

JC/8996.001



2017

(1) FREEHOLD LAND BUYERS LIMITED

(2) JOHN STUDLEY AND MOLLY DOROTHEA TIDEMAN

and

(3) [BUYER]

AGREEMENT FOR SALE

Plot [1,2, 3, 4], [] House, London Road, Maresfield, Uckfield, TN22 2ED

**Brady Solicitors Limited
Imperial Buildings
Victoria Street
Nottingham NG1 2EX**

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APPENDIX 1 TRANSFER

APPENDIX 2 [ADDITIONAL ITEMS]

APPENDIX 3 THE SPECIFICATION

THIS AGREEMENT is made the _____ day of _____ 2017

BETWEEN:

- (1) **FREEHOLD LAND BUYERS LIMITED** (incorporated and registered in England and Wales with company number 09740850) whose registered office is at 1 Paper Mews, Dorking, Surrey, RH4 2TU (the “Developer”);
- (2) **JOHN STUDLEY** and **MOLLY DOROTHEA TIDEMAN** both of Furnace Bank Road, London Road, Maresfield, Uckfield, TN22 2ED (“the Sellers”)
- (3) [_____] [both] of [_____] (the “Buyer”).

AGREED TERMS

1 DEFINITIONS AND INTERPRETATIONS

1.1 In this agreement the following words, unless the context otherwise requires, have the following meanings:

Actual Completion	means the date upon which the sale and purchase contemplated by this agreement actually takes place;
Additional Items	those items (if any) listed in the document (if any) annexed to this agreement at Appendix 2.] [TO DELETE IF NOT APPLICABLE];
Additional Sum	the sum of £[_____] ([in words]) (exclusive of VAT) payable by the Buyer to the Seller on completion in consideration of the Additional Items. [TO DELETE IF NOT APPLICABLE];
Approved Plans	the Plan, the layout plans, elevations, sections, Drawings and Specification detailing proposals for the development of the Site together with any agreed variation to it and any infrastructure that may be agreed by the Developer with the statutory authorities or utility supply companies and any variation to the Dwelling pursuant to paragraph 1.8 of Schedule 1 and paragraph 2 of Schedule 3;
Base Price	£[_____] ([in words]);
Buyer’s Agent	the appropriately qualified person appointed from time to time by the Buyer (and notified to the Developer in writing as such) for the purpose of agreeing that each Stage of the Dwelling has been reached and agreeing that the Dwelling has been Constructed;
Buyer’s Solicitors	[_____] (Ref: [_____]) or such other firm of

	solicitors practising in England and Wales as the Buyer may from time to time appoint to act on its behalf in relation to this agreement;
CDM Regulations	the Construction (Design and Management) Regulations 2015 and any amendments or modifications or the enactment of them;
Challenge Period	means the period of 6 (six) weeks and 10 (ten) Working Days from receipt of a Planning Permission;
Commencement Date	The date [] Working Days following Actual Completion;
Commencement Long Stop Date	The date [] [weeks/months] following the Commencement Date;
Completion Date	The date 10 Working Days after the Satisfaction Date;
Constructed	agreement between the Buyer's Agent and the Seller pursuant to clause 14.1.3 or determination by the Expert pursuant to the provisions of clause 14.1.5 that the Dwelling has reached Practical Completion "Construction" shall be construed accordingly;
Construction Long Stop Date	the date [] [weeks/months] following the Target Date;
Construction Price	the greater of the Base Price and the sum calculated in accordance with clause 15.2;
Contract Rate	4% above the base rate from time to time of Barclays Bank plc;
Contractor	the person appointed or otherwise acting as building contractor for the purposes of the Development registered with Policy Provider as may be nominated by the Developer and the expression "Contractors" shall be construed accordingly;
Defects Liability Period	in relation to the Dwelling the period of 12 months commencing on Practical Completion;
Deposit	10% of the Land Price (calculated on the basis that for the purposes of the Deposit only the Construction Price shall be the Base Price);
Development	the development of the Site of 4 (four) detached dwellings, the infrastructure and the Dwelling in accordance with the Planning Permission and the Approved Plans;
Drawings	the drawings to be prepared by the Developer's architect in conjunction with the Planning Application;

Dwelling	the dwelling to be erected on the Property;
End Date	the date [] months from the date of this Agreement (subject to clause 4.2 and where extended pursuant to the provisions of clause 4.2 the End Date shall be such later date as applicable);
Engrossment Fee	the sum of £150 (one hundred and fifty pounds) (exclusive of VAT);
Estate	shall have the meaning ascribed to the term "Estate" in the Transfer;
Estate Roads	the private access road hatched brown on the Plan to be constructed in accordance with the Approved Plans on the Site
Event of Insolvency	means any one or more of the following: <ul style="list-style-type: none"> (a) the Developer (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (b) the Developer enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Developer with one or more other companies or the solvent reconstruction of the Developer; (c) an order is made, for with the winding up of the Developer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Developer with one or more other companies or the solvent reconstruction of the Developer; (d) the holder of a qualifying floating charge over the assets of the Developer (being a company) has appointed an administrative receiver; (e) a receiver is appointed over the assets of the Developer; (f) the Developer (being a company) is struck off from the Register of Companies and not reinstated within 15 days; or (g) the Developer otherwise ceases to exist.
Expert	an expert more particularly defined in clause 18
Finally Determined	means in relation to any Planning Challenge means when that Planning Challenge has been

withdrawn or when a judgment or other order of court has been given and the Challenge Period or period for any appeal has expired without any such appeal having been made or (if made) all appeal procedures have been exhausted and when any judgment or other order of court has the effect of returning any matter for further consideration by a person authority or court then the relevant Planning Challenge shall not be Finally Determined until a further decision has been made by that person authority or court and either no further Planning Challenge to that decision is made within the period permitted for such Planning Challenge or (if made) that Planning Challenge has been concluded and all appeal procedures have been exhausted leaving the Planning Permission in effect and unamended and "Final Determination" shall have a similar meaning;

First Payment	means []% ([] percent) of the Construction Price payable on the First Payment Date payable in accordance with Clause 15.3.1;
First Payment Date	means the Completion Date upon which the First Payment is payable pursuant to Schedule 5;
Fourth Payment	means []% ([] percent)] of the Construction Price payable on the Fourth Payment Date payable in accordance with Clause 15.3.4;
Fourth Payment Date	means the date upon which the Fourth Payment is payable pursuant Schedule 5;
Land Price	the sum of [] pounds (£[]);
Onerous Conditions	means a condition imposed in a planning permission applied for under the provisions of this Agreement or an obligation or restriction required in a Planning Agreement which is substantially in the form or has a similar effect to any of the conditions specified in Schedule 2;
Outline Consent	means and outline planning consent granted at appeal on 11 August 2016 with application number WD/2016/1071/O;
Plan	the plan marked "Plan 1" annexed to the Transfer;
Planning Agreement	means any agreement or unilateral undertaking under the 1990 Act and/or Section 111 of the Local Government Act 1972 and/or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 required by (as appropriate) the local planning authority or the Secretary of State in

connection with the grant of a Planning Permission and/or required by the Buyer in connection with the Development and/or pursuant to Section 38 and/or Section 278 of the Highways Act 1980 and/or Section 104 of the Water Industry Act 1991 and/or the Flood and Water Management Act 2010 and/or any provision to similar intent or an agreement and/or wayleave and/or deed with a water authority or sewerage undertaker or other appropriate authority as to water supply or drainage of surface and/or foul water or an agreement and/or deed with any competent authority relating to other services;

