

DATED 12 August .....2022

**CHERWELL DISTRICT COUNCIL**

**-and-**

**OXFORDSHIRE COUNTY COUNCIL**

**-and-**

**MARY ANNE TADMAN**

**-and-**

**BURRINGTON ESTATES (DEDDINGTON) LIMITED**

**-and-**

**PEMBURY ESTATES LTD**

**-and-**

**BURRINGTON ESTATES (MIDLANDS) LIMITED**

**-and-**

**PARAGON DEVELOPMENT FINANCE LIMITED**

**PLANNING OBLIGATION BY DEED OF AGREEMENT**

**under Section 106 of the Town and Country Planning Act 1990**

**relating to**

**Land North of Hempton Road and west of Wimborn Close, Deddington (Phase 2)**

*Anita Bradley  
Director of Law and Governance  
Bodicote House  
White Post Road  
Bodicote  
Banbury  
Oxfordshire OX15 4AA*

**IKEN file ref: 014057/EF/55667**

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

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THIS AGREEMENT is dated **12 August**

2022

**PARTIES**

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA ("**District Council**")
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose main office is at County Hall, New Road, Oxford OX1 1ND ("**County Council**")
- (3) **MARY ANNE TADMAN** of 12 <sup>C.igant Eglwys wen</sup> ~~Wayside Acres~~, Bodelwyddan, Denbighshire LL18 5US ("**Owner 1**")
- (4) **BURRINGTON ESTATES (DEDDINGTON) LIMITED** (Company Number 13066333) whose registered office is at Dean Clarke House, Southernhay, East Exeter, Devon EX1 1AP ("**Owner 2**")
- (5) **PEMBURY ESTATES LIMITED** (Company number 08970478) whose registered address is at 27 St. Johns Street, Devizes, Wiltshire, SN10 1BN ("**the Promoter**")
- (6) **BURRINGTON ESTATES (MIDLANDS) LIMITED** (company number 12382562 ) whose registered office is at Dean Clarke House, Southernhay East, Exeter, Devon, England, EX1 1AP ("**the Option Holder**")
- (7) **PARAGON DEVELOPMENT FINANCE LIMITED** (Company number 03901943) whose Registered office is at 51 Homer Road, Solihull, England, B91 3QJ ("**the Mortgagee**")

Freehold  
[Redacted]

**INTRODUCTION**

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The County Council is the county planning authority for the purposes of the Act for the area in which the Site is situated.
- (C) For the purposes of the 1980 Act 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 Site and it also has powers and duties in respect of education.

- (D) Owner 1 is the freehold owner of that part of the Site that is registered at the Land Registry under title number ON217519 free from encumbrances as Owner 1 hereby warrants.
- (E) Owner 2 is the freehold owner of that part of the Site that is registered at the Land Registry under title number ON362753 free from encumbrances as Owner 2 hereby warrants.
- (F) The Mortgagee has a charge over the Owner 2's part of the Site under a debenture dated 23 April 2021 between Owner 2 and the Mortgagee
- ME*  
[REDACTED] (G) The Option Holder has the benefit of a contract to purchase that part of the Site registered to Owner 1 under title ON217519 dated ~~8~~<sup>26</sup> November 2020 between Owner 1, ~~K J and E Bishop~~, the Promoter and the Option Holder
- Promotion*  
*Fleetus*  
[REDACTED] (H) The Promoter has the benefit of a ~~collaboration~~ agreement relating to obtaining planning permission for the Site dated 2 January 2018 between K J and E Bishop and Owner 1 (1) and the Promoter (2) but has no right to Commence or carry out Development on the Site nor has any legal interest in the Site as the Promoter hereby warrants
- (I) The Application was submitted to the District Council by the Promoter with the full knowledge and consent of the Owner and the Option Holder and the District Council has resolved to grant planning permission for the Development subject to the prior completion of this Deed which is required to mitigate the impact of the Development.

**NOW THIS DEED WITNESSES** as follows:

## **OPERATIVE PART**

### **1. DEFINITIONS**

- 1.1 For the purposes of this Deed the following expressions shall have the following meanings:

<b>Expression</b>	<b>Meaning</b>
<b>“1980 Act”</b>	the Highways Act 1980;
<b>“Act”</b>	the Town and Country Planning Act 1990 (as amended);
<b>“Application”</b>	the application for outline planning permission submitted to the District Council for the Development and allocated reference number: 20/02083/OUT;
<b>“Commencement of the Development”</b>	<p>occurs on and means the carrying out of any material operation (as defined in Section 56(4) of the Act) pursuant to the Planning Permission or (where clause 8.11 applies) a Section 73 Permission forming part of the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of:</p> <ul style="list-style-type: none"> <li>• site clearance and access;</li> <li>• demolition work;</li> <li>• archaeological investigations;</li> <li>• investigations for the purpose of assessing ground conditions;</li> <li>• works required to conduct topographical surveys</li> <li>• remedial work in respect of any contamination or other adverse ground conditions;</li> <li>• erection of any temporary means of enclosure or hoardings;</li> <li>• the temporary display of site notices or advertisements;</li> <li>• );</li> </ul> <p>and “Commence” “Commenced” and “Commencing” or any other derivation of this term shall be construed accordingly;</p>
<b>“Construction”</b>	the construction of any building forming part of the Development including footings or foundations and “Construct” and “Constructed” shall be construed accordingly;

<b>Expression</b>	<b>Meaning</b>
<b>“Development”</b>	the development of the Site with the erection of 14 Dwellings together with access, garaging and landscaping as set out in the Application;
<b>“Due Date”</b>	the date on which any sum payable hereunder is required to be paid or if any sum is to be paid before an event the day before that event occurs;
<b>“Dwelling”</b>	a building (including a house bungalow flat or maisonette) Constructed or proposed to be Constructed on the Site as part of the Development or part of such building designed for residential Occupation by a single household pursuant to the Planning Permission or a Section 73 Permission and including Affordable Housing (as defined in the Second Schedule);
<b>“Interest”</b>	interest at the rate of 4% above the base lending rate of Lloyds Bank PLC from time to time;
<b>“Market Dwelling”</b>	means a Dwelling forming part of the Development which is general market housing for sale or rent on the open market and which is not Affordable Housing and “Market Dwellings” shall be construed accordingly;
<b>“Occupation”</b>	occupation for the purposes permitted by the Planning Permission or (where clause 8.11 applies) a Section 73 Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “Occupied” and “Occupy” shall be construed accordingly;
<b>“Open Space”</b>	all those areas of open space to be provided on the Site by the Owner including areas of informal open space and landscape buffers in accordance with the minimum standards of provision under Policy BSC11 and ‘Table 7: Local



<b>Expression</b>	<b>Meaning</b>
	Standards of Provision – Outdoor Recreation’ of the Cherwell Local Plan Part 1 2015;
<b>“Owner”</b>	together Owner 1 and Owner 2
<b>“Plan”</b>	the plan attached to this Deed at the Appendix to the First Schedule;
<b>“Planning Permission”</b>	the outline planning permission subject to conditions to be granted by the District Council pursuant to the Application substantially in the form of the draft annexed to this Deed at the Tenth Schedule;
<b>“Qualifying Applications”</b>	an application for approval of Reserved Matters or any separate application(s) for full planning permission for any part of the Development or any application under Section 73 of the Act relating to the Planning Permission or any application for approval of Reserved Matters relating to such permission further to an application under Section 73 of the Act or an application for non-material amendments pursuant to section 96A of the Act;
<b>“Qualifying Permissions”</b>	approval of Reserved Matters or full planning permission as the case may be issued pursuant to a Qualifying Application;
<b>“Reserved Matters”</b>	details of any one or more of access, appearance, landscaping, layout and scale reserved under the terms of the Planning Permission for subsequent approval;
<b>“Section 73 Permission”</b>	a planning permission which may be granted by way of approval of an application under Section 73 of the Act permitting the Development subject to conditions which differ from the conditions of the Planning Permission;

<b>Expression</b>	<b>Meaning</b>
<b>“Site”</b>	the land against which this Deed may be enforced as shown edged red on the Plan excluding any land falling within the boundaries of the adopted highway [and for the avoidance of doubt this shall not prevent the County Council from enforcing the provisions of the Fifth Schedule against the Owner];
<b>“Working Days”</b>	Mondays to Fridays (excluding bank and other public holidays) and any day which is on or between 27 <sup>th</sup> and 31 <sup>st</sup> December in any Calendar Year.

