

DATED

12th September

2022

(1) UTTLESFORD DISTRICT COUNCIL

AND

(2) CHASE (SW) LIMITED

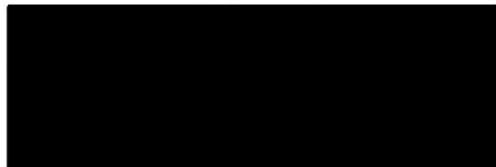
AND

(3) CHASE CAPITAL LAND ACQUISITIONS LIMITED

AND

(4) UNITED CAPITAL FINANCE LIMITED

Examined alongside the original and certified to be a true copy thereof



Solicitor, Saffron Walden
12/ix/22.

PLANNING OBLIGATION BY AGREEMENT

Under s106 of the Town and Country Planning Act 1990
relating to Former Friends School, Mount Pleasant Road,
Saffron Walden, Essex CB11 4AL

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BETWEEN:

- (1) **UTTLESFORD DISTRICT COUNCIL** of London Road, Saffron Walden, Essex, CB11 4ER (the "**Council**");
- (2) **CHASE (SW) LIMITED** (company registration number 11261606) whose registered office address is Jasmine House, 8 Parkway, Welwyn Garden City, AL8 6HG (the "**Owner**");
- (3) **CHASE CAPITAL LAND ACQUISITIONS LIMITED** (company registration number 10614690) whose registered office address is at 8 Parkway, Welwyn Garden City AL8 6HG (the "**First Chargee**"); and
- (4) **UNITED CAPITAL FINANCE LIMITED** (company registration number 10017040) whose registered office address is at 8 Parkway, Welwyn Garden City AL8 6HG (the "**Second Chargee**")

WHEREAS

- A The Council is the local planning authority for the purposes of the Act and for the area in which the Land is situated.
- B The Owner is the registered freehold owner of the Land falling within titles EX663501 and EX763963 subject to charges in favour of the First Chargee dated 20 April 2018 and the Second Chargee dated 30 November 2018.
- C The Owner submitted the Application to the Planning Inspectorate on 12 April 2022 and it was validated on 26 April 2022.
- D The Application is to be determined by the Planning Inspectorate under the provisions set out in section 62A of the Act and on 4 May 2022 the Planning Inspectorate requested that the Council and the Owner enter into this Deed to make provision for regulating the Development and the use of the Land and securing the planning obligations contained within this Deed.
- E The Owner and the Chargees have agreed to enter into this Deed and bind their respective interests in the Land to the obligations in this Deed.

NOW THIS DEED is made in pursuance of Section 106 of the Act and all other powers the parties hereto enabling and witnesseth as follows:

1 DEFINITIONS

In this Deed the following words shall have the following meanings except where the context requires otherwise:

"**Act**" means the Town and Country Planning Act 1990 as amended;

"**Application**" means the application for planning permission for the Development made by the Owner and registered by the Planning Inspectorate with reference number S62A/22/0000002;

"**CEDR**" means the Centre for Effective Dispute Resolution of 70 Fleet Street, London;

"**Certificate of Practical Completion**" means the issue of a building certificate certifying that the construction of the relevant facility has been sufficiently completed to a stage of practical completion;

"**Chargees**" means the First Chargee and the Second Chargee;

"CIL Regulations" means the Community Infrastructure Levy Regulations 2010 (as amended);

"Commencement of Development" means the carrying out of a material operation as defined in section 56(4) of the Act exclusively referable to and comprised in the Development but (for the purposes of this Deed only) excluding the carrying out of any operation relating to or works of investigations in respect of land contamination or remedial action in respect thereof, enabling works, site clearance, demolition, archaeological and/or ground investigations and digs, exploratory boreholes, site surveys, operations permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the erection of hoardings and fencing, temporary diversion of services and signage including the formation of temporary construction accesses and enclosures, preliminary landscaping before construction activity occurs on the Land and any works, matters and operations to enable any of the foregoing to take place, and **"Commence Development"**, **"Commencement"** and **"Commencement Date"** and cognate expressions shall be interpreted in accordance with this definition;

"Community Meeting Room" means the community meeting room to be provided as part of the Development as set out in the Planning Permission and shown on plan 21 0037-402 which is annexed to this Deed at Appendix 1;

"Community Meeting Room Community Use Plan" means a financially stable plan or strategy governing the terms on which the Community Meeting Room shall be made available for use by the wider community (such use not to be unreasonably restricted or fettered), which shall contain details of the timings, duration and terms, including financial terms, on which access to the wider community shall be permitted, along with any amendments to such plan as may be agreed between the Owner and the Council from time to time;

"Community Meeting Room Transfer" means a transfer of the Community Meeting Room which inter alia shall contain the following provisions:

