

DATED

27 June

2008

- (1) A D WOODLEY LIMITED
- (2) MEDICAL CENTRE DEVELOPMENTS LIMITED
- (3) RICHARD WARREN JONES
- (4) COUNTRYSIDE PROPERTIES (BICESTER) LIMITED
- (5) THE GENERAL PRACTICE FINANCE CORPORATION LIMITED
- (6) CHERWELL DISTRICT COUNCIL
- (7) THE OXFORDSHIRE COUNTY COUNCIL

PLANNING OBLIGATION
relating to development at
WHITELANDS FARM SOUTH WEST BICESTER OXFORDSHIRE

Darbys
52 New Inn Hall Street
Oxford OX1 2QD
Ref: DJC/51922.013

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THIS DEED is made on the

day of

2008

BETWEEN

- 1 A D WOODLEY LIMITED ("the First Owner")
- 2 MEDICAL CENTRE DEVELOPMENTS LIMITED ("the Second Owner")
- 3 RICHARD WARREN JONES ("the Third Owner")
- 4 COUNTRYSIDE PROPERTIES (BICESTER) LIMITED ("the Developer")
- 5 THE GENERAL PRACTICE FINANCE CORPORATION LIMITED ("the Mortgagee")
- 6 CHERWELL DISTRICT COUNCIL ("the District Council")
- 7 THE OXFORDSHIRE COUNTY COUNCIL ("the County Council")

INTERPRETATION

1 In this Deed

- "1990 Act" means the Town and Country Planning Act 1990
- "Abnormals (Primary School)" means the matters specified in Part A of Schedule 17
- "Abnormal Costs (Primary School)" means the reasonable and proper cost of any Abnormals (Primary School) which are required for the provision of a primary school at the Primary School Site as agreed or determined further to clause 43 3 provided always such costs shall not exceed £464,000 (four hundred and sixty four thousand pounds) Index-Linked and included within the £464,000 (four hundred and sixty four thousand pounds) Index-Linked is the fees item which shall not exceed £34,400 (thirty four thousand four hundred pounds) Index-Linked as detailed in Schedule 17 provided that the aggregate of the Abnormals Costs (Primary School) and Abnormals Costs (Secondary School) shall not exceed £560,000 (five hundred and sixty thousand pounds) Index-Linked
- "Abnormals (Secondary Facility)" means the matters specified in Part B of Schedule 17
- "Abnormal Costs (Secondary Facility)" means the reasonable and proper cost of any Abnormals (Secondary Facility) which are required for the provision of a secondary facility at the Secondary Education Site as agreed or determined further to

clause 43 4 provided always that such costs shall not exceed £175,000 (one hundred and seventy five thousand pounds) Index-Linked and included within the £175,000 Index-Linked is the fees item which shall not exceed £13,000 (thirteen thousand pounds) Index-Linked as detailed in Schedule 17 provided always that if the Abnormal Costs (Primary School) exceed £385,000 (three hundred and eighty five thousand pounds) Index-Linked then the Abnormal Costs (Secondary Facility) shall not exceed the sum calculated as follows
 (£560,000 – X) Index-Linked
 Where X is the amount of the Abnormal Costs (Primary School) excluding Index-Linking
 provided further that the aggregate of the Abnormals Costs (Primary School) and Abnormals Costs (Secondary School) shall not exceed £560,000 (five hundred and sixty thousand pounds) Index-Linked

✓ "Additional Sports Village Commuted Sum"

means a sum per pitch calculated in accordance with the formula
 $15 - Y \times \text{£}815$ (eight hundred and fifteen pounds)
 Where
 15 is the maximum number of years maintenance for each pitch and
 Y is the number of years from transfer of the Sports Village Land to the District Council to the opening of pupils of the Secondary Facility

"Adjudicator"

means an adjudicator as specified in Section 25 of the Schools Standards and Framework Act 1998

"Affordable Housing"

means Social Rented Housing Shared Ownership Housing (including new build home buy) and Intermediate Rented Housing

"Affordable Housing Land"

means the parts of the Land identified in the Affordable Housing Phase Schemes as the land upon which Affordable Housing and associated amenity and garden land and parking areas will be constructed

"Affordable Housing Mix"

means the mix of tenures Dwelling sizes and other matters set out in Schedule 2

"Affordable Housing Phase Scheme"

means a scheme in accordance with Schedule 3

"Affordable Housing Scheme"	means a scheme in accordance with Schedule 1
"Affordable Housing Units"	means the Dwellings which make up the Affordable Housing to be provided under the terms of this Deed
"Approved Residential Travel Plan"	means the Residential Travel Plan as approved further to clause 41
"Approved Workplace Travel Plan"	means the Workplace Travel Plan as approved further to clause 41
"Archaeological Costs (Primary School)"	means the reasonable and proper costs incurred in connection with the construction of a primary school at the Primary School Site as a result of archaeological finds at the Primary School Site
"Archaeological Costs (Secondary Facility)"	means the reasonable and proper costs incurred in connection with the construction of a secondary facility at the Secondary Education Site as a result of archaeological finds at the Secondary Education Site
"Balancing Pond Commuted Sum"	means a sum calculated in accordance with Schedule 8 Index-Linked towards the future maintenance of the Balancing Ponds
"Balancing Ponds"	means balancing ponds and other surface water attenuation features which may be permanently wet or may be dry except during and after rainfall events constructed in accordance with the scheme approved by the District Council and the County Council under clause 19 1
"Bedroom"	means a room in a Dwelling designed as a bedroom or study/bedroom further to any Qualifying Permission
"Bond"	means a bond from a reputable financial institution satisfactory to the County Council or the District Council in the form of the relevant template attached to this agreement at Appendices 13 and 14 respectively guaranteeing the payment specified in the bond
"Bond No 1"	means a Bond in the sum of £6,900,000 (six million nine hundred thousand pounds) guaranteeing the payment of Education Payments Numbers 2, 3, 4 and 5

✓ "Bond No 2"	means a Bond in the sum of £1,700,000 (one million seven hundred thousand pounds) guaranteeing the payment of the Infrastructure Contribution the Rail Contribution and the Transport Contribution
✓ "Bond No 3"	means a Bond in the sum of £6,886,545 (six million eight hundred and eighty six thousand five hundred and forty five pounds) guaranteeing the payment of the District Contributions
✓ "Bond No 4"	means a Bond in the sum of £2,398,000 (two million three hundred and ninety eight thousand pounds) guaranteeing the payment of all Bus Failure Payments, Bus Failure (Inter Urban Service) Compensation, Bus Failure (Local Service) Compensation, Bus Provision Payments, the Abnormal Costs (Primary School) and the Abnormal Costs (Secondary Facility)
✓ "Bus Date"	means the date of Occupation of the 200 th Dwelling
✓ "Bus Failure Initial Payment"	means the sum of £10,000 (ten thousand pounds) Index-Linked
"Bus Failure (Inter Urban Service)"	<p>arises where either for 5 consecutive days or for 15 or more days over any period of 24 months there is not provided</p> <ul style="list-style-type: none"> • 20% (or more) of those services comprised in the Inter Urban Service which are timetabled for the Daytime Hours and/or • 25% (or more) of those services comprised in the Inter Urban Service which are timetabled for the Evening Hours and/or • 30% (or more) of those services comprised in the Inter Urban Service which are timetabled for Sundays <p>and this does not arise as a result of Force Majeure For the avoidance of doubt non-provision of a service does not arise where the service is delayed</p>
✓ "Bus Failure (Inter Urban Service) Compensation"	<p>means the sum of £5,600 (five thousand six hundred pounds) Index-Linked x M</p> <p>Where M is the number of weeks rounded up to the nearest whole number from the date of service of a notice by the County Council pursuant to clause 39 4 1</p>

	to the date of restoration of the Inter Urban Service to the standard of service specified in Schedule 11
"Bus Failure (Local Service)"	<p>arises where either for 5 consecutive days or for 15 or more days over any period of 24 months there is not provided</p> <ul style="list-style-type: none"> • 20% (or more) of those services comprised in the Local Service which are timetabled for the Daytime Hours and/or • 25% (or more) of those services comprised in the Local Service which are timetabled for Evening Hours and/or • 30% (or more) of those services comprised in the Local Service which are timetabled for Sundays <p>and this does not arise as a result of Force Majeure For the avoidance of doubt non-provision of a service does not arise where the service is delayed</p>
✓ "Bus Failure (Local Service) Compensation"	<p>means the sum of £2,600 (two thousand six hundred pounds) Index-Linked x N</p> <p>Where N is the number of weeks rounded up to the nearest whole number from the date of service of a notice by the County Council further to clause 39 6 1 to the restoration of the Local Service to the standard specified in Schedule 11</p>
"Bus Notification"	means a notice further to clause 39 2 or as applicable to clause 39 5
"Bus Payments"	means a Bus Provision Payment, Bus Failure (Inter Urban Service) Compensation and Bus Failure (Local Service) Compensation and the expression "Bus Payment" means any such payment as the context requires
"Bus Provision Payment"	means the payment specified in column 2 of Schedule 10 according to the trigger date as specified in column one of Schedule 10 for the provision of bus services serving (inter alia) the Land such payment to be Index-Linked
"Bus Request"	means a request incorporated in a Bus Notification that the Owner notifies the County Council of its intention as to restoration of the relevant Bus Service and for the avoidance of doubt in this definition and in clause 39

"restore" and "restoration" shall include "provide" and "provision"

"Bus Services"

means the Inter Urban Service and the Local Service

✓ "Certificate of Final Completion"

means a certificate issued by the District Council to the effect that any facility to be provided or laid out by the Owner under the terms of this Deed is finally complete all defects which have become manifest since the issue of a Certificate of Practical Completion and all outstanding works identified in the Certificate of Practical Completion having been made good and completed or such a certificate deemed to have been issued under clause 21 or (in relation to clause 24 1 2) a certificate issued by an architect or surveyor appointed by the Owner to supervise the construction of an item of art provided as part of the Development to the effect that it is finally complete and ready to be transferred to the District Council

✓ "Certificate of Practical Completion" means

(a) (for the purposes of clauses 16, 17, 19 and 20) a certificate issued by the District Council to the effect that any facility to be provided or laid out by the Owner under the terms of this Deed is practically complete save for such minor outstanding works as the District Council may agree or such a certificate deemed to have been issued under clause 21

(b) (for the purposes of clause 22 4) a certificate issued by an architect or surveyor appointed by the Owner to supervise the construction of a building constructed as part of the Development to the effect that it is practically complete and ready for occupation

"Cluster"

has the meaning given to it in paragraph 8 of Schedule 2

"Code for Sustainable Homes"

means the Code for Sustainable Homes published by the Department for Communities and Local Government (December 2006)

✓ "Community Centre"

means a community centre with a 100 square metre garden and a car park comprising 25 car parking

spaces (which may include shared parking provision for other facilities in the Local Centre) constructed in accordance with the Community Centre Specification and the detailed specification designs and works programme agreed under clause 22 2

"Community Centre Commuted Sum"

means £17,750 (seventeen thousand seven hundred and fifty pounds) Index-Linked towards the future maintenance of the Community Centre

"Community Centre Site"

means an area of land within the Local Centre in the position agreed with the District Council under clause 22 1 capable of accommodating the Community Centre

"Community Centre Specification"

means the specification attached as Appendix 1

"Community Development Contribution"

means £32,432 (thirty two thousand four hundred and thirty two pounds) Index-Linked towards the salary costs of the Community Development Worker

"Community Development Worker"

means an officer with responsibility for the development and co-ordination of activities to establish and strengthen the community and establish the management of the Community Centre

"Community Hospital Site"

means an area of a minimum of 1 hectare within the Healthcare Site

"Commuted Sum Calculations"

means the calculation formulae set out in Schedule 9

"Consultation (Primary Education Provision)"

means consultation further to the Education and Inspections Act 2006 encompassing the provision of primary education facilities for children from the Development

"Consultation (Secondary Education Provision)"

means consultation further to the Education and Inspections Act 2006 encompassing the provision of secondary education facilities for children from the Development

"County Contributions"

means the Infrastructure Contribution, the Education Contribution, the Rail Contribution and the Transport Contribution and the expression "County Contribution" means any such contribution as the context requires

"County Council"	means the said Oxfordshire County Council whose principal office is at County Hall New Road Oxford OX1 1ND and any successor to its statutory functions as highway authority or planning authority and any duly appointed servant or agent of the County Council or such successor
"County Sites"	means the Park & Ride Site the Primary School Site and the Secondary Education Site
✓ "Daytime Hours"	means. <ul style="list-style-type: none"> • 6.00am to 6 00pm for any service from the Land to Oxford • 7 00am to 7 00pm for any service from Oxford to the Land • 6 00am to 6 00pm for any service between the Land and Bicester Town Centre
"Deed of Release"	means a deed in the form annexed to this Deed as Appendix 2 that releases the existing restrictive covenant that binds the use of the Primary School Site and imposes a new restrictive covenant on the use of the Primary School Site
"Deed of Warranty"	means a deed/deeds in the form annexed to this Deed as Appendix 19 or 20 as appropriate
"Developer"	means the said Countryside Properties (Bicester) Limited (company registration number 04165427) whose registered office is at Countryside House, The Drive, Brentwood, Essex CN13 3AT and its successors in title and assigns
"Development"	means up to 1585 number dwellings, health village to include health and employment uses and elderly persons nursing home, B1 and B2 employment uses, local centre comprising shops, a pub/restaurant, children's day nursery, offices and a community centre, 2 number primary schools and 1 number secondary school, a hotel, a sports pavilion, formal and informal open spaces, a link road between A41 and Middleton Stoney Road/Howes Lane junction, associated new roads, junctions, parking, infrastructure, earthworks and new accesses to agricultural land as more particularly described in the Planning Application

"Development Agreement"	means an agreement of even date with this Deed between the Developer (1) Bromford Carinthia Housing Association Limited (2) and Chiltern Hundreds Charitable Housing Association Limited (3) providing for the construction of the Affordable Housing Units and their sale to the two RSLs at no cost to the RSLs other than the agreed costs of design and build
"District Council"	means the said Cherwell District Council of Bodicote House Bodicote Banbury Oxfordshire OX15 4AA and any successor to its statutory functions as planning authority and any duly appointed servant or agent of the District Council or such successor
"District Contributions"	means the Community Development Contribution, the Sports Village Contribution, the Indoor Sports Contribution, the Sports Village Commuted Sum, the Additional Sports Village Commuted Sum, the Balancing Pond Commuted Sum, the Community Centre Commuted Sum, the Open Space Commuted Sums, the Play Area Commuted Sums, the Public Art Commuted Sum, the Refuse Bin Contribution, the Recycling Contribution and the Structural Planting Commuted Sum
"Due Date"	means the date on which any payment further to this Deed is due and where any payment is to be made prior to or on a specified number of Dwellings being occupied the Due Date for that payment will be the Trigger Date and where any payment is to be made prior to any other occurrence taking place the Due Date for that payment will be the day before it takes place subject as provided in clause 3 4 2
"Dwelling"	means a building (being a building erected or proposed to be erected upon the Land as part of the Development pursuant to a Qualifying Permission) or part of such a building designed for residential occupation by a single household and includes Affordable Housing Units
"ECO Homes Standard"	means the standard produced by BREEAM identified as the Eco Homes Pre-Assessment Estimator 2006 which is appended to this Deed as Appendix 3

"Ecological Management Mitigation and Habitat Creation Scheme"

means a scheme for ecological mitigation habitat creation and maintenance covering the period from the implementation of the Development until 2 years following completion of Development on the Land including the matters listed in Schedule 7 approved by the District Council under clause 28 1

✓ "Education Contribution"

means the sum of £10,000,000 (ten million pounds) Index-Linked comprising the aggregate of the Primary Education Contribution and the Secondary Facility Contribution where the Primary Education Contribution may only be used for the provision of primary school infrastructure (including design) in Bicester serving the Land and where the Secondary Facility Contribution may only be used for the provision of secondary education infrastructure (including design) in Bicester serving the Land (subject always as provided in clause 47 1)

"Employment Site"

means an area not exceeding 2 hectares within the area shown coloured mauve on the Masterplan

"Estate Spine Road"

means the new road through the Land from its junction with the Spine Road to the A41 signalised junction described in Schedule 14 as the A41 Junction Works which is shown coloured ~~blue~~ green on the Spine Road and Estate Spine Road Plan attached to this Deed

✓ "Evening Hours"

means:

- 6 00pm to 11 00pm for any service from the Land to Oxford
- 7 00pm to midnight for any service from Oxford to the Land
- 6 00pm to midnight for any service between the Land and Bicester Town Centre

"First Owner"

means the said A D Woodley Limited (company registration number 262559) whose registered office is at Northfields Farm, Stretton-on-Fosse, Moreton-in-Marsh, GL56 9RE and its successors in title and assigns

"Force Majeure"

means any act of God, natural flood, unusually adverse

weather conditions, extraordinary traffic conditions, fire (save where such fire is due to the negligence or fault of the operator), lightning or earthquake, or, military operations, act of terrorism or not where nonetheless the operator uses all reasonable endeavours to perform his obligations

"GP Surgery Site"

means an area of a minimum of 0.4 hectares within the Healthcare Site

"Grant Funding"

means social housing grant provided by the Housing Corporation

"Healthcare Site"

means an area not exceeding 2.69 hectares within the area identified as "health village and employment uses" on the Masterplan

"Highways Agreement"

means an agreement under Sections 38, 72 and 278 of the Highways Act 1980 in accordance with the form annexed to this Deed as Appendix 4 (subject to any amendments that the circumstances may reasonably and properly require) which provides for the execution of the Works by the Developer at the Developer's expense

"Hotel Site"

means an area not exceeding one hectare within the area shown coloured dark pink on the Masterplan

"Housing Corporation"

means the body exercising (in England) the functions of the Housing Corporation for the purposes of Part I of the Housing Act 1996 and includes any successor body exercising similar functions

"Implementation"

means the carrying out of a material operation as defined in section 56(4) of the 1990 Act and "implement" and "implemented" shall be construed accordingly provided that for the purposes of this Deed the following shall be deemed not to be material operations: site clearance and remediation works; provision or diversion of drains and sewers and works to existing water courses to prepare the Land for development; footpath diversions; demolition of any existing buildings or structures; construction of access roads for construction traffic; site or soil investigations including surveys and digging of trial pits and the

erection of hoardings and fences

✓ "Incidental Open Space"

means any areas of open space and landscaping comprised in the Development which are not Informal Open Space nor Structural Planting

✓ "Incidental Open Space Commuted Sum"

means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the Incidental Open Space

✓ "Index-Linked"

means

- in relation to the Community Centre Commuted Sum adjusted according to any fluctuations occurring between the last quarter 2006 and the quarter period in which the relevant payment is made in the BCIS All-in tender price index published by the Royal Institution of Chartered Surveyors
- in relation to the Community Development Contribution means adjusted by adding interest at 2% over the base rate of Lloyds TSB Bank plc for the period between 1 January 2006 and the date of payment
- in relation to the Play Area Commuted Sum the Open Space Commuted Sums and the Structural Planting Commuted Sum adjusted by adding interest at 2% over the base rate of Lloyds TSB Bank plc for the period between 1 January 2008 and the date of payment
- in relation to the Balancing Pond Commuted Sum adjusted according to any fluctuations occurring between the fourth quarter 2007 and the quarter period in which the relevant payment is made in the BCIS All-in tender price index published by the Royal Institution of Chartered Surveyors
- in relation to the Indoor Sports Contribution and the Sports Village Contribution adjusted according to any fluctuations occurring between the last quarter 2006 and the quarter period in which the relevant payment is made in the BCIS All-in tender price index published by the Royal Institution of Chartered Surveyors
- in relation to the Sports Village Commuted Sum and Recycling Contribution and overall cap for public art as set out in the definition of "Public Art"

Statement" means adjusted by adding interest at 2% over the base rate of Lloyds TSB Bank plc for the period between 1 January 2007 and the date of payment

- in relation to the Refuse Bin Contribution means adjusted by adding interest at 2% over the base rate of Lloyds TSB Bank plc for the period between 1 August 2007 and the date of payment
- In relation to the Primary Education Contribution the Secondary Facility Contribution the Marginal Primary Payments the Marginal Secondary Payments the Abnormal Costs (Primary School) and the Abnormal Costs (Secondary Facility) adjusted according to any fluctuation occurring between the second quarter 2006 and the quarter period in which the relevant payment is made in the BCIS All-in tender price index published by the Royal Institution of Chartered Surveyors
- In relation to the Infrastructure Contribution adjusted according to any fluctuation occurring between the fourth quarter 2006 and the quarter period in which the relevant payment is made in the BCIS All-in tender price index published by the Royal Institution of Chartered Surveyors
- In relation to the Rail Contribution, Bus Failure Initial Payment(s), Bus Failure (Inter Urban Service) Compensation, Bus Failure (Local Service) Compensation, Transport Contribution and the Bus Provision Payment(s) adjusted according to any fluctuations occurring between November 2005 and the date when the relevant payment is made in a composite index comprised of the following indices of the Monthly Bulletin of Indices – Prices Adjustment Formulae for Construction Contracts (1990 Series) published on behalf of the Department of Trade and Industry weighted in the proportions below set out against each such index namely

