protection Area and Ramsar Site
<b>“Shared Ownership”</b>	means subsidised housing provided by a Registered Provider for sale by way of a Shared Ownership Lease
<b>“Shared Ownership Lease”</b>	<p>means a lease:</p> <ul style="list-style-type: none"> <li>(i) with the purchaser paying for an initial percentage of the property’s leasehold equity (such percentage shall be no less than 35% and shall not exceed 80%)</li> <li>(ii) with the remaining percentage of the leasehold equity being retained by a Registered Provider; and</li> <li>(iii) under which it is provided that the purchaser if wishing to sell its interest in the dwelling if that interest is not more than 80% of the property’s leasehold equity must first offer to sell the same to the landlord Registered Provider or a nominee of the landlord Registered Provider at the Relevant Market Value</li> </ul> <p>and where</p> <ul style="list-style-type: none"> <li>(iv) the purchaser or purchaser’s successor in title shall be entitled to acquire up to 100% of the property’s leasehold equity and it is provided that the purchaser or purchaser’s successor if wishing to sell his interest in the dwelling if that interest is more than 80% of the property’s leasehold equity must first offer to surrender or assign the same at the Relevant Market Value to the landlord Registered Provider or a willing nominee of the landlord Registered Provider which itself is also a Registered Provider and provides that the landlord Registered Provider shall either accept and complete</li> </ul>

	such surrender or procure that its Registered Provider nominee shall accept and complete such assignment
<b>“Shared Ownership Units”</b>	means Affordable Housing Units which are to be provided by way of Shared Ownership on the Site and identified as such on the Affordable Housing Plan
<b>“Social Rent”</b>	means subsidised housing provided by a Registered Provider and let at a rent determined in accordance with the Target Rents
<b>“Social Rented Unit”</b>	means Affordable Housing Units which are to be provided by way of Social Rent on the Site and identified as such on the Affordable Housing Plan
<b>“Site”</b>	means the land described in the First Schedule against which this Deed may be enforced
<b>“Surrounding Parishes”</b>	means the parishes of Whitminster, Frampton upon Severn, Frocester, Slimbridge, Coaley and Standish
<b>“Target Rents”</b>	means rents and service charges to be set by the Registered Provider calculated using the formula and data set out in the Ministry of Housing, Communities and Local Governments Guidance on Rent for Social Housing or any successor bodies guidance on the same
<b>“Tenant”</b>	means an Eligible Person in Housing Need who is renting an Affordable Housing Unit under a tenancy agreement with a Registered Provider

## 2 CONSTRUCTION OF THIS DEED

### 2.1 In this Deed:

- 2.1.1 The clause headings do not affect its interpretation.
- 2.1.2 Where 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 Deed.
- 2.1.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.1.4 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.

- 2.1.5 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.
- 2.1.6 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.
- 2.1.7 References to any party to this deed 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 the successors to their respective statutory functions.
- 2.1.8 "including" means including without limitation
- 2.1.9 References to "the Site" and "Ecological Area" (as relevant) include each and every part thereof
- 2.1.10 Except where expressly stated to the contrary where agreement Approval consent or expression of satisfaction is required from the Council under the terms of this Agreement such agreement Approval consent or expression of satisfaction shall not be unreasonably withheld or delayed
- 2.1.11 Any covenant by the Owner or Developer not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing

### **3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act and to the extent that they fall within the terms of Section 106 of the Act the obligations contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council
- 3.2 All other obligations under this Deed that are not enforceable as planning obligations shall take effect as personal covenants pursuant to Section 111 of the Local Government Act 1972 Sections 8 to 9 of the Housing Act 1985 Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.3 The covenants restrictions and requirements imposed upon the Owner and/or Developer and/or CLT under this Agreement create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority

#### **4 CONDITIONALITY & LIABILITY**

- 4.1 Unless otherwise expressly stated herein the covenants in the Schedules to this Deed are conditional upon the Commencement of the Development
- 4.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or Ecological Area (as relevant) or in the part of the Site or Ecological Area (as relevant) in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the avoidance of doubt the benefit of any security or covenant or the reserving of any easement shall not be an interest for these purposes.

