DATED 2021

1. **WOKING BOROUGH COUNCIL**

and

1. **[ROSEWOOD]**

and

**(3)** **[PARK VIEW]**

and

**(4)** **[HOE VIEW]**

and

**(5)** **[DAVID LLOYD]**

and

**(6)** **GOLDEV WOKING LIMITED**

to

**(7) WOKING BOROUGH COUNCIL**

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PLANNING obligation by way of unilateral undertaking

Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) relating to

LAND AT WOKING FOOTBALL CLUB AND LAND ADJACENT TO EGLEY ROAD, WOKING

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**THIS DEED** is made on the            day of                               2021

**AND IS GIVEN BY:**

1. **WOKING BOROUGH COUNCIL** ofCivic Offices, Gloucester Square, WokingGU21 6YL("**First Owner**");
2. **[ROSEWOOD]** of [ ] (“**Second Owner**”);
3. **[PARKVIEW]** of [ ] (“**Third Owner**”);
4. **[HOE VIEW]** of [ ] “**Fourth Owner**”);
5. **[DAVID LLOYD]** of [ ] (“**Fifth Owner**”); and
6. **GOLDEV WOKING LIMITED** of 73 Cornhill, London EC3V 3QQ (“**Developer**”)

**TO:**

1. **WOKING BOROUGH COUNCIL** of Civic Offices, Gloucester Square, Woking GU21 6YL (“**Council**”)

**WHEREAS**:

1. The First Owner is the freehold owner of that part of the Kingfield Road Site registered with HM Land Registry with title absolute under title number [ ] and is the freehold owner of the Egley Road Site registered with HM Land Registry with title absolute under title number [ ].
2. The Second Owner is the freehold owner of that part of the Kingfield Road Site registered with HM Land Registry with title absolute under title number [ ].
3. The Third Owner is the freehold owner of that part of the Kingfield Road Site registered with HM Land Registry with title absolute under title number [ ].
4. The Fourth Owner is the freehold owner of that part of the Kingfield Road Site registered with HM Land Registry with title absolute under title number [ ].
5. The Fifth Owner is the leasehold owner of that part of the Kingfield Road Site registered with HM Land Registry with leasehold title under title number [ ].
6. The Developer has the benefit of the Agreement for Lease and of the Implementation Agreement.
7. The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Kingfield Road Site and the Egley Road Site are situated.
8. The Kingfield Road Planning Application and the Egley Road Planning Application were refused by the Council by way of decision notice dated [ ].
9. The Appeal has been submitted in respect of the Council’s refusal of the Kingfield Road Planning Application and the Egley Road Planning Application.
10. The Owners have agreed to enter into this Deed to give the following obligations in the manner hereinafter appearing should the Secretary of State allow the Appeal.
11. **DEFINITIONS**