- a) the transfer by the Owner of the fee simple estate free from encumbrances save those set out in the title;
- b) all easements and rights necessary in relation to access for the benefit of the Community Meeting Room;
- c) a covenant to ensure the approved Community Meeting Room Community Use Plan or any agreed variation thereto is complied with in perpetuity;
- d) Restrictive covenants by the Management Company:
 - (i) Not to use or permit the Community Meeting Room to be used for any purpose other than for the provision of meetings and associated use by Residential Occupiers and the general public as set out in the Community Meeting Room Community Use Plan;
 - (ii) Not to use or permit the Community Meeting Room to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

"Deed" means this deed;

"Development" means conversion of buildings and demolition of buildings to allow redevelopment to provide 96 dwellings, swimming pool and changing facilities, associated recreation facilities, access and landscaping as set out in the Application;

"Dwelling" means a dwelling (including but not limited to a house, flat, maisonette or bungalow) to be constructed as a market housing unit pursuant to the Planning Permission and 'Dwellings' shall be construed accordingly;

"Expert" means an independent and professionally qualified expert with not less than ten years relevant experience in the field of the matter in dispute who has been appointed pursuant to clause 17 of this Deed;

"Index" means the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as shall replace such index or as the Council shall reasonable require;

"Index Linked" means a reflection of any increase in the Index during the period from and including the date of this Deed to and including the date of actual payment;

"Land" means the Former Friends School, Mount Pleasant Road, Saffron Walden, Essex, CB11 4AL shown for indicative purposes only edged in red on the plan attached to this Deed at Appendix 1;

"MUGA" means the multi-use games area to be provided as part of the Development as set out in the Planning Permission and shown on plan 21 0037-403 which is annexed to this Deed at Appendix 1;

"MUGA Community Use Plan" means a financially stable plan or strategy governing the terms on which the MUGA shall be made available for use by the wider community (such use not to be unreasonably restricted or fettered), which shall contain details of the timings, duration and terms, including financial terms, on which access to the wider community shall be permitted, along with any amendments to such plan as may be agreed between the Owner and the Council from time to time;

"MUGA Transfer" means a transfer of the MUGA which inter alia shall contain the following provisions:

- a) the transfer by the Owner of the fee simple estate free from encumbrances save those set out in the title;
- b) all easements and rights necessary in relation to access for the benefit of the MUGA;
- c) a covenant to ensure the approved MUGA Community Use Plan or any agreed variation thereto is complied with in perpetuity;
- d) Restrictive covenants by the Management Company:
 - (i) Not to use or permit the MUGA to be used for any purpose other than for the provision of multi-use games and recreational facilities for use by Residential Occupiers and the general public as set out in the MUGA Community Use Plan;
 - (ii) Not to use or permit the MUGA to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

"Notice of Commencement" means written notice served by the Owner on the Council of the intended date of Commencement of Development;

"Occupation" means occupation for any purpose permitted by the Planning Permission, but not including occupation by personnel engaged in the construction, fitting out or occupation for marketing, staff training or security, and the words **"Occupy"** and **"Occupied"** shall be construed accordingly;

"Planning Permission" means the planning permission granted by the Planning Inspectorate pursuant to the Application;

“Public Open Space” means the public open space to be provided as part of the Development as set out in the Planning Permission and shown on plan 21 0037-404A which is annexed to this Deed at Appendix 1;

“Public Open Space Community Use Plan” means a financially stable plan or strategy governing the terms on which the Public Open Space shall be made available for use by the wider community (such use not to be unreasonably restricted or fettered), which shall contain details of the timings, duration and terms, including financial terms, on which access to the wider community shall be permitted, along with any amendments to such plan as may be agreed in writing between the Owner and the Council from time to time;

“Public Open Space Transfer” means a transfer of the Public Open Space which inter alia shall contain the following provisions:

- a) the transfer by the Owner of the fee simple estate free from encumbrances save those set out in the title;
- b) all easements and rights necessary in relation to access for the benefit of the Public Open Space;
- c) a covenant to ensure the approved Public Open Space Community Use Plan or any agreed variation thereto is complied with in perpetuity;
- d) Restrictive covenants by the Management Company:
 - (i) Not to use or permit the Public Open Space to be used for any purpose other than for the provision of recreational facilities or amenity land for use by Residential Occupiers and the general public as public open space as set out in the Public Open Space Community Use Plan;
 - (ii) Not to use or permit the Public Open Space to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

“Residential Occupier” means any occupier of a Residential Unit;

“Section 73 Consent” means a planning permission granted under section 73 of the Act;

“Statutory Undertaker” means a statutory undertaker as defined in Section 329 of the Highways Act 1980 and shall include persons authorised under any enactment to carry on an undertaking for the supply of electricity gas water and any sewerage undertaking and shall also include the Environment Agency the holder of a licence to operate telecommunication systems the Civil Authority and the holder of a licence to supply cable television;