Index 1	Labour & Supervision	25%
Index 2	Plant & Road Vehicles	25%
Index 3	Aggregates	30%
Index 9	Coated Macadam & Bituminous Products	20%

or if at any time for any reason it becomes impracticable to compile the said composite index

then an index compiled in such other manner as may be agreed in writing by the Owner and the County Council provided that if at any time the BCIS All-in tender price index ceases to exist the index that substitutes or replaces them shall be used and where no such substitute or replacement exists the Owner and the District Council and the County Council shall agree a suitable replacement index

✓ "Indoor Sports Contribution"

means £385,000 (three hundred and eighty five thousand pounds) Index-Linked towards improvements and enhancements to Bicester & Ploughly Sports Centre which is located off Queen's Avenue, Bicester

✓ "Informal Open Space"

means the areas of open space and landscaping comprised in the Development shown on the Open Space and Children's Play Area Plan

✓ "Informal Open Space Commuted Sum"

means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the Informal Open Space

"Infrastructure"

means in relation to the Affordable Housing Land

(a) roads and footpaths to serve the Affordable Housing Land

(b) temporary services and a construction access for the use of contractors

(c) adequate inverts for the foul and surface water drains sufficient to serve the drainage requirements of the Affordable Housing Land

(d) pipes sewers and channels sufficient to serve the Affordable Housing Land and

(e) spur connections to agreed inverts (to be available at a time or times to be agreed with the RSL and the District Council) from the Owner's foul and surface water drain run serving the Development up to the boundaries of the Affordable Housing Land such spur connections to be to a specification agreed with the RSL and the District Council

the following services to be provided to the boundary of the Affordable Housing Land

(i) a gas supply (size and termination position to be agreed with the RSL and the District Council) (should it be required for the Affordable Housing Units)

(ii) a telephone spur (terminating in a junction box at a location agreed with the RSL and the District Council)

(iii) if digital communication systems (for example cable television) are provided on the Development to provide a connection to the Affordable Housing Land (final locations to be agreed with the RSL and the District Council)

(iv) a standard fire hydrant supply and fire hydrants in the public highway in positions to be agreed with the RSL and the District Council

(v) a water supply connection from the mains (size and termination position to be agreed with the RSL and the District Council)

(vi) an electricity supply (size and termination position to be agreed with the RSL and the District Council)

provided that the Owner shall not be responsible for incurring the costs of any of the connection charges for such infrastructure to the Affordable Housing Land or Affordable Housing Units

"Infrastructure Contribution"

means the sum of £600,000 (six hundred thousand pounds) Index-Linked The Infrastructure Contribution is for the provision and/or improvement of library infrastructure in Bicester (including book stock), the provision and/or improvement of infrastructure at the Museum Resource Centre, Standlake, the provision and/or improvement of infrastructure and/or facilities for special educational needs serving Bicester, the provision and/or improvement of waste management infrastructure serving Bicester, and the provision and/or improvement of social and health care infrastructure and/or facilities serving Bicester (including any day care

centre for older people (being people aged 65 and over) and a vehicle to transport such older people living in Bicester to a day care centre serving Bicester) and comprises the aggregate of the following

- Infrastructure Payment Number 1 of £100,000 (one hundred pounds) Index-Linked
- Infrastructure Payment Number 2 of £110,000 (one hundred and ten thousand pounds) Index-Linked
- Infrastructure Payment Number 3 of £120,000 (one hundred and twenty thousand pounds) Index-Linked
- Infrastructure Payment Number 4 of £130,000 (one hundred and thirty thousand pounds) Index-Linked
- Infrastructure Payment Number 5 of £140,000 (one hundred and forty thousand pounds) Index-Linked

"Initial Bus Date"

means the date of occupation of the 50th Dwelling

"Inter Urban Service"

is as specified in Schedule 11

"Interest"

means interest at 4% per annum above the base rate from time to time of Lloyds TSB Bank plc

"Intermediate Rented Housing"

means housing let at a rent that does not exceed the combined total of

(a) the rent of comparable Social Rented Housing, and

(b) 50% of the difference between the market rent for that housing and the rent of comparable Social Rented Housing

"Land"

means the land at Whitelands Farm South West Bicester Oxfordshire shown for the purposes of identification only edged in red on the Site Plan excluding any land which is adopted public highway at the date of this Deed

"Land Ownership Plan"

means the plan marked "Land Ownership" annexed to this Deed

✓ "LAPs"	means Local Areas for Play in positions agreed with the District Council under clause 20 2 1 designed to the specification set out in and equipped in accordance with the Open Space SPG
✓ "LAP Commuted Sum"	means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the LAPs
✓ "LEAPs"	means three Local Equipped Areas for Play in the positions shown on the Open Space and Children's Play Area Plan annexed designed to the specification set out in and equipped in accordance with the Open Space SPG
✓ "LEAP Commuted Sum"	means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the LEAPs
"Levels Information"	means the Owner's scheme for levelling works to the part of Land adjoining the boundary of the Primary School Site marked C-D on the Primary School Plan for a distance of 10 metres including cross sections (perpendicular to the Primary School Site boundaries) at 10 metre intervals
"Levels Land"	means the part of the Land adjoining the boundaries of the Primary School Site marked A-B-C-D-E-F on the Primary School Plan for a distance of 10 metres
"Lifetime Homes Standards"	means the standards set out in the document attached to this Deed as Appendix 5
"Local Centre"	means an area not exceeding 1.6 hectares identified as the Local Centre on the Masterplan
"Local Service"	is as specified in Schedule 11

"Management Company"	means a company whose Memorandum of Association includes among its objects the long term management and maintenance and insurance of items of (a) public art forming part of the Development and their retention on a permanent basis and (b) the Structural Planting and its retention on a permanent basis
"Marginal Precondition (Primary)"	is satisfied if the Primary Bedroom Factor (1200) exceeds 0 1130 or the Primary Bedroom Factor (1500) exceeds 0 1176 or the Primary Bedroom Factor (Final) exceeds 0 1197
"Marginal Precondition (Secondary)"	is satisfied if the Secondary Bedroom Factor (1200) exceeds 0 0458 or the Secondary Bedroom Factor (1500) exceeds 0 0571 or the Secondary Bedroom Factor (Final) exceeds 0 0669
"Marginal Primary Payments"	means the payments calculated and payable in accordance with clause 50 1
"Marginal Secondary Payments"	means the payments calculated and payable in accordance with clause 50 2
"Marginal Return Date"	means each of the Return Dates following the date of occupation of the 1,200 th Dwelling or the Dwelling that results in the aggregate number of Bedrooms comprised in the Dwellings which have been occupied exceeding 4040 (whichever is the later)
"Marginal Payment Dates (Primary)"	are each of the Marginal Return Dates following satisfaction of the Marginal Precondition (Primary) save that where such a Marginal Return Date occurs prior to notification by the County Council further to clause 48 12 that demonstrates that the Marginal Precondition (Primary) has been satisfied that Marginal Payment Date (Primary) is deferred to the date of service of such notification

"Marginal Payment Dates (Secondary)"

are each of the Marginal Return Dates following satisfaction of the Marginal Precondition (Secondary) save that where such a Marginal Return Date occurs prior to notification by the County Council further to clause 48.13 that demonstrates that the Marginal Precondition (Secondary) has been satisfied that Marginal Payment Date (Secondary) is deferred to the date of service of such notification

"Market Dwelling"

means a Dwelling which is not an Affordable Housing Unit

"Marketing Strategy"

means the marketing strategy set out in Appendix 6

"Masterplan"

means the Masterplan appended to this Deed as Appendix 7

"Mobility Housing"

means Dwellings built in accordance with the accessibility standards detailed at section 1 3 2 of the Housing Corporation's "Scheme Development Standards 5th Edition April 2003" or (in respect of those Dwellings for which the RSL applies for Grant Funding) the edition current at the date the RSL applies for Grant Funding for those Dwellings irrespective of whether such Grant Funding is actually allocated or (in respect of those Dwellings for which the RSL does not apply for Grant Funding) the edition current at the date of submission of a relevant Qualifying Application in either case whichever is higher

"Mortgagee"

means the said The General Practice Finance Corporation Limited (company registration number 2334210) whose registered office is at 37 Surrey Street, Norwich NR1 3NG and its successors in title and assigns

"Mortgagee Sale Provisions"

means the provisions set out in Schedule 4

"NEAP"

means a Neighbourhood Equipped Area for Play in the position shown on the Open Space and Children's Play Area Plan annexed designed to the specification set out in and equipped in accordance with the Open Space SPG

✓ "NEAP Commuted Sum"	means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the NEAP
✓ "Occupation"	means occupation of a Dwelling for residential purposes or if earlier the transfer of a Dwelling and "occupy" and "occupied" shall be construed accordingly
✓ "Open Space"	means Informal Open Space or Incidental Open Space
✓ "Open Space Commuted Sum"	means an Informal Open Space Commuted Sum or Incidental Open Space Commuted Sum as appropriate
✓ "Open Space and Children's Play Area Plan"	means the plan marked "Open Space and Children's Play Area Plan" annexed to this Deed
✓ "Open Space SPG"	means the District Council's Supplementary Planning Guidance on Open Space a copy of which is annexed as Appendix 8
"Owner"	means the First Owner, the Second Owner, the Third Owner, and the Developer and their respective successors in title to the Land
"Park & Ride Offer"	means an irrevocable offer to transfer the Park & Ride Site to the County Council in accordance with clause 42.4
"Park & Ride Site"	means all that area of land shown for illustrative and identification purposes only on the plan marked "Potential Park & Ride Site Plan" and numbered 1546/GA/017/Rev C annexed hereto with an area of no less than 2 hectares (provided that the Owner shall not be required to provide land in excess of the 2 hectares)
"Phase"	means a phase of the Development identified in the phasing plan approved by the District Council pursuant to the conditions subject to which the Planning Permission is granted
"Planning Applications"	means the applications for outline planning permission for the Development numbered 06/00967/OUT and 06/02225/OUT

"Planning Permission" means planning permission granted pursuant to either of the Planning Applications subject to conditions as shown in draft form in the Schedule of Conditions annexed hereto as Appendix 9

"Play Area" means a LAP a LEAP or a NEAP

"Play Area Commuted Sum" means a LAP Commuted Sum a LEAP Commuted Sum or a NEAP Commuted Sum as appropriate

"Potential Park & Ride Site Plan" means the plan marked "Potential Park & Ride Site" attached to this Deed

"Primary Bedroom Factor (1200)" is calculated as follows

$$\frac{J}{\text{Number of Bedrooms notified further to clause 3 2 22}}$$

where J is a number of primary school pupils notified by the County Council further to clause 48 12 1

"Primary Bedroom Factor (1500)" is calculated as follows

$$\frac{K}{\text{Number of Bedrooms notified further to clause 3 2 23}}$$

where K is a number of primary school pupils notified by the County Council further to clause 48 12 2

"Primary Bedroom Factor (Final)" is calculated as follows

$$\frac{L}{\text{Number of Bedrooms notified further to clause 3 2 24}}$$

where L is a number of primary school pupils notified by the County Council further to clause 48 12 3

"Primary Education Contribution" means the sum of £6,200,000 (six million two hundred thousand pounds) Index-Linked comprising the aggregate of the following

- Education Payment Number 1 of £100,000 (one hundred thousand pounds) Index-Linked
- Education Payment Number 2 of £300,000 (three hundred thousand pounds) Index-Linked
- Education Payment Number 3 of £5,800,000 (five million eight hundred thousand pounds)

Index-Linked

"Primary School"	means a primary school with foundation stage provision and associated playing fields and play grounds
"Primary School Approval (Expansion)"	means approval by the Local Education Authority or as applicable an Adjudicator further to the provisions of the Education and Inspections Act 2006 of a proposal for the expansion of an existing primary school or schools in Bicester otherwise than at the Primary School Site where such proposal is made further to a Consultation (Primary Education Provision)
"Primary School Approval (New School)"	means approval by the Local Education Authority or as applicable an Adjudicator further to the provisions of the Education and Inspection Act 2006 of a proposal for the provision of a primary school at the Primary School Site where such proposal is made further to a Consultation (Primary Education Provision)
"Primary School Date"	means the date the County Council notifies to the Owner in writing further to clause 48 6 as the date on which it is intended to open a Primary School at the Primary School Site
"Primary School Offer"	means an irrevocable offer to transfer the Primary School Site to the County Council in accordance with clause 44 2
"Primary School Plan"	means the plan annexed and marked "Primary School Plan"
"Primary School Services"	means the services and apparatus identified in Schedule 12
"Primary School Site"	means all that area of land shown edged red on the Primary School Plan with an area of no less than 2 47 hectares provided that the Owner shall not be required to provide land in excess of the 2 47 hectares provided that the Owner and the County Council may agree minor changes to the boundaries of the Primary School Site to those currently shown on the Primary School Plan The boundary of the Primary School Site marked C-D on the Primary School Plan shall immediately abut the Estate Spine Road

"Public Art Commuted Sum"

means 5% of the cost of each item of art Index-Linked towards the cost of maintaining each item of art which is transferred to the District Council subject to the overall cumulative cap for maintenance of £7,925 (seven thousand nine hundred and twenty five pounds)

"Public Art Statement"

means the framework for commissioning and providing public art as part of the Development entitled "Public Art Framework Statement" annexed as Appendix 15

"Qualifying Application"

means an application for reserved matters approval pursuant to the Planning Permission or an application for full planning permission for the Development or part of the Development

"Qualifying Permission"

means a reserved matters approval or full planning permission as the case may be issued pursuant to a Qualifying Application

"Quarter Days"

means the first day of January first day of April first day of July and first day of October

"Rail Contribution"

means the sum of £295,000 (two hundred and ninety five thousand pounds) Index-Linked The Rail Contribution is for railway upgrade works comprising engineering works (including all necessary preparatory works) to the permanent way and signalling between Bicester Town railway station and Oxford railway station so as to facilitate an improved service (compared with the service provided further to the December 2005 timetable attached at Appendix 10 to this Deed) Such works which may be undertaken in stages are to provide a facility capable of accommodating more passenger trains and/or passenger trains travelling faster and/or more frequently on the line between Oxford railway station and Bicester Town railway station so as to have capacity for one hourly round trip service throughout the day from approximately 7 30am to 7 30pm

"Recycling Centre"

means an area of land within the Local Centre suitable to accommodate one recycling bank comprising six containers to accommodate types of recycled items including glass textiles and cans

✓ "Recycling Contribution"

means £2,280 (two thousand two hundred and eighty pounds) Index-Linked

"Residential Travel Plan"

means a Travel Plan relating to the residential areas of the Development and certain indicative measures for such plan are set out in Appendix B of the Travel Plan Implementation Strategy

✓ "Refuse Bin Contribution"

means £60 (sixty pounds) Index-Linked per Dwelling which is a house and £40 (forty pounds) Index-Linked per Dwelling which is a flat

"Return"

means a written return made by the Owner to the District Council and the County Council specifying the number of the Dwellings occupied during a Return Period

"Return Date"

means the Quarter Days in each year occurring after the occupation of the first Dwelling until Returns have been made pursuant to clause 3 reporting the occupation of all Dwellings comprised in the Development and their size by reference to Bedroom numbers

"Return Period"

means the period of three months ending on the day before a Return Date but so that the first Return Period will be the period commencing on the occupation of the first Dwelling and ending on the day before the Quarter Day next following and the final Return Period will be the Return Period ending on the day before the Quarter Day next following the occupation of the final Dwelling comprised in the Development

"RSL"

means Bromford Carinthia Housing Association Limited whose registered office is situate at 9 Shaw Park Business Village, Shaw Road, Bushbury, Wolverhampton, WV10 9LE (Housing Corporation Registered Number L0020, Industrial and Provident Society number 16487R) and/or Chiltern Hundreds Charitable Housing Association Limited, Hundreds House, whose registered office is situate at Hundreds House, 24 London Road West, Amersham, Buckinghamshire, HP7 0EZ (Housing Corporation Registered Number L4215) Industrial and Provident

Society number 28844R) or failing that any other Registered Social Landlord as defined in Section 2 of the Housing Act 1996 who is agreed with and approved in writing by the District Council

"Secondary Bedroom Factor (1200)"

is calculated as follows

$$\frac{M}{\text{Number of Bedrooms notified further to clause 3 2 22}}$$

where M is a number of secondary school pupils notified by the County Council further to clause 48 13 1

"Secondary Bedroom Factor (1500)"

is calculated as follows

$$\frac{N}{\text{Number of Bedrooms notified further to clause 3 2 23}}$$

where N is a number of secondary school pupils notified by the County Council further to clause 48 13 2

Secondary Bedroom Factor (Final)"

is calculated as follows

$$\frac{T}{\text{Number of Bedrooms notified further to clause 3 2 24}}$$

where T is a number of secondary school pupils notified by the County Council further to clause 48 13 3

"Secondary Education Site"

means all that area of land shown edged red on the Secondary Facility Plan with an area of no less than 3 14 hectares provided that the Owner shall not be required to provide land in excess of 3 14 hectares

"Secondary Facility"

means accommodation providing educational facilities for pupils of post primary age

"Secondary Facility Access Area"

means the land on which the private access road with a coach lay-by/lay-bys is constructed pursuant to clause 45 8 or (prior to their construction) the land shown coloured grey illustratively and indicatively on the Secondary Facility Access Plan

"Secondary Facility Access Plan"

means the plan attached to this Deed marked "Secondary Facility Access Plan"

"Secondary Facility Approval (Expansion)"

means approval by the Local Education Authority or as applicable an Adjudicator further to the Education and

Inspections Act 2006 of a proposal for the expansion of an existing secondary school or schools in Bicester otherwise than at the Secondary Education Site where such proposal is made further to a Consultation (Secondary Education Provision)

“Secondary Facility Approval (New Facility)”	means approval by the Local Education Authority or as applicable an Adjudicator further to the provisions of the Education and Inspections Act 2006 of a proposal for the provision of a Secondary Facility at the Secondary Education Site where such proposal is made further to a Consultation (Secondary Education Provision)
“Secondary Facility Contribution”	means the sum of £3,800,000 (three million eight hundred thousand pounds) Index-Linked comprising the aggregate of the following <ul style="list-style-type: none">• Education Payment Number 4 of £400,000 (four hundred thousand pounds) Index-Linked• Education Payment Number 5 of £3,400,000 (three million four hundred thousand pounds) Index-Linked
“Secondary Facility Date”	means the date the County Council notifies to the Owner in writing further to clause 48 7 as the date it is intended to open a Secondary Facility at the Secondary Education Site
“Secondary Facility Offer”	means an irrevocable offer to transfer the Secondary Education Site to the County Council in accordance with clause 45 2
“Secondary Facility Plan”	means the plan annexed and marked “Secondary Education Site”
“Secondary Facility Price”	means £1 (one pound)
“Secondary Facility Services”	means the services and apparatus identified in Schedule 13
“Second Owner”	means the said Medical Centre Developments Limited (company registration number 2841507) whose registered office is at 54 Weymouth Street, London W1G 6NU and its successors in title and assigns
“Shared Ownership Housing”	means housing offered via a RSL on a shared

ownership basis (including new build home buy housing) with the first occupier's initial share being between 25% and 75% of the equity in the Dwelling provided that the average of all the first occupiers' initial shares shall not exceed 50%

- "Site Plan" means the plan marked "Site plan" annexed to this Deed
- "Social Rented Housing" means housing let at initial rents which accord with Housing Corporation guidance prevailing at the time of first letting and subsequently varied in line with that guidance from time to time and on terms complying with the Housing Corporation's Assured Tenants' Charter or equivalent
- "Spine Road" means the new road through the Land from Shakespeare Drive/Middleton Stoney Road junction to the Perimeter Road shown coloured red on the Spine Road and Estate Spine Road Plan attached to this Deed
- "Spine Road and Estate Spine Road Plan" means the plan marked "Spine road & estate spine road plan" attached to this Deed
- "Sports Area" means the part of the Sports Village Land having an area of 3.36 hectares and shown hatched blue and coloured ~~green~~^{blue} on the Sports Village Plan attached to this Deed and shown edged blue on the Secondary Facility Plan
- "Sports Village Commuted Sum" means £491,090 (four hundred and ninety one thousand and ninety pounds) Index-Linked towards the future maintenance of the Sports Village Land and the facilities constructed on it
- "Sports Village Contribution" means £1,320,800 (one million three hundred and twenty thousand eight hundred pounds) Index-Linked towards development of the Sports Village Land of which £540,800 (five hundred and forty thousand eight hundred pounds) shall be allocated solely for the use of sport pitch provision and £780,000 (seven hundred and eighty thousand pounds) solely for the use of the provision of a sports pavilion

