

DATED

7th NOVEMBER

2017

(1) THE COUNCIL OF THE BOROUGH OF HAVANT

and

(2) FULLER SMITH & TURNER PLC

and

(3) JACOB CARR HOMES (HAVANT) LIMITED

AGREEMENT

Under Section 106 Town and Country Planning Act 1990

relating to land at The Curlew, Petersfield Road, Havant, PO9 2HU

THIS AGREEMENT is made on

7th NOVEMBER

2017

BETWEEN:

1. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza Civic Centre Road Havant PO9 2AX (**Council**)
2. **FULLER SMITH & TURNER PLC** incorporated and registered in England and Wales with company number 00241882 whose registered office is at Griffin Brewery, Chiswick Lane South, Chiswick, London, W4 2QB (**Owner**)
3. **JACOB CARR HOMES (HAVANT) LIMITED** incorporated and registered in England and Wales with company number 10447938 whose registered office is The Haven Business Centre, 2 The Studland Suite, 161 Banks Road, Dorset, Poole, BH13 7QL (**Developer**)

BACKGROUND

- (A) For the purposes of the Act, the Council is the local planning authority for the area within which the Land is situated and is entitled to enforce the obligations contained in this Agreement
- (B) The Owner is the freehold owner of the whole of the Land.
- (C) The Developer has entered into an Agreement for Sale with the Owner to purchase the Land dated 15 November 2016. The Agreement for Sale is conditional upon the grant of Planning Permission.
- (D) The Application has been submitted to the Council by the Developer for permission to develop the Land in accordance with the Planning Permission.
- (E) The Owner and Developer enters into this Agreement in anticipation of the grant of Planning Permission being made subject to the Owner entering into this Agreement which makes provision for regulating the Development and securing the matters referred to in this Agreement.

The parties agree as follows:

1 DEFINITIONS

From the date of this Agreement unless the context otherwise requires, the following definitions apply:

"the Act"	the Town and Country Planning Act 1990
"Affordable Housing"	subsidised Dwellings to be provided for persons whose needs are not met by the housing market and such Dwellings shall meet the needs of eligible households including availability at a cost low enough for them to afford determined with regards to local incomes and local house prices
"Affordable Housing Contribution"	means such figure as is determined by the Second Viability Appraisal pursuant to paragraph 3 of Schedule 1 to be made towards the provision of off-site Affordable

Housing

"Application"	the application for outline planning permission submitted by the Developer to the Council for the Development and given the Council's reference number APP/17/00369
"Benchmark Land Value"	the benchmark land value described in the "Viability Assessment" prepared by Savills and dated April 2017 and being the sum of £500,000
"Bond Amount"	shall be the greater of £8,000 or 10% open book construction costs for the SuDs as approved in accordance with para 6.1 of Sch. 1
"Common Parts"	the parts of the Land which do not comprise a Dwelling or the curtilage of a Dwelling and which are intended to benefit the occupiers of the Dwellings as a whole or to enhance their occupation and shall without prejudice to the generality thereof include the unadopted roads, communal parking areas, footways, footpaths, landscaped areas, street lighting,, amenity spaces and drainage ditches
"Commencement Development"	of the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development is begun other than (for the purposes of this Agreement and for no other purpose) operations consisting of, site clearance, demolition work, site survey works, temporary access construction works, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services and erection of fences and hoardings around the Land and "Commence" and similar expressions shall be construed accordingly
"CPI"	the Consumer Price Index as published by the Office of National Statistics
"Development"	the demolition of existing building and erection of a three storey block of 31 (thirty-one) flats together with associated car parking and cycle storage in accordance with the Planning Permission
"Disposal"	in relation to each Dwelling means: (a) the first occupation by anyone permitted or suffered to occupy the Dwelling whether by: I. a person who has acquired or has contracted to acquire any of the estates further defined in this definition at (b) (c) and (d) below in the Dwelling; or II. who otherwise occupies the Dwelling; and for the avoidance of doubt, such occupation shall

not include occupation for the purpose of constructing fitting out decoration or marketing of or display or occupation in relation to security operations for the Development; or

(b) the creation of a legal term of years in respect of the Dwelling; or

(c) the transfer of a freehold interest in respect of the Dwelling; or

(d) the creation of a freehold interest in the Dwelling by constituting the Dwelling as commonhold land for the purposes of the Commonhold and Leasehold Reform Act 2002; and/or whichever shall first occur;

and "Disposed Of" shall be construed accordingly

"Dwelling"

means a self-contained unit of residential accommodation (and for the avoidance of doubt this definition shall include houses flats and sheltered apartments as appropriate) comprised within the Development and "Dwellings" shall be construed accordingly

"Index Linked"

Amount payable = the payment specified in this deed x (A/B) where:

A= the last figure published for the CPI that applied immediately prior to the grant of Planning Permission

B= the last figure published for the CPI that applied immediately prior to Commencement of Development.