“Swimming Pool” means the swimming pool and changing rooms to be provided as part of the Development as set out in the Planning Permission and shown on plan 21 0037-401 which is annexed to this Deed at Appendix 1;

“Swimming Pool Community Use Plan” means a financially stable plan or strategy governing the terms on which the Swimming Pool shall be made available for use by the wider community (such use not to be unreasonably restricted or fettered), which shall contain details of the timings, duration and terms, including financial terms, on which access to the wider community shall be permitted, along with any amendments to such plan as may be agreed between the Owner and the Council from time to time;

“Swimming Pool Transfer” means a transfer of the Swimming Pool and any associated buildings including but not limited to changing rooms which inter alia shall contain the following provisions:

- a) the transfer by the Owner of the fee simple estate free from encumbrances save those set out in the title;
- b) all easements and rights necessary in relation to access for the benefit of the Swimming Pool;
- c) a covenant to ensure the approved Swimming Pool Community Use Plan or any agreed variation thereto is complied with in perpetuity;
- d) Restrictive covenants by the Management Company:
 - (i) Not to use or permit the Swimming Pool to be used for any purpose other than for the provision of swimming and associated facilities for use by Residential Occupiers and the general public as set out in the Swimming Pool Community Use Plan;
 - (ii) Not to use or permit the Swimming Pool to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

"Tennis Courts" means the tennis courts to be provided as part of the Development as set out in the Planning Permission and shown on plan 21 0037-403 which is annexed to this Deed at Appendix 1;

"Tennis Courts Community Use Plan" means a financially stable plan or strategy governing the terms on which the Tennis Courts shall be made available for use by the wider community (such use not to be unreasonably restricted or fettered), which shall contain details of the timings, duration and terms, including financial terms, on which access to the wider community shall be permitted, along with any amendments to such plan as may be agreed between the Owner and the Council from time to time;

"Tennis Courts Transfer" means a transfer of the Tennis Courts which inter alia shall contain the following provisions:

- a) the transfer by the Owner of the fee simple estate free from encumbrances save those set out in the title;
- b) all easements and rights necessary in relation to access for the benefit of the Tennis Courts;
- c) a covenant to ensure the approved Tennis Courts Community Use Plan or any agreed variation thereto is complied with in perpetuity;
- d) Restrictive covenants by the Management Company:
 - (i) Not to use or permit the Tennis Courts to be used for any purpose other than for the playing and teaching of tennis for use by Residential Occupiers and the general public as set out in the Tennis Courts Community Use Plan;
 - (ii) Not to use or permit the Tennis Courts to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

"Working Day" means any day except Saturday, Sunday and any bank or public holiday or any days between Christmas Day and New Year's Day.

2 CONSTRUCTION OF DEED

- 2.1 Unless the context requires otherwise references in this Deed to a clause, Schedule or paragraph are references respectively to a clause, Schedule or paragraph of this Deed.
- 2.2 Where any party to this Deed comprises two or more persons any obligations on the part of that party contained or implied in this Deed shall be deemed to be joint and several obligations on the part of those persons and references to that party shall include references to each or any of those persons.
- 2.3 A reference to any statute or statutory section or statutory instrument or regulation shall be taken to include a reference to any amendment modification or re-enactment of it for the time being in force.
- 2.4 The headings to this Deed do not and will not by implication form any part of this Deed and shall have no legal force whatsoever.
- 2.5 Words denoting the singular shall include the plural and vice versa words denoting any gender shall include all genders and words denoting persons shall include bodies corporate and vice versa.
- 2.6 Unless otherwise stated, references to any party to this Deed shall include the successors in title and assigns to that party and to any person deriving title through or under that party and in the case of the Council the successors to their statutory functions.
- 2.7 Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of the act or thing.
- 2.8 Any Annexes or Appendices to this Deed are deemed to be incorporated into and to form part of this Deed.

3 ENABLING POWERS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The obligations created by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council against the Owner and the Chargees and their respective successors in title (subject to clauses 8 and 13) as set out in this Deed.
- 3.3 Subject to clauses 8 and 13, this Deed shall bind the Owner and the Chargees and their successors in title to each and every part of the Land and assigns.
- 3.4 This Deed shall be registered as a local land charge by the Council.

4 CONDITIONALITY

- 4.1 This Deed is conditional upon:
- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 Commencement of Development,

save for clauses 1 to 4 and 8 to 9 which shall come into effect upon the grant of Planning Permission.

- 4.2 Each planning obligation in this Deed is also conditional upon the Planning Inspector being satisfied that it is:
- 4.2.1 necessary to make the Development acceptable in planning terms; and
 - 4.2.2 directly related to the Development; and
 - 4.2.3 fairly and reasonably related in scale and kind to the Development; and

complies in all other respects with Regulation 122 of the CIL Regulations.

