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| **THIS DEED** **OF UNILATERAL UNDERTAKING** is made the day of 2023  **BY:** | | |
| **(1)** of | | |
| (“Owner”) | | |
| **TO: THE DISTRICT COUNCIL OF NEW FOREST** of Appletree Court Lyndhurst in Hampshire SO43 7PA ("Council") | | |
| **PARTICULARS:** | | |
|  | “Application” | Number **/** for the Development |
|  | “Development” | the development of the Land for  **[ ]** |
|  | “Habitats Mitigation (Infrastructure) Contribution” | £ .00 |
|  | “Habitats Mitigation (Access Management and Monitoring) Contribution” | £ .00 |
|  | “Habitat Mitigation (Bird Aware Solent) Contribution | £ .00 |
|  | “Air Quality Monitoring Contribution” | £ .00 |
|  | Land” | **[ ]**  and shown edged red on the plan annexed hereto and registered at the Land Registry under freehold title number HP**[ ]** |

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| **WHEREAS:-** | | | | |
|  | **(1)** | | Words and phrases appearing in these recitals have the meanings given to them in clause 1 of this Unilateral Undertaking | |
|  | **(2)** | | The Owner is the registered proprietor with freehold title absolute of the Land | |
|  | **(3)** | | The Council is the local planning authority for the purpose of the Act for the area in which the Land is situate | |
|  | **(4)** | | The Application has been made to the Council for the Development | |
|  | **(5)** | | In accordance with the Conservation of Habitats and Species Regulations 2017 the Council has carried out an appropriate assessment and concluded that the likely significant effects of the Development associated with recreational impacts on part or parts of the New Forest and the Solent and Southampton Water Special Protection Area and/or Special Areas of Conservation and/or Ramsar sites cannot be ruled out were it not for the habitats mitigation provisions contained in this Unilateral Undertaking | |
| **NOW THIS DEED WITNESSETH** as follows:- | | | | |
| **1.** | **DEFINITIONS AND INTERPRETATION** | | | |
|  | 1.1 | In this Unilateral Undertaking the following words and phrases shall have the following meanings:- | | |
|  | “Act” | | | the Town and Country Planning Act 1990 |
|  | “Checking Fee” | | | the sum of £75.00 |
|  | “CIL’’ | | | Community Infrastructure Levy as defined in the Community Infrastructure Levy Regulations 2010 (as amended) |
|  | “Habitats Mitigation (Access Management and Monitoring) Contribution” | | | the contribution (towards non- infrastructure projects) in accordance with the Local Plan 2016-2036 Part One: Planning Strategy New Forest District outside the New Forest National Park policy ENV1 and the Mitigation for Recreational Impacts on New Forest European sites Supplementary Planning Document 2021 |
|  | “Habitats Mitigation (Access Management and Monitoring) Contribution Date ” | | | the date of this Unilateral Undertaking |

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|  | “Habitats Mitigation (Bird Aware Solent) Contribution” | the contribution towards Bird Aware Solent in accordance with the Local Plan 2016-2036 Part One: Planning Strategy New Forest District outside the New Forest National Park policy ENV1 and the Solent Recreation Mitigation Strategy 2017 |
|  | “Habitats Mitigation (Bird Aware Solent) Contribution Date” | the date of this Unilateral Undertaking |
|  | “Air Quality Monitoring Contribution” | a contribution towards the monitoring the air quality effects within the New Forest SPA, SAC and Ramsar Sites in accordance with the Local Plan 2016-2036 Part One: Planning Strategy New Forest District outside the New Forest National Park policy ENV1 |
|  | “Air Quality Monitoring Contribution Date” | the date of this Unilateral Undertaking |
|  | “Habitats Mitigation (Infrastructure) Contribution” | a contribution (towards infrastructure projects) in accordance with the Local Plan 2016-2036 Part One: Planning Strategy New Forest District outside the New Forest National Park policy ENV1 and the Mitigation for Recreational Impacts on New Forest European sites Supplementary Planning Document 2021 |
|  | “Habitats Mitigation (Infrastructure) Contribution Date” | the date of this Unilateral Undertaking |
|  | “Parties” | the parties who have executed this Unilateral Undertaking |
|  | “Particulars” | means the particulars set out at the beginning of this Unilateral Undertaking |
|  | “Permission” | a valid planning permission for the Development |
|  | “Unilateral Undertaking” | means this deed |