✓ "Sports Village Land"	means 17.29 hectares shown coloured ^{blue} green (including the area shown hatched blue and coloured ^{blue} green) on the plan marked "Sports Village Plan" annexed hereto
✓ "Sports Village Plan"	means the plan marked "Sports village plan" annexed to this Deed
✓ "Structural Planting"	means the areas of structural planting comprised in the Development shown on the Structural Planting Plan
✓ "Structural Planting Plan"	means the plan attached to this Deed showing the respective areas of structural planting and the timescales for completion of those planting areas marked "Structural planting plan"
✓ "Structural Planting Commuted Sum"	means a sum calculated in accordance with the Commuted Sum Calculations Index-Linked towards the future maintenance of the Structural Planting
✓ "Sunday"	<p>means Sundays between.</p> <ul style="list-style-type: none"> • 9.00am to 11.00pm for any service from the Land to Oxford • 10.00am to midnight for any service from Oxford to the Land • 9.00am to midnight for any service between the Land and Bicester Town Centre
"Term Dates"	means 1 st January, 1 st May and 1 st October
"Third Owner"	means the said Richard Warren Jones of Sherwood, Frilford Heath OX13 5NW and his successors in title and assigns
"Topographical Study"	means the topographical information shown on the Primary School Plan and the Secondary Facility Plan
"Transport Contribution"	<p>means the sum of £699,807 (six hundred and ninety nine thousand eight hundred and seven pounds) Index-Linked and comprises the aggregate of the following</p> <ul style="list-style-type: none"> • Transport Payment Number 1 of £59,807 (fifty nine thousand eight hundred and seven pounds) Index-Linked • Transport Payment Number 2 of £160,000 (one

- hundred and sixty thousand pounds) Index-Linked
- Transport Payment Number 3 of £160,000 (one hundred and sixty thousand pounds) Index-Linked
- Transport Payment Number 4 of £160,000 (one hundred and sixty thousand pounds) Index-Linked
- Transport Payment Number 5 of £160,000 (one hundred and sixty thousand pounds) Index-Linked

The Transport Contribution is for measures comprised in the Bicester Integrated Transport and Land Use Strategy as revised from time to time save that if after the date of this Deed but if prior to the receipt of the final instalment of the Transport Contribution the County Council expends less than £699,807 (six hundred and ninety nine thousand eight hundred and seven pounds) Index-Linked on the schemes identified in Schedule 18 the Transport Contribution (or as applicable balance of it) may only be applied for such schemes

"Travel Forum"

means a steering group of key stakeholders to be set up to steer the implementation process of the Travel Plan and the details of the terms of reference and membership for the group is set out at Appendix A of the Travel Plan Implementation Strategy

"Travel Plan"

means a plan with the principal aim of promoting greater use of transport modes other than the private car by all occupiers of and visitors to the residential areas of the Development or as applicable the business/employment areas of the Development which shall include

- measures derived from the relevant indicative measures set out in Appendix B of the Travel Plan Implementation Strategy and such further measures that are deemed necessary by the Travel Forum
- a timetable for the implementation of each measure

"Travel Plan Coordinator"

means a person appointed to undertake the role as described in section 2 5 of the Travel Plan Implementation Strategy

"Travel Plan Implementation Strategy"

means the document appended to this Agreement at Appendix 11 entitled "South West Bicester Travel Plan

"Trigger Date"	means the date of the Return which shows that a given number of occupations has been reached or surpassed or the date notified by the District Council or the County Council under clause 3 4 3
"Whitelands Farm"	means the buildings shown coloured purple on the plan marked "Whitelands Farm Plan" annexed hereto
"Whitelands Farm Plan"	means the plan marked "Whiteland farm" annexed to this Deed
"Working Day(s)"	means any Monday to Friday (other than Bank or public holidays)
"Works"	means the works as set out in Schedule 14 and comprise the following elements <ul style="list-style-type: none">• A41 Roundabout Works• Perimeter Road Works• A41 Junction Works• Shakespeare Drive Junction Works• Middleton Stoney Road Crossings• Middleton Stoney Road Traffic Calming• Howes Lane Junction Works and• Chesterton Road Works
"Workplace Travel Plan"	means a Travel Plan relating to the business/employment areas forming part of the Development and certain indicative measures for such plan are set out in Appendix B of the Travel Plan Implementation Strategy
1 1	Any reference to an enactment includes any statutory modification or re-enactment of it for the time being in force
1 2	Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
1 3	References to clauses sub-clauses paragraphs and schedules are references to clauses sub-clauses paragraphs and schedules in this Deed
1 4	Where the context so requires

- 1 4 1 the singular includes the plural and vice versa
- 1 4 2 the masculine includes the feminine and vice versa
- 1 4 3 persons includes bodies corporate associations and partnerships and vice versa
- 1 5 Where a party includes more than one person any obligation on that party shall be joint and several obligations and liabilities of those persons and where more than one party enters into any obligation or liability those parties are jointly and severally liable
- 1 6 "including" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "include" shall be construed accordingly
- 1 7 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction
- 1 8 If any provision is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Deed is to be unaffected
- 1 9 All reference to the Education and Inspections Act 2006 include any subsidiary regulations made further to that Act

2 PRELIMINARY

- 2 1 The Developer is the freehold owner of that part of the Land shown coloured pink on the Land Ownership Plan free from encumbrances
- 2 2 The First Owner is the freehold owner of that part of the Land shown coloured blue on the Land Ownership Plan and of Whitelands Farm subject to a lease in favour of the Developer but otherwise free from encumbrances
- 2 3 The Second Owner is the freehold owner of that part of the Land shown coloured yellow on the Land Ownership Plan subject to a charge in favour of the Mortgagee but otherwise free from encumbrances
- 2 4 The Third Owner is the freehold owner of that part of the Land shown coloured orange on the Land Ownership Plan subject to an option in favour of the Developer but otherwise free from encumbrances
- 2 5 For the purposes of the 1990 Act the County Council is the county planning authority and the District Council is the district planning authority for the area which includes the Land
- 2 6 For the purposes of the Highways Act 1980 the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 the County Council is the highway authority and the traffic authority for certain highways in the area which includes the Land

and it also has powers and duties in respect of education and waste disposal and the provision of library facilities museums and social and health care

- 2 7 The Developer has submitted the Planning Applications to the District Council
- 2.8 The District Council and the County Council consider and the Owner and the Mortgagee acknowledge that the Development should not take place unless certain commitments are entered into for the securing of which the parties hereto have agreed to enter into this Deed including the provision of infrastructure and payment of contributions which have been assessed according to the projected impact of the Development
- 2 9 This Deed is made under Section 106 of the 1990 Act Sections 111 and 120 and 139 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and all other enabling powers and is a planning obligation for the purposes of the said Section 106 entered into by the First Owner the Second Owner the Third Owner the Developer and the Mortgagee in respect of their respective interests in the Land and Whitelands Farm and is enforceable by the District Council and the County Council
- 2 10 The covenants in this Deed (except those in clauses 3 2 25 and 4 1 which shall take immediate effect) shall be conditional upon the grant of the Planning Permission
- 2 11 Any variation of this Deed shall be made in writing but it is agreed that
- 2 11 1 any obligation may be varied by deed and need only be executed by the party with the burden of such obligation and the party with the benefit of such obligation and such variation may relate to the obligations that at the date of this Deed or as a result of the variation bind the whole or only part of the Land provided that if either the District Council or the County Council is not a party to any such deed a copy of it shall be supplied to them forthwith on completion
- 2 11 2 the siting of elements of the Development can be varied by agreement in writing between the District Council the County Council and the then owner of the relevant part of the Land to which the element relates such agreement or otherwise to be within each party's absolute discretion
- 2 12 Save as set out in clause 2.13 the obligations in this Deed shall not be enforceable against.
- 2 12 1 Any person who purchases an individual Dwelling for occupation as his private residence or his mortgagee or any person deriving title from such a person
- 2 12 2 Any statutory undertaker or company who acquires an interest in the Land for the purpose of providing services to the Land

- 2 12 3 The District Council or the County Council or successor in title of either of them insofar as it holds an interest in any part of the Land as a result of the operation of this Deed but without prejudice to any liability of the District Council or as applicable the County Council to comply with any obligation expressly given in this Deed by the District Council or as applicable the County Council
- 2 12 4 Subject to clause 2 14 and clause 43 10 any owner of any part of the Land after he has disposed of his interest in the Land or part of the Land to which a breach relates provided that this will not relieve any owner of liability for any breach in respect of the part of the Land in which that owner had an interest arising prior to the date of such disposal
- 2 13 The restrictions in
- 2 13 1 Clause 13 5 shall (subject to clause 15) be enforceable against purchasers and occupiers of Affordable Housing Units
- 2 13 2 Clauses 13 9 and 13 10, shall be enforceable against purchasers and occupiers of Market Dwellings in each Phase in relation to restrictions relating to that Phase
- 2.13 3 Clauses 16 9, 17 8 and 20 16 shall be enforceable against purchasers and occupiers of Dwellings within 30 metres of an area of Open Space Structural Planting or Play Area in relation to that area of Open Space Structural Planting or Play Area
- 2 13 4 Clauses 22 1, 22.2, 22 4, 25 2, 26 1, 26 2, 29 1 1, 29 1 2, 29 1 3, 38 4, 38 6, 38 8, 38 10, 38 12, 38 14, 38 16, 38 17 3 and 38 18 3, 40 2 1, 40 2 2, 40 2 3, 40 2 4, 40 2 5, 40 2 6, 40 5 40 6, 43 1 and 43 2 shall be enforceable against purchasers and occupiers of individual Dwellings occupied after the Trigger Date relating to the restriction in question has occurred
- 2.13 5 Clause 25 4 shall be enforceable against purchasers and occupiers of individual Dwellings occupied after the date the Secondary Facility opens
- 2 13 6 Clauses 16 10, 17 9, 19 7, and 20 12 shall be enforceable against purchasers and occupiers of individual Dwellings occupied more than 28 days after the District Council's acceptance of the offer referred to in the clause in question
- 2 13 7 Clauses 44 4 and 45 4 shall be enforceable against purchasers and occupiers of individual Dwellings occupied more than 20 Working Days after the County Council's acceptance of the offer referred to in the clause in question

- 2 13 8 Clauses 25 2, 38 17, 38.18, 41 2, 44 2, 44 4, 44 6, 44 7, 44 8, 45 2, 45.4, 45 5, 45 6 and 45 7 shall be enforceable against purchasers and occupiers of individual Dwellings occupied after the date referred to in the clause in question
- 2 14 The Developer shall remain liable for any breach of the provisions of clauses 3, 4 3, 4 4, 4 5, 23 1, 24 1.4, 25 1 2, 26, 38, 39, 43 7, 43 10 - 43 16 and 50 notwithstanding that he has parted with the whole of his interest in the Land unless and until
- 2 14 1 there has been delivered to the County Council and the District Council a deed of covenant duly executed as a deed by an owner of the freehold of a substantial part of the Land substantially in the form of the deed of covenant attached as Appendix 12 to this Deed and
- 2 14 2 there has been delivered to the County Council without expense to it Bond No 1 Bond No 2 and Bond No 4 and in the event that Bond No 1 Bond No 2 and Bond No 4 have previously been supplied further to clause 38 1 those Bonds so supplied shall thereupon be discharged
- 2 14 3 there has been delivered to the District Council without expense to it Bond No 3 and in the event that Bond No 3 has previously been supplied further to clause 4 5 the Bond so supplied shall thereupon be discharged
- 2 15 Except for the purposes of clauses 3 2 1 to 3 2.7 where in this Deed there is a reference to the number of Dwellings occupied that number shall be deemed to have been occupied on the relevant Trigger Date
- 2 16 Subject to clauses 2 12 1 to 2.12 4 any obligation further to this Deed relating to the payment of money or the provision of a bond applies to each and every part of the Land
- 2 17 Except where expressly stated to the contrary where under this Deed any approval, consent, certificate, direction, opinion, authority, agreement, action, expression of satisfaction is required to be given or reached or taken by any party or any response is requested any such approval, consent, certificate direction, opinion, authority, agreement, action, expression of satisfaction or response shall not be unreasonable or unreasonably withheld or delayed
- 2 18 If prior to being Implemented the Planning Permission expires or is quashed or revoked this Deed shall absolutely determine and become null and void save that this will not affect any antecedent liability of the Owner or the Mortgagee and any payments made to the County Council or District Council before the date this Deed became null and void which have not been spent (save for payments made pursuant to clause 4 1) shall following request from the party that made the payment be repaid to that party together with interest which has accrued on this balance after deduction of tax where required and any sum required to be

deducted by law Any contribution or part contribution which the County Council or the District Council has contracted to expend prior to the date of receipt of such request will be deemed to have been expended prior to that date

- 2 19 In the event that the Planning Permission is quashed or revoked after Implementation the parties will amend the provisions of this Deed in a reasonable manner to reflect that further development pursuant to the Planning Permission will not be lawful
- 2 20 Where there has been compliance with this Deed or as the case may be parts of this Deed the District Council and/or the County Council as applicable will if so requested by the Owner or RSL issue written confirmation to that effect

✓ 3
NOTIFICATION AND QUARTERLY RETURNS

- 3 1 The Owner covenants to notify the District Council and the County Council separately and in writing of the intended date of Implementation of the Planning Permission (or as applicable any Qualifying Permission) on each Phase fourteen days before that date
- 3 2 The Owner covenants to notify the District Council and the County Council separately and in writing within fourteen days of the occurrence of each of the following events and to specify in the notification the date on which it occurred and the size of Dwellings by reference to Bedroom numbers completed or occupied
- 3 2 1 the actual date of Implementation of the Planning Permission (or as applicable any Qualifying Permission) in each Phase
 - 3 2.2 the date of commencement of construction of Dwellings on each Phase
 - 3 2 3 the completion of the sale of the first Dwelling to be sold
 - 3 2.4 the Occupation of the first Dwelling to be occupied
 - 3.2 5 the date of commencement of construction of 15% of Dwellings on each Phase
 - 3 2 6 the Occupation of 50% of the Market Dwellings within each Phase
 - 3 2 7 the Occupation of 60% of the Market Dwellings within each Phase
 - 3 2 8 the Occupation of the 50th Dwelling to be occupied
 - 3 2 9 the Occupation of the 100th Dwelling to be occupied
 - 3 2.10 the Occupation of the 150th Dwelling to be occupied
 - 3 2 11 the Occupation of the 200th Dwelling to be occupied
 - 3 2 12 the Occupation of the 250th Dwelling to be occupied
 - 3 2 13 the Occupation of the 300th Dwelling to be occupied

- 3 2 14 the Occupation of the 350th Dwelling to be occupied
 - 3 2.15 the Occupation of the 400th Dwelling to be occupied
 - 3 2.16 the Occupation of the 450th Dwelling to be occupied
 - 3 2 17 the Occupation of the 500th Dwelling to be occupied
 - 3 2 18 the Occupation of the 600th Dwelling to be occupied
 - 3 2.19 the Occupation of the 650th Dwelling to be occupied
 - 3 2 20 the Occupation of the 800th Dwelling to be occupied
 - 3 2 21 the Occupation of the 1,000th Dwelling to be occupied
 - 3 2 22 the Occupation of the 1,200th Dwelling to be occupied (including for the avoidance of doubt the number of Bedrooms comprised in the first 1,200 Dwellings which have been occupied)
 - 3 2 23 the Occupation of the 1,500th Dwelling to be occupied (including for the avoidance of doubt the number of Bedrooms comprised in the first 1,500 Dwellings which have been occupied)
 - 3 2 24 the Occupation of the last Dwelling on the Land for which a Qualifying Permission has been granted such notification to include the total number of Dwellings comprised in the Development and their size (by reference to Bedroom numbers) together with the number of Bedrooms comprised therein
 - 3 2 25 any disposal of its interest in the Land and of the name and address of the new owner and the date of the disposal within 14 days of such disposal
- 3 3 The Owner covenants with the District Council and separately with the County Council within 21 days of each Return Date to make a written Return to the District Council and to the County Council
- 3 3 1 of the number of Dwellings which shall have been first occupied in the Return Period ending on the day before the relevant Return Date
 - 3 3 2 specifying the aggregate number of Dwellings which have been occupied at the end of that Return Period and the aggregate number of Bedrooms comprised therein
- 3 4 In the event that the Owner fails to give notification of an event taking place in accordance with clause 3 2 or fails to make a written Return within 21 days of any Return Date or makes a Return which appears to be incomplete:
- 3 4 1 the County Council or as applicable the District Council may investigate whether the event has taken place or as applicable the number of

Dwellings first occupied in the relevant Return Period for the purposes of ascertaining whether or not any of the obligations or restrictions in this Deed has become operative and the Owner will pay to the County Council or as applicable the District Council the sum of £450 (four hundred and fifty pounds) in respect of the costs of such investigation

3 4 2 the Due Date for any payment due the day when or before the relevant event specified in clause 3 2 takes place or due following demand contingent on the relevant event taking place will be such date as the County Council or as applicable the District Council reasonably selects

3 4 3 the Trigger Date for any obligation or restriction linked to a specified number of Occupations will be such date as the District Council or as applicable the County Council reasonably selects

The provisions of this clause shall be without prejudice to any other right or remedy of the County Council or as applicable the District Council

3 5 In the event that any sum payable to the District Council or the County Council pursuant to this Deed is not paid on or before the Due Date the Owner will pay to the District Council or the County Council as appropriate Interest on the outstanding sum from the Due Date to the actual date of payment

LEGAL COSTS AND DISTRICT BOND

4 The Owner covenants

4 1 on completion of this Deed to pay the reasonable legal costs of the District Council and the County Council in connection with the preparation and completion of this Deed so far as such costs have not been paid prior to the completion of this Deed

4 2 to reimburse the District Council and the County Council in respect of all legal and administrative costs reasonably incurred in connection with the enforcement of any of the provisions of this Deed (save only costs incurred in connection with court proceedings in which either Council is unsuccessful)

4 3 on Implementation of the Development

4 3 1 to pay the County Council a contribution of £3,750 (three thousand seven hundred and fifty pounds) towards the cost of administration relating to this Deed

4 3 2 to pay the District Council a contribution of £11,200 (eleven thousand two hundred pounds) towards the cost of administration relating to this Deed

4 4 on Occupation of the first Dwelling to pay the County Council a contribution of £8,000 (eight thousand pounds) towards the cost of administration relating to this Deed

4 5 not to cause or permit the Planning Permission or any Qualifying Permission to be implemented until it has provided to the District Council Bond No 3 provided always that if at the date of the provision of Bond No 3 the freehold of the Land is vested in more than one person the Bond may be supplied by one (or more) of them who own the freehold of a substantial part of the Land

4 6 The Owner may at any time after Bond No 3 has been provided to the District Council pursuant to clause 4 5 replace Bond No 3 with a guarantee in a form first approved by the District Council in writing from either

4 6 1 Countryside Properties (UK) Limited (Company Number 00614864),
or

4 6 2 another company of the same or better financial covenant to Countryside Properties (UK) Limited provided that the Owner shall be not be entitled to use another company as a guarantor before the District Council has first approved that company in writing (such approval not to be unreasonably withheld or delayed and it shall be unreasonable to withhold approval in the event the proposed company is of the same or better financial covenant as Countryside Properties (UK) Limited as at the date of this Deed)

and in either case such guarantee shall cover all of the obligations that are secured by Bond No 3 and once the guarantee has been secured and provided to the District Council the Owner shall be entitled to treat Bond No 3 as released in full

THIRD PARTY RIGHTS

5 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Deed does not create any right enforceable by any person not a party to it except that

5 1 it may be enforced by the successors in title and assigns of the parties and by any successor to the District Council's or the County Council's statutory functions, and

5 2 it may be enforced by the RSL in respect of the provision of Infrastructure and matters to be agreed thereunder and the obligations of the District Council and the County Council contained in clause 2 20 of this Deed

NO WAIVER

6 No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the District Council or the County Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Owner from any liability under this Deed

NOTICES

7 1 Any notice, demand or any other communication served under this Deed is to be delivered by hand or sent by first class post, pre-paid or recorded delivery

- 7 2 Any notice, demand or any other communication served is to be sent to the following address of the parties or such other address as one party may notify in writing to the others at any time as its address for service
- 7.2 1 on the District Council at the address set out above marked for the attention of the Head of Planning or such other person at such address as the District Council may advise from time to time
- 7 2 2 on the County Council at Speedwell House Speedwell Street Oxford OX1 1NE marked for the attention of the Director for Environment & Economy or such other person at such address as the County Council may advise from time to time
- 7 2 3 on the First Owner at the address at the start of this Deed
- 7 2 4 on the Second Owner at the address at the start of this Deed
- 7 2 5 on the Third Owner at the address at the start of this Deed
- 7 2 6 on the Developer marked for the attention of the Company Secretary or such other person as the Developer may advise from time to time at The Drive, Brentwood, Essex CM13 3AT
- 7 2 7 on the Mortgagee at the address at the start of this Deed marked for the attention of the Head of Public Private Finance
- 7 3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served
- 7.3 1 if delivered by hand, at the time of delivery
- 7 3.2 if sent by post, on the second Working Day after posting
- 7 3 3 if sent by recorded delivery, at the time of delivery was signed for
- 7 4 If a notice, demand or any other communication is served after 4 00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day
- 7 5 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings
- 7 6 Where there is provision in this Deed for any notification demand or any other communication by or to the Owner then save where this relates to the transfer of land (when the relevant owners at the relevant times must be notified) or where otherwise agreed by the District Council the County Council and the Developer the requisite notification demand or other communication may be given by or to the Developer or as applicable the covenantor under a deed of covenant further to clause 2 14 1 as the authorised representative of the Owner

NO FETTER

- 8 Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the District Council or the County Council in the exercise of their respective functions

