

DATED

2025

**(1) NEIL TERRENCE MAYNE and DEBBIE SHARON
MORRISON**

and

**(2) STANLEY ARTHUR ADCOCK, JO-ANN ADCOCK and
MARTIN JOHN OWEN JONES**

and

(3) HINCKLEY AND BOSWORTH BOROUGH COUNCIL

and

(4) LEICESTERSHIRE COUNTY COUNCIL

and

(5) RICHBOROUGH ESTATES GROUP LIMITED

PLANNING AGREEMENT

Pursuant to Section 106 of the Town and Country
Planning Act 1990 relating to residential development on
land north of Normandy Way Hinckley

Planning application reference: 24/00264/OUT

Hinckley and Bosworth Borough Council

Legal Services

The Hub

Rugby Road

Hinckley

- B. The Borough Council and the County Council are both Principal Councils within the meaning of the Local Government Act 1972 (as amended) and the obligations contained herein are enforceable by the Borough Council and the County Council in respect of the obligations owed to each of them
- C. The County Council is the local highway authority and is responsible for the provision of education waste management and library facilities for the area in which the Application Land is situated
- D. The First Owner is the freehold owner of those parts of the Application Land registered at HM Land Registry with title absolute under title number LT300988
- E. The Second Owner is the freehold owner of those parts of the Application Land registered at HM Land Registry with title absolute under title number LT547417
- F. The Developer has the benefit of a promotion agreement in relation to the part of the Application Land within title number LT300988 entered into with the First Owner dated 12 March 2024 and enters this Agreement for the purpose of consenting to the Application Land being bound by the obligations contained in this Agreement
- G. The Developer has the benefit of a promotion agreement in relation to the part of the Application Land within title number LT547417 entered into with Stanley Adcock and Jo-Ann Adcock dated 17 December 2021 and enters this Agreement for the purpose of consenting to the Application Land being bound by the obligations contained in this Agreement

- H. The Planning Application was made to the Borough Council by the Developer for planning permission for the Development as described in the Planning Application
- I. The Borough Council resolved on 9 September 2025 to grant the Planning Permission subject to the completion of this Agreement
- J. The Borough Council, the County Council, the Owner and the Developer are entering into this Deed to make provision for regulating the Development in the manner hereinafter appearing and have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council and the County Council against the Owner
- K. The parties to this Agreement have given due consideration to the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (to the extent relevant to the obligations in this Agreement) and the advice set out at paragraph 58 of the NPPF and consider that the planning obligations contained within this Agreement are:
- (i) necessary to make the Development acceptable in planning terms;
 - (ii) directly related to the Development; and
 - (iii) fairly and reasonably related in scale and kind to the Development

OPERATIVE PROVISIONS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following expressions shall have the

following meanings:

"the Act"	means the Town and Country Planning Act 1990 (as amended)
"Accessible Natural Green Space"	means open space to be provided as publicly accessible woodland and/or urban forestry and/or scrub grasslands (including downlands and/or commons and/or meadows and/or wetlands and/or open and running water and/or wastelands) on the Application Land to accord with the Borough Council's current policy requirements amounting to at least 40 square metres per Dwelling
"Additional First Homes Contribution"	means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 6.8, 6.9, and 8 of the Third Schedule the lower of the following two amounts a) 30% of the proceeds of sale, and b) The proceeds of sale less the amount due and outstanding to any Mortgagee of the

relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home

and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Home Owner as a result of the disposal of the First Home other than as a First Home

“Adjacent Development Land”

means the land on which the adjacent development (being the development pursuant to planning permission reference 22/00318/OUT) is to be constructed and such land being more particularly described as

the land within the planning application site boundary for that planning permission (reference 22/00318/OUT)

"Affordable Dwelling/s"

means the units to be constructed as part of the Development as Affordable Housing being 20% of the total number of Dwellings and to comprise:

- (i) 50% Affordable Housing for Rent (rounded down to the nearest whole Dwelling);
- (ii) 25% Shared Ownership Dwellings (rounded up to the nearest whole Dwelling); and
- (iii) 25% First Homes (rounded up to the nearest whole Dwelling)

unless otherwise agreed in writing by the Owner and the Borough Council PROVIDED THAT in (ii) and (iii) above where the rounding up to the nearest whole Dwelling results in more than the overall requirement of Affordable Dwellings then the relevant Shared Ownership Dwellings and/or First Homes shall be rounded down to the nearest whole Dwelling as

	appropriate to achieve the correct number of Affordable Dwellings overall
"AHP Affordable Dwelling/s"	means those Affordable Dwellings which are to be transferred to an Affordable Housing Provider (being the Affordable Housing for Rent and the Shared Ownership Dwellings)
"Affordable Housing"	has the meaning given to it in Annex 2 of the NPPF
"Affordable Housing Commuted Sum"	means a financial contribution in lieu of the on site provision of Affordable Dwellings such contribution being part of the Alternative Affordable Housing Provision such sum to be equivalent to the difference in value of the relevant land which is released (i) with Affordable Housing provision on such land and (ii) without Affordable Housing provision on such land with provision of Market Dwellings on such land instead such financial contribution to be paid to the Borough Council to procure new affordable housing or improvements to existing affordable housing within

the Borough Council's administrative area

"Affordable Housing Notice"

means a written notice to be served by the Owner on the Borough Council confirming that the Owner has been unable to transfer the AHP Affordable Dwellings or any of them within a Parcel to an Affordable Housing Provider such notice to be accompanied by: (i) details of the Affordable Housing Providers who have been approached to purchase the relevant Affordable Dwellings and (ii) copies of the responses/offers from Affordable Housing Providers

"Affordable Housing Provider"

means either:

- i) a provider of Affordable Housing who is registered with the Regulator of Social Housing under the Housing and Regeneration Act 2008 or any successor authority; or
- ii) any other housing provider approved in writing by the Borough Council; or

- iii) any other company or body approved in writing by the Borough Council

"Affordable Housing Scheme (Development)"

means the scheme for the provision of the Affordable Dwellings as part of the Development to be submitted in accordance with clause 3.1.1 and containing details of the number of the Affordable Dwellings and details of the composition of the Affordable Dwellings and on the basis of 415 Dwellings including 83 Affordable Dwellings in the scheme for the whole Development including 41 Affordable Housing for Rent which would include 6x1-bedroomed 2-person maisonettes or quarter houses 5x2-bedroomed 4 person bungalows 18x2-bedroomed 4 person houses 10x3-bedroomed 5 person houses and 2x4-bedroomed 6 person houses; 21 First Homes which would include 11x2-bedroomed 4 person houses and 10x3-bedroomed 5 person houses; and 21 Shared Ownership Dwellings which would include 11x2-bedroomed 4 person houses and

10x3-bedroomed 5 person houses (with a mix of types of units in equivalent proportions to the above (with rounding up or down as necessary) if the number of Affordable Dwellings is less than 83 due to the overall number of Dwellings being less than 415) containing details of the number and composition of Affordable Dwellings in each proposed Parcel of the Development and details of the Affordable Housing Provider for each Parcel if known

“Affordable Housing Scheme (Parcel)”

means a scheme for the provision of the Affordable Dwellings on a Parcel to be submitted in strict accordance with clause 3.1.3 in respect of the details of the number and composition of the Affordable Dwellings in that Parcel together with the location of the Affordable Dwellings in that Parcel to be agreed with the Council and details of the Affordable Housing Provider for that Parcel if known AND FOR THE AVOIDANCE OF DOUBT the Affordable Housing Scheme (Parcel)

	shall be in accordance with the Affordable Housing Scheme (Development)
"Affordable Housing for Rent"	means a rented housing unit built pursuant to the Planning Permission which is within the definition of 'Affordable housing for rent' set out in Annex 2 of the NPPF
"Alternative Affordable Housing Provision"	means the package of alternative Affordable Housing provision to be proposed by the Owner and approved by the Borough Council as set out in clauses 3.3 – 3.5 of this Deed
"Application Land"	means the land north of Normandy Road Hinckley being the land registered with title absolute at the Land Registry under title numbers LT547417 (part thereof) and LT300988 as shown edged red on the Plan excluding any public highway
"Armed Services Member"	means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home a

divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or in part by their service

“Base Rate”

means the base lending rate from time to time of HSBC Bank PLC or if that base rate ceases to be used or published a comparable commercial lending rate reasonably determined by the Borough Council

“Borough Council Monitoring Fees Contribution”

means the sum of Six Thousand Two Hundred and Eighty Pounds (£6,280) (calculated on the basis of £628 per Borough Council planning obligation) such sum adjusted in accordance with the indexation provisions of the First Schedule hereto and payable by the Owner to Borough Council as a contribution towards the costs of the Borough Council monitoring compliance with obligations contained herein

