

1. THE LEICESTER DIOCESAN BOARD OF FINANCE
and
2. MILLER HOMES LIMITED
and
3. HINCKLEY AND BOSWORTH BOROUGH COUNCIL
and
4. LEICESTERSHIRE COUNTY COUNCIL

PLANNING AGREEMENT

Section 106 of the Town and Country Planning Act 1990 relating to proposed development at land
off Station Road Market Bosworth

(24/00560/HYB)

Hinckley and Bosworth Borough Council

Legal Services

The Hub

Rugby Road

Hinckley

THIS AGREEMENT by way of deed is made the day of 2025

BETWEEN:

1. **THE LEICESTER DIOCESAN BOARD OF FINANCE** of 7 Peacock Lane, Leicester LE1 5PZ the trustee of The Parochial Church Council of St Peter's Church, Market Bosworth ("the **Owner**")
2. **MILLER HOMES LIMITED** (Company Number SC255429) whose registered office is Miller House, 2 Lochside View, Edinburgh Park, Edinburgh EH12 9DH ("the **Developer**")
3. **HINCKLEY AND BOSWORTH BOROUGH COUNCIL** of The Hub, Rugby Road, Hinckley, LE10 0FR ("the **Borough Council**")
4. **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Glenfield, Leicester, LE3 8RA ("the **County Council**")

RECITALS:

- A. The Borough Council is the local planning authority for the purposes of the Act for the Borough of Hinckley and Bosworth within which the Application Land is situated.
- B. The Borough Council and the County Council are both Principal Councils within the meaning of the Local Government Act 1972 and the obligations contained herein are enforceable by the Borough Council and the County Council in respect of obligations given to each of them.
- C. The County Council is the Highway Authority and is responsible for the provision of inter alia transportation, education, waste management facilities and library services for the area in which the Application Land is situated.
- D. The Owner is the freehold owner of that part of the Application Land which forms part of land registered at HM Land Registry with title absolute under title numbers LT413852 and LT470389.
- E. The Planning Application has been made to the Borough Council by the Developer for planning permission for the Development as described in the Planning Application.
- F. The Borough Council has resolved to grant the Planning Permission subject to conditions and to the obligations contained in this Agreement without which planning permission would not be granted.
- G. The Borough Council, the County Council and the Owner (together "the Parties") have agreed to enter into this Agreement to secure the planning obligations contained herein to the extent that is necessary to ensure that the Development is acceptable in planning terms.

OPERATIVE PROVISIONS:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement the following expressions shall have following meanings:

"Act"	means the Town & Country Planning Act 1990 (as amended)
"Affordable Rent"	means a rented housing unit built pursuant

	to the Planning Permission which is within the definition of 'Other Affordable Housing for Rent' set out in Annex 2 of the NPPF
"Application Land"	Means the land edged red on the Plan
"Borough Council Contributions"	means the Health Facilities Contribution, Off-site Equipped Children's Play Space Contribution, the Off-site Equipped Children's Play Space Maintenance Contribution, the Off-site Outdoor Sports Contribution and the Off-site Outdoor Sports Maintenance Contribution
"Borough Council Monitoring Costs"	means the sum of £489.00 per obligation
"Bus Passes"	means either (a) two bus passes per Dwelling; or (b) one bus pass for each Employee entitling the holder of each bus pass to travel free of charge on local bus services over a period of six months commencing from receipt of the bus pass "Bus Passes" and "Bus Pass" shall be construed accordingly
"Bus Pass Contribution (Residential)"	means the maximum sum of £137,700 being the cost of providing two bus passes per Dwelling (at a cost of £510.00 per bus pass) adjusted in accordance with the indexation provisions contained in the First Schedule and payable by the Owner to the County Council towards the provision of bus pass(es)
"Commencement of Development"	the earliest date on which any of the material operations (as defined by Section 56(4) of the Act) pursuant to the implementation of the Development is begun save that irrespective of the provisions of Section 56 (4) of the Act none of the following operations shall constitute a material operation for the purposes of constituting Commencement of Development under this Agreement i. trial holes or other operations to establish the ground conditions of the Application Land site survey work or works of remediation ii. archaeological investigations on the Application Land any works of demolition or site clearance iii. any structural planting or

	landscaping works iv. ecological or nature conservation works associated with the Development v. construction of site compounds boundary fencing or hoardings vi. construction of access or highway works or provision of services (including drainage and media) vii. any other preparatory works agreed in writing with the Borough Council viii. the temporary display of site notices or advertisements and "Commence Development" and "Commence" shall be construed accordingly
"County Council Monitoring Costs"	Means the sum of Three Hundred Pounds (£300.00) or 0.5% of the value of the contribution (whichever is the greater) in respect of each contribution payable by the Owner to the County Council towards its costs of monitoring compliance with the obligations contained in this Agreement
"Default Interest Rate"	means a rate of 4% above the base rate of the Bank of England
"Development"	means the development described in the Planning Application and to be carried out pursuant to the Planning Permission
"Dwelling"	means a residential dwelling built pursuant to the Planning Permission and whether a Gifted Dwelling or otherwise
"Early Years School Contribution"	means the sum of £190,351.72 (one hundred and ninety thousand three hundred and fifty one pounds and seventy two pence) adjusted in accordance with the indexation provisions contained in the First Schedule to be paid by the Owner to the County Council and used by the County Council to accommodate the early learning capacity issues created by the proposed Development at St Peter's Church of England Primary Academy School, a new school being built or, by improving, remodelling, or enhancing existing facilities at other schools or other early learning provision within the locality of the Development.