#### **5 THE OWNER'S COVENANT**

- 5.1 The Owner covenants with the Council on behalf of his assigns and successors in title as set out in the Third Schedule so as to bind the Site and Ecological Area (as appropriate) and every part of it into whosoever hands it may come.
- 5.2 With effect from the date that the CLT and the Developer acquire legal interests in the Site and Ecological Area (as appropriate) the CLT and Developer shall observe and perform the obligations and restrictions set out in the Third Schedule
- 5.3 The Developer will indemnify the CLT in relation to a breach of any and all obligations in this agreement and all proceedings, costs, claims and expenses on account of any breach.
- 5.4 The Owner, the Developer and the CLT further covenant not to develop or cause or permit the Site or Ecological Area (as relevant) or any part or parts of the Site or Ecological Area (as relevant) to be developed pursuant to the Planning Permission otherwise than in strict conformity with the terms of this Agreement
- 5.5 CLT covenants to pay the Monitoring Fee to the Council prior to Commencement of the Development
- 5.6 In addition and without prejudice to the proper exercise at any time by the Council of any of its statutory powers functions or discretions in relation to the Site or Ecological Area (as relevant) or otherwise the Owner and/or Developer shall if and when required by the Council from time to time provide the Council (without charge and within fourteen (14) Working Days) with such information including any copies of any documents as the Council may reasonably request for the purpose of ascertaining whether there has been compliance with or any breach of the requirements of this Agreement and the Schedules hereto

**6 EXCLUSIONS/LIABILITY FOR BREACH OF COVENANTS**

6.1 This Agreement shall not be enforceable against:

6.1.1 any owner or occupier or tenant of the Affordable Housing Units nor any mortgagee or chargee (including their Receiver) nor any successor in title of any of the foregoing (save for those provisions of this Agreement that prohibit Occupation of a specified number of Dwellings until specific planning obligations have been discharged and any specific obligations relating to the use of Affordable Housing Units as such);

6.1.2 any statutory undertaker or service company who acquires an interest in the Site or Ecological Area (as relevant) for the purposes of its undertaking;

6.1.3 any Registered Provider so far as the obligations attach to those parts of the Site or Ecological Area (as relevant) that do not comprise Affordable Housing or their mortgagees, chargees or Receivers;

6.1.4 any person exercising a statutory right to buy or acquire any of the Social Rented Units or similar statutory right introduced in favour of occupiers of them;

6.1.5 any person or occupier who staircases out to one hundred per cent (100%) ownership of any Shared Ownership Unit

6.1.6 any successor in title to the persons in Clauses 6.1.3 to 6.1.5 above (save for those provisions of this Agreement that prohibit Occupation of a specified number of Dwellings until specific planning obligations have been discharged)

6.2 The Owner and the Council agree and declare that the provisions of the whole of Paragraph 2 of the Third Schedule shall not be binding upon a Lender of a Registered Provider or any persons or bodies deriving title through the Lender to the intent that any such Lender exercising its security may dispose of its interest in the Affordable Housing Units subject to any subsisting leases and underleases **PROVIDED THAT**

6.2.1 the Lender shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

6.2.2 if such disposal has not completed within the three month period, the Lender shall be entitled to dispose of the Affordable Housing Units free from the provisions of the whole of Paragraph 2 of the Third Schedule in this agreement which provisions shall determine absolutely

**7. APPROVALS & NOTICES**

- 7.1 Where the agreement approval consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed, and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Development Management (or equivalent at the time).
- 7.2 Any notice to the Owner under this Deed shall be in writing signed by the Head of Development Management (or equivalent at the time) for the time being of the Council unless otherwise herein provided and shall be deemed to be sufficiently served in the case of the Owner if sent to it by registered or recorded delivery post at the address of the relevant party in this deed.
- 7.3 Any notice to the Council under this Deed shall be in writing and shall be deemed to be sufficiently served if sent by registered or recorded delivery post to the Council addressed to the Head of Development Management (or equivalent at the time) at the address stated at the beginning of this Deed.