Planning Application	means application for Planning Permission to be made by or on behalf of the Developer and approved by the Buyer or deemed approved by the Buyer (as the case may be) under paragraph 1.3 of Schedule 1 and incorporating the Approved Plans;
Planning Challenge	means any application to a court (including an application for permission to apply for a judicial review) or otherwise which may result in any planning consent being modified or found never to have been valid;
Planning Condition	means the grant of the Planning Permission free from Onerous Conditions;
Planning Date	means the date of receipt by the Developer of a copy of the planning decision granting the Planning Permission;
Planning Permission	means full planning permission or a reserved matters planning permission for the Development as a result of the Planning Application and any subsequent appeal;
Planning Refusal	a refusal of planning permission applied for under the terms of this Agreement (including a deemed refusal arising under section 78(2) of the 1990 Act) or the grant of a Planning Permission subject to an Onerous Condition;
Plot Plan	a Land Registry compliant plan to identify the Dwelling to be Constructed on the Property together with the curtilage thereto and the Estate Road and the Existing Road in accordance with the Planning Permission and "Plot Plans" shall be construed accordingly;
Policy	A 10-year insurance policy pertaining to the Development to be issued by a Policy Provider who is reasonably accepted by most UK self-build

		mortgage lenders and which gives reasonably similar cover to that of the NHBC;
Policy Provider		the insurance company with whom the Development is to be insured and who is to issue the Policy following Practical Completion;
Practical Completion		means the completion of the Construction of the Dwelling as more particularly detailed in Schedule 4;
President		means the President of the Royal Institution of Chartered Surveyors (or any successor Institute) or such person nominated by him;
Property		Plot [1, 2, 3, 4], [ADDRESS], being that part of the land and building registered under Title Number [and Title Number[] at the Land Registry with the title absolute and shown edged red on the Plan;
Purchase Price		together the Land Price and the Construction Price;
Reservation Fee		the sum of £10,000 (Ten Thousand Pounds) paid by or on behalf of the Buyer on the date of this Agreement and which will form part of the Construction Price;
Retained Land		shall have the meaning ascribed to the term "Transferor's Retained Land" in the Transfer;
Satisfaction Date		the date upon which a Planning Permission constitutes a Satisfactory Planning Permission;
Satisfactory Permission	Planning	a Planning Permission which is free from Onerous Conditions and in respect of which the Challenge Period has expired without any Planning Challenge or any Planning Challenge or where any Planning Challenge is Finally Determined or the Challenge Period is waived (as the case may be);
Second Payment		[]% ([] percent)] of the Construction Price payable on the Second Payment Date payable in accordance with Clause 15.3.2;
Second Payment Date		the date upon which the Second Payment is payable pursuant Schedule 5;
Section 106 Agreement		an agreement under Section 106 of the 1990 Act [to be entered into] between (1) Wealdon District Council (2) the Seller and (3) the Developer pursuant to the terms of the Outline Consent;
Section 278 Agreement		a section 278 agreement [to be entered into] between the Seller, the Developer and the highways authority as required by the Outline

	Consent;
Seller's Solicitors	the solicitors acting jointly on behalf of the Seller and the Developer being Brady Solicitors, Imperial Buildings, Victoria Street, Nottingham NG1 2EX (Ref: JC/[]);
Services	surface and foul water drainage electricity, gas, water, soil, telecommunications, and all other relevant services for a development the nature and size of the Development;
Site	the freehold land adjoining Furnace Bank Road, London Road, Maresfield, Uckfield, TN22 2ED and registered at the Land Registry with title absolute under title number [in part under title number ESX267576 (being only that part shown within the area edged red on the Plan) and the whole of title number ESX305415 together] shown edged red on the Plan and excluding the Retained Land;
Snagging Items	those items outstanding as at Practical Completion of a minor nature which do not materially adversely affect occupation use and enjoyment of the Dwelling other than to a de minimus extent;
Specification	the brief specification annexed to this Agreement at Appendix 3 and the term "Specification" shall include any revised version of it prepared during the planning process and prior to the Commencement Date;
Specified Date	[insert date by which planning is to be obtained, subject to any extensions];
Stage	the relevant stage of development that has been completed as set out in Schedule 5;
Staged Payments	together the First Payment, the Second Payment, the Third Payment and the Fourth Payment and "Staged Payment" shall refer to any one of them as the context requires;
Standard Conditions	the Standard Conditions of Sale (Fourth Edition) published by or on behalf of The Law Society;
Submission Date	the later of: (a) [] 2017 and; (b) 5 Working Days after approval to the Planning Applications given or deemed to be given by the Buyer;
Target Date	[] [weeks/months] from the Commencement Date, being the estimated date of Practical Completion;

Third Payment	[]% ([] percent)] of the Construction Price payable on the Third Payment Date payable in accordance with Clause 15.3.3;
Third Payment Date	the date upon which the Third Payment is payable pursuant to Schedule 5;
Timetable	the timetable set out in Schedule 5;
Title Number[s]	title number ESX267576 as at [time] on [date] / ESX305415 as at [time] on [date];
Transfer	the transfer substantially in the form of the draft annexed to this agreement at Appendix 1;
VAT	value added tax or any other tax of a similar nature;
Works	the carrying out of the Development;
Working Day	any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in all or part of England and Wales but excluding the period from 24 December to the immediately following 2 January (inclusive);
1990 Act	means the Town and Country Planning Act 1990;

- 1.2 Words importing one gender include every gender.
- 1.3 Words importing the singular number only shall include the plural number and vice versa.
- 1.4 Words importing persons include firms companies and corporations and vice versa.
- 1.5 Any reference to any statute (whether or not specifically named) shall include any statutory modification or re-enactment of it from time to time in force and any order instrument plan regulation permission and direction made or issued under it or under any statute replaced by it deriving validity from it.
- 1.6 References to clauses schedules and appendices are references to the relevant clauses schedules and appendices in this agreement.
- 1.7 Where any obligation is undertaken by two or more persons jointly those persons shall be jointly and severally liable in respect of that obligation.
- 1.8 Any obligation on the Seller or the Buyer not to do or omit to do anything shall be deemed to include an obligation not to allow that thing to be done or omitted to be done by any person under its control.
- 1.9 The headings to the clauses and schedules shall not affect the interpretation.
- 1.10 In this Agreement the expression “**reasonable endeavours**” means obliging the relevant party to take those reasonable steps which a prudent and determined person or company acting in his or its own reasonable interests to achieve the stated objective would take but does not oblige the relevant party to pay or incur an obligation to pay any money other than professional fees and disbursements (and VAT thereon) or as otherwise specifically provided by this Agreement nor enter into any legally binding commitment in favour of any third party nor to commence any legal proceedings against any third party.

- 1.11 Where a party's consent, permission or approval is to be given under this Agreement then unless this Agreement expressly provides otherwise such consent or approval will not be unreasonably withheld or delayed and will be deemed to have been given within 10 Working Days of receipt of a written request for it unless the party receiving such request gives a written refusal with full reasons explaining why a refusal has been given within such 10 Working Day period.
- 1.12 If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable ("the **Void Provision**")
- 1.12.1 such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect;
- 1.12.2 If the Void Provision would be valid or enforceable if some part of it were deleted the Void Provision shall apply with such modification as may be necessary to make it valid and enforceable; and
- 1.13 If that is not possible the Buyer and the Seller shall attempt to substitute for the Void Provision a valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the Void Provision

2 **STANDARD CONDITIONS**

- 2.1 This agreement incorporates the Standard Conditions. Where there is a conflict between the Standard Conditions and the express provisions of this agreement, the express provisions of this agreement are to prevail.
- 2.2 Unless the context otherwise requires, terms used or defined in this Agreement have the same meaning when used in the Standard Conditions, notwithstanding the fact that the initial letter of such terms (when used in the Standard Conditions) is in the lower case.

3 **PURCHASE PRICE AND DEPOSIT**

3.1 **Sale and Purchase**

- 3.1.1 Subject to the remaining provisions of this Clause 3.1 the Seller will sell and the Buyer will buy the Property for the Purchase Price on the terms of this Agreement on the Completion Date.
- 3.1.2 The agreement and the obligation to purchase in Clause 3.1 are conditional upon satisfaction of the Planning Condition pursuant to the terms of this Agreement and the Buyer's right to terminate this Agreement pursuant to clause 5.
- 3.1.3 The agreement in Clauses 3.1 will only become unconditional on the date the Planning Condition is satisfied (or waived) in accordance with the terms of this Agreement.
- 3.1.4 If the agreement in Clause 3.1 has not become unconditional by the End Date because the Planning Condition has not been satisfied or waived (to the extent permitted by this Agreement or as otherwise agreed) then this Agreement will be capable of termination by either the Seller or the Buyer in accordance with Clause 5 at any time thereafter until such time as the Planning Condition has been satisfied or waived (to the extent permitted by

this Agreement or as otherwise agreed) provided that the Buyer shall be entitled to terminate this Agreement prior to the End Date.