- 4.3 In the event that the Planning Inspector expressly states in his decision letter that any individual planning obligation included within this Deed is not compliant with the CIL Regulations and that no weight has been given to the same in reaching his decision then that planning obligation or those planning obligations will cease to have effect and shall be void for the purposes of this Deed and shall have no effect and the Owner shall not be obliged to comply with the terms of that obligation and the remaining clauses will remain in full force and effect provided that severance is achievable.
- 4.4 In the event that any planning obligation contained in this Deed is deemed to be void under the provisions set out at clause 4.3 above a memorandum to that effect shall be attached to the front cover of each original copy of this Deed.

5 THE OWNER'S OBLIGATIONS

With the intent that the Land shall be subject to the obligations contained in this Deed, the Owner hereby covenants with the Council to comply with the obligations set out on their part in Schedule 1 to Schedule 7.

6 THE COUNCIL'S OBLIGATIONS

The Council covenants to comply with the obligations set out on its part in Schedule 8.

7 DECLARATIONS

It is hereby declared as follows:

- 7.1 the expressions "Owner" and "Chargees" shall include their respective successors in title and assigns and the expression "Council" shall include its statutory successor as Local Planning Authority;
- 7.2 nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed;
- 7.3 the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed; and
- 7.4 all approvals, certificates, consents, agreements, satisfactions, confirmations or calculations (or anything of a similar nature) that may be requested by the Owner and given by the Council or their officers in accordance with this Deed shall not be unreasonably withheld or delayed.
- 7.5 Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its statutory functions.

8 CHARGEES' CONSENT

- 8.1 The Chargees acknowledge and declare that their security over the Land shall take effect subject to this Deed provided that the Chargees shall otherwise have no liability under this Deed unless either one of the Chargees or both of them take(s) possession of the Land in which case either it or they too will be bound by the obligations as if it or they were a person or persons deriving title from the Owner.
- 8.2 The security of any future chargee or of any mortgage over the Land shall take effect subject to this Deed provided that any future charge or mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

9 INVALIDITY

If any provision or sub-provision or part of this Deed is held to be invalid illegal or unenforceable under any judgement or enactment or other rule of law that provision or sub-provision or part shall be severed from this Deed and shall be deemed to that extent not to form part of this Deed and the enforceability of the remainder of this Deed shall remain unaffected.

10 EXPIRATION OR REVOCATION OF PLANNING PERMISSION

- 10.1 This Deed shall forthwith determine and cease to have any further effect if the Planning Inspectorate decides not to grant Planning Permission or if the Planning Permission shall expire before Commencement OR is quashed OR is revoked in its entirety.
- 10.2 In the event of a modification or partial revocation of the Planning Permission this Deed shall remain capable of having full force and effect except if any of the obligations herein are incompatible with such modification or partial revocation in which event such obligation(s) shall only be affected to the extent of such incompatibility and where the context so admits the relevant provision(s) shall be interpreted on a pro rata basis.

11 SECTION 73 CONSENT

- 11.1 If the Council agrees in writing following any application under section 73 of the Act to vary or release any condition contained in the Planning Permission or if a condition is varied or released following an appeal under section 78 of the Act the covenants and provisions of this agreement shall be deemed to bind the varied permission(s) and to apply in equal terms to the new planning permission(s) unless the Council in determining any application for a new planning permission determines that consequential amendments are required to this Deed to reflect the impact of the section 73 application in which case a separate deed under section 106 of the Act or a supplemental deed under section 106A of the Act will be required to secure relevant planning obligations relating to the new planning permission.
- 11.2 In the event that any new or varied planning permission is granted in accordance with clause 11.1 above the definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to any such planning permission granted and the development permitted thereunder to which this Deed shall relate.

12 LEGAL AND MONITORING FEES

- 12.1 Prior to the date of this Deed, the Owner shall pay to the Council the Council's legal costs in connection with the preparation and completion of this Deed; and

- 12.2 Prior to the Commencement of Development, the Owner shall pay the Council its monitoring fee in the sum of £2,000 (two thousand pounds).

13 EXCLUSIONS FROM LIABILITY

- 13.1 No person shall be liable for a breach of the covenants restrictions or obligations in this Deed occurring after they have parted irrevocably with all their interest in the Land or the part of the Land to which any breach relates (which in this clause excludes any easement or equitable interest), but without prejudice to liability for any breach occurring prior to or in connection with the parting of such interest.
- 13.2 No person shall be liable for a breach of the covenants restrictions or obligations in this Deed relating to a part of the Land in which they do not have an interest.
- 13.3 The obligations contained in this Deed shall not be enforceable against a Statutory Undertaker or other person who acquires any part of the Land or interest therein for the purpose of the supply of electricity, gas, water, drainage, telecommunication services or public transport services.
- 13.4 The obligations contained in this Deed shall not be enforceable against any future mortgagee or chargee of the whole or any part of the Land unless such mortgagee or chargee takes possession of the whole or any part of the Land.
- 13.5 The obligations contained in this Deed shall not be enforceable against any individual Residential Occupier, their mortgagees or successors in title.