"Employee"	means an employee employed at any Unit of Employment and "Employees" shall be construed accordingly
"Gifted Dwelling"	means the sixteen residential units to be constructed as part of the Development as identified on the Gifted Dwellings Plan and transferred to the Borough Council for use as Affordable Rent
"Gifted Dwellings Plan"	means the plan attached to this agreement and labelled "Technical Planning Layout" or such other plan as may be agreed between the Owner and the Borough Council
"Gifted Dwelling Scheme"	means a scheme to be submitted to the Borough Council confirming: a) the location of each Gifted Dwelling b) the build programme for constructing each Gifted Dwelling c) the timetable for transferring each Gifted Dwelling to the Borough Council
"Health Care Provider"	means The Leicester, Leicestershire and Rutland Integrated Care Board or any successor body
"Health Facilities Contribution"	means the sum of £104,544.00 (one hundred and four thousand five hundred and forty four pounds) adjusted in accordance with the indexation provisions of the First Schedule to be paid by the Owner to the Borough Council towards Market Bosworth or Newbold Verdon GP Surgeries and/or to develop alternative Primary/Community healthcare infrastructure that will be directly impacted due to the increase in population linked to the Development.
Index Linked	means the Building Cost Information Service All-in Tender Price Index (BCIS) as published by the Royal Institution of Chartered Surveyors (or in the event that such index ceases to be published then in its place such reasonably equivalent index as the Borough Council and County Council shall specify respectively)
"Library Contribution"	means a sum of £3,880.40 (three thousand eight hundred and eighty pounds and forty pence) adjusted in accordance with the indexation provisions of the First Schedule to be paid by the Owner to the County Council to provide improvements to Market

	Bosworth Library and its facilities, including, but not limited to, books, materials, or associated equipment or to reconfigure the internal or external library space to account for additional usage of the venue arising from an increase in members to the library as a result of this development. This contribution may also be spent to fund new library provision.
“Local Connection Criteria”	means: Level 1 a) A person who has been living in the Parish of Market Bosworth for a minimum of 2 years immediately prior to allocation; and/or b) A person who has previously lived in the Parish of Market Bosworth not immediately for a minimum of 2 years but was forced to move away because of the lack of affordable housing; and/or c) A person who has close family relatives currently resident in the Parish of Market Bosworth for a minimum period of at least 2 years. Close relatives are defined as parents, children, siblings, grandparents and grandchildren (including step relatives) d) A person employed in a permanent capacity full or part time within the confines of the Parish of Market Bosworth for a minimum of 2 years; and/or e) A person who needs to move to the Parish of Market Bosworth to provide or receive significant care and support from a person who meets the criteria above. Level 2 Satisfies any one or more of the above criteria at Level 1, but has a minimum connection of 1 year. Level 3 Satisfies any one or more of the above criteria at Levels 1 and 2, but in respect of any Parish immediately adjoining the Parish

	boundary of Market Bosworth i.e. Carlton, Osbaston, Sutton Cheney, Sheepy and Cadeby. Level 4 Satisfies any one or more of the above criteria, but in respect of any other parishes in Hinckley and Bosworth District, which adjoin the parish boundaries of parishes identified in Level 3 i.e. Twycross, Shackerstone, Nailstone, Barlestone, Newbold Verdon, Peckleton, Stoke Golding, Higham on the Hill and Witherley. Level 5 In the final instance, satisfies any one or more of the above criteria and are residents within the Borough of Hinckley and Bosworth
"Management Company"	Means a management company (including a residents management company) whose aims include the management and maintenance of the On Site Open Space Area(s)
"Market Dwelling(s)"	Means any dwelling for sale, lease or other disposal on the open market constructed as part of the Development which is not a Gifted Dwelling
"NPPF"	means the National Planning Policy Framework (December 2024) or any successor document thereto
"Occupation"	means in relation to the Development the physical use of land or buildings for the purposes permitted by the Planning Permission and the beneficial occupation of any part of it for residential purposes but shall not include (i) daytime occupation by workmen involved in the erection fitting out or decoration of any part of the Development; or (ii) the use of any Dwellings for the marketing/ security of the Development; or (iii) the storage of plant and materials and "Occupy" "Occupiers" and "Occupied" shall be construed

	accordingly
“Off-site Equipped Children’s Play Space Contribution”	Means the sum of £88,417.98 adjusted in accordance with the indexation provisions of the First Schedule which shall be reduced in accordance with clauses 3.3 – 3.8 such sum to be utilised towards upgrading the existing play equipment at Heath Road to provide for the needs of the occupiers of the Development in accordance with the Council’s Open Space and Recreational Facilities Study 2016 and Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document 2016
“Off-site Equipped Children’s Play Space Maintenance Contribution”	Means a sum to be agreed in writing between the Owner and the Borough Council pro-rated based on the Off-site Equipped Children’s Play Space Contribution (and for the avoidance of doubt shall not include the cost of maintaining the Trim Trail Equipment) provided that the total amount payable shall not exceed the maximum sum of £42,670.80 (forty-two thousand, six hundred and seventy hundred pounds and eighty pence) adjusted in accordance with the indexation provisions of the First Schedule to be used for the purpose of maintaining the off-site equipped children’s play space funded by the Off-site Equipped Children’s Play Space Contribution
“Off-site Outdoor Sports Contribution”	Means a sum of £46,915.20 (forty-six thousand, nine hundred and fifteen pounds and twenty pence) adjusted in accordance with the indexation provisions of the First Schedule to provide for outdoor sports facilities to meet the needs of the occupiers of the Development in accordance with the Council’s Open Space and Recreational Facilities Study 2016 and Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document 2016
“Off-site Outdoor Sports Maintenance Contribution”	Means a sum of £22,291.20 (twenty-two thousand, two hundred and ninety one pounds and twenty pence) adjusted in accordance with the indexation provisions

	of the First Schedule to be used for the purpose of maintaining the outdoor sports facilities funded by the Off-site Outdoor Sports Contribution.
"On Site Open Space Area(s)"	means together and as shown on the On Site Open Space Area(s) Plan the accessible natural green space, the casual/informal open space and all other areas of landscaping and accessible green space which will not be comprised within residential curtilages and which will be in accordance with the Planning Permission
"the On Site Open Space Area(s) Plan"	means the plan attached to this Agreement and labelled "POS Typologies Plan" showing the On Site Open Space Area(s) or such alternative plan as may be agreed in writing between the Owner and the Borough Council
"On Site Open Space Area Maintenance Scheme"	means the scheme for the future maintenance and management of the On Site Open Space Area(s) to be submitted to the Borough Council in accordance with the provisions of the clause 3 which for the avoidance of doubt shall include the maintenance of the Trim Trail Equipment
"Open Space Document Review Fee"	means £327 for each document submitted in respect of the approval of the On Site Open Space Area Maintenance Scheme for the On Site Open Space Areas
"Open Space Inspection Fee"	means a £219 for each pre-arranged inspection of the On Site Open Space Areas
"Plan"	means the plan attached to this Agreement which shows the Application Land edged red
"Planning Application"	means the Planning Application submitted to the Borough Council and allocated reference number 24/00560/HYB
"Planning Permission"	means the hybrid planning permission to be granted pursuant to the Planning Application
"Post 16 Education Contribution"	Means the sum of £77,810.50 (seventy seven thousand eight hundred and ten pounds and fifty pence) adjusted in accordance with the indexation provisions of the First Schedule and payable by the Owner to the County Council pursuant to clause 5.12 to accommodate the capacity issues created by the proposed