"Bus Pass(es)"	means an adult bus pass entitling the holder of each bus pass to travel free of charge on local bus services over a period of six (6) months commencing from the date of issue of the bus pass
"Bus Pass Contribution"	means the sum of Eight Hundred and Ninety Pounds (£890.00) per Dwelling (adjusted in accordance with the indexation provisions contained in the First Schedule) payable by the Owner to the County Council towards the provision of Bus Passes in accordance with the provisions of clause 5.6
"Casual/Informal Open Space"	means usable informal open play space to be provided on the Application Land to accord with the Borough Council's current policy requirements amounting to at least 16.8 sqm per Dwelling
"Commencement of Development"	means 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

- 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
- iii. any works of demolition or site clearance
- iv. any structural planting or landscaping works
- v. ecological or nature conservation works associated with the Development
- vi. construction of site compounds boundary fencing or hoardings
- vii. construction of access or highway works or provision of services (including drainage and media)

viii. any other preparatory works agreed in writing with the Borough Council

and "Commence the Development" shall be construed accordingly

"Compliance Certificate"

means a certificate issued by the Borough Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National)

"County Council Monitoring Costs Contribution"

means the sum of Three Hundred Pounds (£300.00) per planning obligation owed to the County Council herein or 0.5% of the value of any contribution due to the County Council (whichever is the greater) payable by the Owner to the County Council as a contribution towards the costs of the County Council in monitoring compliance with obligations owed to it contained herein

"Default Interest Rate"

means a rate 4% above Base Rate

"Development"

means the development described in the Planning Application and to be

carried out pursuant to the Planning Permission

“Discount Market Price”

means a sum which is the Market Value discounted by at least 30%

“Disposal”

means the transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than

a) a letting or sub-letting in accordance with paragraph 7 of The Third Schedule

b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes Owner

c) an Exempt Disposal

and “Disposed” and “Disposing” shall be construed accordingly

"Dwelling"

means a dwelling built pursuant to the Planning Permission and whether an Affordable Dwelling or otherwise

“Early Years Contribution”

means the maximum sum of Six Hundred and Forty Seven Thousand Five Hundred and Seven Pounds and Ninety Pence (£647,507.90) (adjusted in accordance with the indexation provisions of the First Schedule) calculated as follows

$$(A \times 0.085 \times £18,356.00) = B$$

Where:

A = total no of Dwellings which comprise two or more bedrooms

B = total Early Years Contribution payable (index linked in accordance with the indexation provisions of the First Schedule)

in accordance with the provisions of clause 5.10 to be paid by the Owner to the County Council towards the improvement remodelling or enhancement of the existing facilities at Hollycroft Primary School in order to create additional capacity for early years provision or at any other early years educational establishment (including the construction of a new educational establishment) to

support the early years provision for the Development

“Eligibility Criteria (National)”

means criteria which are met in respect of a purchase of a First Home if:

- a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer), and
- b) the purchaser`s annual gross income (or in the case of a joint purchasers` the joint annual gross income) does not exceed the Income Cap (National)

“Equipped Children’s Play Space”

means open space to be provided with play equipment on the Application Land to accord with the Borough Council’s current policy requirements amounting to at least 3.6 square metres per Dwelling which will accommodate a MUGA (multi use games area) and a LEAP (local equipped area of play) and LAPs

(local areas of play) where such LAPs include equipment

“Exempt Disposal”

means the Disposal of First Home in one of the following circumstances

- a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner
- b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner
- c) a Disposal to a former spouse or former civil partner in accordance with the terms of a court order divorce settlement or other legal agreement or order upon divorce annulment or dissolution of the marriage or civil partnership or the making of a nullity separation or presumption of death order
- d) a Disposal to a trustee in bankruptcy prior to the sale of the relevant Dwelling (and for the avoidance of doubt

paragraph 8 of the Third Schedule shall apply to such sale)

Provided that in each case other than (d) the person to whom the disposal is made complies with Paragraph 7 of the Third Schedule

“First Homes”

means a Dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at a Discount Market Price and which on its first Disposal does not exceed the Price Cap

“First Homes Owner”

means a person or persons having the freehold or leasehold interest (as applicable) in a First Home, other than

- a) the developer, or
- b) any developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land on which the First Home is to be provided has been transferred

before that First Home is made available and is disposed of for occupation as a First Home, or

- c) a tenant or sub tenant of a permitted letting under paragraph 7 of The Third Schedule

“First Time Buyer”

means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003

“Health Care Facilities Contribution”

means the sum (not exceeding Three Hundred and Twenty One Thousand Three Hundred and Seventy Six Pounds (£321,376)) which shall be calculated in accordance with the following:

$(A \times B) \times (C \times D) = \text{Health Care Facilities Contribution}$

Where:

A is 2.42 (the average persons per dwelling)

B is the number of Dwellings erected on the Application Land

C is 0.08 (the standard area m²/person)

D is £4,000 (cost of extension including fees £/m²)

payable by the Owner to the Borough Council in accordance with the provisions of clause 4.3 and adjusted in accordance with the indexation provisions of the First Schedule towards the improvement of services at the Barwell and Hollycroft Medical Centres Hinckley consequent upon the impact of the Development

“Health Care Body”

means the Leicester Leicestershire and Rutland Integrated Care Board or any successor body

“Highways Contribution – A5 Dodwells” means the sum of One Million Forty Three Thousand Five Hundred and Fifty Two Pounds and Twenty Four Pence (£1,043,552.24) (adjusted in accordance with the indexation provisions contained in the First Schedule) towards strategic highway improvements at the A47/A5 Dodwells junction

"Highways Contribution A47/A447" – means the sum of Four Hundred and Seventy One Thousand Seven Hundred and Eighty Nine Pounds and Forty Seven Pence (£471,789.47) (adjusted in accordance with the indexation provisions contained in the First Schedule) towards strategic highway improvements at the A47/A447 junction

"Waste Management Contribution" means the sum of Forty Nine Pounds and Fifty Three Pence (£49.53) (adjusted in accordance with the indexation provisions contained in the First Schedule) per Dwelling subject to a maximum sum of Twenty Thousand Five Hundred and Fifty Four Pounds and Ninety Five Pence (£20,554.95) (adjusted in accordance with the indexation provisions contained in the First Schedule) payable by the Owner to the County Council towards site reconfiguration and/or development of waste infrastructure to increase the capacity for the Barwell Household

Waste Recycling Centre ("HWRC") or any other HWRC directly impacted by the Development in accordance with the provisions of clause 5.9 hereof

"Income Cap (National)"

means in the case of a First Home located within the administrative area of Hinckley and Bosworth Borough Council the sum of Eighty Thousand Pounds (£80,000.00) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home

"Key Worker"

means a person employed or with a confirmed job offer in one of the categories of employment as may be published by the Borough Council from time to time as the "First Homes Key Worker Criteria" and is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Key

Worker” criteria which shall apply to that disposal

“LAP”

means a local area of play of a minimum size of 10m by 10m open space to be provided on the Application Land specifically designed and primarily laid out for very young children to play safely close to where they live, designed to encourage informal play and social interaction for toddlers. The LAP requires no play equipment as such, relying more on demonstrative features indicating that play is positively encouraged

“Library Facilities Contribution”

means the sum to be used at Hinckley Library to provide improvements to the 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 the Development calculated in

accordance with the following formula:

$$(A \times 1.157 \times 8.70 \times 3) + (B \times 1.157 \times 8.70 \times 1.5) + (C \times 1.157 \times 8.70 \times 1) = D$$

Where:

A = total number of Dwellings which comprise two or more bedrooms

B = total number of Dwellings which comprise one bedroom

C = total number of student bed Dwellings

D = total Library Facilities Contribution payable (adjusted in accordance with the indexation provisions of the First Schedule)

subject to a maximum sum of Twelve Thousand Five Hundred and Thirty Two Pounds and Five Pence (£12,532.05) (adjusted in accordance with the indexation provisions of the First Schedule) payable by the Owner to the County Council

“Local Connection Criteria (First Homes)”

means such local connection criteria applicable to First Homes as may be published by the Borough Council

from time to time as its "First Homes Local Connection Criteria" and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria" which shall apply to that disposal.