- 3.1.5 The Buyer cannot require the Seller to apportion the Purchase Price between different parts of the Property except as set out in this Agreement.
- 3.1.6 The Buyer must on the date hereof pay the Reservation Fee to the Seller's Solicitors as agents by means of a telegraphic transfer or direct transfer to the Seller's Solicitor's Bank Account. For the avoidance of doubt the Reservation Fee is non-refundable to the Buyer and Condition 7.5.2(a) does not apply in respect of the Reservation Fee.
- 3.1.7 On the Fourth Payment Date the Reservation Fee shall be credited against the Construction Price
- 3.1.8 The parties shall comply with their respective obligations in the Schedules to this Agreement.
- 3.1.9 This Agreement is personal to the Buyer and cannot be assigned subsold or otherwise dealt with.
- 3.2 The Buyer is to pay the Deposit on the date hereof in cleared funds and by a method that gives immediate available funds.
- 3.3 The Deposit shall be held by the Seller's Solicitors as stakeholder.
- 3.4 If completion does not take place on the Completion Date due to the default of the Buyer and the Deposit is less than 10% of the Land Price, the difference between the Deposit and 10% of the Land Price (**Deposit Balance**) shall be payable to the Seller together with interest at the Contract Rate for the period from and including the Completion Date to and including the date of actual payment.
- 3.5 Standard Conditions 6.8.3 (a) and (b) are also to apply on any rescission or other termination of this agreement occurring as a result of the breach of any of the Buyer's obligations and conditions contained in this agreement.

4 **END DATE**

- 4.1 The End Date shall be the latest of:
 - 4.1.1 the Specified Date;
 - 4.1.2 such later date as the Seller, the Developer and the Buyer shall agree in writing (expressly referring to this Clause 4 and whether made before or after the Specified Date); or
 - 4.1.3 such later date as shall be determined in accordance with the remainder of this Clause 4.
- 4.2 If before the Specified Date the Developer is awaiting :
 - 4.2.1 the result of the Planning Application;
 - 4.2.2 the result of any appeal in relation to a Planning Application previously lodged by the Developer; or
 - 4.2.3 the expiry of the Challenge Period and/or result of any Planning Challenge; or
 - 4.2.4 any matter being determined or agreed between the parties or which has been referred to expert determination in accordance with Clause 18

then the End Date will be the 10th (tenth) Working Day after the last of the following to occur:

- 4.2.5 in the case of Clause 4.2.1 the Developer has received the result of a Planning Application be it a Planning Permission or a Planning Refusal (but not a deemed refusal);
- 4.2.6 in the case of Clause 4.2.2 (or if the Developer has elected to appeal the Developer has received the written result of such appeal which grants a Satisfactory Planning Permission; or
- 4.2.7 in the case of Clause 4.2.3 the expiry of the Challenge Period without any Planning Challenge being made and/or the Planning Challenge concerned has been Finally Determined; or
- 4.2.8 the date of determination by an expert pursuant to Clause 18.

5 RIGHT OF TERMINATION

- 5.1 A party entitled to terminate this Agreement under the terms of this Agreement and seeking to do so may only do so by giving to the other parties notice in writing.
- 5.2 If notice is given in accordance with the relevant provisions of this Agreement then:
 - 5.2.1 this Agreement is terminated with immediate effect except that the following Clauses of the Agreement will remain in full force notwithstanding termination of the Agreement:
 - 5.2.1.1 Clause [1.1] (Definitions and Interpretation);
 - 5.2.1.2 Clause [5] Right of Termination);
 - 5.2.1.3 Clause [13.1] (Entire Agreement);
 - 5.2.1.4 Clause [18] (Disputes);
 - 5.2.1.5 the Clauses from Clause [21] (no partnerships) to Clause [24] (Third Party Rights) inclusive);
- 5.2.2 Save where the Buyer has failed to materially observe and perform its obligations the Deposit must be returned to the Buyer but without interest within 5 Working Days of the effective date of termination provided that termination occurs prior to the End Date;
- 5.3 neither party will have any further rights or obligations under this Agreement except that the termination of the Agreement will not affect any of the parties' rights in connection with any breach of this Agreement that occurred before the date of termination.

6 DEDUCING TITLE

The Seller's Solicitors having deduced title to the Buyer's Solicitors prior to the date of this Agreement, the Buyer is deemed to have full knowledge of the title, and is not entitled to raise any objection, enquiry or requisition in relation to it save in respect of any matters disclosed in pre-completion searches of the Land Registry.

7 RISK AND INSURANCE

No damage or destruction of the Property nor any deterioration in its condition, however caused, will entitle the Buyer either to any reduction of the Purchase Price or to refuse to complete or to delay completion.

8 COMPLETION

- 8.1 Completion of this Agreement shall take place at the offices of the Seller's Solicitors on the Completion Date.
- 8.2 The completion date under the Standard Conditions shall be the Completion Date.
- 8.3 The Transfer and any duplicates or counterparts shall be prepared by the Seller's Solicitors and shall be executed by the parties in such number as the Seller's solicitors shall require.
- 8.4 On Actual Completion the Buyer shall pay the sums set out below by cleared funds and by a method that gives immediate available funds, such sums to be paid to a bank account of the Seller's Solicitors as they shall direct on or before the Completion Date:
- 8.4.1 the Buyer shall pay to the Seller the sum of £[] ([IN WORDS]), being the balance of the Land Price;
 - 8.4.2 the Engrossment Fee and
 - 8.4.3 the First Payment.
- 8.5 The Transfer will be in the form as annexed to this agreement with such amendments to reflect the terms of the Planning Permission and to include a Plot Plan.
- 8.6 Any title deeds or documents sent by post or through the post or Document Exchange shall be entirely at the risk of the Buyer.
- 8.7 Completion of this Agreement shall not take place until all monies due under Clause 8.4 are paid in full. Interest will be charged at the Contract Rate on any monies outstanding on the Completion Date unless the delay is solely as a result of any act neglect or default of the Seller.

9 TITLE GUARANTEE

- 9.1 The Seller shall transfer the Property with full title guarantee.
- 9.2 For the purposes of the Law of Property (Miscellaneous Provisions) Act 1994 any matters referred to in this agreement subject to which the Transfer is expressed to be granted are matters to which the Transfer is expressly made subject.
- 9.3 Section 6(2)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 is to be construed as if all entries made in any public register which a prudent buyer would inspect are within the actual knowledge of the Buyer.
- 9.4 The covenant set out in section 2(1) (b) Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to include any obligation on the Buyer to pay the costs of complying with that covenant but instead shall extend to include an obligation on the part of the Buyer to pay those costs.
- 9.5 Condition 4.6.2 does not apply to this Agreement.

10 POSSESSION

The Property will be sold with vacant possession on Actual Completion.

11 BUILDING LICENCE

- 11.1 The Buyer agrees with the Seller and the Developer that as from the Completion Date, the Buyer hereby grants to the Developer, for the duration of the Works,

licence for the Developer and the Contractor and their respective agents, workmen, sub-contractors, licensees, and all other persons or bodies engaged in Construction to enter onto the Property and to remain there with vehicles plant equipment, machinery and materials for the sole purpose of carrying out the Works in accordance with the terms of this Agreement ("Licence") and for the avoidance of doubt but without prejudice to the generality of the foregoing :-

11.1.1 to erect and maintain temporary buildings including site cabins upon the Property of such size and in such positions as may be reasonably required by the Developer;

11.1.2 to store and maintain vehicles, plant, machinery, equipment, building materials and waste materials upon the part of the Property relating to the Dwelling

provided that the Developer shall obtain or procure the obtaining of all necessary planning permissions and other statutory approvals

11.2 The Licence automatically revokes on Practical Completion or earlier on the exercise of the Buyer's step-in rights pursuant to clause 17.