	Development by improving, remodelling, or enhancing existing facilities at either the named catchment school, Bosworth Academy, within the DfE approved planning area serving the development, or any other school within the locality of the development, including the construction of a new school.
"Secondary School Contribution"	Means the sum of £364,205.62 (three hundred and sixty four thousand two hundred and five pounds and sixty two pence) adjusted in accordance with the indexation provisions of the First Schedule and payable by the Owner to the County Council pursuant to clause 5.10 to accommodate the capacity issues created by the proposed development by improving, remodelling, or enhancing existing facilities at either the named catchment school, The Market Bosworth School, within the DfE approved planning area serving the Development, or any other school within the locality of the development, including the construction of a new school.
"Primary SEND Education Contribution"	Means the sum of £29,079.96 (twenty nine thousand and seventy nine pounds and ninety six pence) adjusted in accordance with the indexation provisions of the First Schedule and payable by the Owner to the County Council pursuant to clause 5.9 to accommodate the capacity issues created by the proposed development by improving, remodelling, or enhancing existing facilities at either the named catchment school, Dorothy Goodman School within the DfE approved planning area serving the Development, or any other school within the locality of the Development, including the construction of a new school
"Secondary SEND Education Contribution"	Means the sum of £39,787.13 (thirty nine thousand seven hundred and eighty seven pounds and thirteen pence) adjusted in accordance with the indexation provisions of the First Schedule and payable by the Owner to the County Council pursuant to clause 5.11 to accommodate the capacity issues created by the proposed Development by improving, remodelling, or enhancing existing facilities at either the

	named catchment school, Dorothy Goodman School, within the DfE approved planning area serving the development, or any other school within the locality of the Development, including the construction of a new school
"The Parish Council"	means Market Bosworth Parish Council
"Traffic Regulation Order"	means any temporary or permanent order required pursuant to the Road Traffic Regulation Act 1984 including any amendment required to an existing order in respect of the Development and the relocation of the weight restriction
"Traffic Regulation Order Contribution"	means the sum of £7,500 adjusted in accordance with the indexation provisions of the First Schedule and payable by the Owner to the County Council towards the Traffic Regulation Order consultation process for the relocation of the existing 7.5 Tonne (except for loading) weight restriction on Station Road in the interest of highway safety
"Travel Pack"	means the pack produced by the Owner and approved by the County Council (or in the alternative provided by the County Council at a cost of £52.85 per Travel Pack) to be supplied to each Dwelling owner and/or Employee by the Owner (or provided to the Owner by the County Council if the Owner elects to pay the Travel Pack Contribution (Residential) or Travel Pack Contribution (Employment)) containing bus pass application forms, and details of walking, cycling and public transport, local amenities, shops and details of any community transport or car sharing or car club schemes operating in the vicinity of the Application Land and providing information on public transport and other means of travel to and from the Development other than the private car including an application for two bus passes for Dwellings and one bus pass for Employees of the Units of Employment
"Travel Pack Contribution (Residential)"	means the maximum sum of £7,134.75 being a cost of £52.85 per Dwelling adjusted in accordance with the indexation provisions of the First Schedule to be paid by the Owner to the County Council towards the provision of Travel Packs
"Travel Pack Contribution (Employment)"	Means the sum of £52.85 for a Travel Pack

	for each Employee adjusted in accordance with the indexation provisions contained in the First Schedule
"Travel Plan"	means the travel plan(s) to be prepared by Owner and approved in writing by the County Council
"Travel Plan Co-ordinator"	means the person(s) appointed by the Owner responsible for securing the implementation of the Travel Plan as well as monitoring and implementation of remedial measures
"Travel Plan Monitoring Fee"	means the sum of £11,337.50 adjusted in accordance with the indexation provisions of the First Schedule to be paid by the Owner to the County Council towards monitoring the Travel Plan for the Development and to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that the Travel Plan targets are met
Trim Trail Equipment	means the trim trail equipment pursuant to condition 27 on the Planning Permission
"Unit of Employment"	means any individual unit of employment constructed on the Application Land pursuant to the Planning Permission
"Waste Management Contribution"	means the maximum sum of £6,686.55 (six thousand six hundred and eighty six pounds and fifty five pence) based on a per Dwelling rate of £49.53 adjusted in accordance with the indexation provisions of the First Schedule to be paid by the Owner to the County Council towards site reconfiguration and/or development of waste infrastructure, to increase the capacity for Barwell Household Waste Recycling Centre (HWRC), or any other HWRC directly impacted by this Development

- 1.2 Words in this Agreement importing the singular meaning shall where the context so admits include the plural meaning and vice versa
- 1.3 Words in this Agreement of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa
- 1.4 References in this Agreement to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

- 1.5 Where in this Agreement reference is made to a Clause, Schedule or Plan such reference (unless the context otherwise requires) is a reference to a Clause, Schedule of this Agreement or in the case of a Plan is the plan attached to this Agreement
- 1.6 Obligations and liabilities of a party comprising more than one person are obligations of such persons jointly and severally
- 1.7 Covenants made hereunder:
- 1.7.1 on the part of the Borough Council shall be enforceable against the Borough Council and any statutory successor to it as planning authority
- 1.7.2 on the part of the County Council shall be enforceable against the County Council and any statutory successor to it as County Council
- 1.8 The expression "the Owner" shall where the context so admits include their respective successors and assigns