**8 WAIVER**

It is hereby agreed by the parties hereto that failure by the Council at any time to enforce the provisions of this Deed or to require performance strictly or otherwise by the Owner of any of the conditions, covenants, agreements, or obligations of this Deed or any failure or delay by the Council to exercise any act right or remedy shall not:

- (a) be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation; nor
- (b) affect the validity of this Deed or any part thereof or the right of the Council to enforce any provision;

and any variation of this Deed agreed between the Owner and the Council shall not vitiate the remainder of the Deed which shall remain in full force and effect subject to such agreed amendments.

**9. CONSENT TO REGISTRATION**

The Owner hereby consents to the registration of this Deed as a Local Land Charge.

**10. CHANGE IN OWNERSHIP**

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site or Ecological Area (as relevant) (save for any



transfer or lease in respect of any Dwelling or electricity substation lease or weather station sub lease) such notice to give details of the transferee's or lessee's full name and registered office (if a company or usual address if not) together with the area of the Site or Ecological Area (as relevant) or unit of occupation purchased by reference to a plan.

#### **11. INTEREST**

The Owner covenants that if any payment due to the Council under this Deed is paid late Interest calculated on a daily basis and compounded quarterly will be payable from the date payment is due under the terms of this Deed to the date of payment.

#### **12. WARRANTY**

The Owner hereby warrants to the Council that they have not leased mortgaged charged or otherwise created any interest in the Site or Ecological Area other than already in place at the date of this Deed.

#### **13. DISPUTE RESOLUTION**

- 13.1 In the event of any dispute or difference relating to any matter contained in this Agreement any party to the dispute (including successors in title to the parties to this Agreement) may by serving notice of the same on the other party or parties require it to be referred for determination by an Expert (who will act as an expert not an arbitrator) appointed under Clause 13.2 below acting in accordance with Clauses 13.3 to 13.9
- 13.2 If the parties do not make the appointment of the Expert by agreement within 14 days of service requiring reference of the dispute the Expert shall be nominated upon the application of either party by the President (or other officer to whom the making of such appointment is for the time being delegated) of the Law Society and the Expert shall be an independent person who has been professionally qualified in respect of the subject matter of the dispute or difference for not less than 10 years
- 13.3 Unless the Expert shall direct to the contrary not more than 28 days after his appointment the parties shall exchange and copy to the Expert written summaries of their cases together with a bundle of key documents relied upon
- 13.4 Unless the Expert shall direct to the contrary not more than 28 days after his appointment the parties shall exchange and copy to the Expert written summaries of their cases together with a bundle of key documents relied upon
- 13.5 The Expert shall be at liberty to visit the Site or Ecological Area (as relevant) relevant to the dispute unaccompanied and to call for such written evidence from the parties as he may require

- 13.6 The Expert shall not unless he directs to the contrary hear oral representations from any party to the dispute
- 13.7 The Expert shall fully consider all submissions and evidence when making his decision
- 13.8 Expert shall give his decision in writing and shall give reasons
- 13.9 Expert shall use reasonable endeavours to give his decision and the reason for it as speedily as possible and in any event within 42 days of his appointment.
- 13.10 Expert's decision (save in the case of manifest or legal error) including his decision as to costs shall be final and binding. The Expert's fees shall be payable by the parties in such proportions as he shall determine and in default of such determination equally between them

#### **14. SECTION 73 VARIATION**

In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under Section 73 of the Act in respect of the conditions relating to the Planning Permission save and in so far as this Agreement has been amended by way of a deed of variation prior to the grant of such planning permission references in this Agreement to the Application shall (save for the purposes of the definition of Planning Permission in relation to Clause 4) be deemed to include any such subsequent planning applications as aforesaid and Clauses 15.3 and 15.5 shall be construed so as to apply to any such planning permission(s) granted pursuant to Section 73 of the Act and this Agreement shall henceforth take effect and be read and construed accordingly

#### **15. MISCELLANEOUS**

- 15.1 None of the terms of this Deed will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it even if the terms are expressed to be for their or their successors benefit, and nor shall any third party have a right of veto over any future variations of this Deed
- 15.2 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 or impair the validity legality or enforceability of the remaining provisions of this Deed.
- 15.3 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 expires prior to the Commencement of the Development or the Planning Permission (without the consent of the Owner) is modified by any statutory procedure or development of the Site or Ecological Area (as relevant) is undertaken pursuant to

another planning permission granted after the date of this Agreement insofar as it has not already been complied with or should have been complied with