## **2. CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 **“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.
- 2.6 Words denoting an obligation on a party to do any act or 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 that restriction.

- 2.7 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.8 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and County Council the successors to their respective statutory functions and any duly appointed employee or agent of the County Council or such successor.
- 2.9 The headings and contents list are for reference only and shall not affect construction.

### **3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act Section, 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011, Section 278 of the 1980 Act and all other enabling powers.
- 3.2 The parties agree that the covenants, restrictions and requirements imposed upon the Owner and the Option Holder under this Deed create planning obligations pursuant to Section 106 of the Act which are binding on the interests of the Owner the Mortgagee and the Option Holder in the Site and are enforceable by the District Council, and County Council in the case of covenants made with them, as local planning authorities against the Owner and the Option Holder and their successors in title.

### **4. CONDITIONALITY**

- 4.1 Save as set out below this Deed is conditional upon:
- 4.1.1 the grant of the Planning Permission; and
  - 4.1.2 the Commencement of the Development,
- 4.2 The provisions of Clauses 8.1.1, 8.1.4, 11, 12, 16 and 17 (legal costs, monitoring and administering, notifications, jurisdiction and delivery) paragraph 2.1.1 of the Second Schedule paragraph 2.1, 2.2, 2.3, and 3.1 of the Fourth Schedule shall come into effect immediately upon completion of this Deed.

**5. THE OWNER'S COVENANTS**

- 5.1 The Owner and the Option Holder covenant with the District Council and the County Council generally as set out herein and
- 5.2 covenant with the District Council as set out in the Second Schedule and the Third Schedule; and
- 5.3 covenant with the County Council as set out in the Fourth Schedule

**6. THE DISTRICT COUNCIL'S COVENANTS**

The District Council covenants with the Owner as set out in the Fifth Schedule.

**7. THE COUNTY COUNCIL'S COVENANTS**

The County Council covenants with the Owner as set out in the Sixth Schedule.

**8. MISCELLANEOUS**

*Freehold*  
8.1 The <sup>Promoter</sup> Owner shall

8.1.1 pay to the District Council on completion of this Deed the reasonable legal costs of the District Council incurred in the negotiation, preparation and execution of this Deed in the sum of £2500(no vat);

8.1.2 pay to the County Council on completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation, preparation and execution of this Deed;

8.1.3 pay to the County Council on completion of this Agreement the sum of four thousand five hundred and fifty pounds (£4,550) towards the costs relating to the administration and monitoring of the contributions under this Deed.

*Freehold*  
8.1.4 <sup>The Owner shall</sup> reimburse the District Council and the County Council in respect of all legal and administrative costs reasonably and properly incurred in connection with any enforcement of any of the provisions in this Deed should the need for enforcement arise in the reasonable opinion of the District Council or the County Council.

- 8.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act and it may be enforced by any successors in title of the parties and by any successor to the District Council's or the County Council's statutory functions..
- 8.3 This Deed shall be registrable as a local land charge by the District Council.
- 8.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and in the case of the District Council or the County Council, any such agreement, consent, approval or expression of satisfaction shall be given on behalf of:
- 8.4.1 the District Council by the Assistant Director: Planning Policy and Development; and
  - 8.4.2 the County Council by the Director for Planning and Place/ Environment & Economy or by such other person as the County Council shall direct from time to time.
- 8.5 Any notices or notifications to be given under this Deed to the District Council or the County Council shall be deemed to have been properly served if delivered by hand or sent by recorded delivery to the address at the beginning of this Deed and
- 8.5.1 any notice to the District Council shall be addressed to the Assistant Director: Planning Policy and Development of the District Council (Reference: 20/02083/OUT)
  - 8.5.2 any notice to the County Council shall be addressed to the Director for Planning and Place/ Environment & Economy of the County Council (Reference: 20/02083/OUT )
- or to such other person at such other address as the District Council or County Council as appropriate shall direct from time to time and shall be deemed to have been delivered
- 8.5.3 on the second Working Day after posting; or

- 8.5.4 on the Working Day of delivery unless delivered after 1600 hours in which case it shall be deemed delivered at 0930 hours on the following Working Day
- 8.6 Following the Owner notifying the District Council and the County Council in writing and the District Council and the County Council being satisfied of the performance and satisfaction of all the obligations contained in this Deed the District Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality.
- 8.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission or any Section 73 Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of the Development.
- 8.9 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or shall have parted with its entire interest in the part of the Site to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest and the parties agree that financial obligations and the covenants contained in the fourth schedule bind the whole of the Site.
- 8.10 Except for any provision hereof that restricts or prevents any Dwelling being occupied or prevents a number of Dwellings being occupied until another provision hereof is complied with this Deed shall not be enforceable against:
- 8.10.1 owner-occupiers, lessees or tenants of any Dwelling including their mortgagees, chargees or any administrator, receiver, administrative receiver, fixed charge receiver including any receiver appointed under the Law of Property Act 1925 or any person appointed under any security documentation by such mortgagee or chargee (or any person deriving title through such persons) and any successors in title to such persons

8.10.2 any Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking or any person or body with the benefit only of an easement;

8.11 In the event that an application is made pursuant to Section 73 of the Act for an amendment to the Planning Permission and a Section 73 Permission is granted this Agreement shall (unless the District or County Council determines that revised planning obligations are required as a result of such amendment) apply to development pursuant to the Section 73 Permission as well as to development pursuant to the Planning Permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act.

8.12 Nothing contained or implied in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission and/or a Qualifying Permission granted (whether or not on appeal) after the date of this Deed.

## **9. WAIVER**

No waiver (whether expressed or implied) by the District Council (or the County Council) of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## **10. NO FETTER**

Nothing contained or implied 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 as Local Planning Authorities and their rights, powers and duties under all public and private statutes, byelaws and regulations may be as fully and effectually exercised as if the District Council or the County Council were not a party to this Deed.

## **11. NOTIFICATIONS**

11.1 The Owner agrees with the District Council and the County Council:

11.1.1 to give the District Council and the County Council written notice within 10 Working Days of any change in ownership of any of its interests in the Site occurring before all of the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office if a company or usual address if not, together with the area of the Site or unit of occupation purchased by reference to a plan PROVIDED ALWAYS THAT this clause 11.1.1 shall not apply in the event of the transfer of an individual Dwelling;

11.1.2 to notify the District Council and the County Council in writing

(a) no later than 5 Working Days prior to Commencement of the Development of the anticipated date of Commencement of the Development and not to Commence until 5 Working Days have passed since service thereof; and

(b) within 10 Working Days of the date of the Commencement of the Development the date on which such Commencement of Development occurred; and

11.1.3 to notify the District Council and the County Council in writing no later than 10 Working Days prior to the anticipated date of the following events and after the event to specify in a further notification the date on which it occurred:

(a) first Occupation of any Dwelling;

(b) first Occupation of more than four Dwellings

(c) first Occupation of more than nine Dwellings;

(d) Occupation of 50% (50 per cent) of the Market Dwellings

(e) Occupation of 75% (75 per cent) of the Market Dwellings

and not to Occupy or cause or permit Occupation of such Dwellings until written notification has been sent to the District Council and the County Council



## **12. INTEREST**

12.1 If any payment due under this Deed is paid after the Due Date, Interest will be payable on the amount owed from the Due Date to the date of full payment.