2. GENERAL PROVISIONS

Statutory Authority

- 2.1 This Agreement and each of the covenants given by the Owner contained herein is a planning obligation and is made pursuant to Section 106 of the Act
- 2.2 The covenants by the Owner contained herein shall be enforceable by either or both the County Council and the Borough Council except where the obligation is expressed as a covenant made solely with the County Council or the Borough Council in which case such obligation shall be enforceable only by that authority
- 2.3 This Agreement is a local land charge and shall be registered as such by the Borough Council

Liability

- 2.4 The covenants given by the Owner contained herein are made with the intent that the covenants will bind the Application Land as is contained in title number LT413852 and LT470389 and shall be binding on and enforceable against his respective successors in title or assignees and subject to clause 2.7-2.8 those deriving title respectively under the Owner
- PROVIDED THAT without prejudice to the enforcement of covenants against successors in title no person shall be liable for any breach of a covenant, restriction or obligation contained in this Agreement after parting with all of its interest in the Application Land or the part in respect of which such breach occurs, except in respect of any breach subsisting prior to parting with such interest
- 2.5 Subject to clause 2.4 no person shall be liable for any breach of a covenant restriction or obligation contained in this Agreement in relation to a part of the Application Land in which it does not have a freehold or leasehold interest
- 2.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Application Land in accordance with a planning permission other than the Planning Permission granted (whether or not on appeal) after the date of this Agreement in respect of which development this Agreement will not apply
- 2.7 The covenants contained in this Agreement shall not be enforceable against:

- 2.7.1 purchasers or occupiers or lessees of Dwellings on the Application Land or their mortgagees or chargees or receivers; or
 - 2.7.2 occupiers of a Unit of Employment; or
 - 2.7.3 statutory undertakers in relation to any parts of the Application Land acquired by them for electricity sub-stations gas governor stations or pumping stations or against anyone whose only interest in the Application Land or any part of it is in the nature of the benefit of an easement or covenant.
- 2.8 In the event that an Owner disposes of their interest in the Application Land or any part thereof (other than a disposal to a purchaser of a Dwelling or any disposal of any statutory utilities for operational purposes or the disposal of the Gifted Dwellings to the Borough Council) they shall within twenty-eight days of such disposal give written notice of the name and address of their successors in title to the Borough Council and the County Council together with sufficient details of the land included in the disposal to allow its identification provided that the sale of individual Dwellings shall not trigger this requirement.

Contingencies

- 2.9 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the forgoing provisions would be to defeat the original intention of the parties
- 2.10 Save for the provisions of clause 2.16.1 and 2.16.2 this Agreement is conditional upon:
- 2.10.1 the grant of the Planning Permission; and
 - 2.10.2 Commencement of Development
- 2.11 In the event of the Planning Permission expiring or in the event of the revocation of the Planning Permission prior to the Commencement of Development or in the event of the quashing of the Planning Permission and the refusal upon redetermination the obligations under this Agreement shall cease absolutely and the Borough Council shall immediately upon written demand procure that any entry referring to this Agreement in the Register of Local Land Charges shall be removed forthwith

Commencement of Development

- 2.12 The Owner shall give to the Head of Planning at the Borough Council seven days' notice in advance of the Commencement of Development and shall send a copy of such notice to the Team Manager Planning Obligations and Systems Team Planning Historic and Natural Environment Department of the County Council and the date on which Commencement of Development has taken place shall be confirmed by the Owner in writing and notified to the Borough Council and the County Council who will confirm by return in writing PROVIDED THAT default in giving notice or confirming the date by exchange of correspondence shall not prevent Commencement of Development occurring

Determination by Expert

- 2.13 Notwithstanding any specific provision in this Agreement in the event of any dispute between the Owner the Developer the Borough Council or the County Council (or any of them) concerning this Agreement including any dispute as to whether or not an obligation has been performed or matter to be agreed under any of the provisions of this Agreement the matter may at the written option of any relevant party (notice of which shall be given to the other party or parties) be referred to such expert as they may agree or (in default of agreement within 20 working days of the date of giving of the notice) appointed by the Chairman for the time being of the Planning and Environment Bar Association whose appointment shall be conducted on the following terms
- 2.13.1 The person to be appointed pursuant to this Clause 2.13 shall if possible be a person having ten years or more relevant post-qualification experience of the issue in dispute and projects comprising works of the scale and nature of the Development and of the particular issue in dispute
- 2.13.2 The reference to the expert shall be on terms that:
- 2.13.2.1 the expert shall afford the parties to the dispute an opportunity to make representations to him/her in writing and if he/she so directs to make submissions on one another's representation;
 - 2.13.2.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;
 - 2.13.2.3 the expert shall be bound to have regard to the said submissions and representations;
 - 2.13.2.4 the expert shall have the power to award the costs of the determination in favour of either party at the expense of the other in the event that the expert shall consider that the said other party has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;
 - 2.13.2.5 the expert shall be limited in his/her findings to the proposals put by either party or a proposal falling between both of them; and
 - 2.13.2.6 the findings of the expert shall save in the case of manifest material error be final and binding on the Owner the Borough Council and the County Council save that the parties retain the right to refer to the Courts on a matter of law

Time Periods

- 2.14 It is agreed between the Parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between the Owner and the Borough Council and/or the County Council (as the case may be) SAVE THAT any party to this Agreement who reasonably requires time to be of the essence in any period extended shall serve notice on

any other relevant party stating that time is of the essence in relation to any time period so extended

Approvals

- 2.15 For the purposes of this Agreement where a party is required to make a request give confirmation approval or consent express satisfaction with agree to vary or to give notice of any matter such request confirmation approval consent expression of satisfaction agreement to vary or notice shall be deemed to have not been given or expressed unless given or expressed in writing and shall not be unreasonably withheld or delayed

Notices

- 2.16.1 The service of notices and communications pursuant to this Agreement shall be sent to the addressee at the address stated in this Agreement or at such other address as the addressee shall have notified to the others in writing
- 2.16.2 Notices and communications under this Agreement may be sent by personal delivery or by First Class Post (recorded delivery) and any notice or communication sent by First Class Post (recorded delivery) and correctly addressed shall be conclusively deemed to have been received by the addressee on the second business day following the date of posting and in the case of the County Council must be marked for the attention of the Team Manager Planning Obligations and Systems Team Planning Historic and Natural Environment Department