VALUE ADDED TAX

- 9 All works undertaken pursuant to and all payments made in accordance with the terms of this Deed shall be exclusive of Value Added Tax and the Owner shall pay the District Council or the County Council as the case may be any Value Added Tax properly payable on any sums paid to that Council or works undertaken under this Deed upon presentation of an appropriate invoice addressed to the Owner

DATA PROTECTION

- 10 The Owner and the Mortgagee acknowledge and agree that information as to compliance with obligations in this Deed (including as to whether or not contributions have been paid) may be passed to third parties

MORTGAGEE

- 11 The Mortgagee consents to the Third Owner entering into this Deed and acknowledges that the Land is bound by its terms

EXPERT DETERMINATION

- 12 The parties agree that:
- 12.1 if any dispute arises further to clause 43.3, 43.4, 43.7, 43.12 or 43.13 a party to the dispute may give to the other written notice requiring the dispute to be determined under this clause 12. The notice is to propose an appropriate expert and if the expert is not agreed within the five Working Days he shall be appointed by the President or next senior available officer of the Royal Institute of British Architects
 - 12.2 the expert is to act as an independent expert and,
 - 12.3 each party may make written representations within ten Working Days of his appointment and will copy the written representations to the other party,
 - 12.4 each party is to have a further ten Working Days to make written comments on the other's representations and will copy the written comments to the other party;
 - 12.5 the expert is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require,
 - 12.6 the expert is not to take oral representations from the parties without giving the parties the opportunity to be present and to give evidence and to cross examine each other,

- 12 7 the expert is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision, and
- 12 8 the expert is to use all reasonable endeavours to publish his decision within 30 Working Days of his appointment
- 12 9 Responsibility for the costs of referring a dispute to a expert under this clause 12, including costs connected with the appointment of the expert and the expert's own costs but not the legal and other professional costs of any party in relation to a dispute will be decided by the expert
- 12 10 This clause 12 does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the Courts

AFFORDABLE HOUSING

- 13 The Owner covenants with the District Council
- 13 1 Prior to the submission of the first Qualifying Application to submit an Affordable Housing Scheme to the District Council for approval
- 13 2 Not to cause or permit the Development to be implemented other than in accordance with the Affordable Housing Scheme as approved by the District Council after consultation with the RSL except as subsequently varied by an Affordable Housing Phase Scheme or otherwise
- 13 3 Prior to submitting the first Qualifying Application relating to the construction of Dwellings in any Phase to submit an Affordable Housing Phase Scheme in respect of that Phase to the District Council for approval
- 13 4 Not without the consent in writing of the District Council to cause or permit the Development to be implemented in relation to any Phase otherwise than in accordance with the relevant Affordable Housing Phase Scheme as approved by the District Council
- 13 5 Not to use or cause or permit the use of the Affordable Housing Land or any part of it for any purpose other than for the provision of Affordable Housing in accordance with the relevant Affordable Housing Phase Scheme as approved by the District Council after consultation with the RSL or as subsequently varied by agreement with the District Council after consultation with the RSL and for the avoidance of doubt this clause is (subject to clause 15) only binding on a mortgagee or chargee of the whole or any part of the Affordable Housing Land if the mortgagee or chargee is in possession or has appointed a receiver in respect of that land and in those instances the Mortgagee Sale Provisions shall apply
- 13 6 If Grant Funding is available for the Affordable Housing in a Phase not to cause or permit the commencement of the construction of any Dwellings in that Phase until

they have entered into a contract pursuant to the Development Agreement (in a form approved by the District Council) with an RSL providing for the construction of the Affordable Housing within that Phase to an agreed programme and a copy of that contract has been supplied to the District Council

- 13 7 If Grant Funding is not available for all or any part of the Affordable Housing in a Phase not to cause or permit the commencement of construction of more than 15% of the Dwellings in that Phase until either
- 13 7 1 an adjusted Affordable Housing Mix has been agreed pursuant to paragraphs 3 and 4 of Schedule 3 or
- 13 7 2 (where no agreement is reached pursuant to paragraphs 3 and 4 of Schedule 3) the Owner has made an irrevocable offer to transfer the Affordable Housing Land within that Phase to the District Council or (at the District Council's direction) to a registered social landlord on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18
- 13 8 On acceptance of an offer made under clause 13 7 2 to transfer the land in question to the District Council and to pay the District Council the sum of £7,500 (seven thousand five hundred pounds) in full settlement of all costs of the District Council associated with such transfer and if such a transfer is not executed as a deed by the Owner (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council's acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council provided that where the District Council has directed that any transfer should be to a registered social landlord references to the District Council in this sub-clause shall (except in relation to the payment of £7,500) be taken to be references to that registered social landlord
- 13 9 (Except where the Affordable Housing Land within any Phase has been transferred to the District Council pursuant to clause 13 8) not to cause or permit more than 50% of the Market Dwellings within any Phase to be occupied until the Affordable Housing Land within that Phase (together with the foundations and brick courses above the damp proof membrane sufficient to achieve "golden brick") has been transferred to the RSL at nil value
- 13 10 Not to cause or permit more than 60% of the Market Dwellings within any Phase to be occupied until the Infrastructure to serve the Affordable Housing Land within that Phase has been provided
14. The District Council covenants with the Owner to give written notice of its decision whether or not to approve the Affordable Housing Scheme and each Affordable Housing Phase Scheme within twenty-eight (28) days of receipt

- 15 The provisions of clause 13 5 will not be binding on
- 15 1 any purchaser of an Affordable Housing Unit pursuant to the exercise of any statutory right to buy or acquire or any successor in title and its mortgagee or chargee
 - 15 2 any purchaser of an Affordable Housing Unit which is Shared Ownership Housing once "staircasing out" has been effected whereby the leaseholder acquires 100% equity share in the Affordable Housing Unit and its mortgagee or chargee
 - 15 3 a bona fide purchaser for value and its mortgagee or chargee from the mortgagee or chargee of any part of the Affordable Housing Land exercising its power of sale or from a receiver appointed by such mortgagee or chargee (other than a purchaser which is a registered social landlord) or the successors in title of such purchaser provided the mortgagee or chargee shall first have satisfied the Mortgagee Sale Provisions

✓ INFORMAL OPEN SPACE AND INCIDENTAL OPEN SPACE

- 16 The Owner covenants with the District Council
- 16 1 Not to cause or permit the Implementation of the Planning Permission until a scheme for landscaping the Informal Open Space has been submitted to and approved in writing by the District Council such a scheme to include the laying out and landscaping of the Pingle Brook and Whitelands Farm informal open spaces shown on the *Open Space and Children's Play Area Plan* no later than the occupation of 500 Dwellings
 - 16 2 To complete the landscaping of the Informal Open Space in accordance with the scheme approved under clause 16 1 to the satisfaction of the District Council
 - 16 3 When submitting each Qualifying Application to identify Incidental Open Space within the area covered by that application
 - 16 4 Not to cause or permit any services to be laid through or beneath any Open Space without the prior written agreement of the District Council following submission of a plan showing the position and depth of the proposed services which agreement will only be given where the District Council is satisfied that there is no reasonable alternative location for those services and that the laying of services in the position proposed will neither pose a risk to health and safety nor result in any additional maintenance liability for the District Council
 - 16 5 To lay out the Incidental Open Space in a phased manner at the same time as the remainder of the land in the vicinity within the area covered by that Qualifying Application
 - 16 6 To notify the District Council of completion of any area of Open Space and to maintain each such area to its original completed standard for a period of twelve months from the issue or deemed issue of a Certificate of Practical Completion

replacing any trees shrubs plants or grass which die are removed or become seriously diseased or damaged with others of similar size or species to the satisfaction of the District Council

- 16.7 Following approval of the scheme pursuant to clause 16 1 or details submitted pursuant to clause 16 3 to notify the District Council of their calculation of the Open Space Commuted Sum for that area and to use all reasonable endeavours to agree that commuted sum with the District Council
- 16 8 To notify the District Council upon completion of each twelve month maintenance period referred to above and to continue to maintain each area of Open Space until its transfer to the District Council following the issue or deemed issue of a Certificate of Final Completion after inspection by the District Council
- 16 9 Not without the prior written consent of the District Council to cause or permit any Dwelling within 30 metres of any area of Open Space to be occupied before a Certificate of Practical Completion has been issued or deemed to have been issued in respect of that area of Open Space
- 16 10 Within 14 days of the issue of a Certificate of Final Completion relating to any area of Open Space and following agreement by the District Council of the relevant commuted sum to make an irrevocable offer to transfer that area of Open Space to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18 and on acceptance of that offer by the District Council to transfer that area of Open Space to the District Council and if such a transfer is not executed as a deed by the Owner (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council's acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council and
- 16 11 On completion of the transfer to pay to the District Council the Open Space Commuted Sum as agreed with the District Council for that area of Open Space

STRUCTURAL PLANTING

17. The Owner covenants with the District Council

- 17 1 Not to cause or permit the Implementation of the Planning Permission until a scheme for the Structural Planting has been submitted to and approved in writing by the District Council save that the Owner may at any time following approval of the scheme by the District Council submit to the District Council for approval any variations or amendments to the approved scheme as the Owner considers necessary and provided further that the Owner shall only be required to complete the areas of Structural Planting to timescales other than those shown on the Structural Planting Plan if the Owner has as part of the said submitted scheme

- proposed alternative timescales which are subsequently approved in writing by the District Council
- 17 2 To complete the Structural Planting in accordance with the scheme approved under clause 17 1 to the satisfaction of the District Council
- 17 3 To protect any completed areas of Structural Planting
- 17 3 1 that are within agricultural land with stock proof fencing
- 17 3 2 that are not within agricultural land in accordance with BS 5837 2005
- 17 4 Not to cause or permit any services to be laid through or beneath any Structural Planting which is to be planted with trees and not to cause or permit any services to be laid through or beneath any other Structural Planting without the prior written agreement of the District Council following submission of a plan showing the position and depth of the proposed services which agreement will only be given where the District Council is satisfied that there is no reasonable alternative location for those services and that the laying of services in the position proposed will neither pose a risk to health and safety nor result in any additional maintenance liability for the District Council
- 17 5 To notify the District Council of completion of any area of Structural Planting and to maintain each such area to its original completed standard for a period of twelve months from the issue of a Certificate of Practical Completion replacing any trees shrubs plants or grass which die are removed or become seriously diseased or damaged with others of similar size or species to the satisfaction of the District Council
- 17 6 Following approval of the scheme pursuant to clause 17 1 to notify the District Council of their calculation of the Structural Planting Commuted Sum for that area and to use all reasonable endeavours to agree that commuted sum with the District Council
- 17 7 To notify the District Council upon completion of each twelve month maintenance period referred to above and (subject to clauses 17 10 and 18) to continue to maintain each area of Structural Planting until its transfer to the District Council following the issue of a Certificate of Final Completion after inspection by the District Council
- 17 8 Not without the prior written consent of the District Council to cause or permit any Dwelling within 30 metres of any area of Structural Planting to be occupied before a Certificate of Practical Completion has been issued or deemed to have been issued in respect of that area of Structural Planting
- 17 9 Subject to clause 18 within 14 days of the issue of a Certificate of Final Completion relating to any area of Structural Planting and following agreement by the District Council of the relevant commuted sum to make an irrevocable offer to transfer that area of Structural Planting to the District Council on the terms set out in Schedule 5

and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18 and on acceptance of that offer by the District Council to transfer that area of Structural Planting to the District Council and if such a transfer is not executed as a deed by the Owner (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council's acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council and

- 17 10 On completion of the transfer to pay to the District Council the Structural Planting Commuted Sum as agreed with the District Council for that area of Structural Planting
- 17 11 In the event that the Owner elects as set out in clause 18 then to undertake the ongoing maintenance of the Structural Landscaping in question to the satisfaction of the District Council and to retain the Structural Planting thereafter provided that it is agreed that this maintenance may be undertaken through transfer of the Structural Landscaping to a Management Company
- 18 On the issue of a Certificate of Final Completion relating to any area of Structural Planting to which there are no rights of access and which is not accessible from the adjacent highway the Owner may elect in writing to retain responsibility for the future maintenance of that Structural Landscaping which responsibility may be exercised through transfer of the Structural Landscaping to a Management Company in which case clauses 17 9 and 17 10 shall not apply to that area of Structural Planting

BALANCING PONDS

- 19 The Owner covenants with the District Council.
- 19 1 Not to cause or permit the Implementation of the Planning Permission until a scheme for the construction of the Balancing Ponds has been submitted to and approved in writing by the District Council and the County Council
- 19 2 To complete the construction of the Balancing Ponds in accordance with the scheme approved under clause 19.1 to the satisfaction of the District Council
- 19 3 To permit the District Council to inspect the Balancing Ponds during the course of construction
- 19 4 To notify the District Council of completion of any Balancing Pond and to maintain each such pond to its original completed standard for a period of 12 months from the issue of a Certificate of Practical Completion
- 19 5 Following approval of the scheme pursuant to clause 19 1 to notify the District Council of their calculation of the Balancing Pond Commuted Sum for that pond and to use all reasonable endeavours to agree that commuted sum with the District Council

- 19.6 To notify the District Council upon completion of each 12 month maintenance period referred to above and to continue to maintain each Balancing Pond until its transfer to the District Council following the issue or deemed issue of a Certificate of Final Completion after inspection by the District Council
- 19.7 Within 14 days of the issue of a Certificate of Final Completion relating to any Balancing Pond and following agreement by the District Council of the relevant commuted sum to make an irrevocable offer to transfer that Balancing Pond to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18 and on acceptance of that offer by the District Council to transfer that Balancing Pond to the District Council and if such a transfer is not executed as a deed by the Owner (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council's acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council and
- 19.8 On completion of the transfer to pay to the District Council the Balancing Pond Commuted Sum as agreed with the District Council for that Balancing Pond

LAPS, LEAPS AND NEAP

20 The Owner covenants with the District Council

- 20.1 Not to cause or permit the Implementation of the Planning Permission until a detailed scheme for the provision of the LEAPs and the NEAP (including details of the equipment to be provided and its layout) has been submitted to and approved in writing by the District Council
- 20.2 Not to cause or permit the Implementation of the Planning Permission in any Phase until
- 20.2.1 the location of the LAPS within that Phase has been agreed with the District Council and
- 20.2.2 a detailed scheme for their provision has been submitted to and approved in writing by the District Council
- 20.3 To complete the construction of each Play Area in accordance with the schemes approved under clauses 20.1 and 20.2.2 to the satisfaction of the District Council
- 20.4 Not to cause or permit more than 500 Dwellings to be occupied until a Certificate of Practical Completion has been issued in respect of the NEAP
- 20.5 Not to cause or permit more than 200 Dwellings to be occupied until a Certificate of Practical Completion has been issued in respect of the first LEAP
- 20.6 Not to cause or permit more than 500 Dwellings to be occupied until a Certificate of Practical Completion has been issued in respect of the second LEAP

- 20 7 Not to cause or permit more than 1,000 Dwellings to be occupied until a Certificate of Practical Completion has been issued in respect of the third LEAP
- 20 8 Not to cause or permit any services to be laid through or beneath the sites of any Play Area
- 20 9 To notify the District Council on completion of each Play Area and to maintain it to its original completed standard for a period of 12 months from the issue of the Certificate of Practical Completion
- 20 10 Following approval of the scheme pursuant to clause 20 1 to notify the District Council of their calculation of the commuted sum for that Play Area and to use all reasonable endeavours to agree that commuted sum with the District Council
- 20 11 To notify the District Council at the end of each period of 12 months referred to in clause 20 9 and to continue to manage and maintain the Play Area in question until its transfer to the District Council
- 20 12 Within 14 days of the issue of each Certificate of Final Completion and following agreement by the District Council of the relevant Play Area Commuted Sum to make an irrevocable offer to transfer the Play Area in question to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of the transfer annexed as Appendix 18 and on acceptance of that offer by the District Council to transfer that Play Area to the District Council and if such a transfer is not executed as a deed by the Owner (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council's acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council
- 20 13 On completion of the transfer to pay to the District Council the relevant Play Area Commuted Sum as agreed with the District Council for that Play Area
- 20 14 To procure that the contractor(s) employed to construct the LEAPs and the NEAP shall prior to transfer to the District Council enter into Deeds of Warranty with the District Council in the form annexed as Appendix 20 or in such other form as may otherwise be agreed in writing between the parties acting reasonably
- 20 15 To provide satisfactory RoSPA post installation reports risk assessments and Disability Discrimination Act assessments in respect of each LEAP, the NEAP and each LAP prior to the transfer of each to the District Council and
- 20 16 Not without the prior written consent of the District Council to cause or permit any Dwelling within 30 metres of any Play Area to be occupied until the Certificate of Practical Completion has been issued in respect of the Play Area in question

✓ CERTIFICATION

- 21 1 The District Council shall following receipt of notification from the Owner of the events listed in clause 21 3 below inspect the relevant works within 14 days thereafter and
- 21.1 1 (if satisfied) issue the Certificate of Practical Completion or Certificate of Final Completion as applicable no later than 14 days after the relevant inspection or
- 21.1 2 (if not satisfied) give written notice to the Owner no later than 14 days after the relevant inspection of the defects which need to be rectified to enable the Certificate of Practical Completion or Certificate of Final Completion as applicable to be issued
- 21 2 If the District Council fails to
- 21 2 1 comply with the requirements of clause 21 1 in respect of any works the works in question shall be deemed to have been satisfactorily completed and the Certificate of Practical Completion or Certificate of Final Completion (as appropriate) shall be deemed to have been issued 14 days following receipt of the relevant notification
- 21 2 2 approve a scheme submitted in accordance with clause 17 1 above within 28 days following receipt the scheme shall be deemed to have been approved by the District Council
- 21 2 3 approve any minor variations or amendments to an approved scheme submitted in accordance with clause 17 1 above within 28 days following receipt of the relevant minor variation or amendment then the minor variation or amendment in question shall be deemed to have been approved by the District Council provided that the District Council shall determine what it considers to be a minor or major variation or amendment
- 21 3 The events referred to in clause 21 1 are
- 21 3 1 the completion of any area of Open Space
- 21 3 2 the completion of the twelve month maintenance period in respect of any area of Open Space
- 21 3 3 the completion of any area of Structural Planting
- 21 3 4 the completion of the twelve month maintenance period in respect of any area of Structural Planting
- 21.3 5 the completion of any Balancing Pond

- 21 3 6 the completion of the twelve month maintenance period in respect of any Balancing Pond
- 21 3 7 the completion of each Play Area
- 21 3 8 the completion of the twelve month maintenance period in respect of each Play Area
- 21 3 9 the rectification of defects notified to the Owner under clause 21 1 2
- 21 4 The District Council shall accept transfers of the areas of Open Space Structural Planting any Balancing Pond and/or any Play Area if the Owner has made an irrevocable offer to transfer pursuant to clauses 16 10, 17 9, 19 7 or 20.12 respectively and upon delivery of a duly executed transfer shall within 15 Working Days execute such transfer as a deed and on receipt of its legal costs and the relevant commuted sum complete the transfer
- 21 5 Any variation or amendment to an approved scheme submitted in accordance with clause 17 1 above which the District Council determines to be a major variation or amendment which it is necessary to refer to committee shall be referred to the relevant committee within three months following receipt of the relevant major variation or amendment
- 21 6 The District Council shall use reasonable endeavours to agree with the Owner as soon as possible the Open Space Commuted Sum the Structural Planting Commuted Sum the Balancing Pond Commuted Sum and the Play Area Commuted Sum for respective areas to be transferred to the District Council

✓ COMMUNITY CENTRE

- 22 The Owner covenants with the District Council
 - 22 1 Not to cause or permit more than 100 Dwellings to be occupied until the site of the Community Centre has been agreed with the District Council
 - 22.2 Not to cause or permit more than 300 Dwellings to be occupied until a detailed specification designs and a works programme for the Community Centre have been agreed with the District Council
 - 22 3 To construct and equip the Community Centre in accordance with the specification designs and work programme approved under clause 22 2 and in doing so to comply with the requirements of Schedule 6
 - 22.4 Not to cause or permit more than 500 Dwellings to be occupied until a Certificate of Practical Completion has been issued for the Community Centre provided that the Owner shall be entitled to be issued a Certificate of Practical Completion if notwithstanding that the permanent car parking spaces have not yet been provided it has provided to the satisfaction of the District Council 25 temporary car parking spaces for use in association with the Community Centre in the event it is intended

that the provision of the 25 permanent car parking spaces shall be accommodated as part of the Local Centre and will be shared parking for users of both the Local Centre and Community Centre and provided further once the 25 permanent car parking spaces for shared use have been constructed as part of the Local Centre the Owner shall be entitled to remove and cease to provide the 25 temporary spaces and the District Council shall be given such rights as are necessary to permit the shared use of the 25 permanent car parking spaces for the benefit of the Community Centre

- 22.5 Within 14 Working Days of the issue of a Certificate of Practical Completion in respect of the Community Centre to make an irrevocable offer to transfer the Community Centre to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18
- 22.6 On completion of the transfer to pay the Community Centre Commuted Sum to the District Council and
- 22.7 For a period of twelve months from the date of transfer of the Community Centre to the District Council to remedy any defects which arise during that period replacing or repairing any items (including surfaces) which in the opinion of the District Council are defective to the satisfaction of the District Council save that for the avoidance of doubt the obligation to remedy any defects shall not extend to replacement or repair of items damaged due to wear or tear