12.2 Interest shall be calculated and accrue daily and shall be compounded monthly if any payment is made more than three months after the Due Date

## **13. VAT**

13.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owner shall pay to the District Council and separately to the County Council any value added tax properly payable on any sums paid to the District Council and/or the County Council or works undertaken under this Deed upon presentation of any appropriate value added tax invoice addressed to the Owner.

## **14. DISPUTE PROVISIONS**

The provisions of the Seventh Schedule shall apply to any dispute arising in respect of the provisions hereof PROVIDED THAT such provisions in the Seventh Schedule shall not apply to any dispute between the County Council and any other party

## **15. NOTICES**

15.1 Any notice or notification to be given to the District Council under this Deed shall be sent to the Head of Development Management of the District Council at Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA or to such other person at such other address as the District Council shall direct from time to time.

15.2 Any notice or notification to be given to the County Council under this Deed shall be sent to the Director for Planning & Place/Environment & Economy of the County Council (Ref20/02083/OUT) County Hall Oxford OX1 1ND; or to such other person at such other address as the County Council shall direct from time to time.

15.3 Any notice to be given to the Owner shall be sent to the Owner the Owner's address at the head of this Deed or to such other person at such address as the Owner shall notify to the District Council and separately to the County Council from time to time.

15.4 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:

15.4.1 if delivered by hand, at the time of delivery;

15.4.2 if sent by post, on the second Working Day after posting; or

15.4.3 if sent by recorded delivery, at the time delivery was signed for.

15.5 If a notice, demand or any other communication is served after 16:00 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.

15.6 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 connection with those proceedings.

15.7 Any notice or notification to be given pursuant to this Deed shall be in writing and shall, unless otherwise agreed, be delivered by hand or sent by post.

## **16. JURISDICTION**

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

## **17. DELIVERY**

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

## **18. DATA PROTECTION**

The parties to this Deed acknowledge and agree that information as to compliance with obligations pursuant to this Deed (including as to whether or not contributions have been paid) may be passed to:

18.1 persons who make enquiries on such matters and who advise that they or their clients are proposing to acquire an interest in the Site and it is acknowledged that the recipients of such information may then disseminate it further

18.2 any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000

**19. PROMOTER CONSENT**

19.1 The Promoter consents to enter into this Deed provided that the obligations contained within this Deed shall not be binding or enforceable against the Promoter until such time as they acquire a legal interest in the Site in which case the Promoter too will be bound by the obligations as if they were a person deriving title from the Owner.

**20. THE MORTGAGEE**

The Mortgagee acknowledges that Owner 2 has entered into this Deed with its consent and that Owner 2's part of the Site is bound by the obligations contained in this Deed to the intent that the security of the Mortgagee over Owner 2's part of the Site shall take effect subject to this Deed PROVIDED THAT the obligations on the part of the Owner in this Deed shall not be binding on or enforceable against the Mortgagee until such time as it becomes a mortgagee in possession of Owner 2's part of the Site in which case it too will be bound by the obligations on the part of the Owner as if it were a person deriving title from the Owner

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



### **First Schedule**

#### **DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE SITE**

All that freehold Land North of Hempton Road and west of Wimborn Close, Deddington which is registered at the Land Registry under title numbers ON217519 and ON362753 shown edged red on the Plan and excluding any land identified as falling within the boundary of the adopted highway.

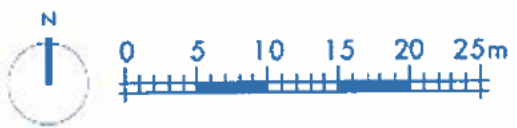




APPENDIX  
THE PLAN

Wimborne Close

Hempton Road



DRAWN BY		DATE	
BURNINGTON ESTATES			
PROJECT TITLE			
HEMPTON ROAD, DEDDINGTON, PHASE 1			
DRAWING TITLE			
SITE PLAN - PHASE 2 RED LINE PLAN AS PROPOSED			
NO. OF SHEETS	DATE	BY	DATE
1	201305		February 21

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CO 205 28



**Second Schedule**  
**AFFORDABLE HOUSING**

**COVENANTS WITH THE DISTRICT COUNCIL - AFFORDABLE HOUSING**

**1. DEFINITIONS**

1.1 In this Schedule and the Sixth Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):

<b>Expression</b>	<b>Meaning</b>
<b>"Affordable Housing"</b>	Social Rented, Affordable Rented and Intermediate Housing, provided to eligible households whose needs are not met by the market and should meet the needs of eligible households including at a cost low enough for them to afford determined with regard to local incomes and local house prices and include provision for the home to remain at an affordable price for future eligible households or if these restrictions are lifted for the subsidy to be recycled for alternative Affordable Housing provision by the District Council and which meets the criteria contained in Annex 2 of the NPPF
<b>"Affordable Housing Dwellings"</b>	Affordable Housing units comprised in the Development and provided in accordance with the agreed Affordable Housing Tenure Mix that shall together comprise 5 (Five) of the total number of Dwellings on the Development
<b>"Affordable Housing Scheme"</b>	a scheme submitted to the District Council pursuant to paragraph 2.1 of this Schedule which sets out: <ul style="list-style-type: none"><li>• details of the locations and external appearance of the Affordable Housing Dwellings; including the timing of construction of the Affordable Housing Dwellings;</li></ul>



**Expression****Meaning**

- details of the types and size of the Affordable Housing Dwellings provided that the Affordable Housing Dwellings shall be in a range of unit types and sizes having regard to the mix of the Market Dwellings;
- confirmation of tenures of the Affordable Housing Dwellings to which the scheme relates which shall reflect the Affordable Housing Tenure Mix;
- confirmation of the Affordable Housing Standards arrangements for the Affordable Housing Dwellings to which the scheme relates.
- occupancy criteria for determining the identity of occupiers of the Affordable Housing Dwellings and the means by which such occupancy shall be enforced;
- proposals to secure transfer of the Affordable Housing Dwellings to a Registered Provider at a price agreed between the Owner and the Registered Provider. The transfer shall contain a declaration that the Affordable Housing Dwellings are transferred subject to and with the benefit of this Deed; and
- the identity of any prospective Registered Provider (if known)

**"Affordable Housing Site"**

that part or parts of the Site or any building or any buildings on the Site upon or within which there will be provided Affordable Housing Dwellings together with full rights of access to each Affordable Housing Site from the Site and the provision of all necessary Infrastructure and connections thereto and the necessary installations thereof for the Affordable Housing Dwellings to be constructed on the Affordable Housing Site

**Expression****Meaning****"Affordable Housing Standards"**

the design criteria with which the Affordable Housing Dwellings shall comply namely:

- in relation to the Affordable Rented Housing and Social Rented Housing only 50% to comply with Building Regulations 2010 Part M4(2) Category 2: Accessible and Adaptable Dwellings and;
- shall be designed to the same external design as the Market Dwellings so as to be indistinguishable from the Market Dwellings;
- (in relation to the Affordable Rented Housing and Social Rented Housing only) shall be constructed to Technical Housing standards – nationally described space standards in consultation with the District Council; and
- (in relation to the Shared Ownership Housing only) shall be built to a standard equivalent to the Market Dwellings to be agreed with the District Council;

**"Affordable Housing Tenure Mix"**

the mix of tenure types of the Affordable Housing Dwellings whereby no less than 70% (seventy per cent) shall be Affordable Rented Housing or Social Rented Housing and the remaining 30% (thirty per cent) shall be Intermediate Housing (or subject to paragraph 2.1.2 of this Schedule) such alternative mix of tenure as at any time may be submitted to the District Council for approval in writing) and which shall be provided as follows (unless otherwise agreed in writing with the District Council):