Exclusion of the Contracts (Rights of Third Parties) Act 1999

- 2.17 Nothing herein contained or implied shall give or be construed as giving rights, privileges, powers or enforceability other than to the specific parties executing this document and their successors (if any) as defined herein and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are expressly excluded to the intent that no third party within the meaning of that Act shall have any rights of enforcement in respect of any matter herein contained

No Fetter of Discretion

- 2.18 Save as permitted by law or equity nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Borough Council and the County Council in their respective rights powers duties and obligations under all public and private statutes bylaws and regulations which may be as fully and effectually exercised as if the Borough Council and/or the County Council were not a party to this Agreement

Effect of any Waiver

- 2.19 No waiver (whether express or implied) by the Borough Council and/or the County Council of any breach or default by the Owner in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Borough Council and/or the County Council (as relevant) from enforcing any of

the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

General Requirement to Co-operate

- 2.20 Without prejudice to its statutory duties the Borough Council the County Council and the Owner shall all act in good faith and shall co-operate with each other to facilitate the discharge and performance of the obligations of the others contained within this Agreement within the timescales specified

Section 73 Variation

- 2.21 In the event that that the Borough Council shall at any time hereafter grant a planning permission pursuant to an application under Section 73 of the Act in respect of the conditions relating to the Planning Permission (and for no other purpose whatsoever) references in this Agreement to the Planning Application Planning Permission and the Development shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Agreement shall henceforth take effect and be read and construed accordingly so that the planning obligations in this Agreement shall apply to development under such subsequent planning permissions save where the Borough Council in its consideration of such an application for the new planning permission indicates that consequential amendments are required to this Agreement to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106A of the Act will be required to secure relevant planning obligations relating to the new planning permission

Interest on Late Payment

- 2.22 If any sum or amount is not paid to the Borough Council or to the County Council by the date it is due under this Agreement the Owner shall pay to the Borough Council or to the County Council as applicable the interest on that amount at the Default Interest Rate such interest accruing on a daily basis for the period from the date on which payment is due under this Agreement to and including the actual date of payment

Developer's Consent

- 2.23 The Developer acknowledges and declares that this Agreement has been entered into by the Owner with the Developer's consent and that the Application Land shall be bound by the obligations contained in this Agreement PROVIDED THAT save for clauses 4 and 5.14 the Developer shall have no liability under this Agreement unless and until it purchases the Application Land in which case they too will be bound by the obligations within this Agreement as if they were a person deriving title from the Owner

Indexation

- 2.24 Unless otherwise stated to the contrary all sums payable under the terms of this Agreement by the Owner to the Borough Council or the County Council or otherwise due to the Borough Council or the County Council under the provisions of this Agreement will be Index Linked pursuant to the First Schedule

- 2.25 Indexation will commence on the completion of this Agreement subject to the provisions of the First Schedule and will end on the date or dates the said Contributions or other sums are actually paid in full

Jurisdiction

- 2.26 This Agreement 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

3. THE OWNER'S PLANNING OBLIGATIONS WITH THE BOROUGH COUNCIL

Gifted Dwellings

- 3.1 The Owner hereby covenants with the Borough Council as follows:
- 3.1.1 To submit the Gifted Dwelling Scheme to the Borough Council for approval prior to Occupation of the first Dwelling and not to Occupy more than 10 Dwellings until the Gifted Dwelling Scheme has been approved by the Borough Council.
- 3.1.2 To provide the Gifted Dwellings in accordance with the approved Gifted Dwelling Scheme.

On Site Open Space Area

- 3.2 The Owner covenants with the Council in respect of the On Site Open Space Area as follows:
- 3.2.1 Not more than 75% of the Dwellings shall be Occupied or permitted to be Occupied on the Development or any part thereof until the On Site Open Space Areas have been laid out and made available for use by the public;
- 3.2.2 Following the laying out of the On Site Open Space Area for the Development the Owner shall serve written notice of practical completion of the On Site Open Space Area for the Development, or as the case may be, phase thereof, on the Council ("the Notice of Practical Completion").
- 3.2.3 To maintain the On Site Open Space Area for a period of 12 months ('the Maintenance Period') from the date that the Notice of Practical Completion of the On Site Open Space Area is served on the Council and to remedy any defects that arise in the On Site Open Space Areas during the Maintenance Period and if any tree or shrub or other planting seeding or turfing dies or becomes diseased or for any reason fails to become established during that period to reinstate or replace it as necessary and in the case of any tree shrub or any other planted material the replacement should be the same size and species or such other size and species as may be agreed with the Council.
- 3.2.4 At the end of the Maintenance Period to serve written notice on the Council confirming whether the Owner (acting in its absolute discretion) wishes to maintain the On Site Open Space Area or whether the Owner intends to transfer the On Site Open Space Area to a Management Company which shall be responsible for the maintenance of the On Site Open Space Areas who shall thereafter maintain the On Site Open Space Areas in perpetuity or alternatively to request that the Council (or the Council's nominee) maintains the On Site Open Space Area and for the avoidance of doubt nothing shall prevent the Owner from serving the written notice prior to the Maintenance Period
- 3.2.5 In the event the Owner elects to maintain the On Site Open Space Area pursuant to paragraph 3.2.4 above, it shall within 56 days of the service of the notice pursuant to paragraph 3.2.4 hereof submit the On Site Open Space Area Maintenance Scheme to the

Council for approval (such approval not to be unreasonably withheld or delayed) and shall maintain the On Site Open Space Area in accordance with approved On Site Open Space Area Maintenance Scheme.

- 3.2.6 In the event that the Owner elects to transfer the On Site Open Space Area to a Management Company the Owner shall within 56 days of the service of the notice pursuant to paragraph 3.2.4 hereof submit to the Council for approval (such approval not to be unreasonably withheld or delayed) the On Site Open Space Area Maintenance Scheme and proposals for the Management Company which is to take a transfer of the On Site Open Space Area and shall continue to maintain the On Site Open Space Area in accordance with the On Site Open Space Area Maintenance Scheme until such time that:

(a) the Management Company has been incorporated and is functioning and there is an obligation on the Management Company to maintain the On Site Open Space Area in accordance with the maintenance provisions of the On Site Open Space Area Maintenance Scheme; and

(b) the On Site Open Space Area has been transferred to the Management Company .