COMMUNITY DEVELOPMENT CONTRIBUTION

- 23.1 The Owner covenants with the District Council.
- 23.1.1 to pay the Community Development Contribution to the District Council within twenty eight days of receipt of a written demand such demand not to be made before the appointment of the Community Development Worker
- 23.1.2 to notify the District Council in writing of the anticipated date that work will commence on the construction of the Community Centre at least two months prior to the anticipated date
- 23.1.3 to notify the District Council in writing of the date when construction commences on the Community Centre
- 23.2 The District Council covenants with the Owner
- 23.2.1 to agree the work specification of the Community Development Worker with the Developer prior to the position being advertised
- 23.2.2 to provide a development plan for the management and programming of community activities within 3 months of commencement of construction of the Community Centre

- 23 2 3 to use reasonable endeavours to have the Community Development Worker in post 9 months prior to the opening of the Community Centre and to continue to employ the Community Development Worker for 30 months in total

 PUBLIC ART

24.1 The Owner covenants with the District Council

- 24 1 1 to comply with the terms of the Public Art Statement and with the detailed public art strategy produced by the public art panel/steering group set up pursuant to the Public Art Statement and to pay the cost of providing the public art required by that strategy subject to an overall contribution of £167,500 (one hundred and sixty seven thousand five hundred pounds) and to provide each item of art at the same time as the laying out or development of the land in its vicinity
- 24 1 2 on the issue of a Certificate of Final Completion relating to any item of art which it has been agreed will be transferred to the District Council and following agreement by the District Council of the Public Art Commuted Sum relevant to that item of art to make an irrevocable offer to transfer that item of art to the District Council and on acceptance of that offer by the District Council to transfer that item of art to the District Council and to pay to the District Council the Public Art Commuted Sum agreed for that item of art on the date of transfer provided that if for health and safety reasons as a result of ongoing construction work in the vicinity of the item of work the Owner may elect to delay making an irrevocable offer to transfer the item of art until the Owner is satisfied that the transfer can occur and the health and safety reasons have been addressed
- 24 1 3 to undertake the ongoing maintenance of any item of art forming part of the Development which it has been agreed will not be transferred to the District Council to the satisfaction of the District Council provided that it is agreed that this may be undertaken through transfer of the item of art to a Management Company or to a third party to whom a building forming part of the Development is transferred where that item of art forms part of that building and that subject to the prior written consent of the District Council any item of art may be replaced if necessary for health and safety reasons or if the District Council agrees that maintenance costs of the original item of art have become excessive or otherwise with another item approved by the District Council
- 24 1 4 if by date of occupation of the 1,000th Dwelling
- 24 1 4 1 no public art has been provided or commissioned in accordance with the Public Art Statement to pay the

sum of £167,500 to the District Council to be used for the provision of art works on the Land

or

24 1.4 2 some items of public art have been provided or commissioned in accordance with the Public Art Statement but not all the art envisaged by the Public Art Statement has been commissioned or provided and there remains unused any part of the £167,500 referred to in clause 24 1 4 1 then the Owner shall pay to the Council the balance of the £167,500 that remains unused which monies shall be used for the provision of art works on the Land

SPORTS VILLAGE LAND

25 The Owner covenants with the District Council

- 25 1 within 12 months of Implementation of the Development or before the occupation of the 100th Dwelling whichever is earlier
- 25 1 1 to make an irrevocable offer to transfer the Sports Village Land to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18 and
- 25 1 2 on the date of transfer of the Sports Village Land to pay the Sports Village Contribution and the Sports Village Commuted Sum to the District Council
- 25 2 if by the date 12 months from Implementation of the Development or the date of occupation of the 100th Dwelling whichever is earlier clause 25 1 has not been fully complied with not to continue Implementation of the Development nor to cause or permit any more Dwellings to be occupied until the provisions of clause 25 1 have been fully complied with
- 25 3 if at any time during the period of 15 years following the transfer of the Sports Village Land to the District Council the District Council serves notice on the Owner to the effect that the Sports Village Land will on the opening to pupils of the Secondary Facility become a dual facility serving both that Secondary Facility and the general public to pay the appropriate Additional Sports Village Commuted Sum in respect of each pitch to the District Council before the opening to pupils of the Secondary Facility
- 25 4 Subject to the District Council serving a notice as referred to in clause 25 3 above if by the date the Secondary Facility opens the appropriate Additional Sports Village Commuted Sum in respect of each pitch has not been paid not to continue

Implementation of the Development nor to cause or permit any more Dwellings to be occupied until the provisions of clause 25 3 have been fully complied with

- 25 5 Prior to its transfer to permit the District Council to enter on the Sports Village Land with or without vehicles plant and equipment for the purposes of site or soil investigations including surveys and digging of trial pits provided that the District Council shall make good any damage caused to the Sports Village Land as a result of the operation of this clause 25 5
- 25 6 Not to cause or permit any services to be laid through or beneath the Sports Village Land without the prior written agreement of the District Council following submission of a plan showing the position and depth of the proposed services which agreement will only be given where the District Council is satisfied that there is no reasonable alternative location for those services and that the laying of services in the position proposed will neither pose a risk to health and safety nor result in any additional maintenance liability for the District Council and for the avoidance of doubt agreement will not be given to the laying of services through or beneath any part of the Sports Village Land on which it is intended that a sports pitch will be laid out or a building constructed

INDOOR SPORTS CONTRIBUTION

- 26 The Owner covenants with the District Council
- 26 1 not to cause or permit more than 200 Dwellings to be occupied before they have paid one half of the Indoor Sports Contribution to the District Council
- 26 2 not to cause or permit more than 500 Dwellings to be occupied before they have paid the remainder of the Indoor Sports Contribution to the District Council
- 26.3 In the event that any part of the Indoor Sports Contribution is not paid on or before the Due Date for payment the Owner will pay to the District Council Interest on the outstanding sum from the Due Date to the actual date of payment

DISTRICT COUNCIL OBLIGATIONS

- 27 1 The District Council will repay to the person who paid a particular contribution (or to such person as that person in his absolute discretion may direct) following written request from him the balance (if any) of any of the contributions referred to in clauses 24 1 4, 25 1 2, 26.1 and 26 2 which at the date of receipt of such written request have not been expended (together with interest which has accrued on this balance after deduction of tax where required and any sum required to be deducted by law) provided always that no such request shall be made prior to the expiration of 7 years from the date of payment of the final instalment of the contribution in question Any contribution or part contribution which the District Council has unconditionally contracted to expend prior to the date of receipt of such request will be deemed to have been expended prior to that date

- 27 2 The District Council covenants with the Owner to accept a transfer of the Sports Village Land and the Community Centre Site if the Owner has made an irrevocable offer to transfer pursuant to clause 25 1.1 and 22 5 respectively provided its legal costs and (in the case of the Sports Village Land) the Sports Village Contribution and the Sports Village Commuted Sum and (in the case of the Community Centre Site) the Community Centre Commuted Sum have been paid
- 27 3 If a contract for the development of the Sports Village Land has not been let by the date 7 years after the date of the transfer of the Sports Village Land to the District Council then the District Council shall following receipt of a written request from the person who transferred the Sports Village Land to the District Council transfer the Sports Village Land (less the Secondary Facility Access Area if it has been transferred to the County Council pursuant to clause 27.7 3) back to that person (or to such other person as that transferor may in its absolute discretion direct) for nil consideration and each party shall bear its own costs of such transfer and further the District Council shall repay to the person who paid the Sports Village Commuted Sum (or to such other person as that payer may in its absolute discretion direct) such part of the Sports Village Commuted Sum which at the date of receipt of such written request has not been expended (together with interest which has accrued on this sum after deduction of tax where required and any sum required to be deducted by law) Any part of the Sports Village Commuted Sum which the District Council has unconditionally contracted to expend prior to the date of receipt of such request will be deemed to have been expended prior to that date
- 27.4 The District Council covenants with the Owner that it shall (subject to clause 27.7 3) after the transfer to it of the Sports Village Land own and manage the Sports Village Land and the facilities developed on the Sports Village Land and will make such facilities available for use by the general public provided that this shall not prevent the District Council appointing a third party to manage the facilities on its behalf or transferring the Sports Village Land or part thereof to the County Council
- 27 5 The District Council covenants with the Owner to utilise contributions paid to it pursuant to the provisions of this Deed only for the particular purpose(s) for which they have been paid as specified in this Deed
- 27 6 The District Council covenants with the Developer
- 27 6 1 to comply with the design codes approved pursuant to condition 6 of the schedule of conditions annexed as Appendix 9 when designing buildings to be constructed on the Sports Village Land
- 27 6 2 to consult the Developer on the design of all buildings to be constructed on the Sports Village Land and to this end to send to the Developer copies of all plans to be submitted as part of any planning application for development of the Sports Village Land not less than 4 weeks prior to the submission of that planning application

27 7 The District Council

27.7.1 consents to the construction by the Owner of the private access road with lay-bys referred to in clause 45 8

27.7 2 agrees that if the Sports Village Land has not been transferred to the District Council prior to the acceptance by the County Council of the Secondary Facility Offer then the Sports Village Land to be transferred to the District Council under clause 25 1 shall exclude the Secondary Facility Access Area

27 7 3 agrees (if the Sports Village Land has been transferred to the District Council prior to the acceptance by the County Council of the Secondary Facility Offer) on receipt of a written request from the County Council to transfer the Secondary Facility Access Area to the County Council for nil consideration and on such other reasonable terms including but not limited to the reservation of rights of access and for services as the District Council may stipulate each party to bear its own costs of such transfer provided always that no such request shall be made prior to satisfactory completion of the private road with lay-bys further to clause 45.8 or (if later) the date 2 months prior to the Secondary Facility Date

✓ **ECOLOGICAL MANAGEMENT MITIGATION AND HABITAT CREATION SCHEME**

28 1 The Owner covenants with the District Council.

28 1 1 not to cause or permit the Implementation of the Development until an Ecological Management Mitigation and Habitat Creation Scheme has been submitted to and approved in writing by the District Council

28 1 2 prior to the submission of any Qualifying Application to appoint as clerk of works of the work required by the Ecological Management Mitigation and Habitat Creation Scheme a suitably qualified ecologist previously approved in writing by the District Council and to continue to employ such a person until two years after completion of construction of the Development

28 1 3 to comply with the requirements of the Ecological Management Mitigation and Habitat Creation Scheme as approved by the District Council or (subject to clause 28 2) as varied with the written approval of the District Council

28 1 4 to supply written reports on the work undertaken and the ecological outcome of the Ecological Management Mitigation and Habitat Creation Scheme and any changes required to achieve the objectives of the scheme at not less than six monthly intervals and more frequently if requested as a result of works on the site the first such report to be supplied no later than six months after Implementation of the Development and the last two years after completion of construction of

the Development which reports may include advice on amendments to the Ecological Management Mitigation and Habitat Creation Scheme

- 28 2 The Owner may seek approval from the District Council to amendments to the Ecological Management Mitigation and Habitat Creation Scheme recommended by the ecologist appointed under clause 28 1 2 and the District Council shall not unreasonably withhold nor delay approval to such amendments
- 28 3 If the District Council fails to respond to a written request made under clause 28 2 within 15 working days of its receipt then the District Council shall be deemed to have approved the amendment

✓ REFUSE AND RECYCLING

- 29 1 The Owner covenants with the District Council
- 29 1 1 Not to cause or permit more than 100 Dwellings to be occupied until the location of the Recycling Centre has been agreed with the District Council
- 29 1 2 Not to cause or permit more than 150 Dwellings to be occupied before they have provided in a location agreed with the District Council an area of hardstanding on which one recycling bank consisting of six recycling containers can temporarily be sited until such time as the Recycling Centre becomes available
- 29 1 3 Not to cause or permit more than 500 Dwellings to be occupied before they have provided the Recycling Centre and have made an irrevocable offer to transfer the Recycling Centre and land on which it is located to the District Council on the terms set out in Schedule 5 and in accordance with (or substantially in accordance with) the form of transfer annexed as Appendix 18
- 29 1 4 To pay the Recycling Contribution to the District Council on transfer of the Recycling Centre to the District Council
- 29 1 5 Not to cause or permit the occupation of any Dwellings in any Phase until they have paid the appropriate Refuse Bin Contribution for that Phase to the District Council
- 29 2 The District Council covenants with the Owner:
- 29 2 1 to repay the person who paid the Recycling Contribution or Refuse Bin Contribution following written request the balance (if any) of these two contributions which at the date of receipt of such written request have not been expended (together with interest which has accrued on this balance after the deduction of tax where required) provided always that no such request shall be made prior to the expiration of

- 29 2.1 1 In relation to the Refuse Bin Contribution two years from the date the Owner has notified the District Council of occupation of the last Dwelling within a Phase, and
- 29 2 1 2 in relation to the Recycling Contribution two years from the date of payment of the contribution or transfer of the Recycling Centre which ever is the later
- 29 2 2 to accept a transfer of the Recycling Centre and land on which it is located when the Owner has made an irrevocable offer to transfer pursuant to clause 29 1.3

✓ MEDICAL SERVICES

- 30 The Owner covenants with the District Council
 - 30 1 Not to cause or permit the Implementation of the Development until the location of the Healthcare Site the Community Hospital Site and the GP Surgery Site have been agreed with the District Council
 - 30 2 For a period of 5 years from Implementation of the Development or until first occupation of 1,000 Dwellings whichever is later to use their best endeavours to market
 - 30 2 1 the Community Hospital Site for the development of a community hospital by a NHS Primary Care Trust
 - 30 2 2 the GP Surgery Site for the development of an NHS GP surgery by a NHS Primary Care Trust or other medical operator or medical company
 - 30 2 3 the remainder of the Healthcare Site for the provision of medical facility uses which may include an extra care elderly nursing home within Use Class C2 in accordance with the Marketing Strategy

provided that if prior to the expiration of that period the District Council in writing so agree the Community Hospital Site or the GP Surgery Site or any part of either of them may be marketed in accordance with clause 30 2 3 rather than clause 30 2 1 or 30 2 2 as appropriate
 - 30 3 To use all reasonable endeavours to agree a sale or sales of the freehold interest or grant(s) of a leasehold interest of
 - 30 3 1 the Community Hospital Site for the development of a community hospital
 - 30 3 2 the GP Surgery Site for the development of a NHS GP surgery
 - 30 3.3 the remainder of the Healthcare Site for the provision of medical facility uses

provided that this clause shall not operate to require the Owner to dispose of or grant a leasehold interest in only the entirety of the Community Hospital Site or GP Surgery Site and the Owner shall if the District Council in writing so agrees be entitled to dispose of only part of either of the respective sites for their designated purposes as set out in clause 30 2 1 and 30 2 2

30 4 Not to cause or permit

30 4 1 the Community Hospital Site to be used other than for the purposes of a community hospital unless otherwise agreed by the District Council pursuant to clause 30 2

30 4 2 the GP Surgery Site to be used other than for the purposes of the provision of a NHS GP surgery unless otherwise agreed by the District Council pursuant to clause 30 2

30 4 3 the remainder of the Healthcare Site to be used other than for the purposes of the provision of medical facility uses

provided that if the District Council is satisfied that

30 4 3 1 notwithstanding the fact that marketing has been carried out in accordance with the Marketing Strategy and

30 4 3 2 all reasonable endeavours have been used both to identify a purchaser or tenant for any part of the Healthcare Site

a purchaser or tenant has not been identified for any part of the Healthcare Site by the end of the period referred to in clause 30 2 then the obligation contained in this clause shall cease to be of any force or effect in relation to that part of the Healthcare Site

 HOTEL SITE

31 The Owner covenants with the District Council

31 1 Not to cause or permit the Implementation of the Development until the location of the Hotel Site has been agreed with the District Council

31.2 To set aside the Hotel Site for use as a hotel until first occupation of 1,000 Dwellings

31 3 During the period referred to in clause 31 2 to use their best endeavours to market the Hotel Site in accordance with the Marketing Strategy

31 4 To use all reasonable endeavours to agree a sale of the freehold interest or grant of a leasehold interest of the Hotel Site on reasonable commercial terms

31 5 Not to cause or permit the Hotel Site to be used other than as a hotel provided that if the District Council is satisfied that

31 5 1 notwithstanding the fact that marketing has been carried out in accordance with the Marketing Strategy and

31 5 2 all reasonable endeavours have been used both to identify a purchaser or tenant for the Hotel Site and to agree reasonable commercial terms with him

a purchaser or tenant has not been identified by the end of the period referred to in clause 31 2 then the obligation contained in this clause shall cease to be of any force or effect

✓EMPLOYMENT SITE

32 The Owner covenants with the District Council

32 1 Not to cause or permit the Implementation of the Development until the location of the Employment Site has been agreed with the District Council

32.2 To set aside the Employment Site for use for employment purposes until first occupation of 1,500 Dwellings

32 3 During the period referred to in clause 32 2 to use their best endeavours to market the Employment Site in accordance with the Marketing Strategy

32 4 To use all reasonable endeavours to agree a sale of the freehold interest or grant of a leasehold interest of the Employment Site on reasonable commercial terms

32.5 Not to cause or permit the Employment Site to be used other than for employment purposes provided that if the District Council is satisfied that

32 5 1 notwithstanding the fact that marketing has been carried out in accordance with the Marketing Strategy and

32 5 2 all reasonable endeavours have been used both to identify a purchaser or tenant for the Employment Site and to agree reasonable commercial terms with him

a purchaser or tenant has not been identified by the end of the period referred to in clause 32.2 then the obligation contained in this clause shall cease to be of any force or effect

✓LOCAL CENTRE

33 The Owner covenants with the District Council:

33 1 Not to cause or permit the Implementation of the Development until the location of the Local Centre has been agreed with the District Council

- 33 2 To set aside the Local Centre for use for retail, community uses, children's nursery, public house restaurant, offices (Class B1) and residential at first floor or above until first occupation of 1,500 Dwellings
- 33 3 During the period referred to in clause 33 2 to use their best endeavours to market the Local Centre in accordance with the Marketing Strategy
- 33 4 To use all reasonable endeavours to agree a sale of the freehold interest or grant of a leasehold interest of the Local Centre on reasonable commercial terms
- 33 5 Not to cause or permit the Local Centre to be used other than for the uses listed in clause 33 2 provided that if the District Council is satisfied that
- 33 5 1 notwithstanding the fact that marketing has been carried out in accordance with the Marketing Strategy and
- 33 5 2 all reasonable endeavours have been used both to identify a purchaser or tenant for the Local Centre and to agree reasonable commercial terms with him
- a purchaser or tenant has not been identified by the end of the period referred to in clause 33 2 then the obligation contained in this clause shall cease to be of any force or effect

ECOHOMES STANDARDS

- 34 The Owner covenants with the District Council
- 34 1 (subject to the Owner's obligation as set out in paragraph 4 1 3 of Schedule 2) that at least 60% of all Dwellings will be constructed to ECO Homes Standard of at least "very good" and the remainder will be constructed to ECO Homes Standard of at least "good"
- 34 2 that all non-residential buildings constructed as part of the Development will be constructed to the BREEAM standard appropriate to the building use in question of at least "very good"
- 34 3 to provide to the District Council confirmation through independent testing that the Dwellings as built comply with clause 34 1 and the non-residential buildings as built comply with clause 34 2 to monitor compliance with this clause
- 34 4 not to cause or permit the construction of Dwellings to start before the ECO Homes Standard or BREEAM standard (referred to in clauses 34 1 and 34 2) to which they are to be built has been agreed with the District Council

WHITELANDS FARM

- 35 The Owner covenants with the District Council

- 35 1 Not to cause or permit more than 100 Dwellings to be Occupied until a programme for the maintenance of Whitelands Farm (which shall include identification of buildings to be restored or rebuilt and the standard of restoration or rebuilding taking into account the current use of the farmhouse for residential purposes and the remaining buildings for agricultural purposes and a timetable therefor and may include the demolition of peripheral buildings that the District Council agrees do not and could not positively contribute to the views from the surrounding development) has been submitted to and approved in writing by the District Council
- 35 2 To restore rebuild and maintain Whitelands Farm in accordance with the maintenance programme approved under clause 35 1 The Owner shall be entitled to submit variations to the approved scheme at any time after the initial scheme submitted pursuant to clause 35 1 has been approved
- 36 The District Council covenants with the Owner that if it has not approved in writing the scheme submitted pursuant to clause 35 1 within 3 months following receipt of the said scheme the Owner shall be entitled to assume the submitted scheme is deemed to be approved
37. The District Council and the Owner agree that nothing in this Deed shall prevent prejudice or fetter the Owner's ability to extend convert or change the use of Whitelands Farm

COUNTY CONTRIBUTIONS

- 38 The Owner covenants with the County Council as follows
- 38 1 Not to cause or permit the Planning Permission or any Qualifying Permission to be implemented until it has provided to the County Council Bond No 1 Bond No 2 and Bond No 4 provided always that if at the date of the provision of Bond No 1 Bond No 2 and Bond No 4 the freehold of the Land is vested in more than one person these Bonds may be supplied by one (or more) of them who own the freehold of a substantial part of the Land
- 38 2 Not to cause or permit the Planning Permission or any Qualifying Permission to be Implemented until it has paid to the County Council:
- 38 2.1 Transport Payment Number 1
- 38 2 2 Education Payment Number 1
- 38 3 To pay to the County Council on the Occupation of the 50th Dwelling Education Payment Number 2
- 38 4 Not to cause or permit the Occupation of more than 50 Dwellings until it has paid to the County Council Education Payment Number 2