14 NOTICES

- 14.1 Where any notice or other written communication is required to be served or delivered to any of the parties hereto (or their successors) it shall be deemed to have been validly served or delivered if sent by recorded delivery or delivered by hand or sent by email if sent to the relevant party at the following addresses (or such other address from time to time as shall already have been notified by the relevant party in writing):
- 14.1.1 to: the Council – at Council Offices, London Road, Saffron Walden, Essex, CB11 4ER addressed to the Director of Planning or by email to planning@uttlesford.gov.uk;
- 14.1.2 to: the Owner – at FAO: Alan Ward, Chase (SW) Limited, Jasmine House, 8 Parkway, Welwyn Garden City, Herts AL8 6HG or by email to a.ward@chasenewhomes.co.uk
- 14.1.3 to: the First Chargee – at FAO: Alan Ward, Chase (SW) Limited, Jasmine House, 8 Parkway, Welwyn Garden City, Herts AL8 6HG or by email to a.ward@chasenewhomes.co.uk;
- 14.1.4 to: the Second Chargee – at FAO: Alan Ward, Chase (SW) Limited, Jasmine House, 8 Parkway, Welwyn Garden City, Herts AL8 6HG or by email to a.ward@chasenewhomes.co.uk;
- 14.2 Any notice or other communication given in accordance with this clause will be deemed to have been received:
- 14.2.1 if delivered by hand or by recorded delivery, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the

notice will be deemed to have been received at 9.00 am on the next Working Day;

14.2.2 if sent by email, on the date the email is sent or on the next Working Day if the email is sent after 5.00 pm or if the email is not sent on a Working Day.

15 INDEXATION

All contributions payable to the Council shall be Index Linked.

16 CONDUCT

The parties hereto agree and declare that they shall each act reasonably in relation to their conduct concerning any matters arising out of this Deed (in particular where clause 18 (Disputes) is invoked) and where any information direction consent authority approval or payment is required it shall not unreasonably be withheld or delayed.

17 DISPUTE RESOLUTION

17.1 If in connection with this Deed there shall arise a claim or dispute or difference (including unreasonable delay in providing approval authority consent or direction or some other decision or payment required by this Deed) the relevant parties shall first attempt to negotiate a solution.

17.2 If the matter remains unresolved (as evidenced by the service of a written notice by one party on the other(s)) the parties may by agreement refer the matter (as appropriate) depending on the nature of the same) either to a Mediator or to an Expert or otherwise as referred by the President of the Royal Institution of Chartered Surveyors if the parties cannot agree the above method of dispute resolution within five working days of service of the said notice.

17.3 Any Mediator shall be appointed by CEDR.

17.4 Any Expert shall be appointed by agreement of the parties or otherwise by the President (or Deputy) of the Royal Institution of Chartered Surveyors unless the matter concerns the construction or meaning of this Deed (or related document) where application shall be made to the President (or Deputy) of the Law Society.

17.5 A Mediation shall be conducted in accordance with CEDR procedures from time to time.

17.6 An appointed Expert shall:

17.6.1 afford each of the parties to the claim dispute or difference an opportunity to make representations to them in writing and if they so direct written submissions upon one another's representations;

17.6.2 be entitled to stipulate the periods of time for the making of such representations as is reasonable in the circumstances;

17.6.3 be bound to have regard to such representations or submissions;

17.6.4 publish their decision in writing and shall use all reasonable endeavours to publish their decision within thirty (30) working days of their appointment;

17.6.5 have the power of making directions as to the responsibility for the costs of their award where any party to the dispute has acted unreasonably (any costs not included in such direction shall be apportioned in accordance with clause 17.10); and

- 17.6.6 in the making of their award shall not be liable save to the extent in law as provided in relation to the decisions of an Expert.
- 17.7 The parties shall use reasonable endeavours to procure that the Expert shall give their decision as speedily as possible.
- 17.8 The Mediator or Expert shall be replaced by a fresh appointee in the event of their becoming unable or unwilling to act and the above procedure may be repeated as necessary until the matter is resolved.
- 17.9 Subject always to clause 17.11 below the parties hereby agree and declare that:
- 17.9.1 where pursuant to a Mediation the claim dispute or difference is resolved and the relevant parties have entered into a contract they shall abide by that contract insofar as it affects this Deed;
- 17.9.2 the Expert's decision shall be final and binding on the parties (except that such awards shall not remove the parties' rights of appeal on matters of law or where a statutory right of appeal exists and such decision shall be subject to the outcome of such appeal).
- 17.10 The costs of appointing an Expert or Mediator (including their costs and disbursements in connection with their duties hereunder) shall be shared between the parties to the claim dispute or difference in such proportions as shall be agreed between the said parties or as the said Mediator or Expert shall determine or in the absence of agreement or such determination equally between the said parties and each of the parties shall be responsible for their own costs and disbursements.
- 17.11 The exercise of any of the provisions in this clause 17 shall at all times be subject to:
- 17.11.1 the Resolution;
- 17.11.2 clause 16 (Conduct);
- 17.11.3 the rights of any party to:
- 17.11.3.1 exercise of a legal right discretion or duty; and
- 17.11.3.2 take formal or informal steps considered necessary to protect their position pending resolution of the claim dispute or difference.