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| 1.2 | The references to the Parties or any other legal or natural person named in this Unilateral Undertaking shall include his her its or their successors in title heirs and assigns and in the case of any Local Authority shall include any successor in function |
| 1.3 | Unless otherwise stated references to clause numbers are references to clauses in this Unilateral Undertaking |

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| 1.4 | Unless otherwise stated references to schedule recital and paragraph numbers are references to the schedule recital and paragraph numbers in this Unilateral Undertaking |
| 1.5 | The singular includes the plural and vice versa |
| 1.6 | The masculine gender includes the feminine and neuter genders and vice versa |
| 1.7 | References to persons includes natural persons and partnerships firms and other such unincorporated bodies corporate bodies and all other legal persons of whatever kind and however constituted |
| 1.8 | References to Acts of Parliament statutory instruments or Government circulars or regulations or sections or paragraphs of any such acts statutory instruments or Government circulars or regulations include any re-enactments amendments or replacements of them |
| 1.9 | Save as expressly provided by this Unilateral Undertaking covenants and obligations given by any of the Parties to this Unilateral Undertaking shall attach to the Land and every part of it and shall bind their successors in title and assignees or any persons claiming by under or through them |
| 1.10 | It is hereby declared by the Parties that if any provision in this Unilateral Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired |
| 1.11 | Wherever there is more than one person named as a Party and where more than one Party undertakes an obligation all their obligations can be enforced against all of them jointly and severally |
| 1.12 | This Unilateral Undertaking is governed by and interpreted in accordance with the law of England and Wales and the Parties submit to the non-exclusive jurisdiction of the courts of England and Wales |
| **2.** | **PLANNING OBLIGATIONS** |
| 2.1 | This Unilateral Undertaking is made under Section 106 of the Act and the planning obligations entered into by way of the covenants in this Unilateral Undertaking are obligations under Section 106 of the Act to be discharged by the Owner and are enforceable by the Council against the Owner and any person deriving title fromit |
| 2.2 | This Unilateral Undertaking shall take effect from the date hereof |
| 2.3 | Nothing in this Unilateral Undertaking shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other Act **PROVIDED ALWAYS** that this Unilateral Undertaking shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been issued by the Council or any other appropriate person or Authority pursuant to the provisions of that Act |