- 38.5 To pay to the County Council on the Occupation of the 300th Dwelling
- 38 5 1 Education Payment Number 4
 - 38.5 2 Infrastructure Payment Number 1
- 38 6 Not to cause or permit the Occupation of more than 300 Dwellings until it has paid to the County Council Education Payment Number 4 and Infrastructure Payment Number 1
- 38 7 To pay to the County Council on the Occupation of the 400th Dwelling Transport Payment Number 2
- 38 8 Not to cause or permit the Occupation of more than 400 Dwellings until it has paid to the County Council Transport Payment Number 2
- 38 9 To pay to the County Council on the Occupation of the 600th Dwelling
- 38 9 1 Infrastructure Payment Number 2
 - 38 9 2 the Rail Contribution
- 38 10 Not to cause or permit the Occupation of more than 600 Dwellings until it has paid to the County Council Infrastructure Payment Number 2 and the Rail Contribution
- 38 11 To pay to the County Council on the Occupation of the 800th Dwelling
- 38.11.1 Infrastructure Payment Number 3
 - 38 11 2 Transport Payment Number 3
- 38 12 Not to cause or permit the Occupation of more than 800 Dwellings until it has paid to the County Council Infrastructure Payment Number 3 and Transport Payment Number 3
- 38 13 To pay to the County Council on the Occupation of the 1,000th Dwelling
- 38 13 1 Infrastructure Payment Number 4
 - 38 13 2 Transport Payment Number 4
- 38 14 Not to cause or permit the Occupation of more than 1,000 Dwellings until it has paid to the County Council Infrastructure Payment Number 4 and Transport Payment Number 4

- 38 15 To pay to the County Council on the Occupation of the 1,200th Dwelling
- 38 15 1 Transport Payment Number 5
- 38 15 2 Infrastructure Payment Number 5
- 38.16 Not to cause or permit the Occupation of more than 1,200 Dwellings until it has paid to the County Council Transport Payment Number 5 and Infrastructure Payment Number 5
- 38 17 To pay to the County Council Education Payment Number 3 and the Abnormal Costs (Primary School) within 20 Working Days of service on the Developer of written notification that a contract has been let for the construction of primary education accommodation/facilities further to a Primary School Approval (New School) or Primary School Approval (Expansion) provided that
- 38 17 1 If service of such notification predates the Occupation of the 200th Dwelling but is after the Occupation of the 150th Dwelling payment may be deferred as follows and the Owner covenants to pay to the County
- 38 17.1.1 £1,800,000 (one million eight hundred thousand pounds) Index-Linked within twenty Working Days of service on the Developer of such notification, and
- 38 17 1 2 £4,000,000 (four million pounds) Index-Linked and the Abnormal Costs (Primary School) on the earlier of (a) three months from the due date for payment under clause 38 17 1 1 and (b) Occupation of the 200th Dwelling
- 38 17 2 If service of such notification predates the Occupation of the 150th Dwelling payment may be deferred as follows and the Owner covenants to pay to the County Council
- 38 17 2 1 £1,800,000 (one million eight hundred thousand pounds) Index-Linked on the Occupation of the 150th Dwelling, and
- 38 17 2.2 £4,000,000 (four million pounds) Index-Linked and the Abnormal Costs (Primary School) on the earlier of (a) three months from the due date for payment under clause 38 17 2 1 and (b) Occupation of the 200th Dwelling

38 17 3 If full payment is not made in accordance with the provisions of clause 38 17 1 or as applicable clause 38 17 2 the Owner shall not continue Implementation of the Development or cause or permit any more Dwellings to be occupied until the provisions of clause 38 17 1 or as applicable clause 38 17 2 have been fully complied with

38 18 To pay to the County Council Education Payment Number 5 and the Abnormal Costs (Secondary Facility) within 20 Working Days of service of written notification that a contract has been let for the construction of Secondary Education accommodation/facilities further to Secondary Facility Approval (New School) or Secondary Facility Approval (Expansion) provided that.

38 18 1 If service of such notification predates the Occupation of the 1,000th Dwelling but is after the Occupation of the 600th Dwelling, payment may be deferred as follows and the Developer covenants to pay to the County Council

38 18 1 1 £1,400,000 (one million four hundred thousand pounds) Index-Linked within 20 Working Days of service of such notification, and

38.18 1 2 £1,000,000 (one million pounds) Index-Linked on the earlier of (a) three months from the due date for payment under clause 38 18 1 1 and (b) Occupation of the 1,000th Dwelling, and

38.18 1 2 £1,000,000 (one million pounds) Index-Linked and the Abnormal Costs (Secondary Facility) on the earlier of (a) six months from the due date for payment under clause 38 18 1 1 and (b) Occupation of the 1,000th Dwelling

38 18 2 If service of such notification predates the Occupation of the 600th Dwelling payment may be deferred as follows and the Owner covenants to pay to the County Council

38 18 2 1 a sum calculated as follows at the date which is 30 months after the date of Occupation of the first Dwelling (in the event that this occurs prior to the Occupation of the 600th Dwelling)

£2,145 (two thousand one hundred and forty five pounds) Index-Linked x A (where A is the number of Dwellings Occupied at the date which is 30 months after the Occupation of the first Dwelling), and

38 18 2 2 £1,400,000 (one million four hundred thousand pounds) Index-Linked less any sum paid further to clause 38 18 2 1 on the Occupation of the 600th Dwelling, and

38 18 2 3 £1,000,000 (one million pounds) Index-Linked on the earlier of (a) three months from the due date for payment under clause 38 18 2 2 and (b) Occupation of the 1,000th Dwelling, and

38 18 2.4 £1,000,000 (one million pounds) Index-Linked and the Abnormal Costs (Secondary Facility) on the earlier of (a) six months from the due date for payment under clause 38 18 2 2 and (b) Occupation of the 1,000th Dwelling

38.18 3 If full payment is not made in accordance with the provisions of clause 38.18 1 or as applicable clause 38 18 2 the Owner shall not continue Implementation of the Development or cause or permit any more Dwellings to be occupied until the provisions of clause 38 18 1 or as applicable clause 38 18 2 have been fully complied with

38 19 In the event that Bond No 1 is called upon by the County Council in the event of default by the Owner in relation to any obligation to pay monies due under the terms of this Deed to which Bond No1 relates not to cause or permit the construction of any further Dwelling from the date on which Bond No 1 is called upon until it has been replenished by the amount called upon For the avoidance of doubt this is without prejudice to the provisions of Bond No 1 relating to reduction of the bond sum

38 20 The Owner may at any time after Bond No 4 has been provided to the County Council pursuant to clause 38 1 replace Bond No 4 with a guarantee in a form first approved by the County Council in writing from either

38 20 1 Countryside Properties (UK) Limited (Company Number 00614864),
or

38 20 2 another company of the same or better financial covenant to
Countryside Properties (UK) Limited provided that the Owner shall not
be entitled to use another company as a guarantor before the County
Council has first approved that company in writing (such approval not
to be unreasonably withheld or delayed and it shall be unreasonable to
withhold approval in the event the proposed company is of the same or
better financial covenant as Countryside Properties (UK) Limited as at
the date of this Deed)

and in either case such guarantee shall cover all of the obligations that are
secured by Bond No 4 and once the guarantee has been secured and provided to
the County Council the Owner shall be entitled to treat Bond No 4 as released in
full

BUS SERVICES

39 The Owner and the County Council covenant with each other as follows

39 1 The Owner covenants with the County Council that

39 1 1 the Local Service will be provided for a period of no less than seven
years from the Initial Bus Date

39 1 2 the Inter Urban Service will be provided for a period of no less than
seven years from the Bus Date

39 1.3 there will be provided to the County Council annual reports from the
date of commencement of the Local Service and as applicable the
Inter Urban Service detailing service irregularities for the preceding
year

39 2 In the event that there is a Bus Failure (Inter Urban Service) the County Council may
give written notification of this to the Owner such notification to include a request that
the Owner notifies the County Council within five Working Days of service of the Bus
Notification whether it proposes to restore the Inter Urban Service to the standard
specified in Schedule 11 within three months of the date of service of the Bus
Notification provided that where there have previously been two or more Bus Failures
(Inter Urban Service) then the incorporation of a Bus Request in the Bus Notification
shall be at the absolute discretion of the County Council

39 3 The Owner covenants with the County Council that in relation to the Inter Urban Service
if any of the following circumstances apply the Owner shall pay to the County Council
the Bus Provision Payment as specified at column two of the Schedule 10 Part A
according to the trigger date as specified in column one of Schedule 10 Part A and such

payment shall be paid in accordance with column three of Schedule 10 Part A and on the date of payment of the final instalment the obligation under clause 39 1 2 to provide the Inter Urban Service and the obligation under clause 39 1 3 in respect of the Inter Urban Service shall cease

The circumstances are

- 39 3 1 The Owner advises the County Council that it does not propose to restore the Inter Urban Service following service on the Owner of a Bus Notification pursuant clause 39 2, or
 - 39 3 2 The Owner fails to respond to the Bus Request within five Working Days of service of the Bus Notification further to clause 39 2, or
 - 39 3 3 The Bus Notification from the County Council does not include a Bus Request and there is no obligation on the County Council to make a Bus Request
- 39 4 The Owner covenants with the County Council that in relation to the Inter Urban Service if the Owner responds to a Bus Request within five Working Days of service of the relevant Bus Notification advising that it proposes to restore the Inter Urban Service (but not otherwise) the Owner shall
- 39 4 1 pay to the County Council a Bus Failure Initial Payment within 14 days of service of the Bus Notification and the Bus Failure (Inter Urban Service) Compensation within 14 days from the restoration of the Inter Urban Service
 - 39 4 2 advise the County Council in writing forthwith on restoration of the Inter Urban Service
 - 39 4 3 In the event that the Inter Urban Service is not restored within three months of the date of service of the Bus Notification pay to the County Council the Bus Provision Payment as specified at column two of the Schedule 10 Part A according to the trigger date as specified in column one of the Schedule 10 Part A and such payment shall be paid in accordance with column three of Schedule 10 Part A and from the date of payment of the final instalment the obligation to provide the Inter Urban Service under clauses 39 1 2 and the obligation under clause 39 1 3 in respect of the Inter Urban Service shall cease
- 39 5 In the event that there is a Bus Failure (Local Service) the County Council may give written notification of this to the Owner such notification to include a request that the Owner notifies the County Council within five Working Days of service of the Bus Notification whether it proposes to restore the Local Service to the standard specified in Schedule 11 within three months of the date of service of the Bus

Notification provided that where there have previously been two or more Bus Failures (Local Service) then the incorporation of a Bus Request in the Bus Notification shall be at the absolute discretion of the County Council

39 6 The Owner covenants with the County Council that in relation to the Local Service if any of the following circumstances apply the Owner shall pay to the County Council the Bus Provision Payment as specified at column two of the Schedule 10 Part B according to the trigger date as specified in column one of Schedule 10 Part B and such payment shall be paid in accordance with column three of Schedule 10 Part B and on the date of payment of the final instalment the obligation to provide the Local Service under clause 39 1 1 and the obligation under clause 39 1 3 in respect of the Local Service shall cease

The circumstances are

39 6 1 The Owner advises the County Council that it does not propose to restore the Local Service as above, or

39 6 2 The Owner fails to respond to the Bus Request within five Working Days of service of the Bus Notification further to clause 39 5, or

39 6 3 The Bus Notification does not include a Bus Request and there is no obligation on the County Council to make a Bus Request

39 7 The Owner covenants with the County Council that in relation to the Local Service if the Owner responds to a Bus Request within five Working Days of service of the relevant Bus Notification advising that it proposes to restore the Local Service (but not otherwise) the Owner shall

39 7 1 pay to the County Council a Bus Failure Initial Payment within 14 days of service of the Bus Notification and the Bus Failure (Local Service) Compensation within 14 days from the restoration of the Local Service

39 7 2 advise the County Council in writing forthwith on restoration of the Local Service

39 7 3 in the event that the Local Service is not restored within three months of the date of service of the Bus Notification pay to the County Council the Bus Provision Payment as specified at column two of the Schedule 10 Part B according to the trigger date as specified in column one of the Schedule 10 Part B and such payment shall be paid in accordance with column three of Schedule 10 Part B and from the date of payment the obligation to provide the Local Service under clause 39 1 1 and the obligation under clause 39 1 3 in respect of the Local Service shall cease

39.8 The Owner covenants with the County Council that

39.8.1 In the event that the Owner gives written notice to the County Council that it wishes to cease arrangements for the provision of the Inter Urban Service (such notice to include the date on which the provision of the Inter Urban Service (further to arrangements made by the Owner) will cease) the Owner must pay to the County Council the Bus Provision Payment as specified at column 2 of Schedule 10 Part A according to the trigger date as specified in column 1 of Schedule 10 Part A and such payment shall be paid in accordance with column 3 of Schedule 10 Part A and from the date of payment of the final instalment the obligation to provide the Inter Urban Service under clause 39.1.2 and the relevant obligation under clause 39.1.3 shall cease

39.8.2 In the event that the Owner gives written notice to the County Council that it wishes to cease arrangements for the provision of the Local Service (such notice to include the date on which the provision of the Local Service (further to arrangements made by the Owner) will cease) the Owner shall pay to the County Council the Bus Provision Payment as specified at column 2 of Schedule 10 Part B according to the trigger date as specified in column 1 of Schedule 10 Part B and such payment shall be paid in accordance with column 3 of Schedule 10 Part B and from the date of payment the obligation to provide the Local Service under clause 39.1.1 and the relevant obligation under clause 39.1.3 shall cease

HIGHWAY WORKS

40 The Owner covenants with the County Council

40.1 Not to cause or permit the Planning Permission or any Qualifying Permission to be implemented until

40.1.1 there has been agreed between the County Council and the Owner plans identifying the land to be dedicated as public highway in respect of the Works and title to the freehold of and to all other interests in such land has been deduced to the satisfaction the County Council

40.1.2 there has been agreed between the County Council and the Developer a timetable which indicates when each element of the Works should commence and the maximum duration of construction of each element of the Works

40.1.3 The Highways Agreement has been completed and all parties with an interest in the land to be dedicated as public highway have joined in the

Highways Agreement and any mortgagee of any part of such land to be dedicated has released it

40 2 Not to cause or permit the Occupation of

40 2 1 more than 50 Dwellings until the Shakespeare Drive Junction Works as described in paragraph (1)5 of Schedule 14 have been completed in accordance with the Highways Agreement

40 2 2 more than 100 Dwellings until the A41 Roundabout Works described in paragraph (1)1 of schedule 14 and the section of the Perimeter Road Works described in paragraph (1) 2 1 of Schedule 14 have been completed in accordance with the Highways Agreement

40 2 3 more than 250 Dwellings until the Howes Lane Junction Works as described in paragraph (1)8 of Schedule 14, the Chesterton Road Works as described in paragraph (1)9 of Schedule 14, the section of the Perimeter Road Works described in paragraph (1) 2 2 of Schedule 14 and the Middleton Stoney Road Crossings (other than the Greenway Crossing) as described in paragraph (1)6 of Schedule 14 together with any traffic calming works in Middleton Stoney Road identified by the Stage 2 Safety Audit for the Middleton Stoney Road Crossings have been completed in accordance with the Highways Agreement

40 2 4 more than 400 Dwellings until the Greenway Crossing as described in paragraph (1)6 of Schedule 14 has been completed in accordance with the Highways Agreement

40 2 5 more than 650 Dwellings until all of the Middleton Stoney Road Traffic Calming as described in paragraph (1)7 of Schedule 14 has been completed in accordance with the Highways Agreement

40 2 6 more than 650 Dwellings until the section of the Perimeter Road Works defined in paragraph (1) 2 3 of Schedule 14 have been completed in accordance with a Highways Agreement

40 3 Not to cause or permit the Estate Spine Road to be open to traffic to or from the A41 until the A41 Junction Works have been completed in accordance with the Highways Agreement

40 4 Not to cause or permit the commencement of any works relating to the Spine Road until an agreement pursuant to Section 38 (and 278) of the Highways Act 1980 for the construction and adoption of the Spine Road has been entered into with the County Council and/or its agent by the Owner

- 40 5 Without prejudice to the provisions of the agreement referred to in clause 40 4 not to cause or permit the Occupation of more than 50 Dwellings until
- 40 5 1 an initial section of the Spine Road extending to 200 metres linking to Middleton Stoney Road at Shakespeare Drive Junction has been completed to adoption standard to binder course level (but with iron work flush with the binder course) in accordance with the provisions of such agreement pursuant to Sections 38 (and 278) of the Highways Act 1980, and
- 40 5 2 a temporary turning area sufficient to accommodate buses has been constructed at the southern end of such section of the Spine Road to the reasonable satisfaction of the County Council, and
- 40 5.3 such section of the Spine Road and bus turning area have been opened to all vehicular and pedestrian traffic (including buses)
- 40 6 Not to cause or permit the Occupation of more than 400 Dwellings until the entirety of the Spine Road has been completed to adoption standard to binder course level (but with the iron work flush with the binder course) in accordance with provisions of such agreement pursuant to Sections 38 and 278 of the Highway Act 1980 and it has been opened to vehicular and pedestrian traffic including buses provided always that the Owner shall use reasonable endeavours to effect this prior to the Occupation of 350 Dwellings and in the event that this is not reasonably achievable to use reasonable endeavours to complete the Estate Spine Road, the A41 Junction Works and the section of the Spine Road connecting that Estate Spine Road to Middleton Stoney Road and to open them to vehicular and pedestrian traffic prior to the occupation of 350 Dwellings
- 40 7 Immediately following practical completion of any section of the Spine Road or as applicable the initial section of the Perimeter Road from the A41 junction as specified in paragraph (1) 2 1 of Schedule 14 to adoption standard to binder course level (but with iron work flush with the binder course) and on service by the County Council of a certificate of practical completion to permit its use by vehicular and pedestrian traffic (including by buses) prior to its adoption as a public highway
- 40 8 To take out and maintain from the first opening to traffic of any part of the Perimeter Road or the Spine Road until adoption as highway maintainable at the public expense such insurance as is reasonably satisfactory to the County Council and the bus service providers as may be necessary to enable bus services to operate on such roads

TRAVEL PLAN

- 41 The Owner covenants with the County Council:

- 41 1 To implement the Travel Plan Implementation Strategy
- 41 2 Not to cause or permit the Occupation of any Dwelling until
- 41 2 1 the Residential Travel Plan has been submitted by the Developer to the County Council and it has been approved in writing by the County Council (subject always to such modifications as the County Council may require) or it has been deemed to have been approved as set out in clause 41 7, and
- 41.2 2 those parts of the Approved Residential Travel Plan which are identified therein as requiring implementation prior to Occupation of any Dwelling have been implemented
- 41 3 Not to cause or permit the Occupation of any unit at the business / employment areas of the Development until
- 41 3 1 the Workplace Travel Plan has been submitted by the Developer to the County Council and it has been approved in writing by the County Council (subject always to such modifications as the County Council acting reasonably may require) or it has been deemed to have been approved as set out in clause 41 7, and
- 41 3 2 those parts of the Approved Workplace Travel Plan which are identified therein as requiring implementation prior to Occupation of any business / employment unit have been implemented
- 41 4 To implement all other parts of the Approved Residential Travel Plan in accordance with the timetables and monitoring regimes contained in it and to implement all other parts of the Approved Workplace Travel Plan in accordance with the timetables and monitoring regime contained in it
- 41 5 To procure that any lease of the whole or any part of the Land comprised in the business/employment areas of the Development includes a covenant on the part of the tenant to observe and perform the provisions of the Approved Workplace Travel Plan so far as they relate to the user and occupation of that part of the Land and to take all reasonable steps to ensure compliance with such covenants and prior to disposal of the Owner's interest in the business/employment areas to put in place arrangements so that this clause 41 5 is enforceable by the County Council against successors in title of the Owner to the business/employment areas
- 41 6 To pay to the County Council on Occupation of 50 Dwellings the sum of £7,000 (seven thousand pounds) towards the assessment and monitoring of the Approved Residential Travel Plan and Approved Workplace Travel Plan

- 41 7 The Owner and the County Council agree as follows
- 41 7.1 The Owner shall revise such draft Travel Plan(s) as is submitted to the County Council so as to incorporate such reasonable amendments as the County Council may require provided that subject always to compliance with the provisions of clause 41 7.2 a draft Travel Plan shall be deemed to have been approved by the County Council unless the Developer is notified in writing of revisions required by the County Council within 15 Working Days of receipt of the draft by the County Council
- 41 7 2 The submission of a draft Travel Plan must be accompanied by written notification from the Owner to the County Council that under the terms of clause 41 7 1 of this Deed the draft Travel Plan shall be deemed to have been approved by the County Council unless the County Council notifies the Developer in writing of the revisions it requires within 15 Working Days of receipt of the draft Travel Plan
- 41 7.3 Where the Developer submits a revised draft Travel Plan to the County Council (further to any reasonable requirement of the County Council for revisions or otherwise) the provisions of clauses 41 7 1 and 41 7 2 shall apply mutatis mutandis
- 41 8 To appoint the Travel Plan Coordinator as provided for in the Travel Plan Implementation Strategy such Travel Plan Coordinator to be in post prior to Occupation of any Dwelling or business/employment building (but for the avoidance of doubt this shall exclude any educational facility building) and the following shall apply
- 41 8 1 A Travel Plan Coordinator shall be in post for 7 years from the date the initial appointee commences his appointment, and
- 41 8 2 The role of the Travel Plan Coordinator will be on a part-time basis being 2 days per week