18 JURISDICTION

This Deed shall be governed by the laws of England and Wales and the Courts of England and Wales shall have sole jurisdiction in respect of the construction of this Deed and as to the respective rights and liabilities of the parties.

SCHEDULE 1

Notices

1 NOTICES

- 1.1 The Owner will give the Council not less than 20 Working Days' notice of their intention to Commence Development specifying the intended Commencement Date.
- 1.2 Forthwith upon Commencement the Owner will give the Council notice of Commencement.

2 COUNCIL'S COVENANT

The Council agrees, upon written request, to issue written confirmation of fulfilment of an obligation where such obligation has been fulfilled.

SCHEDULE 2

Public Open Space

The Owner covenants with the Council as follows:

- 1.1 To submit the Public Open Space Community Use Plan to the Council for written approval prior to Occupation of any part of the Development.
- 1.2 Not to Occupy or permit the Occupation of any part of the Development until the Public Open Space Community Use Plan has been approved by the Council in writing.
- 1.3 The Public Open Space shall be provided in accordance with the approved Public Open Space Community Use Plan and the Public Open Space Community Use Plan shall be complied with throughout the lifetime of the Development.
- 1.4 To lay out the Public Open Space within the Development in accordance with the approved Public Open Space Community Use Plan.
- 1.5 Not to Occupy or permit the Occupation of more than 45% (forty five percent) of the Dwellings until the Certificate of Practical Completion has been issued following the provision of the Public Open Space.
- 1.6 Following completion of the Public Open Space (pursuant to paragraph 1.5 above) and until such time as the Public Open Space may be transferred to a Management Company the Owner shall ensure the following (in perpetuity):
 - 1.6.1 the Public Open Space shall not be used for any purpose other than for the provision of public open space for the benefit of members of the public; and
 - 1.6.2 the Public Open Space is to be maintained and managed in a clean and tidy condition and free of defects and in accordance with the approved Public Open Space Community Use Plan.

In the event of Transfer of the Public Open Space to a Management Company

- 1.7 In the event the Owner wishes to transfer the Public Open Space to the Management Company the Owner covenants as follows;
- 1.8 The Owner shall notify the Council in writing of its intention to transfer the Public Open Space to a Management Company.
- 1.9 In the event the Owner serves notice of its intention pursuant to paragraph 1.8 above the Owner further covenants not to permit or allow the Occupation of more than 70% (seventy percent) of the Dwellings until the transfer of the Public Open Space to the Management Company has taken place in accordance with the Public Open Space Transfer.

SCHEDULE 3

MUGA

The Owner covenants with the Council as follows:

- 1.1 To submit the MUGA Community Use Plan to the Council for written approval prior to the Occupation of any part of the Development.
- 1.2 Not to Occupy or permit the Occupation of any part of the Development until the MUGA Community Use Plan has been approved by the Council in writing.
- 1.3 The MUGA shall be provided in accordance with the approved MUGA Community Use Plan and the MUGA Community Use Plan shall be complied with throughout the lifetime of the Development.
- 1.4 To lay out the MUGA within the Development in accordance with the approved MUGA Community Use Plan.
- 1.5 Not to Occupy or permit the Occupation of more than 45% (forty five percent) of the Dwellings until the Certificate of Practical Completion has been issued following the provision of the MUGA.
- 1.6 Following completion of the MUGA (pursuant to paragraph 1.5 above) and until such time as the MUGA may be transferred to a Management Company the Owner shall ensure the following (in perpetuity):
 - 1.6.1 the MUGA shall not be used for any purpose other than for the provision of a Swimming Pool multi use games for the benefit of members of the public; and
 - 1.6.2 the MUGA is to be maintained and managed in a clean and tidy condition and free of defects and in accordance with the approved MUGA Community Use Plan.

In the event of Transfer of the MUGA to a Management Company

- 1.7 In the event the Owner wishes to transfer the MUGA to the Management Company the Owner covenants as follows;
- 1.8 The Owner shall notify the Council in writing of its intention to transfer the MUGA to a Management Company.
- 1.9 In the event the Owner serves notice of its intention pursuant to paragraph 1.8 above the Owner further covenants not to permit or allow the Occupation of more than 70% (seventy percent) of the Dwellings until the transfer of the MUGA to the Management Company has taken place in accordance with the MUGA Transfer.