- 15.4 Upon the satisfaction of any obligation under this Deed the Council shall as soon as reasonably practicable upon the receipt of a written demand for such and evidence of such compliance provide the Owner with written confirmation of the satisfaction of that obligation.
- 15.5 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site or Ecological Area (as relevant) in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 15.2 This Deed constitutes the entire agreement between the parties in respect of the Planning Permission.
- 15.3 Subject to Clause 4 the provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.
- 15.4 This Deed is governed by and interpreted in accordance with the law of England.

**FIRST SCHEDULE**

**Details of the Owners' Title and description of the Site**

All that land known as part of Homeground, Eastington, Gloucestershire shown edged in red on Plan 1 and registered at the Land Registry under Title Number GR460096.

**SECOND SCHEDULE**  
**Affordable Housing Matrix**

21 of the Dwellings constructed pursuant to the Permission shall be Social Rented Units of which:

1. 8 shall be 1-bed 2-person flats; and,
2. 6 shall be 2-bed 4-person houses
3. 2 shall be 1-bed 2-person bungalows
4. 5 shall be 3-bed 5-person houses

10 of the Dwellings constructed pursuant to the Permission shall be Shared Ownership Units of which:

1. 8 shall be 2-bed 4-person houses
2. 2 shall be 3-bed 5-person houses

**THE THIRD SCHEDULE  
OWNER'S COVENANTS**

The Owner covenants with the Council as follows:

**1. SEVERN ESTUARY MITIGATION CONTRIBUTION**

Not to Commence nor cause or permit the Commencement of the Development until the Severn Estuary Mitigation Contribution Index Linked has been paid to the Council

**2. AFFORDABLE HOUSING PROVISION**

2.1 Not to provide any Dwellings comprised in the Development other than as Affordable Housing accordance with the approved Affordable Housing Matrix and Affordable Housing Plan.

2.2 Not to Commence Development until the Owner shall have entered into a binding unconditional contract with the Developer for the grant of a lease of the Affordable Housing Units on the terms and conditions specified in Paragraph 2.5 below and for the construction and provision (subject to the terms of this Deed) in perpetuity of the Affordable Housing Units in accordance with the approved Affordable Housing Matrix and Affordable Housing Plan and has produced a certified copy of the said contract and any details of the negotiations with the Developer (if demanded) to the Council within 7 Working Days of request

2.3 To provide pedestrian and vehicular access foul and surface water sewers and water gas electricity and telecommunication service systems for any Affordable Housing Unit constructed and laid as part of the Development to a standard that each may be adopted and maintained at the public's or a statutory undertaker's expense to an appropriate point (whereupon it may be private) linking in each case to the remainder of the roads and/or sewers and/or pipes and/or cables and/or other apparatus built laid or constructed on the remainder of the Site

2.4 Not to use or permit the Affordable Housing Units to be used for any other purpose than as Affordable Housing in accordance with this Agreement

2.5 Not to Occupy or allow or permit the Occupation of any Affordable Housing Unit that is ready to be Occupied until such time as that Affordable Housing Unit has been leased to the Developer in accordance with Paragraph 2.2 above on the following terms:

2.5.1 at a cost that will ensure that the Social Rented Units will be let at a Social Rent and that the Shared Ownership Units will be let or sold as Shared Ownership Housing