1.1 The following words and expressions shall mean as follows:

|  |  |
| --- | --- |
| “1990 Act” | means the Town and Country and Planning Act 1990 (as amended); |
| “Active Electric Vehicle Charging Ability” | means provision of an electricity supply which is ready for use for the charging of electric vehicles; |
| “Active Electric Vehicle Charging Upgrade Scheme” | means a scheme for upgrading the Passive Electric Vehicle Charging Ability in respect of any Kingfield Road Residential Car Parking Space allocated to the relevant Kingfield Road Residential Block to Active Electric Vehicle Charging Ability, if requested by any First Residential Occupier, such scheme to include technical details of the Active Electric Vehicle Charging Ability and a timescale for provision of the Active Electric Vehicle Charging Ability following request by any First Residential Occupier; |
| “Affordable Housing” | means housing made available through (i) a Registered Provider; (ii) the local authority; or (iii) Thameswey Housing Limited (company registration number **05437166**) which is available for and meets the needs of people on low and middle incomes who cannot otherwise afford to rent or buy dwellings or houses generally on the open market within the Borough of Woking at a cost low enough for them to afford (having regard to local income and local house prices) and as defined in the National Planning Policy Framework at Annex 2; |
| “Affordable Housing Units” | means the Affordable Rental Units and the Shared Ownership Units (and “Affordable Housing Unit” shall be construed accordingly); |
| “Affordable Rent” | means a rent (inclusive of service charge) that does not exceed the lower of:   1. an amount not exceeding 80% of the local open market rent; and 2. an amount not exceeding the Local Housing Allowance   both for an equivalent dwelling of the same size and location as the relevant Affordable Rental Unit; |
| “Affordable Rental Housing” | means Affordable Housing let (i) by a Registered Provider; (ii) the local authority; or (iii) Thameswey Housing Limited (company registration number **05437166**) to a person (or persons) who is (or are) members of an Eligible Household at a weekly or monthly Affordable Rent; |
| “Affordable Rental Units” | means:  1. the Kingfield Road Affordable Rental Units; and  2. the Egley Road Residential Units  (totalling 313 units) constructed or to be constructed on the Kingfield Road Residential Land in accordance with the Kingfield Road Planning Permission and the Egley Road Site in accordance with the Egley Road Planning Permission and shown on Plan 5 and Plan 6 respectively (and “**Affordable Rental Unit**” shall be construed accordingly); |
| “Agreement for Lease” | means the agreement for lease dated 30 January 2019 relating to Woking Football Club and other land in Woking between (i) the Developer and (ii) the Council; |
| “Ancillary Stadium Development” | means the retail units, the flexible commercial units and the medical centre to be provided in connection with the proposed new stadium; |
| “Appeals” | means planning appeals submitted by the Developer in respect of the refusal of the Kingfield Road Planning Application and the Egley Road Planning Application which have been given the references APP/A3655/W/20/3265969 and APP/A3665/W/20/3265974 by the Planning Inspectorate; |
| “Block 1” | means the block of Residential Units on the Kingfield Road Residential Land as shown labelled Block 1 for illustrative purposes on Plan 8; |
| “Block 2” | means the block of Residential Units on the Kingfield Road Residential Land as shown labelled Block 2 for illustrative purposes on Plan 8; |
| “Block 3” | means the block of Residential Units on the Kingfield Road Residential Land as shown labelled Block 3 for illustrative purposes on Plan 8; |
| “Block 4” | means the block of Residential Units on the Kingfield Road Residential Land as shown labelled Block 4 for illustrative purposes on Plan 8; |
| “Block 5” | means the block of Residential Units on the Kingfield Road Residential Land as shown labelled Block 5 for illustrative purposes on Plan 8; |
| “Bus Services” | means the following bus services (or as may be reviewed from time to time by agreement between the parties) to be provided by the County Highways Authority:   1. to serve the Kingfield Road Residential Land a service operating between the Kingfield Road Site and Woking town centre and Guildford as follows:    1. Mondays to Saturdays (inclusive) at a frequency of no less than one bus every 20 minutes , with no fewer than 3 buses per hour operating in each direction, between the hours of 6am – 7pm, with a reduced level of service after 7pm; and    2. on Sundays at a frequency of no less than 2 buses per hour operating in each direction between the hours of 7am-7pm; and 2. to serve the Stadium Land, on matchdays, a service operating between the Kingfield Road Site and Woking town centre and Guildford, with 3 buses per hour operating in each direction from no less than 90 minutes prior to a match and no less than 60 minutes following a match; |
| “Bus Services Contribution” | means the contribution of £1,400,000 Index Linked to be applied by or on behalf of the Council to provide the Bus Services; |
| “Car Club” | means a car club established and operated by a Car Club Operator under which residents of the Kingfield Road Residential Units shall be entitled (upon becoming members of the car club) to hire (on a self-drive basis) motor vehicles; |
| “Car Club Operator” | means the operator of the Car Club to be approved by the Council; |
| “Car Club Parking Spaces” | means 15 car parking spaces to be provided at the Kingfield Road Site and made available for the sole use of the Car Club; |
| “Car Pool Database” | means a database to which residents of the Kingfield Road Residential Units can sign up in order to facilitate and coordinate the sharing of car journeys to and from the Kingfield Road Site; |
| “CIL Regulations” | means the Community Infrastructure Levy Regulations 2010 (as amended); |
| “Commencement” | means for the purposes of this Deed only (and for the avoidance of doubt not for the purposes of the Kingfield Road Planning Permission or the Egley Road Planning Permission) the date on which a Material Operation is begun in respect of the Kingfield Road Development or the Egley Road Development respectively (or, where otherwise specified in this Agreement, a specific part of either of the Kingfield Road Development or the Egley Road Development) provided always that the following operations shall not be treated as Material Operations for the purposes of this Deed:   1. site survey works; 2. works of demolition and site clearance; 3. ground investigations (including for archaeological investigation) and the drilling of exploratory boreholes; 4. works of site remediation or decontamination; 5. the erection of fences and hoardings; 6. site preparation and establishment preparatory to the commencement of construction; 7. the construction of temporary accesses; and 8. any operations permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended)   (and “Commence” and “Commenced” shall be construed accordingly); |
| “Confirmatory Deed” | means a deed substantially in the same form as that contained at Annex 1; |
| “County Highways Authority” | means Surrey County Council, County Hall, Penrhyn Road, Kingston upon Thames, Surrey KT1 2DN; |
| “Egley Road Development” | means the development of the Egley Road Site in accordance with the Egley Road Planning Permission; |
| “Egley Road Planning Application” | means the planning application with reference number PLAN/2019/1177 submitted to the Council for planning permission for development of the Egley Road Site; |
| “Egley Road Planning Permission” | means any planning permission granted in respect of the Egley Road Planning Application; |
| “Egley Road Site” | means the land adjacent to Egley Road, as shown on Plan 2; |
| “Egley Road Residential Units” | means individual dwelling units for residential use and to be provided as Affordable Housing in accordance with the Egley Road Planning Permission on the Egley Road Site, as shown for illustrative purposes on Plan 6 (and “Egley Road Residential Unit” shall be construed accordingly); |
| “Egley Road Health Club Travel  Plan” | means a travel plan in respect of the Health Club in accordance with the aims and objectives of the County Highway Authority’s Travel Plan Good Practice Guide July 2010 and, in particular, to promote non-car modes of travel, as approved by the Council; |
| “Egley Road SAMM Contribution” | means the sum of £35,531 Index Linked to be paid to the Council and to be applied for the purposes of SAMM; |
| “Eligible Household” | means a household:   1. a member of which has lived in the local authority’s administrative area for at least 2 years or been in permanent employment in the local authority’s administrative area for a minimum of 35 hours per week (unless unable to do so on grounds of disability) and in each case has lived or been employed (as the case may be) for a continuous period of at least 2 years immediately prior to an offer of Affordable Housing being made; 2. which has no ownership (or part ownership) in another residential property in the United Kingdom; 3. which is in need of Affordable Housing; 4. which in the case of Shared Ownership Housing has a household income which shall not exceed £80,000 per annum (or such higher figure agreed by the local authority having regard to average local household incomes); and 5. which in the case of Affordable Rental Housing has (at the point of first letting) a household income which does not exceed £50,000 per annum and savings and other assets (excluding pension pots) which (in aggregate) do not exceed £16,000 and additionally meets the criteria set out in the Woking Borough Council Allocations Scheme (Hometrak) published February 2018 unless otherwise agreed by the local authority; |
| “Expert” | means an independent and suitable person holding appropriate professional qualifications in a field relevant to the dispute in question to be agreed upon by the parties to the dispute and in default of agreement to be appointed on the application of any party to the dispute by the President for the time being of the Royal Institution of Chartered Surveyors; |
| “First Residential Occupier” | means the first person to Occupy a Kingfield Road Residential Unit; |
| “Fold-Up Bike” | means a bicycle designed to fold into a compact form; |
| “Health Club” | means the health club to be provided on the Egley Road Site in accordance with the Egley Road Planning Permission; |
| “Index Linked” | means increased in line with any increase between the date of this Agreement and payment of the sum concerned in the All Items Group of the Retail Prices Index published by H M Government Office for National Statistics or (if such index shall cease to exist) the index which replaces the same or (in the absence of any such replacement index) the nearest equivalent index thereto which shall be determined by the Council (acting reasonably) other than for the Bus Services Contribution, the Stadium TRO Contribution, the Westfield Avenue TRO Contribution and the sums payable to the Council for the purpose of the Council monitoring and auditing the Kingfield Road Residential Travel Plan, the Stadium Travel Plan and the Egley Road Health Club Travel Plan which shall be increased in line with any increase between the date of this Agreement and payment of the sum concerned in the Retail Prices Index Excluding Mortgage Interest Payments (RPIX) published by the H M Government Office for National Statistics every month or (if such index shall cease to exist) the index which replaces the same or (in the absence of any such replacement index) the nearest equivalent index thereto which shall be determined by the Council (acting reasonably); |
| “Implementation Agreement” | means the Implementation Agreement dated 30 January 2019 relating to Woking Football Club and other land in Woking between (i) the Developer and (ii) the Council; |
| "Interest Rate" | means 3% above Lloyds Bank Base Rate from time to time; |
| “Kingfield Road Affordable Housing Units” | means the Shared Ownership Units and the Kingfield Road Affordable Rental Units; |