SCHEDULE 4

Swimming Pool

The Owner covenants with the Council as follows:

- 1.1 To submit the Swimming Pool Community Use Plan to the Council for written approval prior to Occupation of any part of the Development.
- 1.2 Not to Occupy or permit the Occupation of any part of the Development until the Swimming Pool Community Use Plan has been approved by the Council in writing.
- 1.3 The Swimming Pool shall be provided in accordance with the approved Swimming Pool Community Use Plan and the Swimming Pool Community Use Plan shall be complied with throughout the lifetime of the Development.
- 1.4 To lay out the Swimming Pool within the Development in accordance with the approved Swimming Pool Community Use Plan.
- 1.5 Not to Occupy or permit the Occupation of more than 45% (forty five percent) of the Dwellings until the Certificate of Practical Completion has been issued following the completion of the Swimming Pool.
- 1.6 Following completion of the Swimming Pool (pursuant to paragraph 1.5 above) and until such time as the Swimming Pool may be transferred to a Management Company the Owner shall ensure the following (in perpetuity):
 - 1.6.1 the Swimming Pool shall not be used for any purpose other than for the provision of a swimming pool and associated uses for the benefit of members of the public; and
 - 1.6.2 the Swimming Pool is to be maintained and managed in a clean and tidy condition and free of defects and in accordance with the approved Swimming Pool Community Use Plan.

In the event of Transfer of the Swimming Pool to a Management Company

- 1.7 In the event the Owner wishes to transfer the Swimming Pool to the Management Company the Owner covenants as follows;
- 1.8 The Owner shall notify the Council in writing of its intention to transfer the Swimming Pool to a Management Company.
- 1.9 In the event the Owner serves notice of its intention pursuant to paragraph 1.8 above the Owner further covenants not to permit or allow the Occupation of more than 70% (seventy percent) of the Dwellings until the transfer of the Swimming Pool to the Management Company has taken place in accordance with the Swimming Pool Transfer.

SCHEDULE 5

Community Meeting Room

The Owner covenants with the Council as follows:

- 1.1 To submit the Community Meeting Room Community Use Plan to the Council for written approval prior to the Occupation of any part of the Development.
- 1.2 Not to Occupy or permit the Occupation of any part of the Development until the Community Meeting Room Community Use Plan has been approved by the Council in writing.
- 1.3 The Community Meeting Room shall be provided in accordance with the approved Community Meeting Room Community Use Plan and the Community Meeting Room Community Use Plan shall be complied with throughout the lifetime of the Development.
- 1.4 To lay out the Community Meeting Room within the Development in accordance with the approved Community Meeting Room Community Use Plan.
- 1.5 Not to Occupy or permit the Occupation of more than 45% (forty five percent) of the Dwellings until the Certificate of Practical Completion has been issued following the completion of the Community Meeting Room.
- 1.6 Following completion of the Community Meeting Room (pursuant to paragraph 1.5 above) and until such time as the Community Meeting Room may be transferred to a Management Company the Owner shall ensure the following (in perpetuity):
 - 1.6.1 the Community Meeting Room shall not be used for any purpose other than for the purposes of a community meeting room and its associated uses for the benefit of members of the public; and
 - 1.6.2 the Community Meeting Room is to be maintained and managed in a clean and tidy condition and free of defects and in accordance with the approved Community Meeting Room Community Use Plan;

In the event of Transfer of the Community Meeting Room to a Management Company

- 1.7 In the event the Owner wishes to transfer the Community Meeting Room to the Management Company the Owner covenants as follows;
- 1.8 The Owner shall notify the Council in writing of its intention to transfer the Community Meeting Room to a Management Company.
- 1.9 In the event the Owner serves notice of its intention pursuant to paragraph 1.8 above the Owner further covenants not to permit or allow the Occupation of more than 70% (seventy percent) of the Dwellings until the transfer of the Community Meeting Room to the Management Company has taken place in accordance with the Community Meeting Room Transfer.

SCHEDULE 6

Tennis Courts

The Owner covenants as follows:

- 1.1 To submit the Tennis Courts Community Use Plan to the Council for written approval prior to the Occupation of any part of the Development.
- 1.2 Not to Commence or permit the Occupation of any part of the Development until the Tennis Courts Community Use Plan has been approved by the Council in writing.
- 1.3 The Tennis Courts shall be provided in accordance with the approved Tennis Courts Community Use Plan and the Tennis Courts Community Use Plan shall be complied with throughout the lifetime of the Tennis Courts.
- 1.4 To lay out the Tennis Courts within the Development in accordance with the approved Tennis Courts Community Use Plan.
- 1.5 Not to Occupy or permit the Occupation of more than 45% (forty five percent) of the Dwellings until the Certificate of Practical Completion has been issued following the completion of the Tennis Courts.
- 1.6 Following completion of the Tennis Courts (pursuant to paragraph 5 above) and until such time as the Tennis Courts may be transferred to a Management Company the Owner shall ensure the following (in perpetuity):
 - 1.6.1 the Tennis Courts shall not be used for any purpose other than for the use of playing and teaching tennis for the benefit of members of the public; and
 - 1.6.2 the Tennis Courts is to be maintained and managed in a clean and tidy condition and free of defects and in accordance with the approved Tennis Courts Community Use Plan.

In the event of Transfer of the Tennis Courts to a Management Company

- 1.7 In the event the Owner wishes to transfer the Tennis Courts to the Management Company the Owner covenants as follows;
- 1.8 The Owner shall notify the Council in writing of its intention to transfer the Tennis Courts to a Management Company.
- 1.9 In the event the Owner serves notice of its intention pursuant to paragraph 1.8 above the Owner further covenants not to permit or allow the Occupation of more than 70% (seventy percent) of the Dwellings until the transfer of the Tennis Courts to the Management Company has taken place in accordance with the Tennis Courts Transfer.

SCHEDULE 7

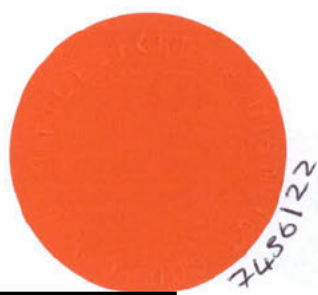
Management Company

The Owner covenants as follows:

- 1 To:
 - 1.1 manage and maintain; and
 - 1.2 set up a management company details of which shall be first agreed in writing with the Council with powers to raise its own funds and the ability to resource itself to appropriately maintain the following:
 - 1.2.1 Community Meeting Room;
 - 1.2.2 MUGA;
 - 1.2.3 Public Open Space;
 - 1.2.4 Swimming Pool; and
 - 1.2.5 Tennis Courts.
- 2 Following the creation of the management company as approved by the Council to provide copies of the management company's memorandum of association and articles of association to the Council.

IN WITNESS whereof this Deed was duly executed the day and year first before written

The **COMMON SEAL** of **UTTLESFORD**)
DISTRICT COUNCIL)
was hereunto affixed in the presence of:)



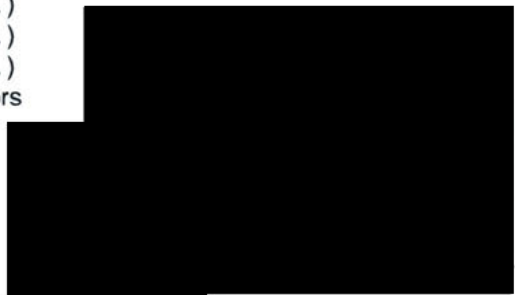
.....
Authorised Signatory

EXECUTED as a **DEED** by)
CHASE (SW) LIMITED)
acting by a director and its secretary/)
two directors)



.....
Director/Secretary

EXECUTED as a **DEED** by)
CHASE CAPITAL LAND ACQUISITIONS)
LIMITED)
acting by a director and its secretary/ two directors



.....
Director/Secretary

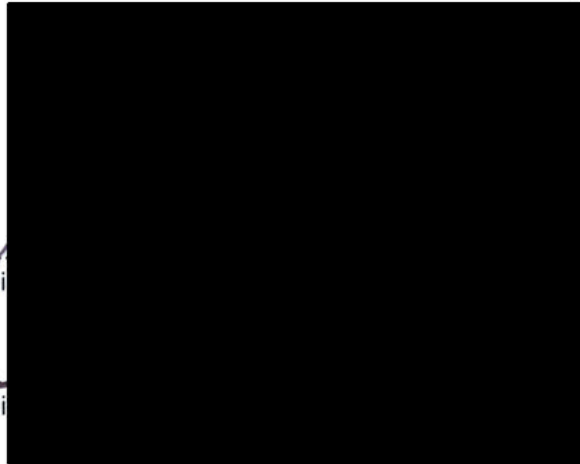
SCHEDULE 8

Council's covenants

The Council hereby covenants with the Owner as follows:

- 1 That it shall use reasonable endeavours to agree the following plans with the Owner and it shall not unreasonably withhold or delay its approval of the said plans:
 - 1.1 Community Meeting Room Community Use Plan;
 - 1.2 MUGA Community Use Plan;
 - 1.3 Public Open Space Community Use Plan;
 - 1.4 Swimming Pool Community Use Plan; and
 - 1.5 Tennis Courts Community Use Plan.

EXECUTED as a DEED by)
UNITED CAPITAL FINANCE)
LIMITED)
acting by a director and its secretary/)
two directors)



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APPENDIX 1

Plans