"Local Employment and Training Strategy ("LETS")"

means a Local Employment and Training Strategy that seeks to ensure and promote local and appropriate employment and training opportunities for local companies and individuals on the construction of the development, including external and internal construction work and which may include:

a) details of how the initial staff/employment opportunities at the Development will be advertised and how liaison with the Borough Council and other bodies will take place in relation to maximising the access of the local workforce within

the borough of Hinckley and Bosworth to information about employment opportunities;

b) details of how sustainable training opportunities will be provided for those recruited to fulfil staff / employment requirements including the provision of apprenticeships or an agreed alternative, so far as practicable having due regard to the need and availability for specialist skills and trades and the programme for constructing the Development;

c) a procedure for matching of candidates to the vacancies;

d) measures to be taken to offer and provide college and/or work placement opportunities at the Development to students;

e) details of the promotion of the LETS and liaison with contractors engaged in the construction of the Development to ensure that they also apply the LETS so far as practicable having due regard to the need and availability for specialist

skills and trades and the programme for constructing the Development;

f) a procedure for monitoring the LETS and reporting the results of such monitoring to the Borough Council; and

g) a timetable for implementation of the LETS

“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 an Affordable Dwelling

“Market Value”

means open market value as assessed by a Valuer of a Dwelling as confirmed to the Borough Council by the First Homes Owner and assessed in accordance with the RICS Valuation Global Standards 2021 including the UK National Supplement (November 2018) (or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation

“Mortgagee”

means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shari`ah compliant finance for the purposes of acquiring a First Home

“Noise Mitigation Contribution”

means the sum of Sixty Thousand Pounds (£60,000) payable by the Owner to the Borough Council in order to provide a noise mitigation fund for the benefit of the freehold owners of the properties at 5, 6, 7, 8, 9 and 10 Hardy Close Hinckley such that the freehold owners of these properties may apply to the Borough Council to draw down a maximum sum of £10,000 for each of the above properties for the following mitigation measures: (i) replacement or upgraded glazing on the rear elevation of the property facing the A47, Normandy Way; or (ii) acoustic fencing along the property's

boundary with the A47, Normandy Way PROVIDED THAT in order to draw down such funds the freehold owners of the above specified properties are required by the Borough Council to: (i) apply to the Borough Council in writing for approval of the proposed works and the costs of such works as detailed above such that the proposed payment is approved prior to commencing the required works; and (ii) provide a satisfactory certificate of completion of the approved works to the Borough Council before the Borough Council will make the said payment to the relevant owner

“NPPF”

means the National Planning Policy Framework published by The Ministry of Housing Communities and Local Government in December 2024 or any successor provisions which may be introduced from time to time including for the avoidance of doubt changes in policy or legislative changes

"Off Site Open Space Contribution" means a sum payable by the Owner to the Borough Council in accordance with the provisions of clause 4.1 hereof towards the provision and/or improvement and maintenance of outdoor sports facilities at Richmond Park adjusted in accordance with the indexation provisions of the First Schedule hereof and calculated as follows:

in relation to Outdoor Sports Provision the sum of number of Dwellings x 38.4 sqm x £9.05 towards the provision of the same (to a maximum of One Hundred and Forty Four Thousand Two Hundred and Twenty Pounds and Eighty Pence (£144,220.80)) ("the Provision Sum") and in relation to maintenance the sum of number of Dwellings x 38.4 sqm x £4.30 towards the maintenance of the same (to a maximum of Sixty Eight Thousand Five Hundred and Twenty Four Pounds and Eighty Pence (£68,524.80)) ("the Maintenance Sum")

“Occupation”

means in relation to the Development 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 of the Development; or

(iii) the storage of plant and materials

and “Occupy” and “Occupied” shall be construed accordingly

“On Site Open Space Area”

means those parts of the Application Land the extent of which being generally in accordance with the areas shown on the Plan comprising:

Casual/Informal Open Space shown coloured dark green on the Plan;

Accessible Natural Green Space shown coloured light green on the Plan; and

Equipped Children's Play Space shown coloured orange on the Plan with the precise boundary of the overall area of On Site Open Space Area and the precise boundaries of each of the above typologies to be determined by the reserved matters approvals pursuant to the Planning Permission and the term On Site Open Space Area shall be construed as referring to the relevant part of the On Site Open Space Area within a Parcel where the context so requires in clause 4.2

"On Site Open Space Area Maintenance Contribution"

means the minimum sum of £75,297.60 in relation to the total Casual/Informal Open Space across the Development (such sum being on the basis of the number of Dwellings x 16.8 sqm of Casual/Informal Open Space x £10.80 with the sum increasing if there is more Casual/Informal Open Space at a rate of £10.80 per square metre) for the maintenance of the Casual/Informal Open Space; the minimum sum of £235,720.00 in relation to the total

Accessible Natural Green Space across the Development (such sum being on the basis of the number of Dwellings x 40 sqm of Accessible Natural Green Space x £14.20 with the sum increasing if there is more Accessible Natural Green Space at a rate of £14.20 per square metre) for the maintenance of the Accessible Natural Green Space; and the minimum sum of £262,346.40 in relation to the total Equipped Children's Play Space across the Development (such sum being on the basis of the number of Dwellings x 3.6 sqm of Equipped Children's Play Space x £175.60 with the sum increasing if there is more Equipped Children's Play Space at a rate of £175.60 per square metre) in accordance with the provisions of clause 4.2.6.3 and such sums to be adjusted in accordance with the indexation provisions contained in the First Schedule in relation to the maintenance of the On Site Open Space Area provided on the Application Land where the On Site

	Open Space Area is transferred to the Borough Council for future management and maintenance
"On Site Open Space Area Maintenance Scheme"	means the scheme for the future maintenance and management of the On Site Open Site Space Area to be submitted by the Owner to the Borough Council in accordance with the provisions of clause 4.2.4
"Outdoor Sports Provision"	means natural or artificial services either publicly or privately owned used for sport and recreation and includes school playing fields
"On Site Open Space Area Scheme"	means the scheme for the provision phasing and laying out of the On Site Open Space Area to be submitted by the Owner to the Borough Council in accordance with the provisions of clause 4.2.1
"Other Affordable Home Ownership"	means Affordable Housing for sale as described in paragraphs (c) and (d) to the definition of 'Affordable Housing' in Annex 2: Glossary to the NPPF which for the avoidance of doubt may include discount market sales housing, shared ownership, relevant

equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent)

“Owner”

means the First Owner and the Second Owner

“Parcel”

means a part of the Development for which an application for reserved matters approval is submitted to the Borough Council and which includes Dwellings

“Plan”

means the plan attached hereto being drawing number n2225 004-02 and titled Parameters Plan – Open Space Provision

“Planning Application”

means the Planning Application submitted to the Borough Council and allocated reference number 24/00264/OUT applying for outline planning permission for up to 415 dwellings, including public open space, drainage, landscaping and associated infrastructure

“Planning Permission”

means the outline planning permission granted pursuant to the Planning Application

“Post -16 Sector Contribution”

means the maximum sum of Two Hundred and Sixty Four Thousand Six Hundred and Eighty Three Pounds and Twenty Seven Pence (£264,683.27) (adjusted in accordance with the indexation provisions of the First Schedule) calculated as follows:

$$(A \times 0.033 \times £19,327) + (B \times 0.0053 \times £19,327) = C$$

Where:

A = total no of houses within the Development which comprise two or more bedrooms

B = total no of flats/apartments within the Development with two or more bedrooms

C = total Post-16 Sector Contribution payable (index linked in accordance with the indexation provisions of the First Schedule)

payable by the Owner to the County Council pursuant to clause 5.14 towards the improvement remodelling or enhancement of the existing facilities at The Hinckley School in order to create additional capacity or at any other Post-16 educational establishment (including the construction of a new educational establishment) which shall provide a catchment facility for pupils living on the Development

“Practical Completion”

means the stage reached when the construction of a First Home is sufficiently complete that where necessary a certificate of practical completion can be issued and it can be Occupied

“Price Cap”

means the amount for which the First Home is sold after the application of the of the Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State

“Public Realm Improvements Contribution”

means the sum of One Hundred and Fifty Eight Pounds (£158.00) per Dwelling (subject to a maximum sum of Sixty Six Thousand Pounds (£66,000)) payable by the Owner to the Borough Council in accordance with the provisions of clause 4.4 hereof towards the provision and/or improvement to the public realm in Hinckley town centre

“Relevant Roads and Footpaths”

means those roads cycleways and footpaths within the Application Land which may link to the Adjacent Development Land from the Development

“Secondary School Sector (11-16) Contribution”

means the maximum sum of One Million Two Hundred and Thirty Eight Thousand Eight Hundred and Ninety Six Pounds and Eighteen Pence (£1,238,896.18) (index linked in accordance with the provisions of the First Schedule) calculated as follows:

$$(A \times 0.167 \times £17,876) + (B \times 0.0267 \times £17,876) = C$$

Where:

A = total no of houses within the Development which comprise two or more bedrooms

B = total no of flats/apartments within the Development with two or more bedrooms

C = total Secondary School Sector (11-16) Contribution payable (index linked in accordance with the indexation provisions of the First Schedule)

payable by the Owner to the County Council to be used to improve remodel or enhance existing facilities at Redmoor Academy in order to create additional capacity or at any other secondary school (including the construction of a new educational establishment) which shall comprise a catchment school for pupils living on the Development

“Secretary of State”

means the Secretary of State for Ministry of Housing Communities and Local Government from time to time appointed and includes any successor in function

“SEND Contribution”

means together the SEND Contribution (Primary) and the SEND Contribution (Secondary)

“SEND Contribution (Primary)”

means the maximum sum of Ninety Eight Thousand Nine Hundred and Nineteen Pounds and Fifty Three Pence (£98,919.53) calculated as follows:

$$(A \times 0.00363 \times £65,664) + (B \times 0.00052 \times £65,664) = C$$

Where:

A = total no of houses within the Development which comprise two or more bedrooms

B = total no of flats/apartments within the Development with two or more bedrooms

C = total SEND Contribution (Primary) payable (index linked in accordance with the indexation provisions of the First Schedule)

payable by the Owner to the County Council to be used to improve remodel or enhance existing facilities at Dorothy Goodman School

Hinckley in order to create additional capacity for primary age pupils with special educational needs or at any other primary establishment (including the construction of a new educational establishment) which will accommodate pupils with special educational needs living in the Development

"SEND Contribution (Secondary)" means the maximum sum of One Hundred and Thirty Five Thousand Three Hundred and Forty One Pounds and Forty Six Pence (£135,341.46) calculated as follows:

$$(A \times 0.004 \times £81,531.00) + (B \times 0.00064 \times £81,531.00) = C$$

Where:

A = total no of houses within the Development which comprise two or more bedrooms

B = total no of flats/apartments within the Development with two or more bedrooms

C = total SEND Contribution (Secondary) payable (index linked in

accordance with the indexation provisions of the First Schedule)

payable by the Owner to the County Council to be used to improve remodel or enhance existing facilities at Dorothy Goodman School Hinckley in order to create additional capacity for secondary age pupils with special educational needs or at any other secondary establishment (including the construction of a new educational establishment) which will accommodate pupils with special educational needs living in the Development

“Shared Ownership Dwellings”

means dwellings purchased on a shared equity basis whereby not more than 75% and not less than 10% of the equity initially sold to the purchaser by the Affordable Housing Provider with flexibility to increase their degree of ownership if they so wish

“SDLT”

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it to like effect

"Travel Packs"

means the pack produced by the Owner and approved by the County Council (or in the alternative provided by the County Council) for each Dwelling providing information on public transport and other means of travel to and from the Development other than by private car including an application form for the Bus Pass(es)

"Travel Pack Contribution"

means the sum of Fifty Two Pounds and Eighty Five Pence (£52.85) per Dwelling (adjusted in accordance with the indexation provisions contained in the First Schedule) payable by the Owner to the County Council towards the provision of Travel Packs in accordance with the provisions of clause 5.3 if the Owner is not to provide the Travel Pack itself

"Travel Plan"

means the travel plan to be secured by way of a planning condition on the Planning Permission

"Travel Plan Monitoring Contribution"

means the sum of Six Thousand Pounds (£6,000) payable by the Owner to the County Council in

accordance with the provisions of clause 5.8 for monitoring the Travel Plan

“Valuer”

means a Member or Fellow of Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity

“Working Day”

means any day except any Saturday or Sunday or any other day on which banks in the City of London are not open to the general public

- 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 or Schedule of or in the case of a 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 its 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 and be binding on and enforceable against its successors in title or assignees and subject to clause 2.6 those deriving title under the Owner PROVIDED THAT without prejudice to the enforcement of covenants against successors in title no person shall be liable for any breach or non-performance of the covenants contained herein or for the performance of any obligations which arise from the carrying out of the Development on and in respect of the Application Land or any part of the Application Land in which that person does not have an interest or after that person shall have parted with its entire interest in the Application Land or that part of the Application Land to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest
- 2.5 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 as defined herein or any renewal thereof or any reserved matters approval with respect thereto) granted (whether or not on appeal) after the date of this Agreement in respect of which development this Agreement will not apply
- 2.6 The covenants contained in this Agreement shall not be enforceable against individual purchasers or lessees of Dwellings on the Application Land (save that this exemption shall not apply to the occupancy restrictions of the Affordable Dwellings as set out in clauses 3.1.7-3.1.9 hereof) or against 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

- 2.7 In the event that the Owner disposes of its interest in the Application Land or any part thereof (other than a disposal to a purchaser of a Dwelling or any disposal of any land to statutory utilities operators for operational purposes) it shall within twenty-eight (28) days of such disposal give written notice of the name and address of its 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

Contingencies

- 2.7.1 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
- 2.7.2 Save for the provisions of clause 2.15 (Exclusion of Third Party Rights) clause 2.9 (Commencement of Development) clause 2.22 (Trustees) clause 2.23 (Jurisdiction) clauses 4.6 and 5.19 (Borough Council and County Council legal costs) and clause 5.2 (Travel

Packs insofar as it relates to the election to be made prior to Commencement of Development) which shall come into effect on the date hereof the provisions of this Agreement shall come into effect only on the date on which both of the following have taken place:

- a) the grant of the Planning Permission; and
- b) the Commencement of Development

- 2.8 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 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

- 2.9 The Owner shall give the Borough Council seven (7) days` notice (addressed to the Borough Council's Head of Planning at the address for the Borough Council as stated in this Agreement) 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 and Historic and Natural Environment Department at the County Council and the date on which Commencement of Development has taken place shall be confirmed by exchange of correspondence between the Owner and the Borough Council and the County Council PROVIDED THAT default in giving notice or confirming the date by exchange of correspondence shall not prevent

Commencement of Development occurring

Determination by Expert

- 2.10 Notwithstanding any specific provision in this Agreement in the event of any dispute between the Owner 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 forty (40) 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
- 2.10.1 The person to be appointed pursuant to clause 2.10 shall if possible be a person having ten (10) 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
- 2.10.2 The reference to the expert shall be on terms that:
- 2.10.2.1 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;
- 2.10.2.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;
- 2.10.2.3 the expert shall be bound to have regard to the said submissions

and representations;

- 2.10.2.4 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;
- 2.10.2.5 the expert shall be limited in his findings to the proposals put by either party and
- 2.10.2.6 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

- 2.11 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 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

- 2.12 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 not be

unreasonably withheld or delayed and shall be deemed to have not been given or expressed unless given or expressed in writing

Notices

- 2.13 The service of notices and communications pursuant to this Agreement shall be sent to the addressee at the address stated in this Agreement (and in the case of the Borough Council shall be marked for the attention of the Borough Council's Head of Planning) or at such other address as the addressee shall have notified to the others in writing
- 2.14 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 Working 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 and Historic and Natural Environment Department

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

- 2.15 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 (as amended) 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

Application of this Agreement

- 2.16 In the event 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

No Fetter of Discretion

- 2.17 Save as permitted by law or in 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

- 2.18 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

Developer's consent

- 2.19 The Developer consents to the Owner entering into this Agreement and acknowledges that this Agreement binds the Application Land PROVIDED THAT the Developer shall otherwise have no liability under this Agreement (save for clauses 4.6 and 5.19) unless it acquires the Application Land and becomes a successor in title to the Owner or takes possession of the Application Land in which case it too will be bound by the obligations as if it was a successor in title to the Owner

General Requirement to Co-operate

- 2.20 Without prejudice to its/their 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 other

contained within this Agreement within the timescales specified

Interest on late Payment

- 2.21 If any sum or amount is not paid to the Borough Council or to the County Council by the date it is due 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 (both before and after judgement) Such interest shall accrue on a daily basis for the period from but excluding the due date to and including the day of payment

Trustees

- 2.22 The liability of the Second Owner shall be limited to the assets of the time being of the Mr S Adcock and Mrs J Adcock Discretionary Settlement and further the Second Owner in its capacity as trustees shall assume no liability after they cease to be trustee of the Mr S Adcock and Mrs J Adcock Discretionary Settlement. Notwithstanding anything else herein contained the Second Owner in its capacity as trustees shall assume no personal liability and assume no other liability under or in connection this Agreement except as trustees of the trust known as the Mr S Adcock and Mrs J Adcock Discretionary Settlement