"Interest"

means interest at 4% above the base lending rate of the Barclays Bank PLC from time to time

"Land"

means the freehold property being land known as The Curlew, Petersfield Road, Havant, PO9 2HU shown edged red on the Plan and registered at the Land Registry with title number SH20946.

"Management Agreement"

an agreement made between the Owner and the Management Company setting out the terms of appointment of the Management Company with respect to the Development, including the Management Company's responsibilities in implementing and performing the obligations as contained within the Management Plan

"Management Company"

a company limited by guarantee or by shares and established in accordance with the provisions of Schedule 1 to be charged with the management of the Common Parts and SuDs;

"Management Plan"

a plan for the maintenance and management of the Common Parts and SuDs for the lifetime of the



SITE PLAN: BASED ON TOPOGRAPHICAL SURVEY INFORMATION
SCALE 1:250



BLOCK PLAN: BASED ON ORDNANCE SURVEY EXTRACT
O.S. LICENSE NO. 100007080
SCALE 1:500



LOCATION PLAN: BASED ON ORDNANCE SURVEY EXTRACT
O.S. LICENSE NO. 100007080
SCALE 1:1250

NOTES

- 1 The contents of this drawing are copyright.
- 2 Do not scale. Figured dimensions only to be used.
- 3 Contractors must verify dimensions and report any discrepancies before putting work in hand or making any shop drawings.
- 4 All foot paths to be fitted with a man-made system.
- 5 Please note all domestic, garden system may be required.
- 6 Fixed shut fire safety glass windows may be required where windows are in close proximity to boundaries (subject to building regulations).

LEGEND



SITE AREA: 0.35 HECTARE / 0.85 ACRES		
32 CYCLE SPACES		
39 PARKING SPACES		
GROSS INTERNAL AREA	2192.7	23593

M.	Site layout amended following comments.	03.10.17	WD
L.	Planners comments	28.9.17	bc
K.	Revised floor plan shown on site.	19.07.17	JA
J.	Revised floor plan shown on site.	18.07.17	JA
I.	Footprint pivoted	11.07.17	BC
H.	Plan amended following planning comments.	29.06.17	JA
G.	Hard standing amended. Binstore revised.	01.06.17	JA
F.	Upper floor shown on site.	31.05.17	JA
E.	Annotation added to site access.	11.04.17	WD
D.	Boundary revised. Building amended accordingly. Parking revised.	04.04.17	JA
C.	Parking spaces 11, 12 & 13 moved back 200mm following transport planners comments.	29.03.17	WD
B.	Site access amended to be 4m wide.	20.03.17	WD
A.	Boundary treatment revised & proposed trees added.	07.03.17	WD

No.	Revision	date	by
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PROPOSED DEVELOPMENT
THE CULLEW, PETERSFIELD ROAD
HAVANT
HAMPSHIRE
PO9 2HU

SITE, BLOCK & LOCATION PLANS

scale	AS SHOWN @ A1	checked	//
date	FEBRUARY 2017	drawn	WD
			A B C D E F G
			H I J K L M

FB 5728 / 100

ARC Architecture Ltd.

Chapel Studios, 14 Purwell,
Christchurch, Dorset, BH23 1EP

Tel: +44 (0) 1202 479911
E-mail: enquiries@andersonroberts.co.uk
Web: www.andersonroberts.co.uk



	Development to be proposed by the Owner and Developer and approved by the Council in accordance with the provisions of Schedule 1
"Monitoring Fee"	the sum of £1630.85 (one thousand six hundred and thirty pounds and eighty five pence) as a contribution towards the costs incurred by the Council in the provision of a suitably qualified and experienced person(s) whose function is to monitor, coordinate and enforce the obligations contained within this Agreement
"Plan "	the site location plan attached to this Agreement with drawing number FB 5728 / 100
"Planning Permission"	the conditional planning permission that may be granted in pursuance of the Application
"Second Residual Land Value"	the residual land value as described in the Second Viability Appraisal
"Second Viability Appraisal"	a viability appraisal to be completed at the expense of the Owner on behalf of the Council to reassess the viability of the Development in accordance with Schedule 1
"Solent Recreation Mitigation Project Contribution"	the sum of £5,611 (five thousand, six hundred and eleven pounds) (in accordance with the figures supplied to the Council by the Solent Recreation Mitigation Partnership) in respect of the Special Protection Area mitigation measures delivered through the Interim Solent Recreation Strategy.
"Specialist"	a person qualified to act as an expert in relation to the Second Viability Appraisal having not less than ten years' professional experience in relation to developments in the nature of the Development.
"SuDs"	means a sustainable drainage system for the Development in accordance with a specification agreed in writing by the Council
"Working Day"	a day other than a Saturday or Sunday or public holiday in England.

2 INTERPRETATION

- 2.1 The clause headings in this Agreement are for reference only and do not affect its construction or interpretation.
- 2.2 References to clauses and Schedules are to the clauses and Schedules of this Agreement, unless stated otherwise.
- 2.3 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise.
- 2.4 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.

- 2.5 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa.
- 2.6 Unless this Agreement states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.
- 2.7 References to the Land include any part of it.
- 2.8 References to any party in this Agreement include the successors in title of that party and any references to the Council include any successor local planning authority exercising planning powers under the Act.
- 2.9 References to "including" mean "including, without limitation".
- 2.10 Any covenant by the Owners or the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.11 Where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually.
- 2.12 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement shall be unaffected.

3 STATUTORY PROVISIONS

- 3.1 This Agreement is made by deed pursuant to sections 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.
- 3.2 To the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Agreement are planning obligations for the purposes of those sections of the Act and are enforceable by the Council.
- 3.3 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.
- 3.4 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Land or otherwise.
- 3.5 The Owner and Developer have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owner and the Developer and their successors in title to the Common Parts and SuDs but for the avoidance of doubt no planning obligations contained in this deed shall be binding on any freehold or leasehold owners or occupiers of individual Dwellings constructed pursuant to the Planning Permission (or their respective mortgagees) or land held by any of the statutory utilities for their operational purposes.

4 COMMENCEMENT

This Agreement shall have effect from the date hereof but the obligations contained in Schedule 1 shall be conditional on the grant and issue of the Planning Permission.

5 OBLIGATIONS OF THE PARTIES

Subject to clause 7.1 the Owner and the Developer covenant with the Council to comply and perform their covenants, restrictions and obligations as set out within this Agreement.

6 REGISTRATION

This Agreement shall be registered by the Council as a Local Land Charge in the Register of Local Land Charges maintained by the Council.

7 RELEASE

7.1 Subject to clause 7.2 the Owner as at the date of this Agreement shall not be liable for compliance with, or any breach of a covenant, restriction or obligation contained in this Agreement after parting with all of its interest in the Land except in respect of any breach subsisting prior to parting with such interest.

7.2 It is agreed that clause 7.1 shall not apply to the Developer or any successors in title to the Owner to the Common Parts or SuDs

8 NOTICES

8.1 The Owner and the Developer agree with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Agreement have been discharged and such notice shall give details of the transferee's full name and

8.1.1 registered office where the transferee Owner is a company

8.1.2 usual address where the transferee is not a company

together with details of the area of the Land or unit of occupation transferred by reference to a plan

8.2 Any notice, demand or any other communication to be given under or in connection with this Agreement shall be in writing and will be effective only if delivered by hand or sent by recorded delivery to the party due to receive the notice, demand or communication.

8.3 Any notice, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Agreement or to such other address as one party may notify in writing to the others at any time as its address for service and in the case of service upon the Council shall be marked for the attention of the Head of Legal.

8.4 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means shall be treated as having been served:

8.4.1 if delivered by hand, at the time of delivery; or

8.4.2 if sent by recorded delivery, at the time delivery was signed for.

8.5 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it shall be treated as having been served on the next Working Day.

- 8.6 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

9 COSTS OF THIS AGREEMENT

Upon completion of this Agreement the Developer shall pay to the Council its reasonable and proper legal costs in connection with the preparation, negotiation and completion of this Agreement.