Rented units –

2 x 2 bed 4-person house of 850sqft each

2 x 3 bed 5-person house of 1,001sqft each

<b>Expression</b>	<b>Meaning</b>
	<p>Shared ownership –</p> <p>1 x 3 bed 5-person house of 1,001sqft</p>
<b>"Affordable Rented Housing"</b>	<p>rented housing provided by the Registered Provider to Qualifying Persons where the rents shall be:</p> <ul style="list-style-type: none"> <li>• as provided for in Annex 2 of the NPPF <ul style="list-style-type: none"> <li>○ set in accordance with the rent policy for Affordable Rent set by the Government; or</li> <li>○ no more than 80% of the local market rent (including service charge)</li> </ul> </li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• no more than the relevant Local Housing Allowance rate in force at the time the property is advertised for letting.</li> </ul> <p>whichever is the lower</p>
<b>"Allocate"</b>	<p>any procedure whereby there are conferred or transferred rights of residential occupation in respect of an Affordable Housing Dwelling which could for the avoidance of doubt include the first occasion on which an Affordable Housing Dwelling is occupied and any subsequent changes in the occupier and 'allocating' 'allocated' and 'allocations' should be construed accordingly;</p>
<b>"Allocations Scheme"</b>	<p>the District Council's allocation policy from time to time which determines the District Council's priorities and procedures when allocating accommodation in accordance with the requirements of Section 166A of the Housing Act 1996 (and any amendment, re-enactment or successor provision);</p>

<b>Expression</b>	<b>Meaning</b>
<b>"Chargee"</b>	any mortgagee or chargee of the Registered Provider of the Affordable Housing Site or any part of it or a chargee or mortgagee of an individual Affordable Housing Dwelling as the case may be and includes any receiver or manager or administrator appointed pursuant to the Law of Property Act 1925 or any administrator appointed by such mortgagee or chargee including a Housing Administrator under the provisions of the Housing and Planning Act 2016 or any person appointed under any security documentation to enable such mortgagee or charge to realise its security;
<b>"Constructed"</b>	the completed construction of any building forming part of the Development including footings or foundations and "Construct" shall be construed accordingly;
<b>"the Regulator"</b>	the regulator of social housing constituted pursuant to the Housing and Regeneration Act 2008 and any successor or successors for the time being and any similar future authority responsible for the regulation of social housing;
<b>"Help to Buy Agent"</b>	that organisation which is appointed by the Regulator to assess eligibility for shared ownership and market low cost home ownership products;
<b>"Infrastructure"</b>	in relation to the Affordable Housing Site means <ul style="list-style-type: none"> <li>• roads and footpaths to serve the Affordable Housing Site;</li> <li>• temporary services for contractors and a haul road for the use of contractors;</li> <li>• adequate inverts for the foul and surface water drains sufficient to serve the drainage requirements of the Affordable Housing Site;</li> </ul>

## **Expression**

## **Meaning**

- pipes sewers and channels sufficient to serve the Affordable Housing Site;
- spur connections to agreed inverts (to be available at a time or times to be agreed with the Registered Provider) from the Owner's foul and surface water drain run serving the Development up to the boundaries of the Affordable Housing Site such spur connections to be to a specification agreed with the Registered Provider;

and the following services:

- a standard fire hydrant supply and fire hydrants in the public highway in positions to be agreed with the Registered Provider;
- a water supply connection from the mains (size and termination position to be agreed with the Registered Provider);
- a telephone spur (terminating at a junction box at a location agreed with the Registered Provider);
- an electricity supply (size and termination position to be agreed with the Registered Provider);
- a gas supply (size and termination position to be agreed with the Registered Provider) (should it be required for the Affordable Housing Dwellings);
- if digital communication systems (for example cable television or fibre optic broadband) are provided on the Development to provide a spur to the Affordable Housing Site (final locations to be agreed with the Registered Provider);

PROVIDED THAT the Owner shall not be responsible for incurring the costs of any connection charges or actual supply for such Infrastructure to the Affordable Housing Site nor to the Affordable Housing Dwellings.

<b>Expression</b>	<b>Meaning</b>
<b>"Intermediate Housing"</b>	Affordable Housing Dwellings to be provided at a cost above social rent but below their value as Market Dwellings which are to be Shared Ownership Units or other tenures that meet the criteria set out in Annex 2 to the NPPF if agreed between the District Council and the Owner
<b>"Mortgage Land"</b>	the Affordable Housing Site or any part of it or any individual Affordable Housing Dwelling which is mortgaged or charged to the Chargee
<b>"Nominations Agreement"</b>	an agreement which shall be entered into between the District Council and the Registered Provider, both parties acting reasonably, in relation to the Affordable Housing Dwellings that are Affordable Rented Housing and Social Rented Housing and that outlines the nomination policy and Local Connection Criteria to be used in nominating people to the Affordable Housing Dwellings
<b>"NPPF"</b>	the National Planning Policy Framework published in February 2019 (or as may be amended from time to time) or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede it;
<b>"Qualifying Persons"</b>	those persons who are assessed by the District Council under its current Allocations Scheme and are nominated to an Affordable Housing Dwelling in accordance with this Allocations Scheme and the Nominations Agreement;

<b>Expression</b>	<b>Meaning</b>
<b>"Registered Provider"</b>	a private provider of Affordable Housing which is designated in the register maintained by the Regulator pursuant to section 111 of the Housing and Regeneration Act 2008 ("HRA 2008") as a non-profit organisation under sub-sections 115(1)(a) or 278(2) of the HRA 2008 or which is designated in that register as a profit-making organisation under section 115(1)(b) of the HRA 2008 which is EITHER on the District Council's list of preferred partners OR has demonstrated that it meets the performance criteria applicable to an organisation with preferred partner status and has been approved in writing by the District Council;
<b>"Shared Ownership Housing"</b>	housing offered via the Registered Provider under the terms of a lease which accords with the Shared Ownership Model Lease approved by the Regulator by which a lessee may acquire an initial share or shares of between 25% - 75% of the equity in an Affordable Housing Dwelling from the Registered Provider who retains the remainder and may charge a rent of up to 2.75% on the unsold equity with an option for the lessee to increase their percentage of ownership up to 100% ownership;
<b>"Social Rented Housing"</b>	rented housing owned and managed by Registered Providers for which guideline target rents are determined through a national rent regime as described in Annex 2 of the NPPF;

## **2. COVENANTS**

### **2.1 The Owner covenants with the District Council:**

- 2.1.1 not to Commence or cause or permit the Commencement of the Development until the Affordable Housing Scheme has been submitted to and approved by the District Council in writing FOR THE AVOIDANCE OF DOUBT it is declared that nothing required to be included in the Affordable Housing Scheme shall

be construed as requiring anything that may be inconsistent with the Planning Permission and

- 2.1.2 The Owner shall be permitted to seek to amend any approved Affordable Housing Scheme at any time following the initial approval thereof until construction begins on any Affordable Housing Dwelling SAVE THAT in seeking to do so the Owner shall submit such amendments to the District Council in writing for approval by the District Council in writing and once approved the Development shall be carried out in accordance with it
- 2.1.3 not to Occupy or cause or permit the Occupation of more than fifty per cent (50%) of the Market Dwellings until there has been provided the Infrastructure to serve the Affordable Housing Site and the Affordable Housing Dwellings at no cost to or other contribution by the Registered Provider or (as applicable) any individual owner occupiers (where the Affordable Housing Dwellings include Intermediate Housing whose tenure involves homes for sale); and
- 2.1.4 not to cause or permit the Occupation of more than seventy five per cent (75%) of the Market Dwellings until
- (a) the Affordable Housing Dwellings have been Constructed and made ready for Occupation; and
  - (b) either the freehold or long leasehold interest in the Affordable Housing Site together with the Affordable Housing Dwellings Constructed thereon have been offered to and transferred to a Registered Provider (or individual owner-occupier in the case of Intermediate Housing whose tenure involves homes for sale without the involvement of a Registered Provider) on terms to be agreed between the Owner and the Registered Provider together with all rights for Infrastructure and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Dwellings Constructed thereon and with a good and marketable title free from incumbrances and with vacant possession and capable of being fully serviced and properly connected to the public highway.