Jurisdiction

- 2.23 This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England

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

AHP Affordable Dwellings

- 3.1 The Owner hereby covenants with the Borough Council as follows:
- 3.1.1 That no Development shall Commence unless and until the Owner shall have submitted in writing to the Borough Council and obtained the written approval of the Borough Council to the Affordable Housing Scheme (Development) for the provision of the Affordable Dwellings on the Development
- 3.1.2 To provide the Affordable Dwellings in accordance with the Affordable Housing Scheme (Development) or any variations thereto approved in advance in writing by the Borough Council
- 3.1.3 That no Development shall commence on a Parcel unless and until the Owner of that Parcel shall have submitted to the Borough Council and obtained the written approval of the Borough Council to the Affordable Housing Scheme (Parcel) for the provision of the Affordable Dwellings on that Parcel specifically approval of the location of the Affordable Dwellings on that Parcel and the Owner of each Parcel shall construct or procure the construction of the Affordable Dwellings as part of the Development on that Parcel in accordance with the Affordable Housing Scheme (Development) and the Affordable Housing Scheme (Parcel) or any variations thereto approved in advance in writing by the Borough Council
- 3.1.4 Not to Occupy or to permit the Occupation of more than 60% of the Market Dwellings on a Parcel (or such higher percentage as

may be proposed by the Owner and agreed by the Borough Council) until the AHP Affordable Dwellings to be delivered on that Parcel have been constructed ready for Occupation

3.1.5 That any transfers of the freehold interest in the AHP Affordable Dwellings to an Affordable Housing Provider shall contain the following provisions:

3.1.5.1 the grant and reservation by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the AHP Affordable Dwellings and the remainder of the Dwellings constructed or to be constructed as part of the Development

3.1.5.2 the imposition of such covenants as the Owner shall reasonably require as are consistent with the sale of any of the Dwellings within the Development

3.1.6 To notify the Borough Council within fourteen days of the transfer of any of the AHP Affordable Dwellings to an Affordable Housing Provider of the date of such transfer and to provide the Borough Council with details of the Affordable Housing Provider to which the AHP Affordable Dwelling was transferred

3.1.7 To ensure that the AHP Affordable Dwellings shall not be used or occupied other than for Affordable Housing provided that this clause 3.1.7 shall not be binding on:

3.1.7.1 any person acquiring an interest in an AHP Affordable Dwelling under a statutory right to buy the said AHP Affordable Dwelling

3.1.7.2 a lessee under a shared ownership lease of an AHP Affordable Dwelling or a mortgagee or chargee of a shared

ownership lease granted in respect of an AHP Affordable Dwelling

3.1.7.3 a person who has staircased under a shared ownership lease or an AHP Affordable Dwelling to acquire the freehold of the said AHP Affordable Dwelling or a mortgagee or chargee of such an AHP Affordable Dwelling

3.1.7.4 a mortgagee or chargee of or successor in title to any such person as is mentioned in 3.1.7.1 to 3.1.7.3 above

3.1.8 Subject to the provisions of this Agreement no Affordable Housing for Rent shall be used for any purpose other than the provision of affordable housing for rent under the Hinckley and Bosworth Choice-Based Lettings Scheme and in accordance with the objectives of the Borough Council's Housing Allocations Policy ("HAP") in force from time to time to persons in need of affordable housing within the administrative area of the Borough Council and being such persons as shall be agreed between the Borough Council and the Affordable Housing Provider who satisfy the borough connection criteria as defined in the HAP.

3.1.9 PROVIDED THAT if within 28 days of the Affordable Housing Provider notifying the Borough Council in writing of an AHP Affordable Dwelling becoming vacant no such qualifying person/s can be found to occupy the AHP Affordable Dwelling the Affordable Housing Provider may let the AHP Affordable Dwelling to any person/s who satisfy their normal letting criteria

3.1.10 The Affordable Housing provisions set out in this clause 3.1 shall not be binding on a mortgagee or chargee or any receiver (including an administrative receiver) appointed by such

mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a receiver) of the whole or part of the AHP Affordable Dwellings or any person or bodies deriving title through such mortgagee or chargee or receiver PROVIDED THAT:

- i) Such mortgagee or chargee or receiver shall first give written notice to the Borough Council of its intention to dispose of the AHP Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the AHP Affordable Dwellings to another Affordable Housing Provider or to the Borough Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies interest and costs and expenses , and
- ii) If such disposal has not been completed within a three-month period the mortgagee chargee or receiver shall be entitled to dispose of the AHP Affordable Dwellings free from the Affordable Housing provisions in respect of the AHP Affordable Dwellings in this Agreement which shall determine absolutely.

3.2 Where the Owner has used reasonable endeavours to enter into a legally binding contract with an Affordable Housing Provider

for the AHP Affordable Dwellings within a Parcel for a period of at least 6 months following the approval of the reserved matters applications for that Parcel pursuant to the Planning Permission (or such shorter period as may be agreed in writing by the Borough Council) but has not been able to secure a contract the Owner shall serve the Affordable Housing Notice on the Borough Council demonstrating the use of reasonable endeavours over that period such that an Alternative Affordable Housing Provision is necessary in relation to that Parcel

3.3 The Owner shall submit to the Borough Council details of the proposed Alternative Affordable Housing Provision for that Parcel for the Borough Council's approval either at the same time as the Affordable Housing Notice or after the Affordable Housing Notice

3.4 The Alternative Affordable Housing Provision shall comprise one or more of the following options:

3.4.1 an alternative tenure mix of Affordable Housing for Rent Shared Ownership Dwellings and First Homes

3.4.2 an alternative tenure mix which includes Other Affordable Home Ownership and which may include any of the tenures referred to in clause 3.4.1

3.4.3 the payment of an Affordable Housing Commuted Sum in respect of part or all of the Affordable Housing within that Parcel

3.4.4 the gifting of a percentage of Affordable Dwellings to the Borough Council PROVIDED THAT it is acknowledged by the parties that where gifting of Affordable Dwellings is agreed it will

be a relatively small percentage when compared against the originally required percentages of Affordable Housing provision set out in this Deed and as such would require a reduction in the overall number of Affordable Dwellings for that Parcel and therefore the Development as a whole

3.4.5 the sale of part or all of the Affordable Dwellings in that Parcel to the Council

3.5 The Borough Council and the Owner acknowledge that in reaching agreement in respect of the Alternative Affordable Housing Provision (i) the agreed Alternative Affordable Housing Provision shall leave the Owner of that Parcel in no worse financial position than compared to the financial position whereby a willing Affordable Housing Provider would have accepted a transfer of the AHP Affordable Dwellings in that Parcel; and (ii) the Borough Council's preference will be to ensure the delivery of an element of Affordable Housing for Rent whether on site or off site through the use of an Affordable Housing Commuted Sum

3.6 The approved Alternative Affordable Housing Provision shall apply to the relevant Parcel and for the avoidance of doubt where an Affordable Housing Commuted Sum is paid in lieu of on site provision then on the payment of the Affordable Housing Commuted Sum to the Borough Council those Affordable Dwellings to which it relates shall be released from the obligations in this Deed

4. **Off Site Open Space Contribution**

4.1 The Owner covenants with the Borough Council to pay the Off Site Open Space Contribution as follows:

4.1.1 not to Occupy or to permit the Occupation of more than 70 Dwellings until the Owner shall have paid to the Borough Council the Provision Sum referred to in the definition of Off Site Open Space Contribution herein

4.1.2 not to Occupy or to permit the Occupation of more than 75% of the Dwellings until the Owner shall have paid to the Borough Council the Maintenance Sum referred to in the definition of Off Site Open Space Contribution herein

On Site Open Space Area

4.2 The Owner covenants with the Borough Council in respect of the On Site Open Space Area as follows:

4.2.1 To submit the On Site Open Space Area Scheme to the Borough Council for written approval and to obtain the written approval of the Borough Council to the submitted Scheme prior to the Commencement of Development and to serve written notice on the Borough Council confirming whether the Owner 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 or alternatively to request that the Borough Council maintains the On Site Open Space Area

4.2.2 That not more than 75% of the Dwellings on a Parcel shall be Occupied or permitted to be Occupied (or such later trigger as may be proposed by the Owner and agreed by the Borough Council having regard to the construction programme for the Development and health and safety concerns) until the On Site

Open Space Area on that Parcel has been laid out and made available for use by the residents of the Development in accordance with the approved On Site Open Space Area Scheme

4.2.3 To maintain the On Site Open Space Area for a period of 12 months after notice of practical completion of the works for the On Site Open Space Area in accordance with the provisions of the approved On Site Open Space Scheme 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 Borough Council