10 DETERMINATION OF DISPUTES

- 10.1 If any dispute arises out of this deed the dispute shall be referred to an arbitrator appointed jointly by the parties if the parties cannot agree on the arbitrator's identity the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors.

- 10.2 The arbitrator shall act in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction then equally).

11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

12 INDEXATION

- 12.1 All financial contributions payable to the Council shall be Index Linked.

- 12.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

13 INTEREST

If any financial contribution due under this Agreement is paid late Interest will be payable from the date payment is due until the date of payment.

14 TERMINATION

- 14.1 The obligations in this Agreement (with the exception of clause 10) shall cease to have effect if before the Commencement of Development, the Planning Permission:

14.1.1 expires;

14.1.2 is varied or revoked other than at the request of the Owner; or

14.1.3 is quashed following a successful legal challenge.

15 FUTURE PERMISSIONS

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether

or not on appeal) after the date of this Agreement but this Agreement shall apply to any planning permission subsequently granted under section 73 or 73A of the Act which permits non-compliance with any of the conditions attached to the Planning Permission (a "Subsequent Permission") and the Planning Permission shall be construed to include the development as stated in the Subsequent Permission unless otherwise required by the Council or the circumstances in clause 14.1.2 arise.

16 JURISDICTION

- 16.1 This Agreement shall be governed by and interpreted in accordance with the law of England and Wales.
- 16.2 The Courts of England shall have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement and this clause operates for the benefit of the Council which retains the right to sue the Owner and enforce any judgment against the Owner in the courts of any competent jurisdiction.

17 CANCELLATION OF ENTRIES

- 17.1 Following the performance and full satisfaction of all the terms of this Agreement or if this Agreement is determined pursuant to Clause 14 the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this Agreement.

IN WITNESS of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document.

Executed as a deed by affixing

THE COMMON SEAL of the COUNCIL OF THE

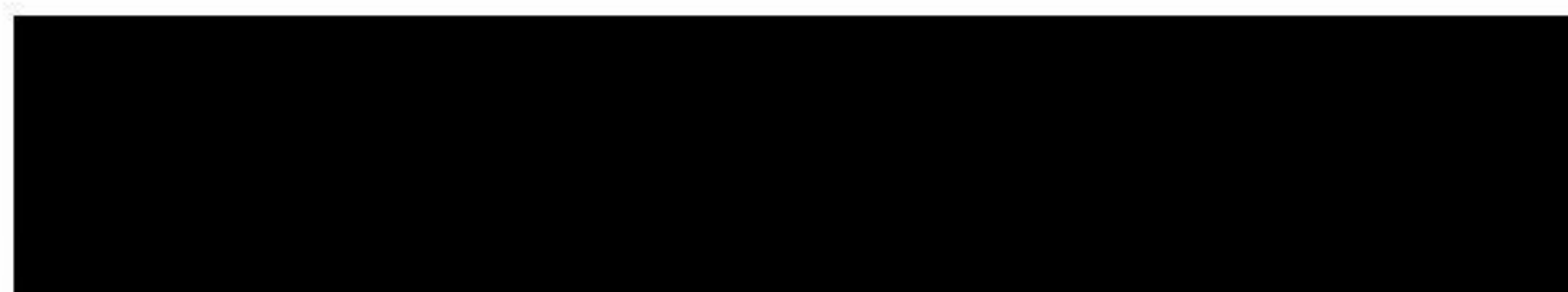
BOROUGH OF HAVANT in the presence of

~~Acting by two directors or~~

~~By a Director and its secretary~~



13384



Authorised Signatory

Executed as a deed by

FULLER SMITH & TURNER PLC

acting by ~~two directors or~~

By a Director and its secretary

Executed as a Deed by)
JACOB CARR HOMES (HAVANT) LIMITED)
acting by a director in the presence of:)

sign here:

Director

print name:

Witness signature:

Witness sign here:

Witness name:

print name:

Witness address:

insert address here:

Witness occupation:

insert occupation here:

SCHEDULE 1

Owner and Developer's covenants

The Owner and the Developer covenant as follows:

1. Implementation

- 1.1 to give to the Council not less than 14 days written notice of their intention to Commence Development

2. Contributions

- 2.1 not to Commence or cause or permit Commencement of Development until it has paid to the Council the Solent Mitigation Strategy Contribution and the Monitoring Fee

