

Dated:

2022

EASTLEIGH BOROUGH COUNCIL

and

SOUTHAMPTON CITY COUNCIL

**SUPPLEMENTAL DEED
PURSUANT TO SECTION 33 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AND
SECTION 1 OF THE LOCALISM ACT 2011
IN RESPECT OF A DEED OF AGREEMENT DATED 25 NOVEMBER 2021**

BETWEEN:

- (1) **Eastleigh Borough Council** of Eastleigh House, Upper Market Street, Eastleigh Hampshire SO50 9YN (“**the Owner**”); and
- (2) **Southampton City Council** of Civic Centre, Southampton, SO14 7LY (“**the Sixth Authority**”)

RECITALS

- A On 25 November 2021 the Owner entered into the Original Deed with the First Authority and the Second Authority pursuant to the Enabling Powers in order to regulate the use of the Mitigation Land for the provision of Credits in connection with applications for planning permission in respect of future development comprising residential and other overnight accommodation in the Catchment Area.
- B The Owner and the Sixth Authority have agreed to enter into this supplemental Deed in order for the Sixth Authority to join the First Authority and Second Authority as Enforcing Authorities pursuant to the Original Deed.
- C This Deed is supplemental to the Original Deed.

IT IS AGREED AS FOLLOWS:

1 DEFINITIONS

- 1.1 Unless the context otherwise requires, terms defined in the Original Deed shall have the same meaning when used in this deed. The following definitions also apply in this deed:

“Original Deed”	The Deed of Agreement made pursuant to Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 dated 25 November 2021 and made between (1) Eastleigh Borough Council, (2) Winchester City Council and (3) New Forest District Council
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- 1.2 The provisions of all clauses, terms, schedules and appendices of the Original Deed shall be incorporated into this deed as if set out in this deed in full.

2 EFFECT OF THE AGREEMENT

- 2.1 Subject to clause 2.2 this Deed shall take effect on the day and year first before written.
- 2.2 For the avoidance of doubt, the covenants contained in Paragraph 1 of the Schedule to the Original Deed shall only take effect in respect of the Mitigation Land on the Activation Date.

3 COVENANT AND AGREEMENT

- 3.1 The Owner hereby covenants with the Sixth Authority that all covenants and obligations set out in the Original Deed on the part of the Owner are hereby given to and shall be enforceable by the Sixth Authority.
- 3.2 The Sixth Authority enters into this deed with the intent and to the effect of becoming an Enforcing Authority and in doing so shall have all rights, benefits and remedies as set out in the Original Deed.

4 SEVERABILITY

It is agreed that if any part of this Deed shall be declared unlawful or invalid by a court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

5 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and for the avoidance of doubt the terms of this Deed may be varied by Deed between the parties without the consent of any such third party

6 NOTICES

- 6.1 Any notices required to be served by one party on another under this Deed shall be served by First Class prepaid post or by email in the following manner:
 - 6.1.1 on the Owner at the address as detailed above or as notified by the Owner in writing to the Enforcing Authorities.
 - 6.1.2 On the Sixth Authority at the address as detailed above or as otherwise notified in writing to the Owner
- 6.2 Notices served in accordance with this clause 12 shall be deemed received:
 - (a) where sent by first class prepaid post, by 4pm on the second Working Day after posting; or
 - (b) where sent by email, by 9am on the following Working Day after sending.

7 COUNTERPARTS

This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

8 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

9 DELIVERY

This Deed is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt the Deed shall be deemed not delivered despite being executed by the parties until such time as it is dated.

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

Executed as a DEED by affixing)
THE COMMON SEAL OF)
SOUTHAMPTON CITY COUNCIL)
in the presence of:)

.....
Authorised Signatory

Executed as a DEED by affixing)
THE COMMON SEAL OF)
EASTLEIGH BOROUGH COUNCIL)
in the presence of:)

.....
Authorised Signatory