4.2.4 In the event the Owner elects to maintain the On Site Open Space Area pursuant to clause 4.2.1, it shall within 56 days of the service of the notice referred to in clause 4.2.1 hereof submit the On Site Open Space Area Maintenance Scheme to the Borough Council for approval (such approval not to be unreasonably withheld or delayed) and shall maintain the On Site Open Space Area in accordance with the On Site Open Space Area Maintenance Scheme

4.2.5 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 referred to in clause 4.2.1 hereof submit to the Borough Council for approval (such approval not to be unreasonably withheld or delayed) 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 the Borough Council is satisfied that:

a) the management company has been incorporated and is functioning and that 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 Maintenance Scheme, and

b) the On Site Open Space Area has been transferred to the management company on the terms set out in the Second Schedule hereto

AND FOR THE AVOIDANCE OF DOUBT if the Owner elects to maintain the On Site Open Space Area or for a management company to maintain the On Site Open Space Area the On Site Open Space Maintenance Contribution shall not be payable

4.2.6 In the event the Owner requests the Borough Council to maintain the On Site Open Space Area and in the event that the Borough Council confirms in writing to the Owner that it is willing to maintain the On Site Open Space Area the following provisions shall apply:

4.2.6.1 The Owner shall give the Borough Council notice in writing that the 12-month period for maintenance in accordance with clause 4.2.3 hereof has expired and subject to the Borough Council being reasonably satisfied on an inspection that the On Site Open Space Area has been maintained in accordance with the provisions of the On Site Open Space Area Scheme the Borough Council shall issue a certificate to such effect provided that if the Borough

Council is not so satisfied the Owner shall remain responsible for the proper maintenance of the On Site Open Space Area and the maintenance period for such land shall be extended until such time as the Borough Council certifies in writing that the outstanding work has been completed or the defects have been remedied as the case may be

4.2.6.2 The Owner shall transfer to the Borough Council the On Site Open Space Area for the sum of £1.00 within six months of the issue of the certificate issued pursuant to clause 4.2.6.1 such transfer to be in accordance with the relevant provisions of the Second Schedule and for the avoidance of doubt the Owner shall maintain the On Site Open Space Area in a clean and tidy condition until the transfer to the Borough Council has been completed

4.2.6.3 The Owner shall pay the On Site Open Space Area Maintenance Contribution to the Borough Council upon transfer of the On Site Open Space Area pursuant to clause 4.2.6.2

Health Care Facilities Contribution

4.3 There shall be no Commencement of Development unless and until the Owner shall have paid 50% of the Health Care Facilities Contribution to the Borough Council and there shall be no first Occupation of the first Dwelling unless and until the Owner shall have paid the remaining 50% of the Health Care Facilities Contribution to the Borough Council.

Public Realm Improvements Contribution

- 4.4 There shall be no first Occupation of more than 50% of the Dwellings on a Parcel unless and until the Owner shall have paid the Public Realm Improvements Contribution attributable to that Parcel to the Borough Council

Noise Mitigation Contribution

- 4.5 There shall be no Commencement of Development unless and until the Owner shall have paid the Noise Mitigation Contribution to the Borough Council

Borough Council's Legal Fees

- 4.6 The Developer hereby covenants with the Borough Council to pay its legal fees in the sum of Two Thousand Two Hundred Pounds (£2,200.00) upon execution of this Agreement

Borough Council Monitoring Fees Contribution

- 4.7 The Owner covenants with the Borough Council that there shall be no Commencement of Development unless and until the Owner shall have paid the Borough Council Monitoring Fees Contribution to the Borough Council

- 4.8 The Owner covenants with the Borough Council to pay to the Borough Council:

- (a) £219 per inspection of the On Site Open Space Area requested by the Owner pursuant to clause 4.2 of this Agreement such inspection fee to be paid to the Borough Council prior to such pre-arranged site inspection visit;
- (b) £327 per document approval requested pursuant to the terms of this Agreement and such document approval fee to be paid to the Borough Council upon the submission of such a document to the Borough Council

Local Employment and Training Strategy

- 4.9 The Owner covenants with the Borough Council that prior to the Commencement of Development the Owner shall submit the Local Employment and Training Strategy to the Borough Council for written approval and shall not Commence Development until the Local Employment and Training Strategy has been approved in writing by the Borough Council
- 4.10 The Owner covenants with the Borough Council that the Owner shall comply with the approved Local Employment and Training Strategy for the duration of the construction phase of the Development

Links to the Adjacent Development

- 4.11 The Owner covenants to construct the Relevant Roads and Footpaths to an adoptable standard and up to the boundary of the Application Land with the Adjacent Development Land and to allow the use of the Relevant Roads and Footpaths by those accessing the Relevant Roads and Footpaths from the Adjacent Development Land

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

Library Facilities Contribution

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

Travel Packs

5.2 The Owner covenants with the County Council to elect in writing prior to Commencement of Development to either

(a) provide its own Travel Packs and to submit a sample Travel Pack to the County Council together with the County Council's administration fee of Five Hundred Pounds (£500) for approval in writing and not to Occupy any Dwelling until such approval has been given (such approval not to be unreasonably withheld or delayed). The Owner further covenants with the County Council to deliver one Travel Pack directly to each Dwelling upon first Occupation. FOR THE AVOIDANCE OF DOUBT if the County Council has not approved the Travel Pack prior to first Occupation of the first Dwelling then the Owner shall pay the Travel Pack Contribution to the County Council prior to first Occupation of the first Dwelling or

(b) in the alternative elect to comply with clause 5.3 below

5.3 If the Owner so elects in accordance with clause 5.2 the Owner covenants with the County Council to pay the Travel Pack Contribution prior to first Occupation of the first Dwelling.

5.4 The Owner covenants with the County Council to promptly provide (no later than twenty eight (28) days after receipt of the written request) to the County Council upon written request full documentary evidence detailing Travel Packs issued under clause 5.2 if the Owner elected for option (a) as set out in clause 5.2

Bus Passes

- 5.5 The Owner covenants with the County Council to either (a) provide up to two (2) Bus Passes for each Dwelling who complete and return the application forms provided in the Travel Pack within six (6) months of first Occupation of such Dwelling or in the alternative (b) elect to comply with clause 5.6 below
- 5.6 If the Owner so elects in accordance with clause 5.5 the Owner covenants with the County Council to pay 20% of the Bus Pass Contribution prior to first Occupation of the first Dwelling. Thereafter the remaining 80% of the Bus Pass Contribution shall be paid in 20% tranches on submission of evidence by the County Council to the Owner that all preceding payments of the Bus Pass Contribution have been spent or are about to be spent SAVE THAT the obligation to pay the Bus Pass Contribution shall apply up until the expiry of nine (9) months after the Occupation of the final Dwelling at which point the Owner shall no longer be obligated to comply with the provisions of this clause 5.6.
- 5.7 The Owner covenants with the County Council to promptly provide (no later than twenty eight (28) days after receipt of the written request) to the County Council upon written request full documentary evidence detailing Bus Passes issued under clause 5.5 if the Owner elected for option (a) as set out in clause 5.5

Travel Plan Monitoring Contribution

- 5.8 The Owner covenants with the County Council to pay the Travel Plan Monitoring Contribution to the County Council prior to first Occupation of the first Dwelling

Waste Management Contribution

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

Early Years Contribution

- 5.10 The Owner covenants with the County Council to pay the Early Years Contribution to the County Council as follows:
- 5.10.1 10% of the Early Years Contribution prior to first Occupation of the first Dwelling
- 5.10.2 45% of the Early Years Contribution prior to Occupation of the 118th Dwelling
- 5.10.3 45% of the Early Years Contribution prior to Occupation of the 237th Dwelling

SEND Contribution

- 5.11 The Owner covenants with the County Council to pay the SEND Contribution (Primary) to the County Council as follows:
- 5.11.1 10% of the SEND Contribution (Primary) prior to first Occupation of the first Dwelling
- 5.11.2 45% of the SEND Contribution (Primary) prior to Occupation of the 118th Dwelling
- 5.11.3 45% of the SEND Contribution (Primary) prior to Occupation of the 237th Dwelling

5.12 The Owner covenants with the County Council to pay the SEND Contribution (Secondary) to the County Council as follows:

5.12.1 10% of the SEND Contribution (Secondary) prior to first Occupation of the first Dwelling

5.12.2 45% of the SEND Contribution (Secondary) prior to Occupation of the 118th Dwelling

5.12.3 45% of the SEND Contribution (Secondary) prior to Occupation of the 237th Dwelling

Secondary School Sector (11-16) Contribution

5.13 The Owner covenants with the County Council to pay the Secondary School Sector (11-16) Contribution to the County Council as follows:

5.13.1 10% of the Secondary School Sector (11-16) Contribution prior to the Occupation of the first Dwelling

5.13.2 45% of the Secondary School Sector (11-16) Contribution prior to the Occupation of the 118th Dwelling

5.13.3 45% of the Secondary School Sector (11-16) Contribution prior to the Occupation of the 237th Dwelling

Post-16 Sector Contribution

5.14 The Owner covenants with the County Council to pay the Post-16 Sector Contribution to the County Council as follows:

5.14.1 10% of the Post-16 Sector Contribution prior to first Occupation of the first Dwelling

5.14.2 45% of the Post-16 Sector Contribution prior to Occupation of the 118th Dwelling

5.13.3 45% of the Post-16 Sector Contribution prior to Occupation of the 237th Dwelling

Notice of Occupation

- 5.15 The Owner covenants with the County Council to serve written notice upon them at least seven (7) days in advance of the triggers listed in this clause 5

County Council Monitoring Costs Contribution

- 5.16 The Owner covenants with the County Council to pay the County Council Monitoring Costs Contribution to the County Council in full prior to first Occupation of the first Dwelling

Highways Contribution – A5 Dodwells

- 5.17 The Owner covenants with the County Council to pay the Highways Contribution – A5 Dodwells to the County Council in full prior to first Occupation of the first Dwelling

Highways Contribution – A47/A447

- 5.18 The Owner covenants with the County Council to pay the Highways Contribution – A47/A447 to the County Council in full prior to first Occupation of the first Dwelling

County Council Legal Fees

- 5.19 The Developer covenants with the County Council to pay to the County Council legal fees in the sum of One Thousand Nine Hundred Pounds (£1,900.00) upon the execution hereof

6. BOROUGH COUNCIL'S COVENANTS TO THE OWNER

Off Site Open Space Contribution

- 6.1 The Borough Council covenants with the Owner as follows:

- 6.1.1 to apply the Off Site Open Space Contribution solely towards the stated purpose and for no other purpose whatsoever and
- 6.1.2 if the Provision Sum has not been expended for the specified purposes within the period of five years from the date of payment of the same to the Borough Council to repay to the person who paid the Provision Sum on written demand thereafter such part of the Provision Sum as has not been so expended and
- 6.1.3 if the Maintenance Sum has not been expended for the specified purposes within fifteen years from the date of payment of the same to the Borough Council to repay to the person who paid the Maintenance Sum on written demand thereafter such part of the Maintenance Sum as has not been so expended

On Site Open Space Area

- 6.2 The Borough Council covenants with the Owner that in the event the Borough Council receives the On Site Open Space Area Maintenance Contribution pursuant to clause 4.2.6.3 it shall apply the On Site Open Space Area Maintenance Contribution solely towards the cost of maintaining the relevant On Site Open Space Area(s) and for no other purpose whatsoever
- 6.3 The Borough Council covenants with the Owner that in the event it receives the On Site Open Space Area Maintenance Contribution but does not expend the same it shall return any unspent monies to the person who paid the On Site Open Space Area Maintenance Contribution on demand after a period twenty years from the date of receipt by the Borough Council of

the On Site Open Space Area Maintenance Contribution and completion of the transfer of the On Site Open Space Area

Health Care Facilities Contribution

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

Public Realm Improvements Contribution

- 6.5 The Borough Council covenants with the Owner to apply the Public Realm Improvements Contribution solely towards the stated purpose and for no other purpose whatsoever and if the Public Realm Improvements Contribution has not been expended for the specified purposes within the period of five years from the date of payment of the same to the Borough Council to repay to the person who paid the Public Realm Improvements Contribution on written demand thereafter such part of the Public Realm Improvements Contribution as has not been so expended

Noise Mitigation Contribution

- 6.6 The Borough Council covenants with the Owner to apply the Noise Mitigation Contribution solely towards the stated purpose in the relevant definition and for no other purpose whatsoever (and in doing so the Borough Council shall monitor and verify that the monies are used by the owners of the properties at 5, 6, 7, 8, 9 and 10 Hardy Close Hinckley for the stated purposes) and if the Noise Mitigation Contribution has not been expended for the specified purposes within the period of five years from the date of payment of the same to the Borough Council to repay to the person who paid the Noise Mitigation Contribution on written demand thereafter such part of the Noise Mitigation Contribution as has not been so expended

Deed of Release

- 6.7 Upon written request where compliance with an obligation in this Agreement has been fulfilled the Borough Council covenants 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

7. THE COUNTY COUNCIL COVENANTS

Library Facilities Contribution

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

Bus Pass Contribution

- 7.2 The County Council covenants with the Owner as follows:-
- 7.2.1 To apply the Bus Pass Contribution in accordance with the definition hereof and for no other purpose whatsoever
- 7.2.2 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 with full details of the number of Bus Passes issued
- 7.2.3 At the end of a period of nine (9) months after the notification of the Occupation of the final Dwelling to be constructed pursuant to the Planning Permission to repay to the person who paid the Bus Pass Contribution any portion of the Bus Pass Contribution which has not been expended or committed

Waste Management Contribution

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

Travel Plan Monitoring Contribution

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

Early Years Contribution

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

SEND Contribution

- 7.6 The County Council covenants with the Owner to apply the SEND Contribution (Primary) and the SEND Contribution (Secondary) in accordance with the respective definitions thereof and for no other purpose whatsoever

Secondary School Sector (11-16) Contribution and Post-16 Sector Contribution

- 7.7 The County Council covenants with the Owner to apply the Secondary School Sector (11-16) Contribution and the Post-16 Sector Contribution in accordance with the respective definitions thereof and for no other purpose whatsoever

Travel Pack Contribution

- 7.8 The County Council covenants with the Owner that on payment of the Travel Pack Contribution by the Owner under clause 5.2 and 5.3 the County Council shall produce and distribute the

Travel Packs to the first occupiers on the first Occupation of each Dwelling

Highways Contribution – A5 Dodwells

- 7.9 The County Council covenants with the Owner to apply the Highways Contribution – A5 Dodwells in accordance with the definition thereof and for no other purpose whatsoever

Highways Contribution – A47/A447

- 7.10 The County Council covenants with the Owner to apply the Highways Contribution – A47/A447 in accordance with the definition thereof and for no other purpose whatsoever

Repayment

- 7.11 In the event that any monies payable to the County Council under clause 5 (save for the Bus Pass Contribution which is dealt with separately at clause 7.2) of this Agreement have not been expended or committed on the purposes specified in this Agreement within ten (10) years of the receipt of the final tranche of each respective contribution the County Council covenants with the Owner upon receipt of a written request to refund to the person who paid the relevant contribution such unexpended or uncommitted contribution along with interest thereon (if any has 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 reasonable request for the same from the Owner

Deed of Release

- 7.13 Upon request where compliance with an obligation in this Agreement has been fulfilled the County Council covenants 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

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 save in the case of the Post-16 Sector Contribution, the SEND Contribution and the Secondary School Sector (11-16) Contribution for which it means 1 July 2021 and the Early Years Contribution for which it means 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 due

2. The relevant contribution shall be increased to such sum, 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 for the Base Index Date 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 BCIS, or any Index previously substituted therefor 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 therefor on the other hand

THE SECOND SCHEDULE

TRANSFER OF THE ON SITE OPEN SPACE AREA

1. GENERAL

The following provisions shall apply to all transfers of the On Site Open Space Area pursuant to this Agreement

- 1.1 The transfer shall be in accordance with the Law Society's Standard Conditions of Sale (5th Edition) "Standard Conditions" in so far as they are not inconsistent with the terms of this Agreement
- 1.2 Standard Conditions 2.1, 2.2, 2.3, 4.3, 5.2 and 6.1 shall not apply to the transfer
- 1.3 The transferor shall grant all reasonable easements and rights to allow the development and use of the On Site Open Space Area for the purposes specified in this Agreement.
- 1.4 The transferor shall make such reservations of rights as are reasonable in favour of the remainder of the Development including but not limited to the right to lay new services and build even if the passage of light and air to the On Site Open Space Area transferred is affected.
- 1.5 The transfer shall include a nuisance clause providing that the transferee shall not suffer or permit to be done any act or thing which may be or become a nuisance to the Owner or occupiers of the remainder of the Development
- 1.6 No unduly restrictive or burdensome covenant or clause shall be imposed upon the transferee in addition to the provisions contained in this Schedule

- 1.7 The On Site Open Space Area will be transferred subject to:
- a) all local land charges, whether or not registered before the date of this Agreement, and all matters capable of registration as local land charges whether or not actually registered;
 - b) all notices served and orders, demands, proposals or requirements made by any local or any public authority after the date of this Agreement;
 - c) all actual or proposed orders, directions, notices, charges, restrictions, conditions, agreements and other matters arising under any statute affecting the On Site Open Space Area;
 - d) all rights of way, drainage, watercourses, light or other easements, or quasi or reputed easements, and rights of the Owner affecting the On Site Open Space Area, and all liability to repair or covenants to repair paths, ways, passages, fences, and other like matters;
 - e) any interests overriding the title to the On Site Open Space Area; and
 - f) an express right of way over the On Site Open Space Area for the Owner to access any of its retained land (if required (depending on the location of the On site Open Space Area)) and with the route of such right of way being agreed with the transferee
- 1.8 An indemnity from the transferee to the Owner to observe and perform the covenants affecting the title to the On Site Open

Space Area as at the date of the Transfer will be included in the Transfer.