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| **3** | **HABITATS MITIGATION (ACCESS MANAGEMENT AND MONITORING) CONTRIBUTION** |
|  | The Owner covenants to pay to the Council the Habitats Mitigation (Access Management and Monitoring) Contribution on the Habitats Mitigation (Access Management and Monitoring) Contribution Date |
| **4.** | **HABITATS MITIGATION (BIRD AWARE SOLENT) CONTRIBUTION** |
|  | The Owner covenants to pay to the Council the Habitats Mitigation (Bird Aware Solent) Contribution on the Habitats Mitigation (Bird Aware Solent) Contribution Date |
| **5.** | **HABITATS MITIGATION (INFRASTRUCTURE) CONTRIBUTION** |
| 5.1 | The Owner covenants to pay to the Council the Habitats Mitigation (Infrastructure) Contribution on the Habitats Mitigation (Infrastructure) Contribution Date |
| 5.2 | In the event that there is a CIL liability in respect of the Development equal to or greater than the Habitats Mitigation (Infrastructure) Contribution then the amount of the contribution paid under Clause 5.1 shall be credited towards the total amount of CIL payable |
| 5.3 | In the event that there is a CIL liability in respect of the Development less than the Habitats Mitigation (Infrastructure) Contribution then the amount of the contribution paid under Clause 5.1 shall reduce the CIL amount due to nil and the balance shall remain paid as the Habitats Mitigation (Infrastructure) Contribution |
| **6.** | **AIR QUALITY MONITORING CONTRIBUTION** |
|  | The Owner covenants to pay to the Council the Air Quality Monitoring Contribution on the Air Quality Monitoring Contribution Date |
| **7.** | **REFUND OF CONTRIBUTIONS** |
| 7.1 | In the event that Permission is refused by the Council then the contributions paid pursuant to Clauses 3,4, 5 and 6 shall be refunded without interest to the person who paid those sums and this Unilateral Undertaking shall cease to have effect (insofar only as it has not already been complied with) |
| 7.2 | In the event of an appeal that is dismissed by the Planning Inspectorate then the contributions paid pursuant to Clauses 3,4, 5 and 6 shall be refunded without interest to the person who paid those sums and this Unilateral Undertaking shall cease to have effect (insofar only as it has not already been complied with) |
| 7.3 | Where a refund is made pursuant to clauses 7.1 or 7.2 the Council will retain £150 in relation to the administration of processing the refund. |
| **8** | **THIRD PARTIES** |
|  | For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Unilateral Undertaking is not intended to and does not give any person who is not a Party to it any right to enforce any of its provisions SAVE FOR the Council |
| **9.** | **NATURE OF THIS UNILATERAL UNDERTAKING** |
|  | This Unilateral Undertaking is a Local Land Charge and the Council shall register it in its Register of Local Land Charges in accordance with the provisions of the Local Land Charges Act 1975 and Section 106(11) of the Act |
| **10** | **WARRANTY AS TO TITLE** |
| 10.1 | The Parties hereby warrant to the Council that the title details referred to in the recitals are complete and accurate in every respect. Further the Parties warrant that there are no other persons to their knowledge who have an interest in the Land that have not been disclosed to the Council |
| 10.2 | The Parties shall make good any loss to the Council as a result of a breach of this warranty within twenty-eight days of a request to do so |
| **11.** | **COSTS** |
|  | The Owner covenants on or before the completion of this Unilateral Undertaking to pay the Checking Fee (or such higher sum as the Council may reasonably specify) towards the Council’s costs in connection with the approval and registration of this Unilateral Undertaking |
| **12.** | **S73 APPLICATIONS** |
|  | In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under Section 73 of the Act  in respect of the conditions in the  Permission then references in this Unilateral Undertaking to the Application and Permission shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Unilateral Undertaking shall henceforth take effect and be read and construed accordingly PROVIDED THAT this shall not fetter the Council’s discretion in determining any Section 73 application or prejudice its ability to require further s106 obligations |
| **13.** | **TERMINATION OF UNILATERAL UNDERTAKING** |
|  | This Unilateral Undertaking shall cease to have effect (insofar as it has not already been complied with) if all payments due under it have not been  made within 5 working days from the date first written |
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| **IN WITNESS WHEREOF** the Parties hereto have duly executed and delivered this Unilateral Undertaking as a Deed the day and year first before written | |

**[FOR INDIVIDUAL]**

**SIGNED** as a **DEED** by the Owner

In the presence of:-

Witness (sign and print name)

Address

Occupation

**SIGNED** as a **DEED** by the Owner

In the presence of:-

Witness (sign and print name)

Address

Occupation

**[FOR COMPANY]**

**EXECUTED** as a **DEED** by the Owner

Acting by:

Director

(sign)

(print name)

Director/Secretary**\***

**\*delete as applicable**

(sign )

(print name)

**[OR COMPANY ALTERNATIVE]**

**EXECUTED** as a **DEED** by the Owner

Acting by:

Director

(sign)

(print name)

In the presence of:-

Witness (sign and print name)

Address

Occupation