PARK & RIDE

- 42 The Owner covenants with the County Council
- 42 1 Prior to the Occupation of 600 Dwellings to agree the precise boundaries of the Park & Ride Site with the County Council and
- 42 1 1 the Park & Ride Site will have no less an area than 2 hectares provided that the Owner shall not be required to provide land in excess of the 2 hectares, and

42 1 2 the entirety of the north eastern boundary of the Park & Ride Site between the points A-B-C on the Potential Park & Ride Site Plan shall about the public highway (comprising partly the adoption area of the Perimeter Road and partly the adoption area related to the A41 Roundabout Works)

and the County Council and the Owner agree that their representatives will liaise with the County Council including if necessary carrying out a joint site visit/visits in order to establish such boundaries

42 2 To permit employees and agents of the County Council to enter on the Park & Ride Site and adjacent land upon reasonable prior notice for the purpose of undertaking surveys and investigations the County Council making good all damage occasioned thereby

42 3 To answer expeditiously and in writing in as comprehensive and informative manner as reasonably practicable any reasonable preliminary enquiries raised by the County Council in relation to the Park & Ride Site

42 4 Within the period of 3 months after completion of the Perimeter Road (in accordance with the Highway Agreement) to offer in writing to transfer to the County Council the freehold of the Park & Ride Site (and all other interest (if any) in the Park & Ride Site) on the terms set out in Schedule 5 and the County Council may by notice in writing to the Owner accept the Park & Ride Offer within 3 months of receiving it If such offer expressly states that the period for acceptance is 3 months then if it has not been accepted within that period it shall be deemed to have been refused and the provisions in this Deed relating to the Park & Ride Site shall cease to have effect

42 5 Upon acceptance by the County Council of the Park & Ride Offer to procure that there is transferred to the County Council the freehold of the Park & Ride Site and all other interests (if any) in it in accordance with the terms specified in the Park & Ride Offer and if any such transfer is not executed as a deed by the Owner (and any other person with an interest in the Park & Ride Site) and delivered to the County Council within 20 Working Days of the County Council's acceptance of the Park & Ride Offer then the Development shall not be continued beyond such time until such time as the transfer has been duly executed as a deed and delivered to the County Council

42 6 Not to carry out any works or install any service conduits in, on, over or under the Park & Ride Site unless the County Council agrees in writing where such works are not shown on drawings agreed by the Owner and the County Council

EDUCATION SITES (GENERAL PROVISIONS AND COSTS)

- 43 1 The Owner covenants with the County Council that no more than 50 Dwellings shall be Occupied until the precise boundaries of the Primary School Site with no less an area than 2.47 hectares (provided that the Owner shall not be required to provide land in excess of the 2.47 hectares) have been agreed by the Owner and the County Council and the Owner agrees that its representatives will liaise with the County Council including as appropriate carrying out a joint site visit/visits in order to establish such boundaries which are to be pegged and recorded digitally on agreed site survey records
- 43 2 The Owner covenants with the County Council that no more than 450 Dwellings shall be Occupied until the precise boundaries of the Secondary Education Site with no less an area than 3.14 hectares (provided that the Owner shall not be required to provide land in excess of the 3.14 hectares) have been agreed by the Owner and the County Council and the Owner agrees that its representatives will liaise with the County Council including as appropriate carrying out a joint site visit/visits in order to establish such boundaries which are to be pegged and recorded digitally on agreed site survey records
- 43 3 The County Council will use reasonable endeavours to advise the Owner in writing within 24 weeks of the provision of the later of the Levels Information and the geotechnical ground investigations survey (in accordance with clause 44.1.1) of its assessment of the Abnormal Costs (Primary School) to include the levels (and levelling works) to be applied to the part of the Levels Land between points A-B-C and between points D-E-F on the Primary School Plan. The Owner shall be deemed to have agreed the County Council's assessment of the Abnormal Costs (Primary School) unless it advises the County Council otherwise in writing within 28 days of service on the Owner of the County Council's assessment. If the Owner objects to the County Council's assessment the County Council and the Owner will seek to agree the Abnormal Costs (Primary School) and if such agreement has not been reached within 25 Working Days any party to the dispute may refer the matter for expert determination in accordance with the provisions of clause 12
- 43 4 The County Council will use reasonable endeavours to advise the Owner in writing within 12 weeks of the provision of the geotechnical ground investigations survey (in accordance with clause 45.1.1) of its assessment of the Abnormal Costs (Secondary Facility) and the Owner shall be deemed to have agreed the County Council's assessment unless it advises the County Council otherwise in writing within 28 days of service on the Owner of the County Council's assessment. If the Owner objects to the County Council's assessment the County Council and the Owner will seek to agree the Abnormal Costs (Secondary Facility) and if such agreement has not been reached within 25 Working Days any party to the dispute may refer the matter for expert determination in accordance with the provisions of clause 12
- 43 5 The Owner covenants with the County Council not to alter the levels of the Land adjoining the part of the Primary School Site shown cross hatched on the Primary

School Plan so as to direct drainage towards the Primary School Site or so as to otherwise adversely affect the drainage of the Primary School Site

- 43 6 The Owner covenants with the County Council not to alter the levels of the part of the Primary School Site shown cross hatched on the Primary School Plan from that identified on the Topographical Study save as provided in clause 44 1 5 and not to alter the levels of the part of the Primary School Site shown coloured yellow on the Primary School Plan from that identified on the topographical survey to be provided further to clause 44 1 1
- 43 7 In the event that the County Council finds it necessary to alter the level of the Secondary Education Site or any part of it due to any material changes in the level of any part of the Secondary Education Site (prior to its transfer to the County Council) and/or any part of the Land adjoining the Secondary Education Site from the levels identified in the Topographical Study the Owner covenants with the County Council to pay to the County Council within 21 days of demand an additional contribution equal to the additional costs incurred by the County Council in altering the level of the Secondary Education Site and in designing and constructing a Secondary Facility on account of such alteration to the level of any part of the Secondary Education Site and/or any part of the adjoining land provided always that the County Council shall provide to the Owner on or before making such a demand reasonable evidence (such as rates within the contract documents) of the costs that are so incurred and in the event that the parties do not agree such additional costs within 21 days of demand from the County Council the provisions of clause 12 relating to expert determination of disputes will apply
- 43 8 The Owner covenants with the County Council not to erect or cause or permit to be erected any mobile phone mast on any part of the Land which is within 200 metres of the boundary of the Primary School Site or within 200 metres of the boundary of the Secondary Education Site
- 43 9 The Owner covenants with the County Council not to carry out any works on or install any service conduits in on over or under the Primary School Site or Secondary Education Site save in accordance with the provision of clauses 44 and 45 of this Deed
- 43 10 For the avoidance of doubt the Owner covenants with the County Council that notwithstanding the transfer pursuant to this Deed of the Primary School Site or as applicable the Secondary Education Site it will undertake all works required to be undertaken under clause 44 and as applicable clause 45 at the Primary School Site or as applicable the Secondary Education Site and the County Council agrees to the Owner carrying out those works in respect of which no licence fee will be chargeable by the County Council
- 43 11 The Owner further covenants with the County Council to ensure that all service media including the SUDS drainage system and Balancing Ponds serving the

Development will be of sufficient capacity to serve the Primary School Site for the purposes of a primary school with 14 classrooms and associated playing fields and playgrounds the Secondary Education Site with up to 30 classrooms and the Sports Area and if insufficient to commence within 1 month of written request from the County Council so to do and diligently proceed to upgrade the same at its own expense

- 43 12 The County Council will advise the Owner (following the issue of the certificate of practical completion for the Primary School) of its assessment of the Archaeological Costs (Primary School) together with reasonable supporting evidence of such costs and the Owner shall be deemed to have agreed the County Council's assessment unless it advises the County Council otherwise in writing within 28 days of the County Council submitting its assessment. If the Owner objects to the County Council's assessment the County Council and the Owner will seek to agree the Archaeological Costs (Primary School) and if such agreement has not been reached within 25 Working Days any party to the dispute may refer the matter for expert determination in accordance with the provisions of clause 12
- 43 13 The County Council will advise the Owner (following the issue of the certificate of practical completion for the Secondary Facility) of its assessment of the Archaeological Costs (Secondary Facility) together with reasonable supporting evidence of such costs and the Owner shall be deemed to have agreed the County Council's assessment unless it advises the County Council otherwise in writing within 28 days of the County Council submitting its assessment. If the Owner objects to the County Council's assessment the County Council and the Owner will seek to agree the Archaeological Costs (Secondary Facility) and if such agreement has not been reached within 25 Working Days any party to the dispute may refer the matter for expert determination in accordance with the provisions of clause 12
- 43 14 The Owner covenants to pay the Archaeological Costs (Primary School) to the County Council within 14 days of such costs being agreed by or as applicable deemed to be agreed by the Owner or if later within 14 days of such costs having been established by expert determination
- 43 15 The Owner covenants to pay the Archaeological Costs (Secondary Facility) to the County Council within 14 days of such costs being agreed by or as applicable deemed to be agreed by the Owner or if later within 14 days of such costs having been established by expert determination
- 43 16 The Owner covenants with the County Council to observe and perform the provisions of clauses 19 1, 19 2 and 25 of this Deed and to pay the costs and make the payments referred to in clause 27 2 of this Deed at the times provided for in this Deed
- 43 17 In the event that either the Sports Area is not transferred to the District Council or prior to the making of the Secondary Facility Offer the Sports Area is transferred

back by the District Council further to clause 27 3 or otherwise then all references to the Secondary Education Site shall include the Sports Area provided always that the County Council may on acceptance of the Secondary Facility Offer elect to exclude the Sports Area in which case all relevant references to the Secondary Education Site shall exclude the Sports Area

PRIMARY SCHOOL SITE PROVISION

- 44 The Owner covenants with the County Council as follows
- 44 1 Prior to making the Primary School Offer to observe and perform the following obligations
- 44 1 1 Without cost to the County Council to procure and supply to the County Council within 3 months of the grant of Planning Permission a full geotechnical ground investigation survey of the Primary School Site in accordance with the specification annexed to this Deed at Schedule 15 and for the part of the Primary School Site shown coloured yellow on the Primary School Plan to include a topographical survey with spot levels on a 5m grid The contract for such survey shall accord with those in general use for contracts for such type of surveys and a certified copy will be supplied to the County Council
- 44 1 2 Without cost to the County Council to procure and supply to the County Council within 4 months of the grant of the Planning Permission the Levels Information
- 44 1 3 Without cost to the County Council to procure that the Primary School Site is cleansed decontaminated and otherwise made good including the removal wherever they occur of structures footings foundations services (live or decommissioned) and all other non-naturally occurring items to be found in on or over the Primary School Site all in accordance with the output specification annexed to this Deed at Schedule 16 The contract for such works shall accord with those in general use for contracts for such type of works and a certified copy will be supplied to the County Council
- 44 1 4 Without cost to the County Council to procure and supply to the County Council warranties in the form attached as Appendix 19 subject to such variations as the County Council and the Owner may agree from all consultants contractors and other persons responsible for investigating the condition of the Primary School Site (including for the avoidance of doubt the geotechnical ground investigation survey referred to at clause 44 1 1) and cleansing decontaminating and otherwise making good the Primary School Site prior to the transfer of it

44 1 5 Without cost to the County Council to procure that

44 1 5 1 There is deposited on the part of the Primary School Site shown cross hatched on the Primary School Plan soil in accordance with the following requirements.

- to a minimum depth of 500mm comprising 200mm free draining top soil to be compacted and covered by 300mm screened (20mm max) sandy loam to be compacted
- falls across the width of the area (north to south) 1 in 100 two – way falls from the centre and falls along the length of the area (east to west) 1 in 150 – 200 (and so that the lowest point is at the south west corner)

all such soil to be approved by the County Council and for this purpose the Owner shall first notify the County Council of its location and source and afford reasonable access and opportunity to inspect and analyse the soil

44 1 5 2 Where requisite in order to address following completion of the deposit of soil further to clause 44 1 5 1 the difference in levels between the part of the Primary School Site shown cross hatched on the Primary School Plan and the adjoining land to construct retaining structures or slopes from the part of the Primary School Site shown cross hatched on the Primary School Plan to the adjoining land all such slopes and retaining structures to be constructed exclusively on land adjoining the part of the Primary School Site shown cross hatched on the Primary School Plan without impinging on the Primary School Site

44.1 6 To carry out all necessary works to implement the scheme specified in the Levels Information (to include the provision of roadways adjoining the Primary School Site to base level) and to provide the levels at the Levels Land as identified by the County Council further to clause 43 3 following the completion of such works not to further alter the levels of the Levels Land and for the avoidance of doubt this restriction shall continue to apply after the Primary School Offer is made

44 1 7 Upon reasonable prior written notice to permit employees and agents of the County Council to enter on the Primary School Site and adjacent land for the purpose of undertaking surveys and investigations the County Council making good all damage occasioned thereby

44.1.8 To answer in writing as expeditiously as reasonably possible and in as comprehensive and informative manner as reasonably possible all reasonable preliminary enquiries raised by the County Council

44 2 No later than 10 Working Days after both of the following have occurred

44 2 1 the Occupation of the 100th Dwelling, and

44.2 2 notification by the County Council to the Developer of the issue of the Primary School Approval (New School)

to make the Primary School Offer to the County Council to transfer the freehold of the Primary School Site and all other interests (if any) in the Primary School Site to the County Council on the terms as set out in Schedule 5 and the County Council may by notice in writing to the Owner accept the Primary School Offer within three months of receiving it

and if the Primary School Offer has not been made within 10 Working Days of both of the events specified above in this clause 44 2 not to continue with the Development or cause or permit any further Occupation of the Development until this clause 44 2 has been fully complied with

For the avoidance of doubt in the event that the Primary School Site is offered to the County Council prior to compliance with the provisions of clause 44 1 then such offer shall not (unless otherwise expressly agreed by the County Council) constitute the Primary School Offer in compliance with this clause

44 3 Upon acceptance by the County Council of the Primary School Offer to transfer the freehold of the Primary School Site (and all other interests (if any) in the Primary School Site) to the County Council in accordance with the terms specified in this clause 44 and Schedule 5

44 4 If such transfer is not executed as a deed by the Owner and any other person with an interest in the Primary School Site and delivered to the County Council within 28 days of the County Council's acceptance of the Primary School Offer not to continue with the Development (or cause or permit any further Occupation of the Development) beyond such time until such transfer has been duly executed as a deed and delivered to the County Council

44 5 Prior to the transfer of the Primary School Site to complete the Deed of Release and apply to the Land Registry for the noting of the Deed of Release on title numbers ON223413 ON254144 and ON239305 and forthwith on the noting of the Deed of Release on such titles to supply a copy of the Deed of Release and such

titles to the County Council. For the avoidance of doubt the Mortgagee hereby consents to the completion of the Deed of Release

44 6 Prior to the transfer of the Primary School Site to provide a temporary electricity supply a water supply and access to a foul drain for contractors and a temporary haul road for the use of contractors to the boundary of the Primary School Site from the public highway all to be in positions agreed by the County Council and to maintain such temporary haul road and services so that they are available for convenient use until permanent connections and access are operational provided always that this shall not impose any obligation on the Owner to pay for the supply consumed through the use of the services

and if any such services and haul road are not provided prior to the transfer of the Primary School Site not to continue with the Development or cause or permit any further occupation of the Development until they have been provided in accordance with this clause

44 7 To provide the Primary School Services so as to be sufficient and readily available to serve the Primary School Site for the purpose of a Primary School and to procure that the Primary School Services are

44 7.1 constructed to the termination position/connection point/terminal points of the Primary School Services on the boundary of or as applicable within the Primary School Site in the locations set out in Schedule 12 save that the Owner will notify the County Council in writing no more than 10 Working Days in advance of when it proposes to install the Primary School Services in accordance with clause 44 7 together with the cost of extending the Primary School Services and the timetable for undertaking such extensions and where the County Council notifies the Owner in writing in accordance with clause 48 10 the Owner shall procure that the Primary School Services are constructed to the termination position / connection point / termination point within the Primary School Site as identified by the County Council further to clause 48 10

44 7 2 fully operational in accordance with the timetable set out in Schedule 12 provided always that. this shall not impose any obligation on the Owner to pay for the supply consumed through the use of the services

and if any of the Primary School Services are not so provided so as to be fully operative in accordance with the timetable set out in Schedule 12 not to continue with the Development or cause or permit any further occupation of the Development until they have been so provided so as to be fully operative

44 8

No less than 3 months prior to the Primary School Date to complete the construction of the following

- 44 8.1 convenient pedestrian and cycle access ways along such routes to the Primary School Site as the County Council shall have previously approved from the Phases (residential) of the Development which at that date have been or are in the course of construction to the pedestrian accesses to the Primary School Site as shown on the Primary School Plan all such ways to be constructed to County Council adoption standard (with lighting)
- 44 8 2 permanent vehicular access ways to the Primary School Site from the public highway (via such routes as the County Council shall have previously approved) to the vehicular entrances to the Primary School Site as shown on the Primary School Plan together with a further permanent vehicular access for grounds maintenance equipment (including gang mowers) from the public highway to the access point designated (approximately) on the Primary School Plan Such access ways (other than the access for grounds maintenance equipment) are to be constructed to the County Council's adoption standard with the vehicle access points at the Primary School Site being 4 5 metres wide with a junction radius of 6 metres

and there will be provided as part of the works under this clause 44 8 such traffic calming measures, road markings, barrier rails and pelican crossings as may be agreed by the Developer and the County Council for ensuring safe pedestrian access to and from the Primary School Site

and if any such access ways (or works) are not so completed 3 months prior to the Primary School Date not to continue with the Development or cause or permit any further occupation of the Development until they have been so completed

44 9

Prior to the Primary School Date to provide on the public highway/prospective public highway or any other part of the Development to which the public has access a coach lay-by (as approved by the County Council) which is capable of accommodating two coaches, affords safe and convenient access to the Primary School Site for children attending the Primary School and which is freely available for use as a coach lay-by by coaches dropping off and picking up children attending the Primary School provided always that where the coach lay-by is located off the public highway/prospective public highway the Owner shall ensure that there are reasonable arrangements in place to prioritise use by coaches required for the Primary School

44 10

To use all reasonable endeavours to provide prior to the Primary School Date an off highway area accommodating about 25 vehicles suitable for dropping off and collecting children attending the Primary School which is freely available for such

use and which affords safe and convenient access to the Primary School Site and where this is not reasonably practicable to use reasonable endeavours to provide temporary drop off facilities as aforesaid and which are freely available for such use and which afford safe and convenient access to the Primary School Site until the permanent area is available

SECONDARY FACILITY PROVISION

45 The Owner covenants with the County Council as follows

- 45 1 Prior to making the Secondary Facility Offer to observe and perform the following obligations:
- 45 1.1 Without cost to the County Council to procure and supply to the County Council within 3 months of the grant of Planning Permission a full geotechnical ground investigation survey of the Secondary Education Site in accordance with the specification annexed to this Agreement at Schedule 15 The contract for such survey shall accord with those in general use for contracts for such type of surveys and a certified copy will be supplied to the County Council
 - 45.1 2 Without cost to the County Council to procure that the Secondary Education Site is cleansed decontaminated and otherwise made good including the removal wherever they occur of structures footings foundations services (live or decommissioned) and all other non-naturally occurring items to be found in on or over the Secondary Education Site all in accordance with the output specification annexed to this Deed at Schedule 16. The contract for such works shall accord with those in general use for contracts for such type of works and a certified copy will be supplied to the County Council
 - 45 1 3 Without cost to the County Council to procure and supply to the County Council warranties in the form attached as Appendix 19 subject to such variations as the County Council the Owner may agree from all consultants contractors and other persons responsible for investigating the condition of the Secondary Education Site (including for the avoidance of doubt the geotechnical ground investigation survey referred to at clause 45 1 1) and cleansing decontaminating and otherwise making good the Secondary Education Site prior to the transfer of it
 - 45 1 4 Upon reasonable prior written notice to permit employees and agents of the County Council to enter on the Secondary Education Site and adjacent land for the purpose of undertaking surveys and investigations

the County Council making good all damage occasioned thereby

45 1 5 To answer in writing as expeditiously as reasonably possible and in as comprehensive and informative manner as reasonably possible all reasonable preliminary enquiries raised by the County Council