- 3.2.7 The Owner covenants with the Council to pay the Open Space Document Review Fee on submission of each document to be approved.
- 3.2.8 The Owner covenants with the Council to pay the Open Space Inspection Fee prior to each pre-arranged site visit

Off-site Equipped Children's Play Space Contribution

- 3.3 The Owner covenants with the Borough Council to submit full details of the cost of providing the Trim Trail Equipment ("the TTE Costings") to the Borough Council for approval.
- 3.4 The Borough Council shall review the TTE Costings and shall confirm within 20 working days of receiving the TTE Costings from the Owner whether the TTE Costings are approved.
- 3.5 In the event that the parties are unable to agree the TTE Costings the parties shall refer the issue for determination under Clause 2.13.
- 3.6 Following approval of the TTE Costings by the Borough Council or determination of the TTE Costings under Clause 2.13 the final confirmed TTE Costings shall be deducted from the Off-site Equipped Children's Play Space Contribution ("the Reduced Off-site Equipped Children's Play Space Contribution")
- 3.7 For the avoidance of doubt the Reduced Off-site Equipped Children's Play Space Contribution shall be no less than 60% of the Off-site Equipped Children's Play Space Contribution unless otherwise agreed in writing with the Borough Council.
- 3.8 The Owner shall pay the Reduced Off-site Equipped Children's Play Space Contribution to the Borough Council prior to Occupation of 75% of the Dwellings.

Off-site Equipped Children's Play Space Maintenance Contribution

- 3.9 The Owner covenants with the Borough Council to pay the Off-site Equipped Children's Play Space Maintenance Contribution to the Borough Council within 12 months from the date of Occupation of the first Dwelling

Off-site Outdoor Sports Contribution

- 3.10 The Owner covenants with the Borough Council to pay the Off-site Outdoor Sports Contribution to the Borough Council prior to Occupation of the first Dwelling

Off-site Outdoor Sports Maintenance Contribution

- 3.11 The Owner covenants with the Borough Council to pay the Off-site Outdoor Sports Maintenance Contribution to the Borough Council within 12 months from the date of Occupation of the first Dwelling

Health Facilities Contribution

- 3.12 The Owner covenants with the Borough Council to pay the Health Facilities Contribution to the Borough Council prior to Commencement of Development

Borough Council Monitoring Costs

- 3.13 The Owner covenants with the Borough Council to pay the Borough Council's Monitoring Costs prior to Commencement of Development

Borough Council Legal Fees

4. The Developer covenants to pay the Borough Council's costs upon completion of this Agreement

5. THE OWNER'S PLANNING OBLIGATIONS TO THE COUNTY COUNCIL

Library Contribution

- 5.1 The Owner covenants with the County Council to pay the Library Contribution to the County Council prior to Occupation of the first Dwelling.

Travel Packs and Bus Passes

- 5.2 The Owner covenants with the County Council to pay the Travel Pack Contribution (Residential) to the County Council prior to the first Occupation of the first Dwelling AND pay the Bus Pass Contribution (Residential) in the following instalments

- 5.2.1 25% of the Bus Pass Contribution (Residential) prior to the first Occupation of the first Dwelling;
- 5.2.2 the remaining 75% of the Bus Pass (Residential) Contribution prior to the first Occupation of 25% of the Dwellings EXCEPT THAT payments of the remaining 75% may be delayed in whole or in part at the discretion of the County Council
- 5.3 Prior to the Commencement of Development of each Unit of Employment the Owner of the relevant Unit of Employment covenants to elect in writing to the County Council to undertake one of the following options (such option shall be at the Owner's discretion) either:
 - 5.3.1 to provide a Travel Pack to each employee on commencement of their employment at the relevant Unit of Employment; or
 - 5.3.2 to request that the County Council provides a Travel Pack to each employee on commencement of their employment at of the relevant Unit of Employment.
- 5.4 In the event that the Owner of the relevant Unit of Employment elects to carry out the option as set out in paragraph 5.3.1 above the Owner of the relevant Unit of Employment covenants:
 - 5.4.1 prior to the Occupation of the first Unit of Employment to submit to the County Council details of the Travel Pack for its approval (such approval not to be unreasonably withheld or delayed) and to pay the County Council's administrative charge of £500; and
 - 5.4.2 to provide each employee with an approved Travel Pack immediately on the commencement of their employment at the relevant Unit of Employment.
- 5.5 In the event that the Owner of the relevant Unit of Employment elects for the County Council to carry out the option as set out in paragraph 5.3.2 above the Owner of the relevant Unit of Employment covenants:
 - 5.5.1 prior to the Occupation of the relevant Unit of Employment to inform the County Council in writing of the proposed numbers of employees who will occupy that Unit of Employment; and
 - 5.5.2 based on the information provided above prior to the Occupation of a Unit of Employment to pay to the County Council the Travel Pack Contribution (Employment) for each of the employees of that Unit of Employment.
- 5.6 The Owner of the relevant Unit of Employment covenants to provide or procure to provide to each new Employee of each of the relevant Unit of Employment a Bus Pass provided that:
 - 5.6.1 the new employee makes a formal application to the Owner of the relevant Unit of Employment in writing;
 - 5.6.2 such application is made within 2 years of first Occupation of the relevant Unit of Employment; and
 - 5.6.3 each new Employee is only entitled to one Bus Pass.

- 5.7 The Owner of the relevant Unit of Employment further covenants to supply to the County Council at 6 monthly intervals from first Occupation of the relevant Unit of Employment details of the Bus Passes supplied to the eligible Employees within the preceding 6 months period until 24 months after the first Occupation of the relevant Unit of Employment.

Waste Management Contribution

- 5.8 The Owner covenants with the County Council to pay the Waste Management Contribution to the County Council prior to Occupation of the first Dwelling.