3. Affordable Housing

- 3.1 In the event that the Development is not Commenced within 24 months of the grant of Planning Permission the Development shall not be Commenced until a Second Viability Appraisal has been undertaken and submitted to the Council within 10 working days of the expiration of that 24 month period and pay the Council's costs reasonably and properly incurred in examining and verifying the Second Viability Appraisal.
- 3.2 The Council shall within 10 Working Days of receipt of the Second Viability Appraisal either approve it or submit the same for independent verification by the Specialist at the cost of the Owner and the Developer.
- 3.3 In the event that the Second Residual Land Value exceeds the Benchmark Land Value of the Land then the Affordable Housing Contribution shall be an amount equal to the difference between the two said values.
- 3.4 Where due, the Owner shall pay the Affordable Housing Contribution prior to the Disposal of not more than 20 Dwellings constructed on the Land.

4. Management and Maintenance of the Common Parts

- 4.1 not to Commence Development unless and until the Council has approved in writing the Owner's proposal for the formation of the Management Company and such proposal shall include full details of the proposed structure and voting rights of the Management Company.
- 4.2 The Council covenants that it will notify the Owner that it either approves or rejects the proposal referred to in 4.1 above within 1 month of receipt. In the event that notification is not received within that time, the proposal/s will be deemed to be approved for the purposes of 4.1 above. In the event that notification of a refusal is received by the Owner within the aforementioned time period, the Owner shall continue to comply with the obligation at 4.1 above until such time as the Council approves the proposal or deemed approved applies.
- 4.3 not later than 3 months following Commencement of Development to submit to the Council in writing the Owner's proposal for the Management Plan.
- 4.4 not to Dispose of a Dwelling until:
- 4.4.1 the Management Company has been formed in accordance with the approved proposal; and

4.4.2 the Management Plan has been approved in writing by the Council.

5. Management Company

5.1 not later than six months from Commencement of Development the Owner shall take all necessary steps to secure the formation and registration of the Management Company at Companies House (taking into account any modifications reasonably required by the Council) and to notify the Council accordingly within 14 days of the completion of the registration of the Company.

5.2 to secure the proper maintenance of the Common Parts and SuDs to the reasonable satisfaction of the Council until such time as:

5.2.1 the Management Company is registered and the Management Plan has been approved by the Council; and

5.2.2 the maintenance arrangements for the Common Parts and SuDs in accordance with the Management Plan have been fully implemented; and

5.2.3 the transfer of the Common Parts and SuDs to the Management Company is completed; or

5.2.4 the transfer of the Common Parts to the Management Company is completed and the SuDs is adopted by an approved body.

5.3 that if the Management Company ceases to exist as a company or if the Management Company at any time defaults in the performance of any of its covenants or obligations on its part as contained in the Management Plan and/or Management Agreement then the Owner or Developer shall (without prejudice to any other right or remedy of the Owner or Developer against the Management Company or any other person) perform the said covenants and obligations until the appointment by the Owner or Developer of a successor to the Management Company.

6. SUDs

6.1 Not less than two month's prior to Commencement of Development to submit to the Council for its approval a bill of quantities detailing the open book construction costs for the SuDs. The Council shall within 14 days of receipt either propose such reasonable amendments as are considered necessary or shall approve the open book construction costs as submitted.

6.2 In in the event that reasonable amendments to the bill of quantities are proposed by the Council, the Owner and Developer shall not more than 14 days after receiving the Council's proposed amendments revise the bill of quantities in accordance with the proposed amendments.

6.3 On or before Commencement of Development to provide to the Council a performance bond ("Bond") issued by a clearing bank or other institution (hereinafter called "the Surety") substantially in the form attached at Appendix 1 to this agreement for the Bond Amount.

6.4 The Bond shall be to the effect that:

6.4.1 If the Owner shall fail to construct the SuDS scheme in accordance with the provisions contained in this Agreement or prior to completion of such construction shall be adjudicated bankrupt or shall go into liquidation voluntarily or otherwise or shall execute a deed of assignment for the benefit of or otherwise compound with its

creditors (except for the purpose of reconstruction or amalgamation) the Council may without prejudice to its other rights remedies and powers against the Owner for such failure require by written notice the Surety to pay the Council a sum equivalent to any expenditure which the Council may incur in carrying out the construction of the SuDS scheme and also the Council's reasonable legal costs properly arising from the provision of the SuDS scheme for which sum the Surety binds itself and its successors and assigns to the Council.