45 2 No later than 10 Working Days after both of the following have occurred

45.2 1 the Occupation of the 500th Dwelling, and

45.2 2 notification by the County Council to the Developer of the issue of the Secondary Facility Approval (New Facility)

to make the Secondary Facility Offer to the County Council to transfer the freehold of the Secondary Education Site and all other interests (if any) in the Secondary Education Site to the County Council on the terms as set out in Schedule 5 and the County Council may by notice in writing to the Owner accept the Secondary Facility Offer within 3 months of receiving it but no deposit shall be payable on the acceptance of the Secondary Facility Offer

and if the Secondary Facility Offer has not been made within 10 Working Days of both of the events specified above in this clause 45 2 not to continue with the Development or cause or permit any further Occupation of the Development until this clause 45 2 has been fully complied with

For the avoidance of doubt in the event that the Secondary Education Site is offered to the County Council prior to compliance with the provisions of clause 45.1 2 then such offer shall not (unless otherwise expressly agreed by the County Council) constitute the Secondary Facility Offer in compliance with this clause

45 3 Upon acceptance by the County Council of the Secondary Facility Offer to transfer the freehold of the Secondary Education Site (and all other interests (if any) in the Secondary Education Site) to the County Council in accordance with the terms specified in this clause 45 and Schedule 5

45 4 If such transfer is not executed as a deed by the Owner and any other person with an interest in the Secondary Education Site and delivered to the County Council within 20 Working Days of the County Council's acceptance of the Secondary Facility Offer not to continue with the Development (or cause or permit any further occupation of the Development) beyond such time until such transfer has been duly executed as a deed and delivered to the County Council

45 5 Prior to the transfer of the Secondary Education Site to provide a temporary electricity supply a water supply and access to a foul drain for contractors and a temporary haul road for the use of contractors to the boundary of the Secondary Education Site from the public highway all to be in positions agreed by the County Council and to maintain such temporary haul road and services so that they are available for convenient use until permanent connections and access are operational provided always that this shall

not impose any obligation on the Owner to pay for the supply consumed through the use of the services

and if any such services and haul road are not provided prior to the transfer of the Secondary Education Site not to continue with the Development or cause or permit any further occupation of the development until they have been provided in accordance with this clause

45 6 To provide the Secondary Facility Services so as to be sufficient and readily available to serve the Secondary Education Site for the purpose of the Secondary Facility and to procure that the Secondary Facility Services are

45 6 1 constructed to the termination position/connection point/terminal points on the boundary of or as applicable within the Secondary Education Site in the locations set out in Schedule 16 save that the Owner will notify the County Council in writing no more than 10 Working Days in advance of when it proposes to install the Secondary Facility Services in accordance with clause 45 6 together with the cost of extending the Secondary Facility Services and the timetable for undertaking such extensions and where the County Council notifies the Owner in writing in accordance with clause 48 10 the Owner shall procure that the termination position / connection point / termination point of the Secondary Facility Services is constructed to the location(s) within the Secondary Education Site as identified by the County Council further to clause 48.10

45.6 2 fully operational in accordance with the timetable set out in Schedule 16 provided always that this shall not impose any obligation on the Owner to pay for the supply consumed through the use of the services

and if any of the Secondary Facility Services are not so provided so as to be fully operative in accordance with the timetable set out in Schedule 13 not to continue with the Development or cause or permit any further occupation of the Development until they have been so provided so as to be fully operative

45 7 No less than 3 months prior to the Secondary Facility Date to complete the construction of the following

45 7 1 convenient pedestrian and cycle access ways from the residential Phases of the Development along such routes to the Secondary Education Site as the County Council shall have previously approved and to such point(s) as the County Council shall have previously approved all such ways to be constructed to County Council adoption standard (with lighting)

45 7 2 one permanent vehicular access to the Secondary Education Site from the public highway (via such route as shall have previously been

approved by the County Council in the illustrative position shown on the Secondary Facility Access Plan) to the vehicular entrance to the Secondary Education Site as shown on the Secondary Facility Plan together with a further permanent vehicular access for the purpose only of use by grounds maintenance equipment (including gang mowers) from the public highway to the access point designated (approximately) on the Secondary Facility Plan such access ways other than the access for grounds maintenance equipment to be constructed to the County Council's adoption standard with the vehicle access point at the Secondary Education Site being 4.5 metres wide with a junction radius of 6 metres

and there will be provided as part of the works under this clause 4.5.7 such traffic calming measures, road marking, barrier rails and pelican crossings as have been agreed by the Developer and the County Council for ensuring safe pedestrian access to and from the Secondary Education Site

and if any such access ways (or works) are not so completed 3 months prior to the Secondary Facility Date not to continue with the Development or cause or permit any further occupation of the Development until they have been so completed

- 4.5.8 No later than 3 months prior to the Secondary Facility Date to construct on the Land in the illustrative and indicative position shown on the Secondary Facility Access Plan and to the reasonable satisfaction of the County Council a private access road with a coach lay-by/lay-bys (as approved by the County Council) which is capable of accommodating 6 coaches and which affords safe and convenient access to the Secondary Education Site for children attending the Secondary Facility
- 4.5.9 To use all reasonable endeavours to provide an off highway area suitable for dropping off and collecting children attending the Secondary Facility which is freely available for such use and which affords safe and convenient access to the Secondary Education Site
- 4.5.10 In the event that after the Secondary Facility Offer has been made the Sports Area is transferred back by the District Council further to clause 2.7.3
- 4.5.10.1 Forthwith to notify in writing the County Council of the fact that the Sports Area has been transferred back to it, and
- 4.5.10.2 Upon reasonable prior written notice to permit employees and agents of the County Council to enter on the Sports Area and adjacent land for the purpose of undertaking surveys and investigations the County Council making good all damage occasioned thereby, and

- 45 10 3 To answer in writing as expeditiously as reasonably possible and in as comprehensive and informative manner as reasonably possible all reasonable preliminary enquiries raised by the County Council in relation to the title to the Sports Area, and
- 45 10 4 No later than 20 Working Days after such transfer back by the District Council to offer to transfer the freehold of the Sports Area and all other interests (if any) in the Sports Area to the County Council on the terms as set out in Schedule 5 and the County Council may by notice in writing to the Owner accept such offer within three months of receiving it, and if such offer is not made within 20 Working Days of the transfer back by the District Council not to continue with the Development or cause or permit any further occupation of the Development until such offer has been made to the County Council
- 45 10 5 Upon acceptance by the County Council of such offer to transfer the freehold of the Sports Area (and all other interests (if any) in the Sports Area) to the County Council in accordance with the terms specified in this clause 45 and Schedule 5
- 45 10 6 If such transfer referred to in clause 45 10 5 is not executed as a deed by the Owner and any other person with an interest in the Sports Area and delivered to the County Council within 28 days of the County Council's acceptance of the offer then not to continue with the Development (or cause or permit any further Occupation of the Development) beyond such time until such transfer has been duly executed as a deed and delivered to the County Council
- 45 11 In the event that the Secondary Facility Access Area has not been transferred to the District Council prior to the acceptance by the County Council of the Secondary Facility Offer then it shall not be transferred to the District Council and the Owner shall effect the transfer of the freehold of the Secondary Facility Access Area and all other interests (if any) therein to the County Council on the terms as set out in Schedule 5 save that completion will take place within 20 Working Days of completion of the construction of the private access road with lay-bys in accordance with clause 45 8
- 45 12 In the event that the Secondary Facility Access Area is transferred back by the District Council further to clause 27 3 on or after the acceptance by the County Council of the Secondary Facility Offer) the Owner shall effect the transfer of the

freehold of the Secondary Facility Access Area and all other (if any) interests therein to the County Council on the terms set out in Schedule 5 save that completion shall take place within 20 Working Days of completion of the construction of the private access road with lay-bys in accordance with clause 45 8 or if later within 20 Working Days after the transfer back to the Owner

46. DEALINGS WITH SITES

- 46 1 The Owner covenants with the County Council that except as permitted by clause 46 4 below and as provided in clause 44 5 not to create or dispose of any legal or equitable interest (including without limitation any easement, right or covenant) in, over or under nor create any right or licence to occupy or use a County Site or any part of it except in favour of the County Council provided always that the relevant *restriction on dealings* shall come to an end should the County Council not accept the relevant offer for any County Site within three months of it having been made
- 46 2 The Owner undertakes with the County Council not to dispose of the whole or any part of a County Site at any time prior to its transfer to the County Council unless there has been delivered to the County Council (without cost to the County Council) a deed of covenant under seal from the disponent with the County Council in the form attached to this Deed as Appendix 12
- 46 3 The parties jointly apply to the Chief Land Registrar to enter on the title to each County Site (with priority over any dealing by the Developer or the Owner) a Restriction in Standard Form L as follows 'No disposition of the registered estate of *[the relevant County Site]* by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by the County Solicitor of the Oxfordshire County Council, County Hall, New Road, Oxford OX1 1ND that the provisions of clause 46 2 of an Agreement dated [] 2008 between [] have been complied with' and the Owner hereby undertakes to sign Land Registry Forms RX1 promptly on receipt of the same from the County Council to confirm its consent to the applications and to supply to the County Council official copies of the title numbers to the County Sites as evidence of the noting of such restrictions promptly following their registration
- 46 4 The County Council will consent to registration under the terms of any such restrictions (but not to the cancellation of the restrictions save where provided for in clause 46.5) where upon a disposition or dealing it has been demonstrated to the County Council that there is no breach of the terms as applicable of clauses 42, 43, 44 and 45 and of this Deed and where the undertaking given in clause 46 2 has been complied with
- 46 5 The County Council will upon request consent to cancellation of the relevant restriction following the expiration of a period of 3 months from the date of service on it of a relevant offer for the transfer of any County Site provided always that the

Council has not accepted such offer in accordance with this Deed

47 COUNTY COUNCIL COMMITMENTS (CONTRIBUTIONS)

- 47 1 The County Council agrees that it shall not apply any County Contribution for any purpose other than that designated in the definition of the relevant County Contribution in such form and at such times as the County Council in its discretion decides save that the Owner hereby agrees that:
- 47.1 1 the County Council may temporarily appropriate funds out of one or more of the County Contributions to be applied for another purpose or purposes designated under this Deed so long as such appropriated funds are ultimately reallocated for their designated purpose and provided that the County Council shall notify the Owner in the event that it temporarily appropriates funds and such temporary appropriation shall not prevent the County Council from being obliged to repay any unexpended monies due under clause 47 3 in relation to those County Contributions from which funds were temporarily appropriated
 - 47 1.2 the County Council may permanently appropriate up to £600,000 (six hundred thousand pounds) from the Primary Education Contribution for the provision of secondary education infrastructure in Bicester serving the Land
 - 47.1 3 the County Council may permanently appropriate up to £400,000 (four hundred thousand pounds) from the Secondary Facility Contribution for the provision of primary school infrastructure in Bicester serving the Land
- 47 2 The County Council agrees that it shall not apply any Bus Payment for any purpose other than for the provision of bus services and related infrastructure serving the Land
- 47.3 The County Council agrees that it shall not apply the Marginal Primary Payments and the Marginal Secondary Payments for any purpose other than in respect of costs incurred in the provision of primary school infrastructure in Bicester serving the Land and secondary school infrastructure in Bicester serving the Land respectively
- 47.4 The County Council will repay the Marginal Primary Payments (together with interest which has accrued on the balance after deduction of tax when required and any sum required to be deducted by law) to the person who paid the Marginal Primary Payments (or to such other person as that person in its absolute discretion may direct) following written request from him

- 47.4.1 if the Primary Bedroom Factor (1200) exceeds 0.1130 but the Primary Bedroom Factor (1500) is 0.1058 or less and the Primary Bedroom Factor (Final) is 0.1077 or less, or
- 47.4.2 if the Primary Bedroom Factor (1200) is 0.1130 or less and the Primary Bedroom Factor (1500) exceeds 0.1176 but the Primary Bedroom Factor (Final) is 0.1077 or less, or
- 47.4.3 if the Primary Bedroom Factor (1200) exceeds 0.1130 and the Primary Bedroom Factor (1500) exceeds 0.1176 but the Primary Bedroom Factor (Final) is 0.1077 or less provided that the date of the notification to the County Council by the Owner further to clause 3.2.24 is within nine months and fourteen days of the notification by the County Council to the Owner further to clause 48.12.2

provided always that no such request shall be made prior to notification further to clause 48.12.3

47.5 The County Council will repay the Marginal Secondary Payments (together with interest which has accrued on the balance after deduction of tax when required and any sum required to be deducted by law) to the person who paid the Marginal Secondary Payments (or to such other person as that person in its absolute discretion may direct) following written request from him

- 47.5.1 if the Secondary Bedroom Factor (1200) exceeds 0.0458 but the Secondary Bedroom Factor (1500) is 0.0514 or less and the Secondary Bedroom Factor (Final) is 0.0602 or less, or
- 47.5.2 if the Secondary Bedroom Factor (1200) is 0.0458 or less and the Secondary Bedroom Factor (1500) exceeds 0.0571 but the Secondary Bedroom Factor (Final) is 0.0602 or less, or
- 47.5.3 if the Secondary Bedroom Factor (1200) exceeds 0.0458 and the Secondary Bedroom Factor (1500) exceeds 0.0571 but the Secondary Bedroom Factor (Final) is 0.0585 or less provided that the date of the notification to the County Council by the Owner further to clause 3.2.24 is within nine months and fourteen days of the notification by the County Council to the Owner further to clause 48.13.2

provided always that no such request shall be made prior to notification further to clause 48 13 3

47 6 The County Council will pay to the person who paid a particular contribution or payment (or to such other person as that person in its absolute discretion may direct) following written request from him the balance (if any) of any of the County Contributions or as applicable any of the Bus Payments or as applicable the Marginal Primary Payments or the Marginal Secondary Payments which at the date of receipt of such written request has not been expended (together with interest which has accrued on this balance after deduction of tax where required and any sum required to be deducted by law) provided always that no such request shall be made prior to the expiry of 7 years from the date of payment of the final instalment/payment of the County Contribution or Bus Payment in question or as applicable the Marginal Primary Payments or the Marginal Secondary Payments or if later the expiry of 7 years from the due date for payment of such final instalment/payment

Any contribution or payment or part contribution or payment which the County Council has unconditionally contracted to expend prior to the date of receipt of such request shall be deemed to have been expended prior to that date and for the avoidance of doubt

47 6 1 where the County Council has temporarily appropriated funds out of one or more of the County Contributions pursuant to clause 47 1 1 it shall not be treated as having expended such temporarily appropriated funds for their designated purpose

47 6 2 the County Council shall be treated as having unconditionally contracted to expend monies where the County Council shall have entered into a contract which provides for payment contingent on the provision of works and/or services and/or supplies and/or such contract allows for revocation for breach of contract or in other circumstances such as liquidation where it is common practice for a contract to be revocable

48. COUNTY COUNCIL COMMITMENTS (NOTIFICATION)

48 1 The County Council covenants with the Owner

48 1 1 to comply with the design codes approved pursuant to Condition 6 of the Schedule of Conditions annexed as Appendix 9 when designing buildings to be constructed on the Primary School Site or the Secondary Education Site or on the Sports Area

- 48 1 2 to consult the Developer on the design of all buildings to be constructed on the Primary School Site or the Secondary Education Site and all buildings to be constructed by the County Council on the Sports Area and to this end to send to the Developer copies of all plans to be submitted as part of any planning application for development of the Primary School Site or the Secondary Education Site or in the circumstances specified above the Sports Area not less than 4 weeks prior to the submission of that planning application
- 48.2 The County Council will notify the Owner of any Primary School Approval (New School), Primary School Approval (Expansion), Secondary Facility Approval (New Facility) and Secondary Facility Approval (Expansion) within 20 Working Days of grant or receipt (as applicable) of the same by the County Council
- 48 3 The County Council will use reasonable endeavours to give the Owner no less than 12 weeks prior notice of the proposed letting of a contract for the construction of primary education accommodation/facilities further to a Primary School Approval (New School) or Primary School Approval (Expansion)
- 48 4 The County Council will use reasonable endeavours to give the Owner no less than 12 weeks prior notice of the proposed letting of a contract for the construction of secondary education accommodation/facilities further to a Secondary Facility Approval (New Facility) or Secondary Facility Approval (Expansion)
- 48 5 The County Council will use reasonable endeavours to notify the Owner in writing of the inverts to the main drains for connection to the spur connections referred to in item 1 of Schedule 12 (and of the school drainage system) prior to applying for full planning permission or approval of reserved matters for the Primary School at the Primary School Site
- 48 6 The County Council shall use reasonable endeavours to notify the Owner in writing of the inverts to the main drains for connection to the spur connections referred to in item 1 of Schedule 13 (and of the facility drainage system) prior to applying for full planning permissions or approval of reserved matters for the Secondary Facility at the Secondary Education Site
- 48 7 The County Council will notify the Owner in writing of the Primary School Date on or before a contract is let for the construction of the Primary School
- 48 8 The County Council will notify the Owner in writing of the Secondary Facility Date on or before a contract is let for the construction of the Secondary Facility
- 48 9 The County Council covenants with the Owner that all employees agents consultants and contractors working for or appointed by or on behalf of the County Council shall in constructing works on behalf of the County Council at the County Sites or the Sports Area comply with the Considerate Contractor Scheme or such other similar scheme that shall replace it

48 10 The County Council covenants with the Owner in relation to both the Primary School Services and Secondary Facility Services that if within 15 Working Days of receipt of notification pursuant to clause 44 7 1 or 45.6 1 (as applicable) the County Council shall notify the Owner that it requires the Primary School Services or the Secondary Facility Services (as applicable) to be constructed to a location or point as identified by the County Council within the Primary School Site or Secondary Facility Site (as applicable) the County Council shall reimburse the Owner within 20 Working Days of receipt of a written demand for payment by the Owner or the Developer the costs of extending the Primary School Services and Secondary Facility Services (as applicable) to a location or point within the Primary School Site or Secondary Facility Site as designated by the County Council such costs to be calculated in accordance with the notification from the Owner further to clause 44 7 1 or 45 6 1 (as applicable) and for the avoidance of doubt the Owner shall be responsible only for the cost of constructing the Primary School Services and the Secondary School Services (as applicable) to the boundary of the Primary School Site and Secondary Facility Site (as applicable) other than the drainage spurs specified in item 1 of Schedule 12 and item 1 of Schedule 13 which shall be constructed as provided therein

48 11 The County Council will provide the Owner with the following information on an annual basis which shall commence within 2 months of the Term Date following the date of Implementation and thereafter within 2 months of the Term Date following each and every anniversary of the date of Implementation until all Dwellings to be constructed as part of the Development have been completed

48 11 1 annual information on the numbers of children whose residence is at the Development who attend maintained schools (primary, secondary, special community, voluntary aided, voluntary foundation) within Oxfordshire, and

48 11 2 the postcode enrolment details for the maintained primary schools in Bicester (subject to such constraints as the County Council may be obliged to comply with as a result of the Data Protection Act 1998)

48 12 The County Council will provide the Owner with the number of primary school pupils (year groups 1 – 6 inclusive) whose residence is at the Development and who attend maintained schools (primary, secondary, special community, voluntary aided, voluntary foundation) within Oxfordshire

48 12.1 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the 1,200th Dwelling further to clause 3 2 22

48 12 2 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the 1,500th Dwelling further to clause 3 2 23

48 12 3 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the last Dwelling further to clause 3 2 24

48 13 The County Council will provide the Owner with the number of secondary school pupils (year groups 7 – 11 inclusive) whose residence is at the Development and who attend maintained schools (primary, secondary, special community, voluntary aided, voluntary foundation) within Oxfordshire

48 13 1 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the 1,200th Dwelling further to clause 3 2 22

48 13 2 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the 1,500th Dwelling further to clause 3 2 23

48 13 3 within 60 days of the Term Date immediately following the date of notification to the County Council by the Owner of the Occupation of the last Dwelling further to clause 3 2 24

NUMBER OF DWELLINGS

49 The Owner covenants with the District Council and separately with the County Council not to cause or permit more than 1,585 Dwellings to be constructed on the Land pursuant to the Planning Permission or any Qualifying Permission provided always for the avoidance of doubt these restrictions shall not operate to

49 1 prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission or any Qualifying Permission) granted (whether or not on appeal) after the date of this Deed,

49 2 prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than any Qualifying Permission) that results from an application made pursuant to Section 73 of the 1990 Act

MARGINAL PAYMENTS

- 50 1 The Owner covenants with the County Council to pay to the County Council within 21 days of each Marginal Payment Date (Primary) the sum calculated as follows

$(£1,534 \text{ (one thousand five hundred and thirty four pounds)} \times (P - Q))$ Index-Linked

where P (representing the marginal number) is the aggregate number of Bedrooms in excess of 4040 comprised in those Dwellings which have been occupied at the relevant Marginal Return Date and Q is the marginal number (if any) applied in calculating the previous Marginal Primary Payment (so that for the first Marginal Primary Payment Q is zero)

- 50 2 The Owner covenants with the County Council to pay to the County Council at each Marginal Payment Date (Secondary) the sum calculated as follows

$(£940 \text{ (nine hundred and forty pounds)} \times (R - S))$ Index-Linked

where R (representing the marginal number) is the aggregate number of Bedrooms in excess of 4040 comprised in the Dwellings that have been occupied prior to the relevant Marginal Return Date and S is the marginal number (if any) applied in calculating the previous Marginal Secondary Payment (so that for the first Marginal Secondary Payment S is zero)