- 2.1.5 not to use or cause or permit the use of the Affordable Housing Site or any part thereof or the Affordable Housing Dwellings erected thereon for any purpose other than for the provision of Affordable Housing in accordance with this Agreement;
- 2.1.6 subject to the provisions of paragraphs 3 and 4 below not without the consent in writing of the District Council to transfer the freehold interest or the long leasehold interest in the Affordable Housing Site or any part thereof or the Affordable Housing Dwellings erected thereon except to the District Council or a Registered Provider provided that consent shall not be required for any mortgage or charge of the freehold or long leasehold interest and provided that this shall not apply to tenancies being granted to any of the occupiers of the individual Affordable Housing Dwellings or any transactions referred to in paragraph 3.3 below;
- 2.2 For the avoidance of doubt paragraphs 2.1.3 to 2.1.6 above are not binding on either a Chargee or a bona fide purchaser for value from a Chargee exercising its power of sale (other than a purchaser which is a Registered Provider) or the successors in title to such purchaser or persons deriving title therefrom PROVIDED THAT the provisions of paragraph 3 below have been complied with.

### **3. MORTGAGEE AND OTHER EXEMPTIONS**

- 3.1 It is hereby agreed and declared that the proviso contained in paragraph 2.2 above will only apply where the Chargee exercising its power of sale:-
- 3.1.1 has first served written notice on the District Council of its intention to exercise its power of sale or other power or right conferred upon it, its mortgage, charge or other security; and
- 3.1.2 has used reasonable endeavours over a period of three months from receipt of notification pursuant to paragraph 3.1.1 above to dispose of the Mortgage Land subject to any leases and tenancies then subsisting and to the terms of this Deed of Agreement to a Registered Provider or the District Council: and
- 3.1.3 if upon the expiry of 3 months from the date of receipt by the District Council of the notice in paragraph 3.1.1 above and provided the steps in this paragraph have been completed and no transfer of the Mortgage Land to either the

District Council or a Registered Provider has completed within the said period of 3 months

then upon expiry of the said 3 months the Chargee shall be able to sell the Mortgage Land free from the restrictions in paragraphs 2.1.2 to 2.1.6 above with the effect that they shall cease to bind those with an interest in the Mortgage Land

3.2 nothing herein shall require the Chargee to dispose of the Mortgage Land at a price which is less than a price equal to its open market value being the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses;

3.3 The provisions of paragraphs 2.1.2 to 2.1.6 above will not be binding on:

3.3.1 any purchaser pursuant to the exercise of a statutory or voluntary right to buy, preserved right to buy or right to acquire or any successor in title thereto; or

3.3.2 any purchase in respect of any Dwelling constructed on the Affordable Housing Site demised or to be demised by way of shared ownership lease or similar equity purchase arrangement once "staircasing out" has been effected whereby the leaseholder acquires 100% equity share in the Dwelling;

#### **4. ALLOCATION**

4.1 The Owner will not Allocate or cause or permit to be Allocated any of the Affordable Housing Dwellings other than as follows:

4.1.1 the Affordable Housing Dwellings shall only be Allocated to Qualifying Persons in accordance with the District Council's Allocations Scheme and in accordance with the terms of the Nominations Agreement; and

4.1.2 the Shared Ownership Housing shall be marketed through the website (or other media) maintained by the appropriate RP but only those deemed eligible under the Help to Buy Agent's criteria shall be considered for the Shared Ownership Housing; or

4.1.3 as agreed by the District Council.

## **5. MISCELLANEOUS**

For the avoidance of doubt, if the Affordable Housing Dwellings are vested or transferred to another Registered Provider pursuant to a proposal made by the Regulator pursuant to Sections 143A-169 of the Housing and Regeneration Act 2008 (or any statutory provision amending or replacing the same) then the provisions of this Deed of Agreement shall continue in respect of such other Registered Provider.

### Third Schedule

#### COVENANTS WITH THE DISTRICT COUNCIL – OTHER CONTRIBUTIONS

##### 1. DEFINITIONS

- 1.1 In this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed): -

<b>Expression</b>	<b>Meaning</b>
<b>“Community Hall Facilities Contribution”</b>	means a contribution of Nineteen Thousand and Thirty-Six Pounds and Ninety Four Pence (£19,036.94) Index Linked for the provision of additional or enhanced facilities at Windmill Community Centre
<b>Index Linked</b>	means the calculation of any financial contribution (upwards only) between the date of this Deed and the quarter period in which payment is due to the District Council in the BCIS All in One Tender Price Index published by the Royal Institution of Chartered Surveyors or any successor organisation
<b>“Off Site Outdoor Sports Facilities Capital Provision Contribution”</b>	means a contribution of Thirty-Three Thousand Five Hundred and Sixty Eight Pounds and Fifty Pence (£33,568.50) Index Linked towards the development of outdoor sport provision within the parish of Deddington.
<b>“Off Site Indoor Sports Facilities Contribution”</b>	means a contribution of Thirteen Thousand Eight Hundred and Ninety-Five Pounds and Sixty Six Pence (£13,895.66) Index Linked towards the replacement of the main hall floor at The Windmill Centre to allow for an increased capacity of indoor sports such as indoor softball. In addition, the contribution will be used to purchase table tennis tables, fitness equipment and suitable storage to provide additional physical activity opportunities for residents of all ages.

<b>Expression</b>	<b>Meaning</b>
<b>“Open Space Contribution”</b>	means a contribution of Nineteen Thousand Nine Hundred and Seventy-Three Pounds and Ten Pence (£19,973.10) Index Linked in lieu of Open Space on the Site.
<b>“Play Equipment Contribution”</b>	means a contribution of Thirty Two Thousand Two Hundred and Ninety Six Pounds and Four Pence (£32,296.04) Index Linked towards the upgrading of local play equipment at Wimborn Close.
<b>“Waste and Recycling Contribution”</b>	means a contribution of One Hundred and Six Pounds (£106.00) per Dwelling Index Linked towards the provision of waste recycling bins for each Dwelling;

## **2. OTHER CONTRIBUTIONS**

The Owner covenants with the District Council that they will:

- 2.1 pay to the District Council 50% of the Community Hall Facilities Contribution prior to the Occupation of 50% of the Market Dwellings;
- 2.2 pay to the District Council the remaining 50% of the Community Hall Facilities Contribution prior to the Occupation of 75% of the Market Dwellings;
- 2.3 not to cause or permit more than 50% of the Market Dwellings to be Occupied until 50% of the Community Hall Facilities Contribution has been paid to the District Council;
- 2.4 not to cause or permit more than 75% of the Market Dwellings to be Occupied until the entire Community Hall Facilities Contribution has been paid in full to the District Council; and
- 2.5 pay to the District Council 50% of the Off-Site Outdoor Sports Facilities Capital Provision Contribution prior to the Occupation of 50% of the Market Dwellings;
- 2.6 pay to the District Council the remaining 50% Off Site Outdoor Sports Facilities Capital Provision Contribution prior to the Occupation of 75% of the Market Dwellings;

- 2.7 not to cause or permit more than 50% of the Market Dwellings to be Occupied until 50% of the Off-Site Outdoor Sports Facilities Capital Provision Contribution has been paid to the District Council;
- 2.8 not to cause or permit more than 75% of the Market Dwellings to be Occupied until the entire Off Site Outdoor Sports Facilities Capital Provision Contribution has been paid to the District Council; and
- 2.9 pay to the District Council 50% of the Off-Site Indoor Sports Facilities Contribution prior to the Occupation of 50% of the Market Dwellings;
- 2.10 pay to the District Council the remaining 50% of the Off-Site Indoor Sports Facilities Contribution prior to the Occupation of 75% of the Market Dwellings;
- 2.11 not to cause or permit more than 50% of the Market Dwellings to be Occupied until 50% Off Site Indoor Sports Facilities Contribution has been paid to the District Council;
- 2.12 not to cause or permit more than 75% of the Market Dwellings to be Occupied until the entire Off Site Indoor Sports Facilities Contribution has been paid to the District Council;
- 2.13 pay to the District Council the Open Space Contribution prior to the Occupation of 75% of the Market Dwellings;
- 2.14 not to cause or permit more than 75% of the Market Dwellings to be Occupied until the Open Space Contribution has been paid to the District Council;
- 2.15 pay to the District Council the Play Equipment Contribution prior to the Occupation of 75% of the Market Dwellings;
- 2.16 not to cause or permit more than 75% of the Market Dwellings to be Occupied until the Play Equipment Contribution has been paid to the District Council;
- 2.17 pay to the District Council the Waste and Recycling Contribution prior to the Occupation of any of the Market Dwellings;
- 2.18 not to cause or permit any of the Market Dwellings to be Occupied until the Waste and Recycling Contribution has been paid to the District Council;



**Fourth Schedule**  
**COUNTY CONTRIBUTIONS**

**PART 1**

**1. DEFINITIONS**

1.1 In this Schedule in addition to the definitions provided in clause 1 of this Agreement the following words have the following meanings and where a word is defined in clause 1 of this Agreement and also in this paragraph the meaning given in this paragraph shall be applied for the purposes of this Schedule:

<b>Expression</b>	<b>Meaning</b>
<b>“Approval (Reserved Matters)”</b>	means the approval of reserved matters (or where applicable other approval/ of another Qualifying Application) which first establishes the Composition of the Development
<b>“Approval Variation”</b>	means any approval (further to an application for approval of reserved matters or approval of a non-material change to a Qualifying Permission, the Planning Permission or otherwise) which alters the Composition of the Development as established further to the Approval (Reserved Matters) or as applicable preceding Approval (Variation)
<b>“Bedroom”</b>	means a room in a Dwelling designed as a bedroom or study/ bedroom and <ul style="list-style-type: none"><li>• 1 Bedroomed Unit means a Dwelling with 1 Bedroom</li><li>• 2 Bedroomed Unit means a Dwelling with 2 Bedrooms</li><li>• 3 Bedroomed Unit means a Dwelling with 3 Bedrooms</li><li>• 4 Bedroomed Unit means a Dwelling with 4 or more Bedrooms</li></ul>



<b>Expression</b>	<b>Meaning</b>
<b>“Composition of the Development”</b>	means the aggregate number of Dwellings comprised in the Development and the number of each Dwelling type classified by reference to the number of Bedrooms in the Dwelling
<b>“Early Years Contribution”</b>	means the sum of Nineteen Thousand Eight Hundred and Sixty-Three Pounds (£19,863) or if higher the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index Linked towards early years capacity serving the Site
<b>“Education Infrastructure Contribution”</b>	means the aggregate of the Early Years Contribution, the Library Contribution, the Primary Education Contribution and the Secondary Education Contribution Index-Linked or if higher the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial). The Education Infrastructure Contribution shall be Index Linked
<b>“Highways Works Contribution”</b>	means the sum of Four Thousand Five Hundred Pounds (£4,500) Index Linked towards the supply and installation of a solar-powered vehicle activated sign
<b>“Index Linked”</b>	<p>means in relation to</p> <ul style="list-style-type: none"> <li>• the Public Transport Service Contribution adjusted according to any increase occurring between July 2020 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics or if at any time for any reason it becomes impracticable to use this index such alternative index as may be agreed between the Owner and the County Council;</li> </ul>

**Expression**

**Meaning**

- the Early Years Contribution, the Primary Education Contribution, the Library Contribution and the Secondary Education Contribution adjusted according to any increase occurring between index value 333 and the index value for the quarter period in which the contribution is paid in the BCIS All In-Tender Price Index published by the Royal Institution of Chartered Surveyors or if at any time for any reason it becomes impracticable to use this index such alternative index as may be agreed between the Owner and the County Council
- the Highway Works Contribution adjusted according to any increase occurring between July 2020 and the date when the relevant payment is made in a composite index comprised of the following indices of the BCIS Price Adjustment Formulae (Civil Engineering) 1990 Series as made available through the Building Cost Information Services (BCIS) of the Royal Institution of Chartered Surveyors 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 & Bitumous 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.

<b>Expression</b>	<b>Meaning</b>
<b>“Library Contribution”</b>	means the sum of four thousand one hundred and sixty six pounds (£4,166) or if higher the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index Linked towards expansion of capacity at Deddington Library including the provision of additional book stock
<b>“Matrix”</b>	<p>means the formula:</p> $£(A \times W) + (B \times X) + (C \times Y) + (D \times Z)$ <p>When</p> <p>A means the number of 1 Bedroomed Units  B means the number of 2 Bedroomed Units  C means the number of 3 Bedroomed Units  D means the number of 4 Bedroomed Units  W, X, Y and Z are as set out at Part 2 of this Schedule</p>
<b>“Notification (Initial)”</b>	means written notification of the Approval (Reserved Matters) containing a copy of that approval and details of the Composition of the Development established by that approval
<b>“Notification (Variation)”</b>	means written notification of an Approval (Variation) containing a copy of that approval and details of the Composition of the Development established applying that approval
<b>“Primary Education Contribution”</b>	means the sum of Eighty-Nine Thousand Four Hundred and Four Pounds (£89,404) or if higher the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index-Linked towards primary education capacity serving the Site

<b>Expression</b>	<b>Meaning</b>
<b>“Public Transport Service Contribution”</b>	means the sum of Fourteen Thousand Five Hundred and Eighteen Pounds (£14,518) Index-Linked towards improvements to the bus service that connects Deddington to Banbury and Oxford
<b>“Revised Infrastructure Contribution”</b>	means the sum calculated by applying the Composition of the Development as identified in a Notification (Variation) to the Matrix where this is higher than the Education Infrastructure Contribution or in the event that there is more than one Approval (Variation) the Revised Infrastructure Contribution means the sum calculated by applying the Composition of the Development established further to the later Approval (Variation) to the Matrix if that sum is higher
<b>“Secondary Education Contribution”</b>	the sum of Seventy-Three Thousand Nine Hundred and Seventy-Nine Pounds (£73,979) or if higher the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index-Linked towards the secondary education capacity serving the Site

**2. OWNER’S COVENANTS (NOTIFICATION AND ASSESSMENT)**

The Owner and the Option Holder covenant with the County Council as follows:-

- 2.1 to give to the County Council the Notification (Initial) within 14 days of the issue of the Approval (Reserved Matters)
- 2.2 not to cause or permit the Commencement of the Development until the Notification (Initial) has been given to the County Council
- 2.3 to give to the County Council a Notification (Variation) within 14 days of the issue of each Approval (Variation)

2.4 where a Notification (Variation) has been given (or is required to be given further to clause 2.3) and the relevant Approval (Variation) results in the establishment of a Revised Infrastructure Contribution then

2.4.1 for the purposes of calculating any Education Infrastructure Contribution payment which will payable subsequent to the date of issue of the relevant Approval (Variation) the Revised Infrastructure Contribution shall be applied in place of the Education Infrastructure Contribution

2.4.2 there shall be calculated the difference between any Education Infrastructure Contribution payments paid prior to the issue of the relevant Approval (Variation) and the amount that such Education Infrastructure Contribution payments would have been if they had been calculated by reference to the Revised Infrastructure Contribution (in both instances disregarding index linking)

### **3. COVENANTS**

The Owner and the Option Holder covenant with the County Council:

3.1 not to cause or permit Commencement of Development until it has paid the Primary Education Contribution, the Public Transport Service Contribution and the Highway Works Contribution to the County Council and to pay to the County Council the Primary Education Contribution, the Public Transport Service Contribution and the Highway Works Contribution on or before the Commencement of the Development

3.2 not to cause or permit the Occupation of any Dwelling within the Development until it has paid the Early Years Contribution, the Library Contribution and the Secondary Education Contribution to the County Council and to pay the Early Years Contribution, the Library Contribution and the Secondary Education Contribution to the County Council prior to first Occupation of any Dwelling within the Development

3.3 to pay to the County Council the sum calculated further to paragraph 2.4.2 of this Schedule Index Linked with the next instalment of the Education Infrastructure Contribution subsequent to the date of grant of the relevant Approval (Variation) or if all the Education Infrastructure Contribution has been paid to pay such sum Index Linked within 14 days of the grant of the Approval (Variation)

**PART 2**

	1 Bed	2 Bed	3 Bed	4+ Bed
Early Years Contribution	£161.93	£863.61	£1,943.12	£2,213.00
Primary Education Contribution	£0	£3,762.05	£8,630.58	£11,286.15
Secondary Education Contribution	£0	£2,642.11	£6,869.48	£11,096.85
Library Contribution	£151.66	£219.20	£341.24	£469.21

W= £313.59 X= £7,486.97 Y= £17,784.42 Z= £25,065.21



**Fifth Schedule**  
**DISTRICT COUNCIL'S COVENANTS WITH THE OWNER**

**1. REPAYMENT OF CONTRIBUTIONS**

- 1.1 The District Council covenants with the Owner to use all sums received from the Owner under the terms of the Third Schedule to this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the District Council shall agree.
- 1.2 The District Council covenants with the Owner that following written request from the person who made the relevant payment the District Council will repay to that person the balance (if any) of any payment made by that person to the District Council under the terms of the Third and the Fourth Schedule to this Deed in accordance with the provisions of this Deed which has not been expended or committed at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request will be made prior to the expiry of  
  
ten years of the date of receipt by the District Council of such payment.
- 1.3 Any sum paid or part thereof which the District Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the District Council prior to that date.
- 1.4 The District Council shall provide to the Owner such evidence as the Owner shall reasonably require to confirm the expenditure of the sums paid under the terms of this Deed upon a written request by the Owner such request not to be made more than once in any year.

**2. DISCHARGE OF OBLIGATIONS**

At the written request of the Owner, the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.



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**Sixth Schedule**  
**COUNTY COUNCIL'S COVENANTS WITH THE OWNER**

**1. APPLICATION OF MONIES RECEIVED**

- 1.1 The County Council shall not apply any of the contributions referred to in this Deed for any purpose other than as set out in the definition of each contribution therein in such form and at such time as the County Council shall in its discretion decide.

**2. REPAYMENT**

- 2.1 Following written request from the person who made the relevant contribution the County Council will repay to that person the balance (if any) of such contribution which at the date of the receipt of such written request has not been expended together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request shall be made prior to the expiry of 10 years from the due date or the date of receipt by the County Council (whichever is the later) of the last instalment of any such contribution.
- 2.2 Any contribution or part of a contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.

## Seventh Schedule

### DISPUTES

1. A dispute in the context of this agreement arises where any party requires or seeks the approval or consent of the District Council pursuant to any provision of this Deed and that approval or consent is refused or is not given within 20 Working Days but FOR THE AVOIDANCE OF DOUBT:
  - 1.1. disputes relating to the construction, interpretation and/or the application of this Agreement shall only be determined by an Expert with the express further agreement of all other Parties and in the absence of such agreement can only be determined by a Court of competent jurisdiction;
  - 1.2. any dispute relating to a refusal or failure to determine any application (whether pursuant to Sec 106A of the Act or otherwise) to modify or discharge any provision hereof shall not constitute a dispute to be determined pursuant to this Schedule but in accordance with Section 106B of the Act or Section 84A of the Law of Property Act 1925 or otherwise as appropriate
2. Any party may by serving notice on all the other Parties (the Notice) require a dispute to be referred to an Expert (as hereinafter defined) for determination.
3. The Notice must:
  - 3.1. specify the nature, basis and brief description of the dispute;
  - 3.2. identify the Clause or paragraph of a Schedule or Appendix pursuant to which the dispute has arisen; and
  - 3.3. propose a person to determine the dispute ('the Expert').
4. The Expert may be agreed upon by the Parties and in the absence of such agreement within one month of the date that the Notice is issued pursuant to paragraph 1 either party may request that the following nominate the Expert at their joint expense:
  - 4.1. if such dispute relates to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;

- 4.2. if such dispute relates to matters requiring a specialist chartered civil engineer or specialist transport advice, the President of the Institution of Civil Engineers to nominate the Expert;
- 4.3. if such dispute relates to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert;
- 4.4. if such dispute relates to Affordable Housing the Expert shall be nominated by the President of the Royal Town Planning Institute; and
- 4.5. in all other cases, the President of the Law Society to nominate the Expert as he thinks appropriate
5. The Parties may agree to appoint joint Experts or (in default of agreement) invite joint Experts to be nominated pursuant to paragraph 4 and in which case 'Expert' shall mean both or all of them.
6. If an Expert (including one or more jointly nominated experts) nominated or appointed pursuant to this Schedule shall die or decline to act another Expert may be appointed in his place in accordance with the provisions of paragraph 4.
7. The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 20 Working Days from the date of the notice of his appointment given pursuant to paragraph 8.
8. Notice in writing of the appointment of an Expert pursuant to this Schedule shall be given by the Expert to the Parties and he shall invite each of the Parties to submit to him within ten Working Days written submissions and supporting material and will afford to each of the said Parties an opportunity to make counter submissions within a further five Working Days in respect of any such submission and material.
9. The Expert shall act as an expert and not as an arbitrator but shall consider any written representation submitted to him within the period specified in this Schedule although he shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own judgement.
10. The Expert shall give notice of his decision in writing

11. If the Expert consists of more than one person the decision shall be a joint decision approved by all such persons and the decision will (in the absence of manifest error) be final and binding on the Parties hereto.
12. If for any reason the Expert fails to make a decision and give notice thereof in accordance with this Schedule the party or parties may apply to the President of the Law Society for a substitute to be appointed in his place (which procedure may be repeated as many times as necessary).
13. The Expert's costs shall be in the Expert's award or in the event that no determination as to costs is made, such costs will be borne by the parties to the Dispute in equal shares.
14. Nothing in this Schedule shall be taken to fetter the Parties' ability to seek legal redress in the Courts (or otherwise) for any breach of the obligations in this Deed.

**EXECUTION**

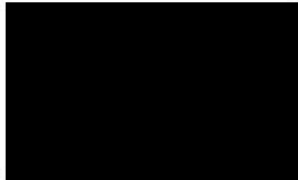
**THE COMMON SEAL of CHERWELL DISTRICT COUNCIL** was affixed in the presence of: -



Authorised Signatory



**THE COMMON SEAL of THE OXFORDSHIRE COUNTY COUNCIL** was affixed to this Deed in the presence of: -



Head of Legal/  
Authorised Signatory



**EXECUTED AS A DEED by PEMBURY ESTATES LIMITED** acting by a Director in the presence of:

Signed...  .....  
Director

Name... MANJULA COOK .....