- 6.4.2 Such Bond to endure until the SuDS scheme is adopted or if earlier the date of completion of construction of the Development.

APPENDIX 1

Form of Bond

The Guarantee Bond is made as a deed **between** the following parties whose names and addresses are set out in the Schedule to this Bond (the 'Schedule'):-

- (1) The 'Contractor' as principal
- (2) The 'Guarantor' as guarantor, and
- (3) The 'Employer'

Whereas

- (1) By a contract (the 'Contract') entered into or to be entered into between the Employer and the Contractor particulars of which are set out in the Schedule the Contractor has agreed with the Employer to execute works (the 'Works') upon and subject to the terms and conditions therein set out.
- (2) The Guarantor has agreed with the Employer at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Contract upon the terms and conditions of this Guarantee Bond subject to the limitation set out in clause 2.

Now this deed witnesses as follows:-

- 1 The Guarantor guarantees to the Employer that in the event of a breach of the Contract by the Contractor the Guarantor shall subject to the provisions of this Guarantee Bond satisfy and discharge any damages sustained by the Employer ("the Damages") which relate to the obligation to carry out the works.
- 2 The maximum aggregate liability of the Guarantor and the Contractor under this Guarantee Bond shall not exceed the sum set out in the Schedule (the 'Bond Amount') but subject to such limitation and to clause 4 the liability of the Guarantor to pay the Bond Amount shall be co-extensive with the liability of the Contractor to pay the Damages under the Contract.
- 3 The Guarantor shall not be discharged or released by any alteration of any of the terms conditions and provisions of the Contract or in the extent or nature of the Works and no allowance of time by the Employer under or in respect of the Contract or the Works shall in any way release reduce or affect the liability of the Guarantor under this Guarantee Bond.
- 4 Whether or not this Guarantee Bond shall be returned to the Guarantor the obligations of the Guarantor under this Guarantee Bond shall be released and discharged absolutely upon Expiry (as defined in the Schedule) save in respect of any breach of the Contract which has occurred and in respect of which a claim in writing containing particulars of such breach and stating that the amount being demanded has been established and ascertained pursuant to and in accordance with the provisions of or by reference to the Contract and takes into account all sums due or to become due to the Contractor has been made upon and received by the Guarantor before Expiry.
- 5 The Contractor having requested the execution of this Guarantee Bond by the Guarantor undertakes to the Guarantor (without limitation of any other rights and remedies of the Employer or the Guarantor against the Contractor) to perform and discharge the obligations on its part set out in the Contract.

- 6 The Guarantee Bond and the benefit thereof shall not be transferred or assigned without the prior written consent of the Guarantor and the Contractor.
- 7 The parties to this Guarantee Bond do not intend that any of its terms will be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999 or otherwise, by any person not a party to it.
- 8 This Guarantee Bond shall be governed by and construed in accordance with the laws of England and Wales and only the courts of England and Wales shall have jurisdiction hereunder.

The Schedule

The Contractor:	Developer's details
The Guarantor:	Bank's details
The Employer:	THE COUNCIL OF THE BOROUGH OF HAVANT of Public Service Plaza Civic Centre Road Havant Hampshire PO9 2AX
The Contract:	details of the S106 Agreement
The Works	the construction of a Sustainable Drainage System in accordance with paragraphs xxx of Schedule xxxxx to the Contract
The Bond Amount:	The sum of (£xxxxxxx) xxxxxxxx pounds sterling only
The Expiry Date:	This Bond will expire for receipt of demands upon the Issue of a certificate of Practical Completion by the Council upon presentation to the Guarantor, by the Contractor of a certified true and correct copy of the Practical Completion Certificate purporting to have been signed under the Contract which shall be conclusive for the purposes of this Guarantee Bond

In witness whereof the Contractor and the Guarantor have executed and delivered this Guarantee Bond as a Deed this _____ day of _____
2017.

EXECUTED as a DEED by DEVELOPER)
in the presence of:-)

Director

Director/Secretary

EXECUTED as a DEED by affixing the)
COMMON SEAL of xxxxxxxxxxxx)
BANK)

in the presence of:-

)

Director

Director/Secretary