| “Kingfield Road Affordable Rental Units” | means the 277 Residential Units within Block 2 to be provided as Affordable Rental Housing, as shown for illustrative purposes on Plan 5; |
| “Kingfield Road Development” | means the development of the Kingfield Road Site in accordance with the Kingfield Road Planning Permission; |
| “Kingfield Road Mobility Hub” | means a community hub including a café, workspace, microconsolidation centre, a cycle hub, community concierge service and personalised travel planning service on the Kingfield Road Site in accordance with an operational and layout plan approved by the Council and in the location shown for illustrative purposes on Plan 9; |
| "Kingfield Road Planning Application" | means the planning application with reference number PLAN/2019/1176 submitted to the Council for planning permission for development of the Kingfield Road Site; |
| "Kingfield Road Planning Permission" | means any planning permission granted in respect of the Kingfield Road Planning Application; |
| “Kingfield Road Residential Blocks” | means the residential blocks on the Kingfield Road Residential Land, namely Block 1, Block 2, Block 3, Block 4 and Block 5, housing the Kingfield Road Residential Units as shown for illustrative purposes on Plan 8 (and “Kingfield Road Residential Block” shall be construed accordingly); |
| “Kingfield Road Residential Land” | means the land forming part of the Kingfield Road Site to be used for residential purposes, and including the Kingfield Road Residential Blocks, as shown on Plan 4; |
| “Kingfield Road Residential Car Parking Spaces” | means the residential car parking spaces to be provided on the Kingfield Road Residential Land (and “Kingfield Road Residential Parking Space” shall be construed accordingly); |
| “Kingfield Road Residential Travel Plan” | means a travel plan in respect of the Kingfield Road Residential Land in accordance with the aims and objectives of the County Highway Authority’s Travel Plan Good Practice Guide July 2010, as approved by the Council; |
| “Kingfield Road Residential Unit” | means an individual dwelling unit for residential use on the Kingfield Road Residential Land (and “Kingfield Road Residential Units” shall be construed accordingly); |
| “Kingfield Road SAMM Contribution” | means the sum of £655,779 Index Linked to be paid to the Council in instalments and to be applied for the purposes of SAMM; |
| “Kingfield Road Site” | means the land at Woking Football Club and located on Kingfield Road, as shown on Plan 1; |
| “Local Housing Allowance” | means the local housing allowance in respect of a relevant Affordable Rental Unit determined by reference to the schedule of local housing rates published by the Valuation Office Agency; |
| “Material Operation” | has the meaning set out in section 56(4) of the 1990 Act; |
| “Nominations Agreement” | means a nominations agreement to be entered into between the local authority and the Registered Provider in respect of the Affordable Rental Units in a form reasonably specified by the local authority; |
| “Occupy” | means beneficially occupy for any purpose permitted by the Kingfield Road Planning Permission or the Egley Road Planning Permission respectively (or, where otherwise specified in this Agreement, a specific part of either of the Kingfield Road Development or the Egley Road Development) but excluding occupation by persons engaged in construction, fitting out or decoration, or occupation as a showroom or sales office, for advertising marketing or display purposes, or occupation in relation to site security and management of the Site (and “Occupation” shall be construed accordingly); |
| “Owners” | means together the First Owner, the Second Owner, the Third Owner, the Fourth Owner and the Fifth Owner and any one or more of them; |
| “Passive Electric Vehicle Charging Ability” | means provision of an electricity supply ready for future installation of an electric vehicle charging point; |
| “Plan 1” | means the plan annexed to this Deed entitled the Kingfield Road Site (dwg. no. [ ]); |
| “Plan 2” | means the plan annexed to this Deed entitled the Egley Road Site (dwg. no. [ ]); |
| “Plan 3” | means the plan annexed to this Deed entitled the Stadium Land (dwg. no. [ ]); |
| “Plan 4” | means the plan annexed to this Deed entitled the Kingfield Road Residential Land (dwg. no. [ ]); |
| “Plan 5” | means the plans annexed to this Deed entitled the Kingfield Road Affordable Rental Units (dwg. nos. [ ]); |
| “Plan 6” | means the plan annexed to this Deed entitled the Egley Road Residential Units (dwg. no. [ ]); |
| “Plan 7” | means the plans annexed to this Deed entitled the Shared Ownership Units (dwg. nos. [ ]); |
| “Plan 8” | means the plan annexed to this Deed entitled the Kingfield Road Residential Blocks (dwg. no. [ ]); |
| “Plan 9” | means the plan annexed to this Deed entitled the Kingfield Road Mobility Hub (dwg. no. [ ]); |
| “Plan 10” | means the plan annexed to this Deed entitled the Woking Gymnastics Club (dwg. no. [ ]); |
| “Practical Completion” | means completion in all material respects and the issue of a certificate of practical completion by the Developer’s architect, contractor, agent, administrator or a building inspector or in the event that the works are constructed by a party other than the Developer, the issue of a certificate of practical completion by that other party’s architect, contractor, agent, administrator or a building inspector (and “Practically Complete” shall be construed accordingly); |
| “Public Art” | means permanent public artwork which is integral to the Kingfield Road Development and permanently affixed to the Kingfield Road Development to be provided in accordance with the Public Art Strategy up to a maximum cost of £1,000.00 Index Linked; |
| “Public Art Strategy” | means a strategy which provides for the participation in the process and selection of Public Art in connection with the Kingfield Road Development, such strategy to include a timetable for the provision of such Public Art; |
| “Ready for Occupation” | means Practically Complete and capable of being used for its intended purpose including the provision of utilities and services but not including fitout, furniture, floor coverings, fittings and other decorative accessories; |
| “Registered Provider” | means a provider or providers of social housing registered with the Homes and Communities Agency under the Housing and Regeneration Act 2008 or such other provider of Affordable Housing as approved by the Council; |
| “Relevant League” | means The Football Conference Limited (or any successor body) or The Football League Limited (or any successor body) as relevant to the league in which the Tenant is currently in or will be promoted or demoted to prior to completion of the new stadium; |
| “Replacement Gymnastics Club” | means a gymnastics club to replace the Woking Gymnastics Club in accordance with planning permission granted by the Council on 28 September 2018 with planning application reference PLAN/2017/1063 or any other replacement facility as may be agreed between the Council and the Developer; |
| “Residential Unit” | means an individual dwelling unit on the Kingfield Road Residential Land or the Egley Road Site forming part of the Kingfield Road Development or the Egley Road Development respectively; |
| “SAMM” | means strategic access management and monitoring measures (as determined by the Council) to mitigate the effects of the Kingfield Road Development and the Egley Road Development respectively on the Thames Basin Heaths Special Protection Area; |
| “Secretary of State” | means the Secretary of State for Housing, Communities and Local Government or other minister or other person or authority for the time being having or entitled to exercise the relevant powers conferred by the 1990 Act; |
| “Shared Ownership Housing” | means Affordable Housing leased by a Registered Provider to a person (or persons) who is (or are) members of an Eligible Household:   1. for a term of not less than 125 years; 2. in consideration of a premium equal to the percentage of the open market value of the Shared Ownership Unit being acquired (being initially not more than 35%) and which entitles the lessee to purchase further and additional tranches of equity in the Shared Ownership Unit up to 100% of the open market value in the Shared Ownership Unit; 3. requiring the payment of rent on the value of that percentage of the Shared Ownership Unit which on the grant of the lease shall not have been purchased by the lessee adjusted on each occasion on which the lessee purchases further and additional tranches of equity in the Shared Ownership Unit and which rent shall not exceed 2.75% of the value of the apportioned open market value of the part of the Shared Ownership Unit not purchased by the lessee; 4. grants to the lessee all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Shared Ownership Unit; and 5. otherwise contains such usual terms and conditions as are contained in a residential lease of shared ownership housing granted by a Registered Provider to a lessee; |
| “Shared Ownership Units” | means 191 Residential Units constructed or to be constructed within Block 1 on the Kingfield Road Residential Land in accordance with the Kingfield Road Planning Permission and shown for illustrative purposes on Plan 7 (and “Shared Ownership Unit” shall be construed accordingly); |
| “Stadium TRO Contribution” | means the sum of £1,500 Index Linked towards the cost of carrying out the Stadium TRO Review and implementing any additional double and/or single yellow lines (and any associated TROs) in the vicinity of the Stadium Development which are identified by the Stadium TRO Review as being reasonably necessary as a result of the Stadium Development; |
| “Stadium TRO Review” | means surveys, studies and consultations undertaken by the Council in order to establish whether any additional double and/or single yellow lines (and any associated TROs) are reasonably required in the vicinity of the Stadium Development as a result of the Stadium Development; |
| “Stadium Development” | means the proposed new football stadium and the Ancillary Stadium Development (but not including the Kingfield Road Residential Units) to be provided on the Stadium Land in accordance with the Kingfield Road Planning Permission; |
| “Stadium Development Completion” | means the date on which the Stadium Development is completed in accordance with the Kingfield Road Planning Permission such that Woking Football Club is permitted to play football at the new stadium so far as the Relevant League will permit and, for the avoidance of doubt, in respect of the Ancillary Stadium Development, shall mean completion to shell and core level and shall not include fit-out by or on behalf of any prospective tenant; |
| “Stadium Land” | means the land forming part of the Kingfield Road Site to be used for the provision of the Stadium Development, as shown for illustrative purposes on Plan 3; |
| “Stadium Travel Plan” | means a travel plan in respect of the Stadium Development in accordance with the aims and objectives of the County Highway Authority’s Travel Plan Good Practice Guide July 2010, as approved by the Council; |
| “TRO” | means a traffic regulation order made pursuant to the Road Traffic Regulation Act 1984; |
| “Woking Gymnastics Club” | means the existing gymnastics club building knowns as ‘Woking Gymnastics Club’ at the Kingfield Road Site, as shown for illustrative purposes on Plan 10; |
| “Westfield Avenue TRO Contribution” | means the sum of £1,650 Index Linked towards the cost of carrying out the Westfield Avenue TRO Review and implementing any delivery bay (and any associated TROs) on Westfield Avenue which is identified by the Westfield Avenue TRO Review as being reasonably necessary as a result of the Kingfield Road Development; |
| “Westfield Avenue TRO Review” | means surveys, studies and consultations undertaken by or on behalf of the Council in order to establish whether a delivery bay (and any associated TROs) on Westfield Avenue is reasonably required as a result of the Kingfield Road Development; |
| “Working Day” | means Mondays to Fridays (inclusive) but excluding Christmas Day, Good Friday and other statutory bank holidays. |

* 1. Reference to the masculine feminine and neuter genders shall include other genders.
  2. Reference to the singular includes the plural and vice versa.
  3. Reference to natural persons includes corporations and vice versa.
  4. Reference to any party shall include that party’s personal representatives, successors or permitted assigns.
  5. Headings in this Deed are for reference purposes only and shall not be taken into account in its construction or interpretation.
  6. Reference to a clause paragraph or schedule is to a clause paragraph or schedule in or to this Deed.
  7. Where in this Deed a party includes two or more persons the obligations of those persons shall be joint and several.
  8. Any reference to a statute or statutory instrument shall include any statute or statutory instrument amending consolidating or replacing the same.

1. STATUTORY PROVISIONS
   1. This Deed constitutes a planning obligation for the purposes of section 106 of the 1990 Act and is entered into pursuant to that section and to section 1 of the Localism Act 2011 section 111 of the Local Government Act 1972 and all other enabling powers.

2.2 The obligations contained in this Deed are planning obligations for the purposes of section 106 of the 1990 Act and are entered into by the Owners with the intention that they bind the Kingfield Road Site and the Egley Road Site and the interests held by those persons in the Kingfield Road Site and the Egley Road Site and their respective successors in title and assigns.

2.3 The obligations contained in this Deed are enforceable by the Council in accordance with section 106 of the 1990 Act and the provisions of this Deed.

**3. CONDITIONALITY**

3.1 All of the planning obligations contained in this Deed are conditional upon the Secretary of State allowing the Appeals and granting the Kingfield Road Planning Permission and the Egley Road Planning Permission and if the Secretary of State expressly finds in his decision that pursuant to the CIL Regulations any of the planning obligations contained in this Deed do not meet the requirements set out in the regulation 122 of the CIL Regulations such planning obligation(s) or part thereof as so identified shall cease to have effect and the Owners and the Developer shall be under no obligation to comply with them and they shall not be enforceable by the Council notwithstanding the remaining planning obligations contained in this Deed which (for the avoidance of doubt) shall take effect and remain in effect and be enforceable.

3.2 Subject to clause 2.1 above save for the provisions of this clause 2 and any other provisions in this Deed which either expressly or by necessary implication require otherwise this Deed is conditional upon and shall not take effect until the grant of the Kingfield Road Planning Permission and the Egley Road Planning Permission.

**4. OWNERS’ AND DEVELOPER’S COVENANTS**

4.1 The Owners hereby covenant and agree that the Kingfield Road Development and the Egley Road Development shall not be Commenced unless and until the Developer has acquired the long leasehold interest in the Kingfield Road Site and the Egley Road Site pursuant to the Agreement for Lease and the Developer has delivered to the Council the Confirmatory Deed.

4.2 The Developer covenants with the Council in the terms set out in Schedules 1 to 3 which shall have effect upon the Commencement of the Kingfield Road Development.

4.3 The Developer covenants with the Council in the terms set out in Schedule 4 which shall have effect upon the Commencement of the Egley Road Development.

4.4 The Developer covenants that it will enter into and deliver to the Council the Confirmatory Deed prior to the Commencement of the Kingfield Road Development and the Egley Road Development.

**5. DISPUTE RESOLUTION**

* 1. Where there is a difference or dispute in relation to the subject matter of this Deed the parties to such dispute shall use reasonable endeavours to resolve the same and if the different or dispute remains unresolved after 10 Working Days any party to the dispute may refer the same for determination to the Expert.
  2. The Expert shall be required to produce evidence of sufficient professional indemnity insurance prior to his appointment.
  3. The terms of reference for the Expert shall include the following:
     1. the Expert shall call for representations from the parties to the dispute within 10 Working Days of his appointment and require the parties to the dispute to exchange representations with each other within this period;
     2. the Expert shall allow the parties to the dispute a further 10 Working Days from the expiry of the period referred to in clause 5.3.1 to make counter-representations;
     3. any representations or counter-representations received out of time may be disregarded by the Expert;
     4. the Expert shall provide the parties to the dispute with a written decision within 10 Working Days of the last date for the receipt of counter-representations.
  4. The Expert may be required by either party to the dispute to give reasons for his decision and such reasons shall be conveyed to all parties to the dispute.
  5. The determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties to the dispute) shall be final and binding upon the parties to the dispute save in the case of fraud or manifest error.
  6. Nothing in this clause 5 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing proceedings in the courts.

1. **INTEREST ON LATE PAYMENT**
   1. In the event of late payment by the Developer of any contribution fee or other sum of money due to the Council under the provisions of this Deed, the Developer shall pay interest on the same at the Interest Rate from time to time prevailing such interest to be payable for the period from the date the contribution fee or other sum of money fell due for payment until the date the same are received by the Council.
2. NOTICES
   1. Any notice, approval, consent, expression of satisfaction, certificate or other communication given by a party under this Agreement (each a “Notice”) shall be in writing and signed by or on behalf of the party giving it.
   2. Any Notice to be given or delivered under this Deed may be given by delivering it personally or sending it by pre-paid first class post recorded delivery or royal mail special delivery addressed to the relevant party (and marked for the attention of an identified individual) in the manner referred to below.
   3. Any Notice given to the Council shall be addressed to Woking Borough Council at its address aforesaid and marked for the attention of the Director of Legal and Democratic Services or such other address for service (and identified individual) as shall have been previously notified by the Council to the Developer.
   4. Any Notice to be given to the Developer shall be addressed to Goldev Woking Limited at its address aforesaid and marked for the attention of Mr Wayne Gold or such other address for service (and identified individual) as shall have been previously notified by the Developer to the Council.
   5. Any such Notice if so addressed shall be deemed to have been received as follows:
      1. if delivered personally at the time of delivery provided that where such Notice is delivered after 4pm such Notice shall be deemed to be received at 9am on the next following Working Day;
      2. if sent by first class post at 9am on the second Working Day after the date of posting; and
      3. if sent by recorded delivery or royal mail special delivery at the time of proof of delivery provided that where such Notice is delivered after 4pm such Notice shall be deemed to be received at 9am the next Working Day.
3. no fetter
   1. Nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the First Owner in the exercise of its statutory functions (including without limitation its rights, powers, duties and obligations as local planning authority) and its rights, powers, duties and obligations under all public and private statutes regulations and byelaws may be as fully and effectually exercised as if the First Owner were not a party to this Deed.
4. invalidity, severance AND RELEASE
   1. If any provision in this Deed shall be held to be invalid, illegal or unenforceable (and severance of such provision is possible) the validity, legality and enforceability of the remaining provisions of this Deed shall be unaffected.
   2. No person shall be liable for any breach of any of the provisions of this Deed after parting with all of its interest in the Kingfield Road Site or the Egley Road Site or the part thereof to which such breach relates except in respect of any breach subsisting prior to parting with such interest.
5. **WAIVER**
   1. No waiver (whether express or implied) by any party to this Deed or of the Council of any breach or default by any other parties to this Deed or the Council in performing or observing any of the obligations, covenants and other terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent any party to this Deed or the Council from enforcing any of the said terms or conditions herein or from acting upon any subsequent breach or default in respect thereof against any other party to this Deed or the Council.
6. **SATISFACTION, APPROVAL, CONSENT OR CERTIFICATE** 
   1. Where under any obligation in this Deed any satisfaction, approval, consent or certificate is required to be obtained from or given by the Council (each “Satisfaction”), it is given subject to the proviso that the Council shall not unreasonably withhold or delay any such satisfaction and shall act reasonably.

11.2 Where in the reasonable opinion of the Developer any obligation or covenant in this Deed has been satisfied complied with performed or otherwise discharged (each “Satisfied”) the Developer may apply to the Council for a certificate to that effect.

1. **VAT**
   1. All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.
   2. If at any time VAT are or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of the supply the person making the supply shall have the right to issue an invoice to the person to whom the supply was made and VAT shall be paid accordingly.
2. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
   1. No person other than a party to this Deed and their respective successors and permitted assigns and the Council (and any successor in function) shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.
3. **LOCAL LAND CHARGE**

This Deed is a local land charge and shall be registered as such by the Council.

**15. AGREEMENTS AND DECLARATIONS**

15.1 It is acknowledged that:

15.1.1 nothing in this Deed constitutes a planning permission or an obligation to grant planning permission;

15.1.2 insofar as any clause or clauses of this Deed are held (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

**16. GENERAL**

16.1 Nothing in this Deed shall prohibit or limit the right to develop any part of the Kingfield Road Site or the Egley Road Site in accordance with a planning permission (other than the Kingfield Road Planning Permission or the Egley Road Planning Permission) granted (whether or not on appeal) after the date of this Deed.

16.2 This Deed shall not be enforceable against:

16.2.1

* + 1. owners or tenants of the individual Residential Units nor against their mortgagees or chargees nor against any of their successors in title;

16.2.2 any statutory undertaker or utility company which acquires an interest in any of the Kingfield Road Site or the Egley Road Site for the purpose of the provision of services necessary for the Kingfield Road Site Development or the Egley Road Development.

16.3 Subject to the proviso to this clause, in the event that any new planning permission(s) are granted by the Council after the date of this Deed in relation to an application to remove and/or vary condition(s) attached to the Kingfield Road Planning Permission or the Egley Road Planning Permission pursuant to section 73 of the Act (“Section 73 Consent”):

16.3.1 the obligations in this Deed (including the Schedules hereto) shall relate to and bind any subsequent Section 73 Consent and the Kingfield Road Site or the Egley Road Site without the automatic need to enter into any subsequent deed of variation/supplemental deed to this Deed or new obligation pursuant to section 106 of the 1990 Act;

16.3.2 the definitions of Kingfield Road Planning Application, Egley Road Planning Application, Kingfield Road Planning Permission, Egley Road Planning Permission, Kingfield Road Development and Egley Road Development (other than for the purposes of the background) in this Deed shall be construed to include reference to (respectively) any application(s) under section 73 of the 1990 Act any Section 73 Consent granted thereunder and any development permitted by such subsequent Section 73 Consent; and

16.3.3 any Section 73 Consent shall include a condition/informative substantially in the following form:

“The obligations under the planning obligation by way of unilateral undertaking dated [ ] pursuant to the previous application [ ] will be equally applied to and satisfy the requirements necessitated under this application [ ]”;

16.3.4 it is hereby agreed and acknowledged that nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the 1990 Act and the appropriate planning obligations required in connection with the determination of the same and rights are reserved to the Council for it to insist upon the completion of any subsequent deed of variation/supplemental deed to this Deed or new obligation pursuant to section 106 of the 1990 Act in connection with any section 73 applications if the Council considers it necessary to do so.

1. **GOVERNING LAW**
   1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England.

**SCHEDULE 1**

**KINGFIELD ROAD SITE COVENANTS**

1. **BUS SERVICES CONTRIBUTION**
   1. The Developer covenants with the Council to pay the Bus Services Contribution to the Council in the following instalments:
      1. The sum of £140,000 prior to the Occupation of 50 Kingfield Road Residential Units; and
      2. Thereafter, on each anniversary of the date of payment of the instalment at paragraph 1.1.1 above, the sum of £140,000, until and including the seventh anniversary of the date of Occupation of 838 Kingfield Road Residential Units (PROVIDED THAT no more than 9 such further instalments shall be payable and the total amount of the Bus Services Contribution shall not exceed £1,400,000 Index Linked accordingly).
   2. Not to Occupy (or permit to be Occupied) more than 50 Kingfield Road Residential Units until the first instalment of the Bus Services Contribution has been paid to the Council pursuant to paragraph 1.1 of this Schedule 1.
2. **COMPLETION OF THE STADIUM DEVELOMPENT** 
   1. The Developer covenants with the Council not to Occupy (or permit to be Occupied) more than 606 Kingfield Road Residential Units (which must include the units comprised in Blocks 1 and 2) until such time as Stadium Development Completion has occurred.

2.2 The Developer covenants with the Council that Stadium Development Completion shall take place within 2 years of Woking Football Club having vacated the Kingfield Road Site and full vacant possession of the existing stadium on the Kingfield Road Site having been obtained by the Developer.

**3 WOKING GYMNASTICS CLUB**

3.1 The Developer covenants with the Council that the Woking Gymnastics Club shall not be demolished until such time as a Replacement Gymnastics Club has been constructed and is Ready for Occupation, unless alternative temporary facilities are provided as agreed in writing with the Council.

**4 TRAFFIC REGULATION ORDERS**

4.1 The Developer covenants with the Council as follows:

4.1.1 Within 28 days of receipt of a written request from the Council to pay the Westfield Avenue TRO Contribution to the Council for the purposes of carrying out the Westfield Avenue TRO Review PROVIDED THAT such written request may not be served prior to Commencement of the Kingfield Road Development.

4.1.2 Within 28 days of receipt of a written request from the Council, to pay the Stadium TRO Contribution to the Council for the purposes of carrying out the Stadium TRO Review PROVIDED THAT such written request may not be served prior to Commencement of the Kingfield Road Development.

**SCHEDULE 2**

**KINGFIELD ROAD RESIDENTIAL LAND COVENANTS**

1. **KINGFIELD ROAD SAMM CONTRIBUTION** 
   1. The Developer covenants with the Council as follows:
      1. To pay the Kingfield Road SAMM Contribution to the Council in the following instalments:
         1. 50% prior to the Occupation of 606 Kingfield Road Residential Units; and
         2. 50% prior to the Occupation of 856 Kingfield Road Residential Units.
      2. Not to Occupy (or permit to be Occupied):
         1. More than 606 Kingfield Road Residential Units until the first instalment of the Kingfield Road SAMM Contribution has been paid to the Council pursuant to paragraph 1.1.1.1 above; and
         2. More than 856 Kingfield Road Residential Units until the second instalment of the Kingfield Road SAMM Contribution has been paid to the Council pursuant to paragraph 1.1.1.2 above.
2. **KINGFIELD ROAD MOBILITY HUB** 
   1. The Developer covenants with the Council as follows:
      1. Not to Occupy (or permit to be Occupied) more than 468 Kingfield Road Residential Units until:
         1. A layout and operational plan for the Kingfield Road Mobility Hub forming part of the Kingfield Road Development has been submitted to and approved by the Council; and
         2. The Kingfield Road Mobility Hub forming part of the Kingfield Road Development has been Practically Completed and is Ready for Occupation.
      2. Once operational, to maintain the Kingfield Road Mobility Hub and the services provided from the Kingfield Road Mobility Hub for the lifetime of the Kingfield Road Development on the Kingfield Road Residential Land to the reasonable satisfaction of the Council.
3. **KINGFIELD ROAD RESIDENTIAL TRAVEL PLAN** 
   1. The Developer covenants with the Council as follows:
      1. Prior to the Occupation of any Kingfield Road Residential Unit to:
         1. Submit for the written approval of the Council a Kingfield Road Residential Travel Plan; and
         2. Pay the sum of £6,150 to the Council for the purpose of the Council monitoring and auditing the Kingfield Road Residential Travel Plan.
      2. Not to Occupy (or permit to be Occupied) any Kingfield Road Residential Unit unless and until the Kingfield Road Residential Travel Plan has been approved by the Council; and
      3. From the date of Occupation of any Kingfield Road Residential Unit, to implement or procure the implementation of the Kingfield Road Residential Travel Plan to the reasonable satisfaction of the Council for a period of 7 years from such date subject to any variations agreed from time to time by the Council.
4. **PROVISION OF PUBLIC ART** 
   1. The Developer covenants with the Council to:
      1. Submit a Public Art Strategy in respect of the Kingfield Road Residential Land to the Council for approval prior to Occupation of any Kingfield Road Residential Unit; and
      2. Provide the Public Art on the Kingfield Road Residential Land in accordance with the Public Art Strategy approved by the Council.
5. **KINGFIELD ROAD AFFORDABLE HOUSING** 
   1. The Developer covenants with the Council as follows:
      1. To construct or procure the construction of the Kingfield Road Affordable Housing Units in accordance with the Kingfield Road Planning Permission.
      2. To provide the Kingfield Road Affordable Housing Units in accordance with the mix and tenure set out in the table below:

|  |  |  |
| --- | --- | --- |
| **Block** | **No of dwellings** | **Tenure** |
| Block 1 | 191  (54 x 1 bedroom apartments and 137 x 2 bedroom apartments) | Shared Ownership Housing |
| Block 2 | 277  (58 x studio apartments, 88 x 1 bedroom apartments, 58 x 2 bedroom apartments, 20 x 1 bedroom town house/duplex, 24 x 2 bedroom town house, 24 x 2 bedroom duplex and 5 x 3 bedroom town house) | Affordable Rental Housing |

5.1.3 Not to Occupy (or permit to be Occupied) any of the Kingfield Road Residential Units within Block 3, Block 4 or Block 5 until the Kingfield Road Affordable Housing Units have been Practically Completed and are Ready for Occupation.

* + 1. To procure that a Registered Provider shall enter into a Nomination Agreement with the Council to secure nomination rights for the Council in respect of the Kingfield Road Affordable Rental Units.
    2. To procure that the Kingfield Road Affordable Housing Units shall not be used for any purpose other than as Affordable Housing and for the tenure permitted pursuant to clause 5.1.2 provided that this restriction shall not apply to:
       1. any mortgagee or chargee of a Registered Provider 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 “Receiver”) or any person deriving title through such mortgagee or chargee or Receiver;
       2. any part or parts of the Kingfield Road Residential Land which are transferred to or leased by any person referred to in paragraph 5.1.5.1 above;
       3. any completed Kingfield Road Affordable Housing Units where a Registered Provider shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation or Right to Buy) Regulations 1993 or pursuant to a right to acquire under section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable;
       4. any completed Kingfield Road Residential Units where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008 or any amendment or replacement thereof;
       5. any Shared Ownership Unit in respect of which a shared ownership lease has been granted and where a Registered Provider shall have disposed of 100% of the equity in such unit under the terms of such lease; and
       6. any mortgagee or chargee of a tenant under a lease of a Shared Ownership Unit or any receiver appointed by such mortgagee or chargee or any person deriving title through any such persons.
    3. Subject to the exceptions set out in paragraph 5.1.5 above, not to:
    4. Permit the Kingfield Road Affordable Rental Units to be used or Occupied other than for Affordable Rental Housing; and
    5. Permit the Shared Ownership Units to be used or Occupied other than for Shared Ownership Housing.

1. **CAR CLUB**
   1. The Developer covenants with the Council as follows:
      1. To provide the Car Club Parking Spaces in accordance with the following timescales, unless requested otherwise by the Developer and/or the Car Club Operator and agreed in writing by the Council:
      2. A minimum of 9 of the Car Club Parking Spaces prior to the Occupation of the 606thKingfield Road Residential Unit;
      3. A further 3 of the Car Club Parking Spaces prior to the Occupation of the penultimate Kingfield Road Residential Block to be Occupied; and
      4. The remaining 3 Car Club Parking Spaces prior to the Occupation of the final Kingfield Road Residential Block to be Occupied.
      5. To use reasonable endeavours to procure a Car Club Operator for the Kingfield Road Site and, subject to having procured a Car Club Operator, to obtain the Council’s written approval of the proposed Car Club Operator.
      6. Subject to approval by the Council of the proposed Car Club Operator:
         1. To use reasonable endeavours to procure entry into a legally binding agreement with such approved Car Club Operator prior to the Occupation of the 606th Kingfield Road Residential Unit for the operation of a Car Club on the Kingfield Road Site upon terms which are reasonably obtainable in the market (including the provision of a car for each Car Club Parking Space); and
         2. To secure the operation of the Car Club to the reasonable satisfaction of the Council for a minimum of 2 years following the Occupation of the 606th Kingfield Road Residential Unit.
   2. To make available membership of the Car Club to all First Residential Occupiers without access to a residential parking space within the Kingfield Road Site and to provide membership free to all such First Residential Occupiers that confirm they want to become Car Club members PROVIDED THAT the Developer shall only be required to provide free membership to the same for a period of 1 year from the date of Occupation of any such First Residential Occupier that so confirms.
   3. To advertise the existence of the Car Club to all residents of the Kingfield Road Residential Units (and, for First Residential Occupiers, the availability of the period of free membership) to include posting notices within common parts of the Kingfield Road Residential Blocks and providing a leaflet to residents with details of the Car Club.
   4. During the operation of the Car Club, to provide and maintain the Car Club Parking Spaces for the sole use of the Car Club and to procure the continued operation of the Car Club in accordance with paragraphs 6.2 and 6.3 above to the reasonable satisfaction of the Council, subject to the following:
      1. If the Car Club Operator confirms in writing that it no longer requires a Car Club Parking Space, then subject to the Developer providing satisfactory written evidence to the Council and the Council confirming its agreement in writing that there is no demand for the Car Club Parking Space from another Car Club operator, the Developer shall no longer be required to maintain the relevant Car Club Parking Space for use by the Car Club; and
      2. If the Car Club Operator ceases to exist, or ceases (otherwise than following termination of any agreement with the Car Club Operator by the Developer) to operate the Car Club on the Kingfield Road Site then, subject to the Developer providing satisfactory written evidence to the Council and the Council confirming its agreement in writing that there is no demand from another Car Club Operator to operate a Car Club from the Kingfield Road Site, or that there is demand only for a reduced Car Club, the Developer shall no longer be required to procure the operation of a Car Club from the Kingfield Road Site or shall only be required to procure a reduced operation as relevant.
2. **CAR POOL DATABASE** 
   1. The Developer covenants with the Council as follows:
      1. To establish a Car Pool Database prior to the Occupation of the 606th Kingfield Road Residential Unit.
      2. To advertise the existence of the Car Pool Database to all residents of the Kingfield Road Residential Units to include posting notices within common parts of the Kingfield Road Residential Blocks and providing a leaflet to residents with details of the Car Pool Database.
      3. Once established, to maintain the Car Pool Database for the lifetime of the Kingfield Road Development on the Kingfield Road Residential Land to the reasonable satisfaction of the Council.
3. **FOLD UP BIKES** 
   1. The Developer covenants with the Council as follows:
      1. To provide the First Residential Occupier of each Kingfield Road Residential Unit with a Fold-Up Bike on Occupation.
4. **ELECTRIC VEHICLE CHARGING POINTS** 
   1. The Developer covenants with the Council as follows:
      1. To provide each Kingfield Road Residential Car Parking Space with Passive Electric Vehicle Charging Ability prior to Occupation of each Kingfield Road Residential Block to which the relevant Kingfield Road Residential Car Parking Spaces are allocated;
      2. Not to Occupy (or permit to be Occupied) any Kingfield Road Residential Block prior to each Kingfield Road Residential Car Parking Space allocated to such Kingfield Road Residential Block having been provided with Passive Electric Vehicle Charging Ability.
      3. To submit for approval by the Council prior to Occupation of each Kingfield Road Residential Block the Active Electric Vehicle Charging Upgrade Scheme.
      4. Not to Occupy (or permit to be Occupied) any Kingfield Road Residential Block prior to the submission of, and approval by, the Council of the Active Electric Vehicle Charging Upgrade Scheme for such Kingfield Road Residential Block.
      5. Once installed, to maintain the approved Active Electric Vehicle Charging Ability (or any such replacement Active Electric Vehicle Charging Ability having more advanced technology and serving the same objective) for the lifetime of the Kingfield Road Residential Blocks in accordance with the relevant Active Electric Vehicle Charging Upgrade Scheme.

**SCHEDULE 3**

**STADIUM LAND COVENANTS**

1. **STADIUM TRAVEL PLAN** 
   1. The Developer covenants with the Council as follows:
      1. Prior to Occupation of the Stadium Development to:
         1. Submit for the written approval of the Council a Stadium Travel Plan (subject to having first consulted with Woking Football Club); and
         2. Pay the sum of £6,150 to the Council for the purpose of the Council monitoring and auditing the Stadium Travel Plan.
      2. Not to Occupy the Stadium Development unless and until the Stadium Travel Plan has been approved by the Council.

**SCHEDULE 4**

**EGLEY ROAD SITE COVENANTS**

1. **EGLEY ROAD SAMM CONTRIBUTION** 
   1. The Developer covenants with the Council as follows:
      1. To pay the Egley Road SAMM Contribution to the Council on Practical Completion of the final Egley Road Residential Unit.
      2. Not to Occupy (or permit to be Occupied) the final Egley Road Residential Unit to be Practically Completed until the Egley Road SAMM Contribution has been paid to the Council pursuant to clause 1.1.1 above.
2. **EGLEY ROAD AFFORDABLE HOUSING** 
   1. The Developer covenants with the Council as follows:
      1. To construct or procure the construction of the Egley Road Residential Units in accordance with the Egley Road Planning Permission.
      2. To provide the Egley Road Residential Units in accordance with the mix and tenure set out in the table below:

|  |  |
| --- | --- |
| **No of dwellings** | **Tenure** |
| 36  (5x 2/3 bedroom-house, 13 x 3-bedroom house, 16 x 4-bedroom house and 2 x 5-bedroom houses) | Affordable Rental Housing |

* + 1. To procure that a Registered Provider shall enter into a Nomination Agreement with the Council to secure nomination rights for the Council in respect of the Egley Road Residential Units.
    2. To procure that the Egley Road Residential Units shall not be used for any purpose other than as Affordable Housing and for the tenure permitted pursuant to paragraph 2.1.2 above provided that to this does not apply to:
       1. any mortgagee or chargee of a Registered Provider 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 “Receiver”) or any person deriving title through such mortgagee chargee or Receiver;
       2. any part or parts of the Egley Road Site which are transferred to or leased by any person referred to in paragraph 2.1.4.1 above;
       3. any completed Egley Road Residential Units where a Registered Provider shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation or Right to Buy) Regulations 1993 or pursuant to a right to acquire under section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable; and
       4. any completed Egley Road Residential Units where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008 or any amendment or replacement thereof.
    3. Subject to the exceptions set out in paragraph 2.1.4 above, not to permit the Egley Road Residential Units to be used or Occupied other than for Affordable Rental Housing.

1. **EGLEY ROAD HEALTH CLUB TRAVEL PLAN** 
   1. The Developer covenants with the Council as follows:
      1. Prior to the Occupation of Development on the Egley Road Site to:
         1. Submit for the written approval of the Council an Egley Road Health Club Travel Plan; and
         2. Pay the sum of £6,150 to the Council for the purpose of the Council monitoring and auditing the Egley Road Health Club Travel Plan.
      2. Not to Occupy (or permit to be Occupied) the Health Club unless and until the Egley Road Health Club Travel Plan has been approved by the Council.
      3. From the date of Occupation of the Health Club, to implement or procure the implementation of the Egley Road Health Club Travel Plan to the reasonable satisfaction of the Council for a period of 7 years from the date of Occupation subject to any variations agreed from time to time by the Council.

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

**THE COMMON SEAL** of )

**WOKING BOROUGH COUNCIL** )

was affixed in the presence of: )

Authorised Signatory

**EXECUTED AS A DEED** by )

**[ROSEWOOD]** by a )

single Director in the presence of: )

Director Name

Witness Signature

Witness Name

Witness Address

Witness Occupation

**EXECUTED AS A DEED** by )

**[PARK VIEW]** by a )

single Director in the presence of: )

Director Name

Witness Signature

Witness Name

Witness Address

Witness Occupation

**EXECUTED AS A DEED** by )

**[HOE VIEW]** by a )

single Director in the presence of: )

Director Name

Witness Signature

Witness Name

Witness Address

Witness Occupation

**EXECUTED AS A DEED** by )

**[DAVID LLOYD]** by a )

single Director in the presence of: )

Director Name

Witness Signature

Witness Name

Witness Address

Witness Occupation

**EXECUTED AS A DEED** by )

**GOLDEV WOKING LIMITED** by a )

single Director in the presence of: )

Director Name

Witness Signature

Witness Name

Witness Address

Witness Occupation

**ANNEX 1**

**Confirmatory Deed**

**THIS CONFIRMATORY DEED** is made the day of 20

**AND IS GIVEN BY:**

1. **GOLDEV WOKING LIMITED** of 73 Cornhill, London EC3V 3QQ (“Covenantor”)

**TO:**

1. **WOKING BOROUGH COUNCIL** of Civic Offices, Gloucester Square, Woking GU21 6YL (“Council”)

RECITALS

1. This Confirmatory Deed relates to the Covenantor's interest in the Kingfield Road Site and the Egley Road Site ("Land").
2. The Council is the local planning authority for the area within which the Land is located.
3. The Covenantor has given a unilateral agreement to the Council (“Unilateral Undertaking”) details of which are set out in the Schedule to this Confirmatory Deed and which is to regulate the development of the Land but at the date of the Unilateral Undertaking the Covenantor did not have a freehold or long leasehold interest in the Land.
4. The planning obligations covenants and other provisions contained in the Unilateral Undertaking are intended to be enforceable by the Council against the Covenantor and to be binding in respect of the Covenantor's interests in the Land in accordance with the terms of this Confirmatory Deed and the Unilateral Undertaking.
5. On the date hereof and immediately prior to the completion hereof the Covenantor became the owner of a leasehold interest of the whole of the Land.

OPERATIVE PROVISIONS

1. Operation of this Confirmatory Deed

1.1 This Confirmatory Deed and the obligations contained or referred to in it are:

* + 1. to the extent that they fall within its terms made pursuant to section 106 of the 1990 Act as planning obligations and these and the other provisions referred to in the Unilateral Undertaking are made pursuant to that section and such other enabling powers (statutory or otherwise) as may be relevant and appropriate;
    2. executed by the Covenantor so as to bind its estate or interest in the Land to the obligations covenants and other provisions contained in the Unilateral Undertaking (if and to the extent that they remain to be observed performed and complied with);
    3. enforceable in accordance with the Unilateral Undertaking by the Council acting as the local planning authority.

1. The Covenantor's Obligations

2.1 The Covenantor hereby covenants and undertakes to the Council that its said estate or interest in the Land shall henceforth be bound by the obligations, covenants and other provisions contained in the Unilateral Undertaking in accordance with the terms of the Unilateral Undertaking if and insofar as such terms and obligations covenants and other provisions remain to be complied with as at the date hereof.

1. Miscellaneous Provisions

3.1 All words and phrases in this Confirmatory Deed shall bear the same meaning as defined in the Unilateral Undertaking except where defined otherwise in this Confirmatory Deed.

3.2 This Confirmatory Deed shall be registrable as a local land charge by the Council.

3.3 Any invalidity illegality or unenforceability of any clause or paragraph in the Unilateral Undertaking shall not affect the validity or enforceability of the provisions in this Confirmatory Deed.

3.4 This Confirmatory Deed shall immediately cease to have effect if and to the extent that the Unilateral Undertaking shall cease to have effect.

**IN WITNESS** of which this Confirmatory Deed has been executed and delivered as a deed on the day and year above written

SCHEDULE

The Unilateral Undertaking

|  |  |  |
| --- | --- | --- |
| Date | Parties | Details of interests in the Land bound by the Unilateral Undertaking |
| [ ] | (1) Woking Borough City  (2) [Rosewood]   1. [Park View] 2. [Hoe View] 3. [David Lloyd] 4. Goldev Woking Limited | The relevant part(s) of freehold and leasehold titles [ add ] |