11.3 Prior to Practical Completion the Developer will procure the removal of all plant and machinery referred to in clause 11.1 and make good any damage caused to the Property or the Dwelling occasioned thereby or by any of the persons or bodies who have had access to it, likewise upon revocation of the Licence the Developer will forthwith procure the removal of all such equipment

11.4 The Buyer shall have no claim against the Seller and the Seller shall have no liability to the Buyer for compensation or otherwise in the event of there being any change in the postal address of the Property after completion of the sale and purchase of the Property

12 **INCUMBRANCES**

The Property is sold subject to:

12.1 all matters in the nature of easements and quasi or purported easements, rights and privileges (if any) affecting the Property and to all liability (if any) to repair or contribute to the repair of gardens, roads, ways, passages, sewers, drains and other conduits, fences and other like matters;

12.2 all local land charges and all matters capable of registration as local land charges;

12.3 all notices served and orders, demands, proposals or requirements made by any local or other public authority;

12.4 all actual or proposed charges, notices, orders, restrictions, agreements, conditions or other matters arising under the Town and Country Planning Act 1990, the Planning and Compensation Act 1991 and any other legislation relating to planning. The Buyer is to be deemed to purchase the Property with full knowledge of the actual use of the Property, and its permitted use under such Acts and legislation;

12.5 all matters (if any) which are unregistered interests which override registered dispositions under Schedule 3 or Schedule 12 of the Land Registration Act 2002 and other like matters; and

12.6 the matters mentioned, contained or referred to in the Transfer;

12.7 the matters mentioned, contained or referred to in the transfers of the other parts of the Estate; and

- 12.8 the terms of the Section 106 Agreement and Section 278 Agreement;
- 12.9 The Buyer is deemed to have full knowledge of the matters referred to in Clause 12 and will not raise any enquiry, objection, requisition or claim in respect of any of them save in respect of any matter disclosed in pre-completion searches of the Land Registry.

13 REPRESENTATIONS AND CONDITION OF PROPERTY

- 13.1 This Agreement constitutes the entire Agreement between the parties, and supersedes any previous agreement between the parties in relation to the matters dealt with herein.
- 13.2 The Buyer acknowledges that before the date of this Agreement, the Seller has given the Buyer and others authorised by the Buyer, permission and the opportunity to inspect, survey and carry out investigations as to the condition of the Property and any fixtures and contents included in the sale. The Buyer has formed his own view as to the condition of the Property and any fixtures and contents included in the sale and their suitability for the Buyer's purposes.
- 13.3 The Buyer admits that it has entered into this Agreement solely on the basis of the terms of this agreement, and has not acted in reliance upon any representation, warranty or statement whether written, oral or implied made by or on behalf of the Seller other than such (if any) as may have been given by the Seller's Solicitors on behalf of the Seller in writing or any written reply to any written enquiry made by or on behalf of the Buyer by the Buyer's Solicitors (and in this Clause 13.3 **written replies** shall include any replies given in email).

14 PRACTICAL COMPLETION

- 14.1 The following procedure will apply in relation to certifying Practical Completion has occurred:
- 14.1.1 the Developer will serve written notice on the Buyer a minimum of five Working Days before Practical Completion of the Dwelling specifying a date and time when the Dwelling may be inspected by the Buyer's Agent
- 14.1.2 the Buyer's Agent the Contractor and the Developer will meet at the Property at the specified date and time to inspect the Dwelling to agree whether or not Practical Completion has occurred
- 14.1.3 if the parties agree that Practical Completion has occurred, the Developer shall issue a written notice so stating
- 14.1.4 if the Buyer's Agent and the Developer agree that Practical Completion has not been reached, the Developer will procure the carrying out of the necessary outstanding works and the parties will repeat the procedure in this clause 14.1 when the Developer believes that Practical Completion has occurred
- 14.1.5 if the Buyer and the Developer disagree whether Practical Completion has been reached, they shall seek to agree what action is required within 5 Working Days but if they fail to do so the issue shall be referred to an Expert pursuant to paragraph 4.1 of Schedule 3 and the provisions of clause 18 shall apply
- 14.1.6 if the Buyer and the Developer agree that Practical Completion has been reached subject only to the remediation of Snagging Items nature then:-

- 14.1.6.1 the balance of the Construction Price together for the avoidance of doubt with any amounts outstanding pursuant to paragraph 2.3 of Schedule 3 shall be paid in accordance with clause 15.3.4; and
- 14.1.6.2 the parties shall agree and sign a list of the Snagging Items and the Developer shall remediate the same within 20 Working Days subject only to an extension of time for delays caused by matters beyond the Developer's reasonable control
- 14.1.7 If the Buyer's Agent fails to inspect the Dwelling in accordance with this clause 14.1.2 within 8 Working Days of the notice, given by the Developer then the Developer shall be entitled to certify that Practical Completion has occurred
- 14.1.8 The Buyer shall ensure that the Buyer's Agent shall inspect the Dwelling promptly as soon as notice of Practical Completion has been given by the Developer the Buyer's Agent shall act promptly and reasonably in inspecting the Dwelling and agreeing whether Practical Completion has occurred under clauses 14.1.5 or 14.1.6.

15 **CONSTRUCTION PRICE**

15.1 Where the Satisfactory Planning Permission or changes to the Buyer's design prior to the Commencement Date result in greater costs being charged by the Contractor due to a greater amount of work or materials or higher quality materials than originally agreed between the Developer and the Buyer that greater amount is to be added to the Construction Price and the amount agreed between the Developer and the Buyer or, if the parties are unable to reach agreement, then either party may refer them to an Expert for determination pursuant to clause 18

15.2 The Construction Price shall be the greater of the Base Price and the sum calculated in accordance with the following formula:

$$C = B + A$$

Where:

C = Construction Price

B = Base Price

A = additional amount payable as a result of the Satisfactory Planning Permission or more complicate design agreed by the Developer and the Buyer or determined by an Expert pursuant to clause 18 pursuant to Clause 15.1.

15.3 The Buyer shall pay:

- 15.3.1 the First Payment on the First Payment Date;
- 15.3.2 the Second Payment on the Second Payment Date;
- 15.3.3 the Third Payment on the Third Payment Date;
- 15.3.4 the Fourth Payment together with any outstanding balance of the Construction Price and the Additional Sum (if any) within five (5) Working Days from the date on which Practical Completion is certified or

the Expert determines that Practical Completion of the Dwelling has been reached

to the Developer by way a telegraphic transfer or direct transfer to the Seller's Solicitor's Bank Account

16 LATE PAYMENT

16.1 If the Buyer shall fail to pay any of the sums validly and lawfully due under this Agreement on the dates specified then:

16.1.1 such sums shall bear interest at the Contract Rate from the date the same became due to the date of actual payment;

16.1.2 the Seller and the Developer shall have the right (without prejudice to any other right or remedy) to suspend performance of its obligations under this Agreement. This right may not be exercised without first giving to the Buyer at least five Working Days' notice of an intention to suspend performance. Any period during which performance is suspended and in pursuance of the right conferred by these provisions shall be taken into account and the Construction Long Stop Date shall be adjusted accordingly.

17 RESCISSION OR STEP-IN

17.1 If the Developer fails following Commencement of Work to complete the Works in accordance with the Timetable (subject to such extensions of time as are permitted pursuant to paragraph 1.2.1 of Schedule 3) the Buyer may by written notice to the Developer (the "Default Notice") require the Developer to commence to rectify the breach specified in such notice within 3 months from the date of the Default Notice or (where the Developer refers it to an Expert for determination) the determination of the Expert and to diligently proceed to rectify the defect and complete such rectification within a reasonable period having regard to the nature, extent and complexity of the defect.