1.9 The following restrictive and/or positive covenants will be included in the transfer for the benefit of the Owner's retained land:

- a) a restriction preventing use for any purpose other than public open space
- b) a covenant not to use the On Site Open Space Area for any trade or business
- c) a covenant not to use the On Site Open Space Area for residential purposes
- d) a covenant to keep the On Site Open Space Area in good repair and condition
- e) a covenant not to obstruct public highway
- f) a covenant to keep and properly maintain the boundaries in good repair and condition
- g) a covenant to properly keep and maintain any landscaping
- h) a covenant to keep and maintain the On Site Open Space Area in a clean and tidy condition
- i) a covenant not to cause or knowingly permit any nuisance on the On Site Open Space Area
- j) a covenant on any transfer of the On Site Open Space Area or any part thereof to procure that any transferee shall simultaneously enter into a direct covenant with the owner/Owner of the whole or relevant parts of the retained land to observe and perform these covenants

- k) a covenant not to erect any buildings or other erections on the On Site Open Space Area except equipment ancillary to the purpose for which the land is transferred

THE THIRD SCHEDULE

1. OBLIGATIONS

Unless otherwise agreed in writing by the Borough Council, the Owner for and on behalf of itself and its successors in title to the Application Land with the intention that the following provisions shall bind the Application Land and every part of it into whosoever's hands it may come covenants with the Borough Council as below save that

1.1 paragraphs 2, 3, 4 and 5 shall not apply to a First Homes Owner;

1.2 paragraphs 6 and 7 apply as set out therein but and for the avoidance of doubt where a First Home is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the First Home owned by that First Homes Owner; and

1.3 Paragraph 8 applies as set out therein.

2. QUANTUM OF FIRST HOMES

2.1 25% of the Affordable Dwellings on the Application Land (rounded up or down to a whole Dwelling as referred to in the definition of Affordable Dwellings) shall be identified reserved and set aside as First Homes in accordance with the approved Affordable Housing Scheme (Development) and shall be provided and retained as First Homes in perpetuity subject to the terms of this Schedule.

3. APPEARANCE AND SPECIFICATION

3.1 The First Homes shall not be visually distinguishable from the Market Dwellings based upon their external appearance;

3.2 The internal specification of the First Homes shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings but, subject to that requirement, variations to the internal specifications of the First Homes shall be permitted

4 TYPE AND DISTRIBUTION

The mix of First Homes provided within the Application Land shall be in accordance with the Affordable Housing Scheme (Development)

5. DEVELOPMENT STANDARD

All First Homes shall be constructed to no less than the standard applied to the Market Dwellings.

6 DELIVERY MECHANISM

6.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:

6.1.1 the Eligibility Criteria (National); and

6.1.2 the Local Connection Criteria (First Homes) (if any).

6.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Local Connection Criteria (First Homes) (if any) paragraph 6.1.2 shall cease to apply.

6.3 Subject to paragraphs 6.6 to 6.10, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee

6.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

6.4.1 The Borough Council has been provided with evidence that:

6.4.1.1 the intended purchaser meets the Eligibility Criteria (National)

6.4.1.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and

6.4.1.3 the transfer of the First Home includes:

- a) a definition of the "Council" which shall be Hinckley and Bosworth Borough Council
- b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in the Third Schedule of the S106 Agreement a copy of which is attached hereto as the Annexure."

- c) A definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) the First

Owner (2) the Second Owner (3) the Borough Council (4) the County Council and (5) the Developer

- d) a provision that the Property is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions
- e) a copy of the First Homes Provisions in an Annexure

6.4.2 The Borough Council has issued the Compliance Certificate and the Borough Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 6.3 and 6.4.1 have been met

6.5 On the first Disposal of each and every First Home to apply to the Chief Land Registrar and to contemporaneously send a copy of the application to the Borough Council pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry

of this restriction, is to be registered without a certificate signed by [Local Authority] of [address] or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

6.6 The owner of a First Home (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Borough Council to Dispose of it other than as a First Home on the grounds that either:

6.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 6.1 and 6.2 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 6.3 and 6.4.1; or

6.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 6.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

6.7 Upon receipt of an application served in accordance with paragraph 6.6 the Borough Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

6.8 If the Borough Council is satisfied that either of the grounds in paragraph 6.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 6.6 that the relevant Dwelling may be Disposed of:

6.8.1 to the Borough Council at the Discount Market Price; or

6.8.2 (if the Borough Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Agreement which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 6.10 which shall cease to apply on receipt of payment by the Borough Council where the relevant Dwelling is disposed of other than as a First Home

6.9 If the Borough Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 6.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 6.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Borough Council in accordance with paragraph 6.6 following which the Borough Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home

6.10 Where a Dwelling is Disposed of other than as a First Home or to the Borough Council at the Discount Market Price in accordance with paragraphs 6.8 or 6.9 above the Owner of the First Home shall pay to the Borough Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution

6.11 Upon receipt of the Additional First Homes Contribution the Borough Council shall:

6.11.1 within 10 Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 6.5 where such restriction has previously been registered against the relevant title

6.11.2 apply all monies received towards the provision of Affordable Housing

6.12 Any person who purchases a First Home free of the restrictions in the Third Schedule of this Agreement pursuant to the provisions in paragraphs 6.9 and 6.10 shall not be liable to pay the Additional First Homes Contribution to the Borough Council.

7. USE

Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Agreement PROVIDED THAT

letting or sub-letting shall be permitted in accordance with paragraphs 7.1 – 7.4 below.

7.1 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Borough Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

7.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Borough Council and the Borough Council consents in writing to the proposed letting or sub-letting. The Borough Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
- b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the duration of the letting or sub-letting;
- c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
- d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
- e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
- f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

7.3 A letting or sub-letting permitted pursuant to paragraph 7.1 or 7.2 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

7.4 Nothing in this paragraph 7 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the

First Home remains at all times the First Home Owner's main residence.

8. MORTGAGEE EXCLUSION

The obligations in paragraphs 1-7 of this Schedule in relation to First Homes shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a Receiver)) of any individual First Home or any persons or bodies deriving title through such Mortgagee or Receiver PROVIDED THAT:

- 8.1 such Mortgagee or Receiver shall first give written notice to the Borough Council of its intention to Dispose of the relevant First Home; and
- 8.2 once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Borough Council the Mortgagee or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 8.3
- 8.3 following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Borough Council the Additional First Homes Contribution within 10 Working Days of such Disposal

8.4 following receipt of notification of the intention for Disposal of the relevant First Home pursuant to paragraph 8.2 the Borough Council shall:

8.4.1 within 14 Working Days issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 6.5; and

8.4.2 following receipt of the Additional First Homes Contribution pursuant to paragraph 8.3 apply all such monies received towards the provision of Affordable Housing

IN WITNESS whereof the parties hereto have executed this Agreement on the
date first above written

SIGNED as a **DEED** by
NEIL TERRENCE MAYNE

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

SIGNED as a **DEED** by
DEBBIE SHARON MORRISON

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

SIGNED as a **DEED** by
STANLEY ARTHUR ADCOCK

(as trustee of the Mr S Adcock and Mrs J Adcock Discretionary Settlement)

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

SIGNED as a **DEED** by
JO-ANN ADCOCK

(as trustee of the Mr S Adcock and Mrs J Adcock Discretionary Settlement)

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

SIGNED as a **DEED** by
MARTIN JOHN OWEN JONES

(as trustee of the Mr S Adcock and Mrs J Adcock Discretionary Settlement)

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

Executed as a Deed by

**RICHBOROUGH ESTATES
GROUP LIMITED**

acting by a Director

In the presence of: -

Signature of Witness

Name (in block capitals)

Address

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

Authorised signatory

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

Authorised Signatory