Primary SEND Education Contribution

- 5.9 The Owner covenants with the County Council:
- 5.9.1 Not to Occupy or permit Occupation of any Dwelling until the Owner has paid to the County Council 10% of the total Primary SEND Education Contribution.
- 5.9.2 Not to Occupy or permit Occupation of more than 50% of the Dwellings until the Owner has paid to the County Council 45% of the total Primary SEND Education Contribution.
- 5.9.3 Not to Occupy or permit Occupation of more than 90% of the Dwellings until the Owner has paid to the County Council the remaining 45% of the total Primary SEND Education Contribution.

Secondary School Contribution

- 5.10 The Owner covenants with the County Council:
- 5.10.1 Not to Occupy or permit Occupation of any Dwelling until the Owner has paid to the County Council 10% of the total Secondary School Contribution.
- 5.10.2 Not to Occupy or permit Occupation of more than 50% of the Dwellings until the Owner has paid to the County Council 45% of the total Secondary School Contribution.
- 5.10.3 Not to Occupy or permit Occupation of more than 90% of the Dwellings until the Owner has paid to the County Council the remaining 45% of the total Secondary School Contribution.

Secondary SEND Education Contribution

- 5.11 The Owner covenants with the County Council:
- 5.11.1 Not to Occupy or permit Occupation of any Dwelling until the Owner has paid to the County Council 10% of the total Secondary SEND Education Contribution.
- 5.11.2 Not to Occupy or permit Occupation of more than 50% of the Dwellings until the Owner has paid to the County Council 45% of the total Secondary SEND Education Contribution.

5.11.3 Not to Occupy or permit Occupation of more than 90% of the Dwellings until the Owner has paid to the County Council the remaining 45% of the total Secondary SEND Education Contribution.

Post 16 Education Contribution

5.12 The Owner covenants with the County Council to pay the Post 16 Education Contribution to the County Council in the following instalments:

5.12.1 Not to Occupy or permit Occupation of any Dwelling until the Owner has paid to the County Council 10% of the total Post 16 Education Contribution.

5.12.2 Not to Occupy or permit Occupation of more than 50% of the Dwellings until the Owner has paid to the County Council 45% of the total Post 16 Education Contribution.

5.12.3 Not to Occupy or permit Occupation of more than 90% of the Dwellings until the Owner has paid to the County Council the remaining 45% of the total Post 16 Education Contribution.

Early Years School Contribution

5.13 The Owner covenants with the County Council to pay the Early Years School Contribution to the County Council in the following instalments:

5.13.1 Not to Occupy or permit Occupation of any Dwelling until the Owner has paid to the County Council 10% of the total Early Years School Contribution.

5.13.2 Not to Occupy or permit Occupation of more than 50% of the Dwellings until the Owner has paid to the County Council 45% of the total Early Years School Contribution.

5.13.3 Not to Occupy or permit Occupation of more than 90% of the Dwellings until the Owner has paid to the County Council the remaining 45% of the total Early Years School Contribution.

County Council Monitoring Costs

5.14 The Owner covenants with the County Council to pay the County Council Monitoring Costs prior to first Occupation of the first Dwelling

County Council's Legal Costs

5.15 The Developer covenants with the County Council to pay the County Council's costs of £1,900.00 on the execution of this Agreement

Travel Plan

5.16 The Owner covenants with the County Council to:

5.16.1 pay the Travel Plan Monitoring Fee to the County Council prior to Occupation of the Development.

5.16.2 appoint a Travel Plan Co-ordinator for the residential development from the date of Occupation of the first Dwelling for a period of 5 years. The Owner shall notify the Borough Council in writing of the name, address, email address and telephone number of the person appointed;

- 5.17 The Owner of a Unit of Employment shall appoint a Travel Plan Co-ordinator for the relevant Unit of Employment from the date of Occupation of the relevant Unit of Employment for a period of 5 years. The Owner of the relevant Unit of Employment shall notify the Borough Council in writing of the name, address, email address and telephone number of the person appointed

Traffic Regulation Order

- 5.18 The Owner covenants with the County Council to:

5.18.1 not interfere with the free flow of traffic on the existing highway or in any way obstruct the highway without the express written permission of the County Council and the bringing into force of any necessary Traffic Regulation Order

5.18.2 pay to the County Council the Traffic Regulation Order Contribution prior to Commencement of Development

BOROUGH COUNCIL'S COVENANTS TO THE OWNER

6. Health Facilities Contribution

- 6.1 The Borough Council covenants with the Owner to pay the Health Facilities Contribution to the Health Care Provider upon receipt of the contribution from the Owner and a covenant from the Health Care Provider (addressed and supplied to both the Borough Council and the Owner) confirming that it will apply the Health Facilities Contribution for the defined purposes and for no other purposes whatsoever and that should it not spend the Health Facilities Contribution within 10 years of receipt of the contribution by the Borough Council or shall fail to provide evidence of such expenditure to the party who made the payment when requested at the end of the 10 year period then it shall repay to the person that made the payment the Health Facilities Contribution or so much of it as remains unspent for the purposes specified at the end of the 10 year period PROVIDED ALWAYS that the Borough Council shall be under no obligation to the Owner to ensure that the Health Facilities Contribution is so applied by the Health Care Provider and shall be deemed to have discharged its obligation under this Agreement to the Owner in respect of the contribution to the Health Care Provider upon payment of the Health Facilities Contribution to the Health Care Provider.