17.2 If the Developer does not accept the breach specified in the Default Notice it may within 10 Working Days of receipt of the Default Notice refer the matter for determination by an Expert pursuant to clause 18

17.3 If the Developer fails to:

17.3.1 achieve Practical Completion in accordance with the Timetable or

17.3.2 fails to rectify the breach specified in a valid Default Notice in accordance with the timescale set out in clause 17.1 subject always to Clause 17.2 which shall be 3 months from the date of determination by the Expert that to the effect that the Developer has failed to rectify a breach.

the Buyer may by 10 Working Days written notice to the Seller and the Developer rescind this agreement and if by the end of the said period of 10 Working Days Practical Completion has not been reached or the Developer has not rectified the breach (as appropriate) this agreement shall be of no further effect save that:

17.3.3 where a notice of rescission is given for failure to reach Practical Completion in accordance with the Timetable the Buyer shall pay to the Developer a sum (if positive) calculated as follows

$$P = (A - C) - B$$

Where

A is the Construction Price

B is the cost reasonably and properly incurred by the Buyer in completing the outstanding works necessary to achieve Practical Completion but not further or otherwise

C is the total of the sums paid to the Developer by the Buyer in accordance with this Agreement in relation to the Construction Price only which for the avoidance of doubt will include the Reservation Fee prior to the date of rescission

and if the parties are unable to agree the said sum either party may refer the matter for determination pursuant to clause 18.

17.4 If the Developer:

17.4.1 suffers an Event of Insolvency, or

17.4.2 fails to rectify the breach specified in a valid Default Notice within the timescale prescribed by clause 17.1 subject always to Clause 17.2 which shall be 3 months from the date of determination by the Expert that to the effect that the Developer has failed to rectify a breach or fails to procure Commencement of the Works by the Commencement Long Stop Date

then, in either case, the Buyer may terminate the Licence in clause 11.1 and appoint their own contractor or the Contractor to take over the carrying out and completion of the Works and the costs and expenses will be recoverable to the extent permitted under the terms of Clause 17.3.3

17.5 If the Buyer rescinds this Agreement after the Completion Date but prior to Practical Completion in accordance with this clause 17 the Developer shall procure that the Buyer is granted a royalty free licence to use the Approved Plans to carry out and complete the Works but for no other purpose.

18 EXPERT DETERMINATION

In the event of any dispute arising under this Agreement (save in relation to the Works which shall be determined under paragraph 4 of Schedule 3 the following provisions shall apply:-

18.1 any party may refer the dispute to an Expert for determination after the expiry which the parties have failed to resolve after a period of 10 Working Days after the dispute arises.

18.2 the parties shall jointly appoint an expert who shall:

18.2.1 in the case of an dispute relating to valuation of outstanding Works and/or the Construction Price be a member of the Royal Institution of Chartered Surveyors; or

18.2.2 in the case of an dispute relating to planning matters be a Chartered Town Planning Consultant; or

18.2.3 in the case of any dispute relating to taxation matters be a member of The Institute of Chartered Accountants; or

18.2.4 in the case of any other dispute be a member of the Bar Council and shall be leading Counsel;

- 18.2.5 in each case have not less than ten years' standing and experience of the subject matter of the dispute and shall be an expert in such matters;
- 18.2.6 (except for Counsel) in each case practice on a regular basis from an office or offices within a 25 mile radius of the Property;
- 18.3 The Expert be appointed jointly by the parties but if the parties are unable to agree as to the appointment of an Expert within 10 Working Days of either party giving the other written notice requesting them to confer on the appointment of the Expert then either party may apply to the President to nominate the Expert;
- 18.4 the Expert appointed shall act as an expert and not as an arbitrator;
- 18.5 the parties shall use reasonable endeavours to procure that the Expert shall give his determination and the reasons for his determination in writing as speedily as reasonably practicable;
- 18.6 the Expert shall give notice in writing of his nomination to the Seller, the Developer and the Buyer inviting each of them to submit to him within a specified period (which shall not exceed 15 Working Days) a statement of reasons accompanied by a valuation (if desired) and shall consider any reasons and valuation submitted to him within (but not after the expiration of) 15 Working Days and shall make his findings in accordance with his own judgement and opinion within the parameters of the valuation and/or statement of reasons submitted to him and he shall determine the issues and shall notify his determination and the reasons for his decision to the Seller, the Developer and the Buyer in writing as soon as is practicable after his appointment;
- 18.7 unless the Expert has failed to observe the procedures specified in this clause then save in the case of manifest error or fraud his determination shall be final and binding on the parties;
- 18.8 If the Expert shall die or unreasonably delay or become unwilling to act or incapable of acting the President shall at the request of any of the Seller, the Developer or the Buyer by writing discharge the Expert and nominate another person to act in his place who shall proceed as if there had been no prior nomination
- 18.9 The fees and expenses of the Expert shall be paid in the proportions or shares determined by the Expert and if not so determined by the Seller and the Developer (together) and the Buyer in equal shares and if any of them shall pay the share properly payable by the other parties (in order to procure the issue of the notice of the determination of the Expert) the amount so paid shall be repayable on demand with interest at the Contract Rate from the date of payment to the date of repayment calculated from day to day and compounded with monthly rests and shall be recoverable action with interest (as well as before any judgement)

19 **RESTRICTIONS ON DEALING WITH THIS AGREEMENT**

This Agreement is personal to the Buyer and shall not be capable of assignment other than to its personal representatives or immediate family, nor shall the Seller be required to transfer the Property or any part of it to anyone other than the Buyer or her personal representatives or immediate family

20 **VAT**

- 20.1 The Seller warrants to the Buyer that it has not opted with HMRC to charge VAT on the Property, nor will it do so at any time during this Agreement

20.2 Notwithstanding the Seller's warranty in 11.1 above, the parties acknowledge that the supply of the Property and the Dwelling would otherwise be a zero-rated supply of partially completed dwelling, but if there is a subsequent legislative change which retrospectively makes it a standard-rated supply for the purposes of VAT the parties agree to equally share the newly imposed VAT burden.

21 **NO PARTNERSHIP**

Agreement or arising through any of the documents referred to in this Agreement shall constitute a partnership between the Seller and the Buyer and the Developer or any of them and no party shall act as agent for another

22 **NON-MERGER**

This Agreement shall remain in full force and effect insofar as anything remains to be performed and observed pursuant to it after Actual Completion

23 **EXECUTION OF COUNTERPARTS**

If requested so to do by the Seller, the Developer and the Buyer shall execute counterparts or triplicates of any deed required to be executed pursuant to this Agreement

24 **THIRD PARTY RIGHTS**

The parties to this agreement hereby agree that the Agreements (Rights of Third Parties) Act 1999 shall not apply in respect of this agreement.

25 **GENERAL**

25.1 In the event of the Seller giving the Buyer notice to complete in accordance with the terms of this agreement the Buyer shall in addition to all other monies due under this agreement pay to the Seller or the Seller's Solicitors the reasonable costs and VAT thereon of and incidental to the preparation and giving of such notice to complete which costs shall not be less than £300.00 (three hundred and fifty pounds).

25.2 The Buyer shall upon request by the Seller or the Developer join in and be a party to any deed or document required by the Seller or the Developer to grant easements over the Property to any statutory authority or service undertaker in connection with services to be provided for the benefit of the Property and/or the Development and shall execute and sign such deeds or documents without delay and this Clause shall not merge on Actual Completion.

25.3 The Seller and Developer shall be at liberty at any time before or after Practical Completion to grant to the local or county authorities water and electricity boards the post office and other authorities and undertakings such easements wayleaves licences rights and privileges as shall reasonably be required in connection with the services usually provided or maintained by them and the Transfer will take effect subject to any such grant already made or to be made by the Seller.

25.4 If there are any works required to remedy defects in the Property following Practical Completion and/or complete landscaping works during the next planting season following Actual Completion the Buyer will co-operate with the Developer to allow access onto so much of the Property as is reasonably necessary and the Developer will carry out and/or procure the carrying out of the said works within a reasonable period of time and the Buyer shall not be entitled to any claim for compensation resulting from the carrying out of such works. This Clause will not merge on Actual Completion.

- 25.5 The Buyer acknowledges that the Developer is in the process of carrying out the construction of the Development and that works of construction on various parts of the Site will continue for some time into the future. Whilst the Developer will use reasonable endeavours to procure that its building contractors do not cause undue or excessive disturbance, the Buyer acknowledges and accepts that there may be a certain amount of disturbance to persons living at the Property due to noise, dust, mud and other matters arising from or out of the said works of construction and agrees with the Seller and the Developer not to make any complaint about the same and that such activities will not, following the Practical Completion, constitute a derogation of grant.
- 25.6 The Buyer acknowledges that the Seller and the Developer intends to sell the dwellings to be constructed or to be in the process of being constructed on the Estate and the Retained Land and the Seller intends for the forms of transfer of these to contain similar provisions as the Transfer in relation to service media and access roads used in common.

26 **POST-PRACTICAL COMPLETION REQUIREMENTS**

The Seller's Solicitors shall provide to the Buyer's Solicitors the original Policy as soon as reasonably practicable following Practical Completion.

SCHEDULE 1 PLANNING CONDITION

1. Planning Permission/condition

- 1.1. Subject to Paragraph 1.12 of this Schedule, the Planning Condition will be discharged on the later of the dates when the Development has received written confirmation of the grant of the Planning Permission free from Onerous Condition provided that the Buyer shall be entitled to waive the Planning Condition insofar only as it relates to the Challenge Period relating to the Planning Permission.
- 1.2. As soon as reasonably possible after the date of this Agreement, the Developer and Buyer will seek to finalise with the Developer's architect the Drawings to be included in the Planning Application and any revisions to the Specification (if any) and thereafter the Developer shall submit to the Buyer for approval the Developer's proposed application (incorporating the Approved Plans) for Planning Permission by or before the Submission Date.
- 1.3. Within 10 (ten) Working Days after the Buyer has received the Developer's proposed application, the Buyer shall notify the Developer in writing that the Buyer either approves or disapproves the proposed application. If the Buyer fails to give the Developer this notification within the time specified (with full reasons in the case of a disapproval), the Buyer will be deemed to have approved the proposed application on the expiry of the 10 (ten) Working Day period.
- 1.4. If the Buyer does not approve the proposed application, the Developer shall submit a further revised proposed application (incorporating Approved Plans) for Planning Permission to the Buyer for approval. The procedures set out in paragraphs 1.2 and 1.3 will apply to the revised proposed application as if it were the first proposed application. The Developer shall continue to submit revised proposed applications (incorporating Approved Plans) for Planning Permission to the Buyer for approval until a proposed application is approved by the Buyer provided that the Developer shall not be obliged to submit more than 3 (three) such applications. In the event that the proposed application has not been approved on the third such occasion the matter may be referred by either party to an expert for determination in accordance with clause 18
- 1.5. The Buyer shall not unreasonably withhold or delay giving approval to any proposed application submitted to it where the proposed application incorporates the Approved Plans.
- 1.6. Within 5 (five) Working Days after Buyer approves or is deemed to have approved the Developer's proposed Planning Application (incorporating Approved Plans) and in any event by the Submission Date the Developer shall have submitted the Planning Application to the local planning authority, paid the requisite application fees to the local planning authority and submitted to the local planning authority on or before the Submission Date all other necessary documentation required by the validation checklist produced by or for use of the local planning authority and shall use reasonable endeavours to ensure that the local planning authority validates the Planning Application as soon as reasonably possible after it is submitted to them and, subject to paragraph 2, use reasonable endeavours to pursue with all due expedition the grant of Planning Permission as soon as possible thereafter.

- 1.7. The Developer shall keep the Buyer informed as to progress of the Planning Application and shall:
 - 1.7.1. supply the Buyer with copies of all relevant and material correspondence to or from the Developer in connection with the Planning Application (including accompanying plans and other documents, but excluding correspondence exclusively between the Developer and the Seller's Solicitors) within 5 (five) Working Days after either:
 - 1.7.1.1. the date of any correspondence sent by the Developer;
or
 - 1.7.1.2. the date of receipt of any correspondence by the Developer.
 - 1.7.2. give the Buyer as much notice as reasonably practicable of any formal meetings to be held with the local planning authority, highway authority, service undertakers, or other authority or body including any local residents association in connection with the Planning Application and shall give the Buyer and the Buyer's Agent the opportunity to attend in such meeting (but the Buyer shall not participate in the meeting) and provide a copy of any minutes prepared in connection therewith provided that all representations shall be made via the Developer or the Developer's agent.
- 1.8. The Developer shall not materially alter, materially vary, materially amend or resubmit any Planning Application without the prior written approval of the Buyer (not to be unreasonably withheld or delayed) provided always that the Developer may make minor amendments to the Planning Application and/or the Approved Plans at any time without the Buyer's approval and for the avoidance of doubt the Developer shall notify the Buyer of any such minor alterations, variations and/or resubmitted applications.
- 1.9. If the Developer believes it prudent to do so the Developer may agree to any extension of the period for determination of the Planning Application.
- 1.10. The Buyer shall at the request of the Developer provide all reasonable assistance to the Developer in seeking to obtain Planning Permission but in doing so shall not act independently of the Developer.
- 1.11. The Developer shall give written notice to the Buyer within 5 (five) Working Days after receiving written notification of the grant of any Planning Permission or Planning Refusal relating to the Property enclosing a copy of the planning decision.
- 1.12. The Developer will use reasonable endeavours to negotiate and complete any Planning Agreement that may be required in respect of its application as soon as practicable following the passing of a minded to grant resolution and in respect of its application and subject to the provisions of this Agreement and will use reasonable endeavours to negotiate the Planning Agreement.
- 1.13. If a Planning Permission is granted in respect of the Planning Application it will (subject to the expiry of the Challenge Period without any Planning Challenge being made or where a Planning Challenge is made it is Finally Determined) be deemed to be a Satisfactory Planning Permission unless, within 10 Working Days of receipt by the Developer of a copy of the decision the Developer gives written notice to the

Buyer specifying which of the conditions, to which the Planning Permission is subject, the Developer regards as being Onerous Conditions.

2. Planning Appeal

- 2.1. Following a Planning Refusal the Developer may but shall not be obliged to appeal.
- 2.2. If the Developer and Buyer wish for an appeal to be lodged then they must have previously agreed how the costs will be borne before the Developer lodges the appeal and the parties will be required to enter into a variation of this Agreement to incorporate the appeal terms.

3. Planning Agreements

- 3.1. As part of the negotiations with the local planning authority draft terms for a Planning Agreement will be prepared. The parties envisage that all obligations will be discharged by the Developer.
- 3.2. The Buyer shall enter into any Planning Agreement provided that it must be free from Onerous Conditions unless any such Onerous Conditions do not have an adverse effect on the Property and the Developer must have used its reasonable endeavours to procure that the Planning Agreement contains stipulations to the effect that:
 - 3.2.1. the agreement will not come into effect until the Planning Permission is granted; and
 - 3.2.2. any planning obligation imposed by the agreement will be conditional upon the commencement of the Development as authorised by the Planning Permission; and
 - 3.2.3. no person will be liable for any breach of the agreement unless at the date of the breach that person holds an interest in that part of the Property in respect of which the breach occurs; and
 - 3.2.4. the Buyer will be released from all liability under the agreement if the Buyer disposes of its interests in the Property.
- 3.3. The Developer shall from Actual Completion keep the Seller and Buyer indemnified against all liability, proceedings, claims, demands and all reasonably incurred costs and expenses incurred or arising under the Section 106 Agreement, the Section 278 Agreement and any Planning Agreement entered into under this Agreement, insofar only as they relate to the Property including any irrecoverable VAT thereon and only insofar as the Buyer has not sought to terminate this Agreement.

SCHEDULE 2

Onerous Conditions

A condition imposed by any Planning Permission or Planning Agreement (which shall include the Section 106 Agreement and the Section 278 Agreement) or undertaking which provides or has substantially the similar effect of providing as follows:

1. it requires the carrying out of works outside the Property which have not been contemplated by this Agreement or for which require the consent of a third party which cannot be obtained;
2. it is a condition which imposes obligations on the carrying out of the Development which are inconsistent with the Planning Application;
3. it prevents the development and/or use and/or occupation of the Property without the agreement or cooperation of an independent third party or the acquisition of any land owned by a third party which cannot be obtained within a reasonable time or at a reasonable cost;
4. it limits the occupation and/or use of the whole or any part of the Property or the Site to any designated occupier or class of occupier;
5. it limits the number of dwellings to be constructed on the Property to fewer than 4 unless the Developer applies for fewer than 4 dwellings;
6. it prevents or restricts the phasing of or timing for the undertaking of the Development as contemplated by the Buyer's development programme put forward as part of the Planning Application or as otherwise agreed by the Developer and the Buyer both acting reasonably
7. it requires the provision of highways works outside the boundaries of the Property or Site save as contemplated by the Outline Consent and the Planning Application;
8. it imposes time limits within which the Development must be commenced or applications for approval of reserved matters must be made which are more restrictive than those set out in Section 91 and 92 of the 1990 Act;
9. makes the planning permission personal to the Developer or to any specific person or class of persons;
10. prevents the occupation and use of the Development before a specified date or event with the exception of any proper and reasonable condition which is limited to requiring only:
 - 10.1. approval of any reserved matter; or
 - 10.2. completion of vehicular and pedestrian access to and within the Property;
11. is otherwise not capable of implementation.

SCHEDULE 3 THE WORKS

1. THE DEVELOPER'S OBLIGATIONS

The Developer agrees with the Buyer as follows:-

1.1. Commencement of Works

1.1.1. The Developer will as soon as possible after the Commencement Date (unless prevented by any act, matter or thing beyond the reasonable control of the Developer) diligently procure the construction and completion of the Dwelling with all practicable speed in a proper and workmanlike manner and with good-quality materials sufficient and proper of their several kinds and in conformity in every respect (save only as hereinafter mentioned) with the Approved Plans and the Planning Permission and in accordance with this Agreement and in conformity with any requisite conservation consent, building control regulations and all regulations or requirements of the local or other authorities (including the CDM Regulations) and in compliance with the requirements of the Policy Provider and any other approvals required under this Agreement as appropriate so that the Dwelling shall be Constructed to reach Practical Completion in accordance with paragraph 1.2 of this Schedule

1.2. Construction of the Dwelling

1.2.1. Subject to the provisos to this Schedule the Developer shall use its reasonable endeavours to procure that Practical Completion occurs by the Target Date PROVIDED THAT the Developer shall in any event complete the Dwelling by the Construction Long Stop Date PROVIDED FURTHER THAT if Practical Completion is delayed on one or more occasions in consequence of one or more of the following events (subject to the Developer taking all reasonable steps to minimise such delays) :-

1.2.1.1. force majeure;

1.2.1.2. exceptionally inclement adverse weather conditions;

1.2.1.3. civil commotion local combination of workmen strike or lockout affecting any of the trades employed upon the Development or any of the trades engaged in the preparation manufacture or transportation of any of the goods or materials required for the Development;

1.2.1.4. the United Kingdom Government exercising after the date of this Agreement any statutory power directly affecting the execution of the Development by restricting the availability or use of labour essential to the proper carrying out of the Development or preventing the Developer or its Contractors from or delaying the Developer or its Contractors in securing any goods plant equipment materials fuel or energy that

are essential to the proper carrying out of the Development;

- 1.2.1.5. local authority or statutory undertaker carrying out work in pursuance of its statutory obligations in relation to the Development or failing to carry out such work;
- 1.2.1.6. destruction of or damage to the Development by any insured risk in respect of which the Developer has complied with its obligations under paragraph 13.4 of this Schedule;
- 1.2.1.7. the Buyer's Agent or Buyer's representatives requiring the Developer to open up any completed works for inspection (including making good in consequence of such opening up or testing) unless the inspection reveals the failure by the Developer to comply with its obligations under this Agreement;
- 1.2.1.8. any labour goods plant equipment or materials required for any of the Development being unavailable due to any circumstances beyond the control of the Developer and the Contractor and any subcontractors;
- 1.2.1.9. any delay resulting from the discovery during the course of the Development of:-
 - 1.2.1.9.1. adverse ground conditions;
 - 1.2.1.9.2. munitions or unexploded devices;
 - 1.2.1.9.3. protected species of flora fauna or wildlife;
 - 1.2.1.9.4. archaeological items
- 1.2.1.10. any delay arising from the use by the Developer and/or the Contractor or the subcontractors of new construction techniques and/or materials;
- 1.2.1.11. any other circumstances beyond the control of the Developers or its Contractor or the subcontractors;
- 1.2.1.12. any delay occasioned by any act or omission of the Buyer including any delay resulting from dealing with any request for a variation submitted by the Buyer pursuant to paragraph 14.3 of this Schedule

then the Target Date and all other dates in the Timetable shall be extended by such reasonable period as may be necessary to make due allowance for each such delay and any dispute shall be referred to an Expert for determination in accordance with clause 18

1.3. Comply with Statutes, Regulations, Etc

To do or to procure the doing of all acts and things in the completion of the Development required by law and to procure the carrying out of the Development in conformity in all respects with the Planning Permission any relevant planning agreement and the provisions of the applicable statutes and with the by-laws, any requisite conservation consent, building control regulations, regulations and proper

requirements of the relevant local authority and all public utility undertakings respectively and to pay all proper claims for the fees, charges, fines, penalties and other similar payments which during the progress of the Development may become payable or be properly or lawfully demanded by any competent authority in respect of the Development

1.4. Insurance

At all times during the Development until handover following Practical Completion of the Dwelling procure that the Contractor puts on cover a contractor's all risk policy of insurance of the same or such parts thereof as shall form part of the Property in a sum sufficient to cover the cost of completely reinstating the same in the event of total destruction together with professional fees and other expenses incidental thereto against loss or damage by fire and any other risk usually insured against in respect of a development of this nature and to pay all premiums and other monies necessary for this purpose and public liability cover for any of the persons allowed access under the Licence or any other persons so as to fully indemnify the Buyer against any occupiers liability or defective premises liability howsoever arising and to procure a note of the Buyer's interest thereon produce to the Buyer on reasonable demand the policy or policies of insurance maintained by the Contractor under the provisions of this paragraph

1.5. Inspection of the Dwelling

To permit the Buyer and/or the Buyer's Agent to enter on the Property at reasonable times after reasonable prior notice to view the state and progress of the Works and test the material and workmanship for the purpose of ascertaining generally that all the obligations of the Developer under this Schedule are being duly observed and performed and for any other reasonable purpose Provided That the person so permitted shall not interfere with the carrying out of the Works nor to open up the Works and shall refer all matters whether of complaint or otherwise to the Developer or the Developer's representative and not to the Developer's Contractors, sub-contractor, agents or workmen and shall comply with all health and safety regulations and any similar regulations imposed by the Developer and/or the Contractor.

1.6. Restrictions on Use

Not to use or permit or suffer to be used the Property or any part thereof for any purpose other than that of carrying out the Works

1.7. Policy

To procure that the Dwelling is entered on the register maintained by the Policy Provider and that the Dwelling built on the Property will be built so as to comply with the requirements of the Policy Provider and so as to qualify for the appropriate certificate of guarantee or insurance

1.8. CDM Regulations

The Developer and the Buyer hereby agree that the Developer shall act as the only client in respect of the Works and that the Developer shall be responsible for performing all the duties of the client pursuant to the CDM Regulations. The Developer hereby undertakes to comply with the CDM Regulations and to procure that third parties employed by it in connection with the Works are competent in terms of the CDM Regulations and that they continue to comply with the CDM Regulations

2. VARIATION OF APPROVED PLANS

- 2.1. The Developer will not seek to make any modifications or variations to the Approved Plans relating to the Dwelling without the Buyer's prior written consent provided that such consent is not required if such modifications or variations are required by the local authority or the Policy Provider in order for the Construction of the Dwelling to comply with the Planning Permission or building regulation standards or if the Construction of the Dwelling in accordance with the Planning Permission, Approved Plans or Specification would invalidate the Policy or SAP ratings
- 2.2. The Buyer shall be entitled to request in writing a variation to the Specification at any time prior Practical Completion. Where the Buyer requests such a variation, the Developer shall only be obliged to implement such a variation to the Specification if:
 - 2.2.1. the Buyer accepts the Developer's estimated cost for such a variation including any delay and/or disruption costs and any fees expenses and disbursements of any professionals arising in connection with such works and any additional preliminary or management costs and expenses associated with such a variation;
 - 2.2.2. in the Developer's reasonable opinion the variation will not adversely affect or require any variation of the existing Planning Permission;
 - 2.2.3. the timeframe for carrying out such a variation is agreed in writing between the Seller, the Developer and the Buyer;
 - 2.2.4. any extension to the Construction Long Stop Date required by the Developer in order to effect any such variation is agreed in writing between the Seller, the Developer and the Buyer;
- 2.3. The cost proposed by the Developer and agreed by the Buyer for any variation pursuant to paragraph 2.2 of this schedule shall be added to the Construction Price and shall be paid by the Buyer to the Developer on demand after receipt of any invoice raised by the Developer for such variation and those variations agreed between the parties prior to the date hereof are included in the Specification)

3. DEFECTS LIABILITY PERIOD

- 3.1. The Developer shall procure that any defects (as defined by the Policy Provider and excluding normal wear and tear arising through usage of the Dwelling) notified in writing to the Developer by the Buyer before or during the Defects Liability Period are made good as soon as reasonably practicable having due regard to the nature and the urgency of the defect
- 3.2. The Buyer shall allow the Developer the facilities reasonably necessary and full access to the Property to enable defects properly to be repaired
- 3.3. Notwithstanding paragraph 3.1 of this Schedule the Buyer may whenever it considers it necessary (but acting reasonably and properly) issue instructions requiring any defect or other fault which shall appear within the Defects Liability Period and which is due to failure of the Developer to comply with its obligations under this Schedule before Practical Completion to be made good and the Developer shall within a reasonable time after receipt of such instructions comply with the same at no cost to the Buyer Provided That no such instructions shall be issued after two Working Days from the expiration of the Defects Liability Period
- 3.4. When any defects or other faults which the Buyer may have required to be made good under paragraph 3.3 of this Schedule shall have been made good the

Developer shall notify the Buyer and the Buyer shall, subject to the defects having been made good to the Buyer's reasonable satisfaction, issue a notice to that effect which notice shall not be unreasonably delayed or withheld provided that if the Buyer has not issued such notice within five Working Days of the Developer's notice then the Developer shall be entitled to assume that the defect or fault has been rectified.

- 3.5. Without prejudice to the Policy provided pursuant to paragraph 1.7 of this Schedule the Developer and the Contractor will not be liable for any defects or other faults which are not notified within the time limits specified in this paragraphs 3.1 or 3.4 of this Schedule or which appear or arise after the expiry of the Defects Liability Period

4. DISPUTES RELATING TO CONSTRUCTION

- 4.1. If within five Working Days following the inspection of the Dwelling in accordance with Clause 14 the Buyer's Agent shall dispute that Practical Completion has been achieved the matter shall be referred to an Expert whose decision shall be final and binding on the parties hereto in addition to the terms of Clause 18 in relation to the appointment of an Expert and the following provisions and timescales shall apply:-
- 4.1.1. If the Expert determines that Practical Completion of the Dwelling has been achieved Practical Completion of the Dwelling shall be deemed to have occurred on the date one Working Day after receipt of the Expert's written determination
- 4.1.2. If the Expert shall determine that Practical Completion of the Dwelling has not been achieved the Developer shall carry out such works required by the Expert and upon completion of such works to the reasonable satisfaction of the Expert Practical Completion shall be deemed to have occurred in respect of the Dwelling on the date one Working Day after receipt of the Expert's written confirmation that Practical Completion of the Dwelling has been achieved
- 4.1.3. The determination of the Expert as to whether an item is a defect falling to be rectified pursuant Clause 17.3.2 shall be binding upon the parties except in the case of manifest error or fraud
- 4.1.4. The fees and expenses of the Expert shall be paid in the proportions or shares determined by the Expert and if not so determined by the Developer and the Buyer in equal shares and if either of them shall pay the share properly payable by the other of them (in order to procure the issue of the notice of the determination of the Expert) the amount so paid shall be repayable on demand with interest at the Contract Rate from the date of payment to the date of repayment calculated from day to day and compounded with monthly rests and shall be recoverable action with interest (as well as before any judgement)

SCHEDULE 4

Practical Completion

- The Dwelling is complete in all respects, fitted out in accordance with the Specification and ready for occupation
- the Estate Road has been created
- the drive and pathways garden walls, fencing serving or exclusively forming part of the Dwelling have been completed and
- vehicular and pedestrian access is available from the public highway to and from the Dwelling, including from the garage forming part of the Dwelling along the Estate Road and
- the garden is cleared of all building materials, plant and equipment and the levelled [and turfed]
- the Developer has complied with all planning conditions and the requirements of any other consents pursuant to paragraph 1.3 of Schedule 3

SCHEDULE 5
TIMETABLE / STAGED PAYMENT DATES

Item No	Stage	Payment / Staged Payment	Date	Details
1	Pre-planning	Reservation Fee and Deposit	Exchange	
2	Pre-planning		Submission Date	Submit Planning Application
3	Planning		Specified Date (with extensions to the End Date)	Obtain Planning Permission
4	Actual Completion	Balance Land Price First Payment and Engrossment Fee	Completion Date	
5	Pre-construction		Commencement Date & Commencement Long Stop Date	Start development
6	foundations	Second Payment		Inspection
7	frame wind and water tight	Third Payment		Inspection
8	Variations to Works	Payment for variations due on demand		
9	Practical Completion	Fourth Payment and any outstanding balance of the Construction Price with credit given for Reservation Fee	Target Date (Construction Long Stop Date) within 5 Working Days of the Practical Completion Date	Inspection

1 INSPECTIONS

1.1 The following procedure will apply in relation to inspections during the course of carrying out the Works:

1.1.1 the Developer will serve written notice on the Buyer a minimum of two Working Days before the relevant inspection of the Dwelling specifying a date and time when the Dwelling may be inspected by the Buyer's Agent

- 1.1.2 the Buyer's Agent the Contractor and the Developer will meet at the Property at the specified date and time to inspect the Dwelling to agree whether or not the relevant Stage has been reached
- 1.1.3 if the parties agree that relevant Stage has been reached, the Developer and the Buyer shall each sign off on the said Stage of construction and the relevant Staged Payment (as per the above table) shall become due and payable pursuant to the terms of Clause 15.3
- 1.1.4 if the Buyer's Agent and the Developer agree that relevant Stage has not been reached, the Developer will procure the carrying out of the necessary outstanding works in order to complete the relevant Stage and the parties will repeat the procedure in paragraph 1.1.1 when the Developer believes that relevant Stage has been reached
- 1.1.5 if the Buyer and the Developer disagree whether relevant Stage has been reached, they shall seek to agree what action is required within 5 Working Days but if they fail to do so the issue shall be referred to an Expert pursuant to paragraph 4.1 of Schedule 3 and the provisions of clause 18 shall apply
- 1.1.6 If the Buyer's Agent fails to inspect the Dwelling in accordance with this paragraph 1.1.2 within 5 Working Days of the notice, given by the Developer then the Developer shall be entitled to certify that the relevant Stage has been reached
- 1.1.7 The Buyer shall ensure that the Buyer's Agent shall inspect the Dwelling promptly as soon as notice of inspection of the relevant Stage has been given by the Developer the Buyer's Agent shall act promptly and reasonably in inspecting the Dwelling and agreeing whether the relevant Stage has been reached under paragraphs 1.1.5 or 1.1.6.

AS WITNESS the hands of the parties

SIGNED by

.....

For and on behalf of the Developer

SIGNED by

.....

For and on behalf of the Seller

SIGNED by

.....

For and on behalf of the Buyer

APPENDIX 1
Transfer

APPENDIX 2
[Additional Items]

APPENDIX 3
The Specification