- 2.5.2 with a good and marketable title having been deduced and the Affordable Housing Land having been leased with full title guarantee (save that the lessor shall not be liable under the covenants implied by Section 2 and 3 of the Law of Property (Miscellaneous Provisions) Act 1994 by reason of the Affordable Housing Land being leased subject to disclosed subjections and all matters imposed and rights conferred by or under any statute and for the purposes of such Act all matters then recorded in registers open to public inspection shall be considered within the actual knowledge of the transferee) or in any case where the lessor only holds the legal interest to be transferred as a trustee or trustees, with limited title guarantee and with vacant possession free of any registered charges (save for this Agreement)
- 2.5.3 on the Standard Conditions of Sale (current at time of lease) which shall apply insofar as the same are not inconsistent with the expressed terms in this Agreement with such amendments as a reasonable lessor and lessee would incorporate
- 2.5.4 provision has been made for all services necessary for the Occupation of each Affordable Housing Unit in accordance with Paragraph 2.3 above
- 2.6 Not to permit the letting and management of the Social Rented Units and the Shared Ownership Units otherwise than by a Registered Provider and not to let the Social Rented Units except to an Eligible Person in Housing Need nor sell a Shared Ownership Unit other than to an Approved Purchaser as their sole residence.
- 2.7 Within twenty-eight (28) days of the Social Rented Units being leased to the Developer and prior to the Social Rented Units being advertised or marketed in any way to submit a Lettings Plan in writing to the Council and the CLT and not to commence such advertising or marketing until the same is approved by the Council and the CLT in writing
- 2.8 Within twenty-eight (28) days of the Shared Ownership Units being leased to the Developer and prior to the Shared Ownership Units being advertised or marketed in any way to submit a Sales Plan in writing to the Council and the CLT and not to commence such advertising or marketing until the same is approved by the Council and the CLT in writing
- 2.9 To let each Social Rented Unit (as soon as reasonably practicable after that unit is Completed or thereafter becomes vacant) to an Eligible Person in Housing Need with a Local Connection to the Primary Geographical Area in accordance with the approved Lettings Plan for not less than 15 working days for the First Occupation thereof and 5 working days for subsequent Occupation PROVIDED THAT:
  - 2.9.1 if following advertisement there is no suitable Eligible Person in Housing Need with a Local Connection to the Primary Geographical Area to whom the Social

Rented Unit may be allocated, the Social Rented Unit may be allocated to those Eligible Persons in Housing Need who have a Local Connection to the Surrounding Parishes .

- 2.9.2 if after further diligent enquiry, no person is identified pursuant to sub-Paragraph 2.9.1 above, the Social Rented Unit may be allocated to any Eligible Person in Housing Need who has a Local Connection within the administrative district of Stroud; and
  - 2.9.3 if after a period of three (3) calendar months from first advertising the Social Rented Unit in the manner prescribed in the foregoing provisions of this Paragraph 2.9 it has not been possible to allocate the Social Rented Unit in the manner prescribed therein then the Social Rented Unit may be allocated to any Eligible Person in Housing Need.
- 2.10 Not to cause or permit any of the Social Rented Units to be available for mutual exchanges, including the National Homeswapper Scheme, unless the applicant is an Eligible Person in Housing Need with a Local Connection to the Primary Geographical Area and to include clear terms to this effect in each tenancy agreement of a Social Rented Unit.
- 2.11 To lease each Shared Ownership Unit (as soon as reasonably practicable after that unit is Completed or thereafter becomes vacant) to an Approved Purchaser with a Local Connection to the Primary Geographical Area as his/her sole residence on a Shared Ownership Lease by advertising the same in accordance with the approved Sales Plan PROVIDED THAT:
- 2.11.1 Subject to paragraph 2.11.4, if after diligent enquiry following advertisement in accordance with the approved Sales Plan there is no Approved Purchaser with a Local Connection to the Primary Geographical Area, the Shared Ownership Unit may be leased to an Approved Purchaser with a Local Connection to the Surrounding Parishes as his/her sole residence on a Shared Ownership Lease.
  - 2.11.2 Subject to paragraph 2.11.4, if after further diligent enquiry no persons qualify pursuant to Paragraph 2.11.1 then the Shared Ownership Unit may be leased to an Approved Person who has a Local Connection within the administrative district of Stroud as his/her sole residence on a Shared Ownership Lease
  - 2.11.3 Where there are multiple Approved Purchasers with an equal Local Connection at each level of cascade (the priority of the Local Connection is set out in paragraphs 2.11.1 – 2.11.2 above) then the priority of allocation in respect of granting a Shared Ownership Lease within each level of the cascade shall be:
    - (i) Eligible Military Personnel and then



- (ii) the Approved Purchasers in the order in which they registered through the Government's pre-qualifying/signposting scheme for Shared Ownership homes

- 2.11.4 If after a period of three (3) calendar months from first advertising the Shared Ownership Unit in the manner prescribed in the foregoing provisions ) it has not been possible to allocate the Shared Ownership Unit in the manner prescribed therein then the Shared Ownership Unit may be leased on a Shared Ownership Lease to any person as his/her sole residence who is ordinarily resident in the United Kingdom and who has registered through the Government's pre-qualifying/signposting scheme for Shared Ownership homes and who is approved in writing by the Council as being in need of Affordable Housing and such consent shall not be unreasonably withheld or delayed
- 2.12 No Service Charge shall be applied to Affordable Housing Units unless all elements of the Service Charge are eligible for Local Housing Allowance or equivalent subsequent scheme AND shall be affordable in relation to local incomes and earnings.
- 2.13 Any Net Capital Receipts from future release of equity in the Affordable Housing Units shall be used for the provision of other Affordable Housing in the District of Stroud

### **ECOLOGICAL AREA**

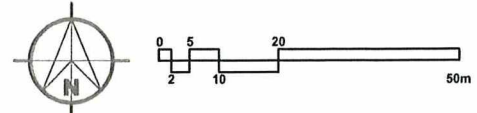
- 3.1 Not to Occupy or allow or permit the Occupation of any Dwelling until details of the legal and funding mechanisms for implementation and maintenance for not less than 30 years of the Ecological Area have been submitted to and approved in writing by the Council (acting reasonably)
- 3.2 Unless otherwise agreed in writing by the Council at all times following the first Occupation of the Development to manage and maintain the Ecological Area in accordance with the LEMP and the details approved pursuant to Paragraph 3.1 above
- 3.3 Following the sale by the Owner to the CLT of the freehold interest in the Site and the adjoining land (being all land within Title Number GR460096 not forming part of the Site and for the avoidance of doubt the Ecological Area is included in this adjoining land) not to sell the freehold interest in the Ecological Area separately from the freehold interest in the Site but for the avoidance of doubt the Ecological Area can be leased or otherwise disposed of separately from the Site.



TM  
NR  
Wenvor  
Warehouse  
S.A. Price  
of CR

PLAN 1

6907



— Planning Boundary — Adjoining Land In Client Ownership

**NOTES**  
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**REVISIONS**  
REV: DATE - DRAWN - CHECKED: NOTES  
-: 28.09.21 - JTR - RS: Drawing created.  
A: 12.10.21 - JTR: Planning boundary amended  
B: 07.12.21 - JTR: Adjoining Land boundary amended

[www.quattrodesign.co.uk](http://www.quattrodesign.co.uk)

**PROJECT**  
Homegrounds, Eastington

**CLIENT**  
ECLT

**DRAWING TITLE**  
Site Location Plan

**DRAWING NO.**  
6255-P-001

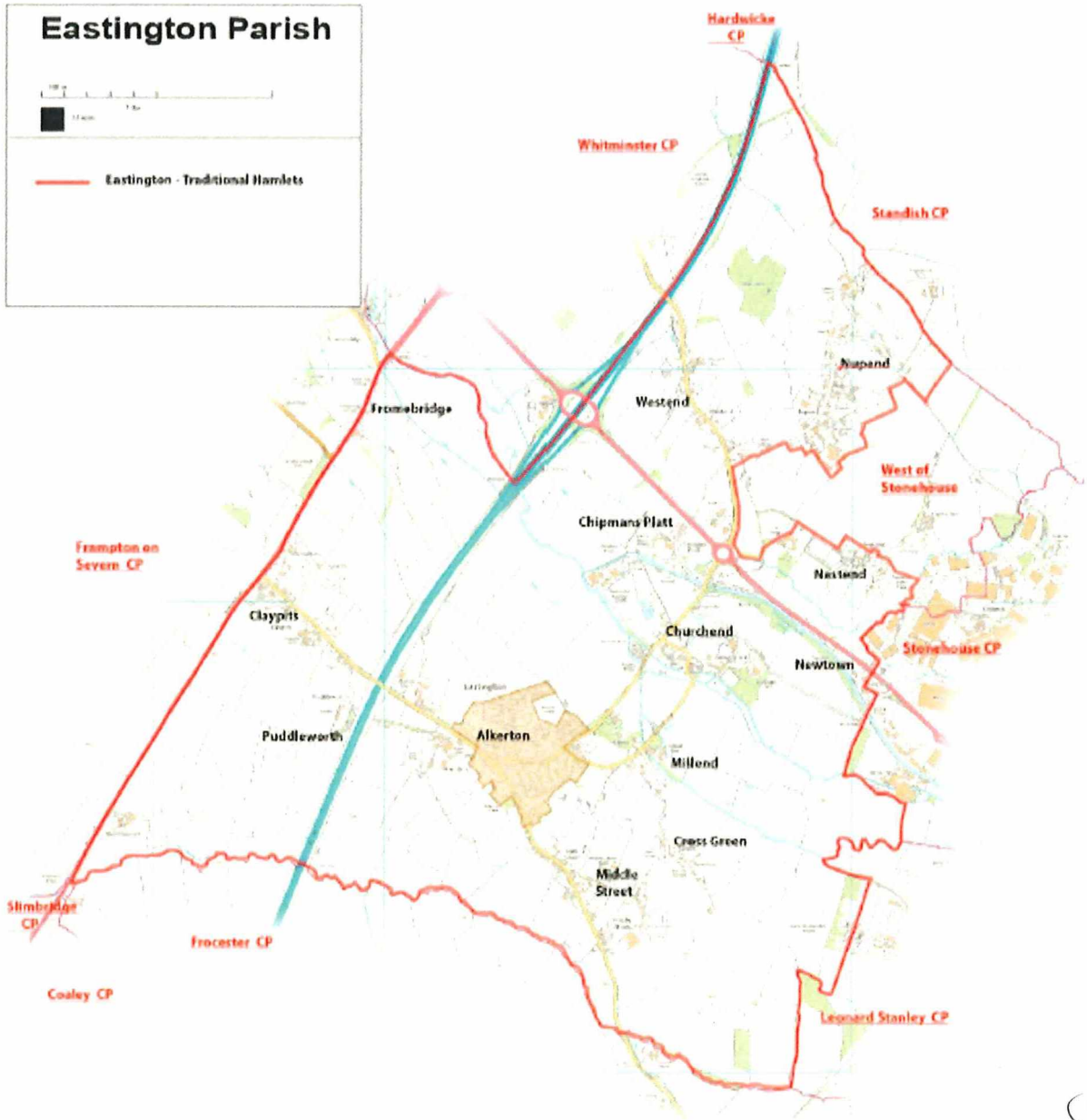
**REV**  
B

**SCALE** 1:1250@A3

**DATE** Sep 2021

Matthews Warehouse, High Orchard Street  
Gloucester Quays, GL2 5DQ T: (01452) 424234

### Plan 2

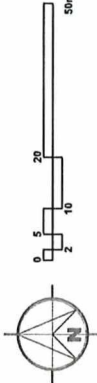


*SPW/08*

*d.c.p.  
S.A. Price  
W.D. Dunstone*

6907

*TM  
NR*



TM  
NR

*W. S. A. Price  
of chin*

6907

Accommodation Schedule					
House Type	Area (SqM)	House Type	Storey	Total no.	Total Area (SqM)
1B2P F	50.0	1B2P F	1	4	2152.8
1B2P F	59.0	1B2P F	1	4	2540.3
1B2P B	50.0	1B2P B	1	2	1076.4
2B4P H	92.0	2B4P H	2	6	5521.9
3B5P H	1053.8	3B5P H	2	5	5269.0
<b>Sub Total</b>				<b>21</b>	<b>16560.4</b>
<b>Shared Ownership</b>					
2B4P H	85.5	2B4P H	2	8	7362.6
3B5P H	97.9	3B5P H	2	2	2107.6
<b>Sub Total</b>				<b>10</b>	<b>9470.2</b>
<b>Total</b>				<b>31</b>	<b>26030.6</b>
<b>Total Car Parking Spaces</b>				<b>67.0</b>	<b>Inc. 6 Visitor</b>