6.2 Deed of Release

Upon request where compliance with an obligation in this Agreement has been fulfilled to certify compliance with such obligation and if so requested the Borough Council covenants with the Owner to execute a deed of release (or partial release) from the relevant obligation and procure that a note thereof is entered on the Register of Local Land Charges

6.3 Gifted Dwellings

The Borough Council covenants that the Gifted Dwellings shall only be used for Affordable Rent and by occupants who meet the Local Connection Criteria

Repayment

- 6.4 In the event that any of the Borough Council Contributions (save for the Health Care Facilities Contribution) are not applied or committed to the purposes specified within ten years of the date of receipt or the date of receipt of the final instalment where payable in instalments the Council covenants with the Owner to refund to the person who made the payment on written demand such unexpended amount of the relevant contribution along with any interest accrued
- 6.5 The Council covenants with the Owner to produce full details of the expenditure of Borough Council Contributions following receipt of a reasonable request for the same in writing from the Owner

THE COUNTY COUNCIL COVENANTS TO THE OWNER

7.1 Library Contribution

The County Council covenants with the Owner to apply the Library Contribution in accordance with the definition hereof and for no other purpose whatsoever

7.2 Primary SEND Education Contribution

The County Council covenants with the Owner to apply the Primary Education Contribution in accordance with the definition hereof and for no other purpose whatsoever

7.3 Secondary School Contribution

The County Council covenants with the Owner to apply the Secondary School Contribution in accordance with the definition hereof and for no other purpose whatsoever

7.4 Travel Pack Contribution

The County Council covenants with the Owner to apply the Travel Pack Contribution (Residential) and Travel Pack Contribution (Employment) solely towards the provision of Travel Packs and for no other purpose whatsoever

7.5 Bus Pass Contribution

The County Council covenants with the Owner as follows:

7.5.1 To apply the Bus Pass Contribution (Residential) solely for the provision of Bus Passes to the Occupants of Dwellings who complete and return the application forms in the Travel Pack within 6 months of their first Occupation of a Dwelling

7.5.2 Upon receipt of a written request to account in writing to the Owner commencing from the payment of the first tranche of the Bus Pass Contribution (Residential) with full details of the number of Bus Passes issued

7.5.3 At the end of a period of nine months after the notification of the Occupation of the final Dwelling to be constructed pursuant to the Permission to repay upon written request

from the Owner to the party who made the payment any unexpended portion of the Bus Pass Contribution

Waste Management Contribution

- 7.6 The County Council covenants with the Owner to apply the Waste Management Contribution solely towards the costs associated with Waste Management and for no other purpose whatsoever

Secondary SEND Education Contribution

- 7.7 The County Council covenants with the Owner to apply the Secondary SEND Education Contribution in accordance with the definition hereof and for no other purpose whatsoever

Post 16 Education Contribution

- 7.8 The County Council covenants with the Owner to apply the Post 16 Education Contribution in accordance with the definition hereof and for no other purpose whatsoever

Early Years School Contribution

- 7.9 The County Council covenants with the Owner to apply the Early Years School Contribution in accordance with the definition hereof and for no other purpose whatsoever

Travel Plan Monitoring Fee

- 7.10 The County Council covenants with the Owner to apply the Travel Plan Monitoring Fee in accordance with the definition hereof and for no other purpose whatsoever

Repayment

- 7.11 In the event that any monies payable to the County Council pursuant to this Agreement (with the exception of the Bus Pass Contribution (Residential) of this Agreement are not applied or committed to the purposes specified within ten years of the date of receipt or the date of receipt of the final instalment where payable in instalments the County Council covenants with the Owner to refund to the person who made the payment on written demand such unexpended contribution along with any interest accrued
- 7.12 The County Council covenants with the Owner to produce full details of the expenditure of all monies paid pursuant to the provisions of this Agreement which details shall be provided following receipt of a request in writing for the same from the Owner

Deed of Release

- 7.13 Upon request where compliance with an obligation in this Agreement has been fulfilled to certify compliance with such obligation and if so requested the County Council covenants with the Owner to execute a deed of release (or partial release) from the relevant obligation and procure that a note thereof is entered on the Register of Local Land Charges

THE FIRST SCHEDULE
INDEXATION PROVISIONS

1. In this Schedule:-

"Index" means the All in Tender Price Index of Buildings Cost Information Services ("BCIS") as published by the Royal Institute of Chartered Surveyors ("RICS") or in the event that the RICS shall change the basis of compilation or cease to compile or publish the said Index such other Index as the parties hereto shall agree or in default of agreement such Index as shall be determined by an arbitrator appointed by the President of the RICS for the purposes of this Agreement in all cases to ensure as nearly as possible that the sums of money involved shall fluctuate in accordance with the general level of the building industry costs

"Base Index Date" means the date of this Agreement except in relation to the Primary SEND Education Contribution, Secondary SEND Education Contribution Secondary School Contribution and Post 16 Education Contribution in respect of which it shall mean 1 July 2021, and the Early Years School Contributions in respect of which it shall mean 1 June 2023

"Base Index Figure" means the figure published in respect of the Index immediately prior to the Base Index Date

"Final Index Figure" means the figure published or otherwise agreed or determined in respect of the Index immediately prior to the respective dates upon which the relevant contribution is paid

2. The relevant contribution shall be increased by such sum, if any, in pounds sterling as shall be equal to the sum calculated according to the following formula:-

$$\text{Increased Sum} = \frac{A \times C}{B}$$

Where: "A" equals the relevant contribution

"B" equals the Base Index Figure

"C" equals the Final Index Figure

3. If after the Base Index Date there should be any increase in the Base Index Figure by reference to which changes in the Index are calculated, the figure taken to be shown in the Index after such change shall be the figure which would have been shown in the Index if the said Base Index Figure had been retained and the appropriate reconciliation shall be made
4. If any substitution for the said the BCIS, or any index previously substituted therefore shall occur, the parties hereto shall endeavour to agree the appropriate reconciliation between the Index substituted on the one hand and the BCIS or any index previously substituted therefore on the other hand

PLAN

GIFTED DWELLINGS PLAN

ON SITE OPEN SPACE AREAS PLAN

THE COMMON SEAL OF HINCKLEY AND BOSWORTH BOROUGH COUNCIL was
hereunto affixed in the presence of:

Authorised signatory

THE COMMON SEAL of LEICESTERSHIRE COUNTY COUNCIL
was hereunto affixed in the presence of: -

Authorised Officer

EXECUTED AS A DEED by **MILLER HOMES LIMITED**

acting by a Director

Director

In the presence of:)

Witness Signature:)

Witness Name:

Witness Address:)

Witness Occupation:

EXECUTED AS A DEED by THE LEICESTER DIOCESAN BOARD OF FINANCE

acting by a Director

Director

In the presence of:)

Witness Signature:)

Witness Name:

Witness Address:)

Witness Occupation: