THIS **UNILATERAL UNDERTAKING** is made by **DEED** on the (to be inserted by Broadland District Council) of 2022

**AND GIVEN BY**

[FULL COMPANY NAME] incorporated and registered in England and Wales with Company number [NUMBER] who registered office is at [REGISTERED OFFICE ADDRESS] **(referred to as “the Owner”)**

[FULL NAME] of [FULL ADDRESS] **(referred to as “the Owner”)**

and

[FULL COMPANY NAME] incorporated and registered in England and Wales with Company number [NUMBER] who registered office is at [REGISTERED OFFICE ADDRESS] **(referred to as “the Mortgagee”)**

**TO** Broadland District Council of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU **(referred to as “the Council”)**

**BACKGROUND**

1. The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
2. The Owner is the [freeholder] owner of the Land which is part of the land registered at the Land Registry under title number [Insert Number].
3. The District Council has not yet determined the Planning Application and the Owner enters into this Deed to secure the planning obligations which will take effect following a grant of the Planning Permission for the Development.

**AGREED TERMS**

1. **INTERPRETATION**

The following definitions and rules of interpretation apply in this deed.

* 1. Definitions:

**Act**: the Town and Country Planning Act 1990 as amended

**Commencement**: the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development is first carried out, except (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, site survey works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commence” and “commenced” and similar expressions shall be construed accordingly

**Development**: the development of the Land described in the Planning Application and in accordance with the Planning Permission

**Dwelling**: any dwelling (including house, flat or maisonette) or unit of accommodation to be constructed pursuant to the Planning Permission and “Dwellings” shall be construed accordingly

**Green Infrastructure Contribution**: the financial contribution to be calculated in accordance with the table below and increased in line with the Green Infrastructure Inflation Provision and applied towards the delivery of the objectives of the Council’s Green Infrastructure plans or other such projects that meet the aims of Policy EN3 of the Council’s Development Management Development Plan Document

|  |  |
| --- | --- |
|  | Contribution per Dwelling |
| 1 Bed | £842.80 |
| 2 Bed | £1124.17 |
| 3 Bed | £1404.88 |
| 4 Bed | £1685.59 |
| 5 Bed | £1966.96 |

**Green Infrastructure Inflation Provision:** The increase (if any) in the *Royal Institute of Chartered Surveyors Building Cost Information Service All-in Tender Price Index* between Q2 2022 (Index 355) and the date upon which payment is made pursuant to this Agreement (or if such index ceases to be published such other index as the Council shall reasonably determine)

**Land:** the freehold land at [Insert address]against which this Deed may be enforced shown for identification purposes edged red and hatched on the Plan

**Plan**: the site plan attached to this Deed

**Planning Application:** an application for planning permission validated by the Council on [insert date] for the Development and allocated reference number [Insert]

**Planning Permission:** the planning permission to be granted by the Council in respect of the Planning Application or if the Council agrees (in its absolute discretion) in writing, another planning permission for the Development granted pursuant to section 73 of the Act

**Recreational impact Avoidance and Mitigation Contribution:** the financial contribution to be calculated using the Recreational Impact Avoidance and Mitigation Contribution Calculation and increased in line with the Recreational Impact Avoidance and Mitigation Contribution Inflation Provision and applied towards the package of mitigation measures identified in the Strategy

**Recreational impact Avoidance and Mitigation Contribution Calculation:** the sum of £185.93 x the total number of new Dwellings proposed pursuant to the Planning Permission to calculate the Recreational Impact Avoidance and Mitigation Contribution

**Recreational impact Avoidance and Mitigation Contribution Inflation Provision:** The increase (if any) in the *Royal Institute of Chartered Surveyors Building Cost Information Service General Index of Retail Prices (all items)* between the date of the Strategy (Index 296.9) and the date upon which payment is made pursuant to this Agreement (or if such index ceases to be published such other index as the Council shall reasonably determine)

**Strategy:** Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy dated March 2021

* 1. A person includes a natural person, corporate or incorporate body (whether or not having separate legal personality.
  2. Unless the context otherwise requires, words in the singular shall include the plural and in theplural shall include the singular.
  3. A reference to any party shall include that Party’s personal representatives, successors and permitted assigns.
  4. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
  5. Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
  6. References to clauses are to the clauses of this deed.
  7. 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.

**2 STATUTORY PROVISIONS**

2.1 This deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972 and any other enabling powers.

2.2 This Deed creates planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.

2.3 This deed shall have effect from the date hereof.

2.4 The obligations are enforceable by the Council in accordance with section 106 of the Act.

1. **DETERMINATION OF DEED**

This deed shall be determined and have no further effect if the Planning Permission:

1. expires before the Commencement of Development;
2. is revoked other than at the request of the Owner; or
3. is quashed following a successful legal challenge.
4. **COVENANTS WITH THE COUNCIL**

**The Owner hereby covenants with the Council as follows**

* 1. Not to cause or permit Commencement of Development until the Green Infrastructure Contribution has first been paid in full to the Council.
  2. Not to cause or permit Commencement of Development until the Recreational impact Avoidance and MitigationContribution has first been paid in full to the Council.
  3. To advise the Council within five working Days of Commencement of Development.
  4. In the event that the Green Infrastructure Contribution remains unpaid within twenty-eight days of Commencement of the Development late payment interest will be added from the date payment is due to the date of payment at a rate of 4% above the base rate of the Bank of England from time to time.
  5. In the event that the Recreational impact Avoidance and MitigationContribution remains unpaid within twenty-eight days of Commencement of the Development late payment interest will be added from the date payment is due to the date of payment at a rate of 4% above the base rate of the Bank of England from time to time.

5**. MORTGAGEE CONSENT**

The Mortgagee consents to this Deed so that its interest in Land is bound by the obligations contained in this Deed and agrees that its security over the Land takes effect subject to the provisions of this Deed PROVIDED THAT the Mortgagee is not required to observe or perform the obligations in this Deed unless it takes possession of the Land. (For the avoidance of doubt any person acquiring title to all or part of Land as a result of the Mortgagee enforcing its security will be bound by the terms of this Deed.)

IN WITNESS whereof this document has been executed as a Deed and delivered on the day and year first before written.

[INDIVIDUAL]

|  |  |  |
| --- | --- | --- |
| SIGNED as a DEED by { } in the presence of: | ) |  |
| ) |  |
| ) |  |
| Witness signature |  |  |
| Name |  |  |
| Address |  |  |
|  |  |  |
| Occupation: |  |  |

[COMPANY DIRECTOR]

|  |  |  |
| --- | --- | --- |
| Executed as a deed by {} acting by {} a director in the presence of: | ) |  |
| ) | Director |
| ) |  |
| Witness signature |  |  |
| Name |  |  |
| Address |  |  |
|  |  |  |
| Occupation: |  |  |

[COMPANY DIRECTOR/SECRETARY]

|  |  |  |
| --- | --- | --- |
| Executed as a deed by {} acting by {} a director and {} a director OR its secretary: | ) |  |
| ) |  |
| ) | Director |
| ) |  |
| ) |  |
| ) |  |
| ) | Director / Secretary |