Site Area Summary	
Total no. Units	31
Gross Site Area (Ha)	1.7
Density (Units / Ha)	18.2
Net Coverage (m <sup>2</sup> / Ha)	1422.5

- Planning Boundary
- Adjoining Land in Client Ownership
- Existing Trees
- Existing Hedgerow
- Existing Trees Hedgerow To Be Removed
- Existing Hedgerow To Be Trimmed
- Existing Scrubland
- Illustrative Proposed Trees & Hedgerow (indicative locations)
- Proposed Low Level Planting
- Grade II Listed Building Setting Envelopment
- Potential Protection Link
- Potential Seating/ Benched Area TEA
- Pumping Station W/ 15m Envelopment
- Electricity Substation TEC (Indicative Size and Location)
- Bollards
- Bend Forward Visibility Splay
- Acoustic Shelter
- Termac Footpath
- Termac Road
- Block Paving
- Paving Slabs
- Gravel Strip
- Hoggin Surface

M5 (approx location)



Snakey Park Playground

Eastington Community Centre  
At Owen Herms Memorial Ground

*W. S. A. Price  
of chin*

**NOTES**

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**REVISIONS**

REV DATE DRAWN CHECKED NOTES

21/02/21 JTB (1) Proposed site layout (see also 01/20/21 site plan)

01/03/21 JTB (2) Revised site layout (see also 01/20/21 site plan)

01/03/21 JTB (3) Revised site layout (see also 01/20/21 site plan)

01/03/21 JTB (4) Revised site layout (see also 01/20/21 site plan)

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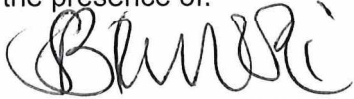
01/03/21 JTB (99) Revised site layout (see also 01/20/21 site plan)

01/03/21 JTB (100) Revised site layout (see also 01/20/21 site plan)

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

EXECUTED AS A DEED by affixing  
the COMMON SEAL of STROUD  
DISTRICT COUNCIL

in the presence of:



Authorised Signatory:

*Sarah Farooq*  
Head of Law, Litigation & Planning



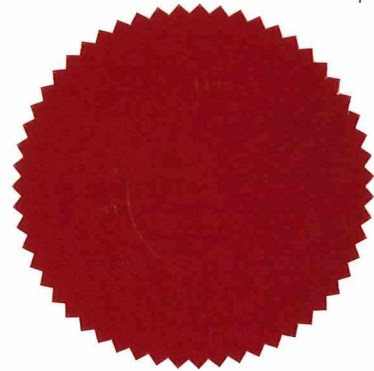
6907

EXECUTED AS A DEED  
by TWO RIVERS HOUSING  
affixing its COMMON SEAL in the  
presence of






Authorised signatories

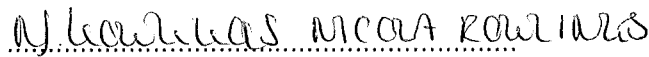


**EXECUTED AS A DEED by  
EASTINGTON COMMUNITY  
LAND TRUST LIMITED**

acting by a committee member  
and the secretary or two committee  
members

..... THOMAS HARRISON

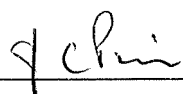
Committee Member

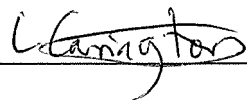
.....

Secretary / Committee Member NR

**EXECUTED AS A DEED BY  
JOHN CROFTON PRICE**

in the presence of

Signatures: 

Signature of witness: 

Name (in BLOCK CAPITALS): LUCY CARRINGTON

Address: \_\_\_\_\_ HCR Legal LLP  
Ellenborough House  
Wellington Street  
Cheltenham GL50 1YD

EXECUTED AS A DEED BY

**SUSAN ANN PRICE**

in the presence of

Signatures: S.A. Price

Signature of witness: ~~LCarrington~~

Name (in BLOCK CAPITALS): LUCY CARRINGTON

Address: \_\_\_\_\_ HCR Legal LLP  
Ellenborough House  
Wellington Street  
Cheltenham GL50 1YD