Witness Name: S. BARNES

Witness Signature: 

Witness Occupation: SOLICITOR

Witness Address: WARWICK HOUSE, BATHAMPTON LANE, BATH BA2 8SJ

**EXECUTED AS A DEED by BARRINGTON ESTATES (DEDDINGTON) LIMITED** acting by two Directors in the presence of:

Signed.  .....  
Name: Mark Edworthy .....  
Director

Signed...  .....  
Name: Paul Scantlebury .....  
Director

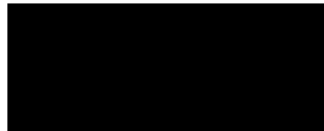
Witness Name: Chantal Hudson

Witness Signature: 

Witness Occupation: PA

Witness Address: Mount Pleasant Cottage EX15 2NN

SIGNED AS A DEED by MARY ANNE  
TADMAN in the presence of: -



Witness Name: CHRISTOPHER MOORE

Witness Signature: [Redacted]

Witness Occupation: RETIRED

Witness Address: 13, Pleasant Eglwys Wen  
W18 5US, BODENWYDDAN, DENBIGHSHIRE

EXECUTED AS A DEED by  
BURRINGTON ESTATES (MIDLANDS)  
LIMITED acting by a Director in the  
presence of:



Signed Name: Mark Edworthy

Director

Witness Name: Chantal Hudson

Witness Signature: [Redacted]

Witness Occupation: P.A.

Witness Address: Mount Pleasant Cottage EX15 2NN

EXECUTED as a DEED by  
PARAGON DEVELOPMENT  
FINANCE LIMITED acting by its  
attorney, Jonathan Baker, under a  
power of attorney dated 23 March  
2022 in the presence of:



Witness signature: [Redacted]

Name (CAPITAL LETTERS): TARIK KENAN  
Address: 12 New Fetter Lane  
London EC4A 3DF

Occupation: Solicitor

Signature of witness



Name  
(CAPITAL LETTERS) .....TARIK KENAN.....

Address .....12 New Fetter Lane.....  
.....London EC4A 1JP.....

Occupation .....Solicitor.....

## Mummary, Val - Oxfordshire County Council

**From:** Victoria Longmore [REDACTED]  
**Sent:** 28 July 2022 09:18  
**To:** Fitzherbert, Emily - Oxfordshire County Council  
**Cc:** Jessica Duck; 'Katherine Burge'; Shruti Trivedi; 'Donna Lee'; Lolas, Helen - Cherwell DC  
**Subject:** s.106 Agreement - Hempton Road, Deddington Phase 2 Ref Ladders Solicitors:MA: BUR00329/00006

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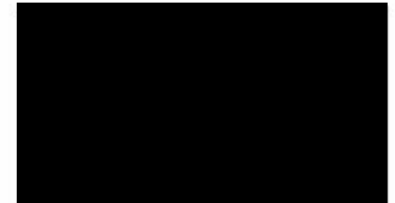
Dear Emily

I act for Burrington Estates (Deddington) Limited and Burrington Estates (Midlands) Limited.

Burrington Estates (Deddington) Limited and Burrington Estates (Midlands) Limited agree the following manuscript amendments to a s106 agreement between CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL and MARY ANNE TADMAN and BURRINGTON ESTATES (DEDDINGTON) LIMITED and PEMBURY ESTATES LTD and BURRINGTON ESTATES (MIDLANDS) LIMITED and PARAGON DEVELOPMENT FINANCE LIMITED in relation to planning application ref. 20/02083/OUT for land at Hempton Road, Deddington:

- (a) at Recital H to say "promotion" rather than "collaboration" agreement and
- (b) at clause 8.1 to say "Promoter" rather than "Owner" and
- (c) at clause 8.1.4 to add the words "the Owner shall" before the word "reimburse".

Kind regards  
Victoria



**Victoria Longmore**  
Partner and Head of Planning and Highways  
Planning and Highways  
For and on behalf of Ladders Solicitors LLP

Tel/ 01789 206119  
Mobile/ 07469354944

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## Mummersy, Val - Oxfordshire County Council

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**From:** Jonathan Baker [REDACTED]  
**Sent:** 28 July 2022 09:57  
**To:** Fitzherbert, Emily - Oxfordshire County Council  
**Cc:** Victoria Longmore  
**Subject:** RE: s.106 Agreement - Hempton Road, Deddington Phase 2 occ legal ref 55667 Ref  
Lodders Solicitors:MA:BUR00329/00006 [ROYT-  
LIVE.PEM0008.PEM0008-0003.FID158472] [FREETHS-ACTIVE.FID2710714] [B&B-  
M.FID12535259]

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Dear Emily

I act for Paragon Development Finance Limited and confirm that *Paragon Development Finance Limited agree the following manuscript amendments to a s106 agreement between CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL and MARY ANNE TADMAN and BURREINGTON ESTATES (DEDDINGTON) LIMITED and PEMBURY ESTATES LTD and BURREINGTON ESTATES (MIDLANDS) LIMITED and PARAGON DEVELOPMENT FINANCE LIMITED in relation to planning application ref. 20/02083/OUT for land at Hempton Road, Deddington:*

- (a) at Recital H to say "promotion" rather than "collaboration" agreement and
- (b) at clause 8.1 to say "Promoter" rather than "Owner" and
- (c) at clause 8.1.4 to add the words "the Owner shall" before the word "reimburse"

Regards

Jonathan

Jonathan Baker  
Partner  
jonathan.baker@twobirds.com

Direct +44 20 7415 6097  
Mobile +447711 014342  
Main +44 20 7415 6000  
Fax +44 20 7415 6111

Bird & Bird LLP  
12 New Fetter Lane  
London EC4A 1JP  
United Kingdom

twobirds.com

**Bird & Bird**

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**BIRD & BIRD**

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## Mummary, Val - Oxfordshire County Council

**From:** Jessica Duck [REDACTED]  
**Sent:** 28 July 2022 11:13  
**To:** Victoria Longmore; Fitzherbert, Emily - Oxfordshire County Council  
**Cc:** 'Katherine Burge'; Shruti Trivedi; 'Donna Lee'; Lolas, Helen - Cherwell DC  
**Subject:** RE: s.106 Agreement - Hempton Road, Deddington Phase 2 Ref Loders  
Solicitors:MA:BUR00329/00006 [ROYT-LIVE.PEM0008.PEM0008-0003.FID158472]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Emily

I act for Pembury Estates Ltd and confirm that *Pembury Estates Ltd agree the following manuscript amendments to a s106 agreement between CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL and MARY ANNE TADMAN and BURREINGTON ESTATES (DEDDINGTON) LIMITED and PEMBURY ESTATES LTD and BURREINGTON ESTATES (MIDLANDS) LIMITED and PARAGON DEVELOPMENT FINANCE LIMITED in relation to planning application ref. 20/02083/OUT for land at Hempton Road, Deddington:*

- (a) at Recital H to say "promotion" rather than "collaboration" agreement and
- (b) at clause 8.1 to say "Promoter" rather than "Owner" and
- (c) at clause 8.1.4 to add the words "the Owner shall" before the word "reimburse"

Kind regards,

Jessica



### Jessica Duck

Associate  
Roythornes Limited  
D: 0121 592 1046  
M: 07702867531  
S: 01775 842500  
W: [www.roythornes.co.uk](http://www.roythornes.co.uk)



**From:** Victoria Longmore [REDACTED]  
**Sent:** 28 July 2022 09:18  
**To:** Fitzherbert, Emily - Law & Governance [REDACTED]  
**Cc:** Jessica Duck [REDACTED]; 'Katherine Burge' [REDACTED]; Shruti Trivedi [REDACTED]; 'Donna Lee' [REDACTED]; Lolas, Helen - Cherwell DC [REDACTED]  
**Subject:** s.106 Agreement - Hempton Road, Deddington Phase 2 Ref Loders Solicitors:MA:BUR00329/00006

## Mummary, Val - Oxfordshire County Council

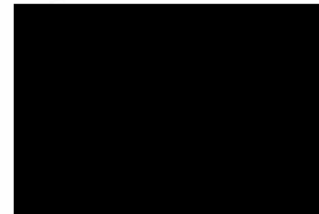
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**From:** Fitzherbert, Emily - Oxfordshire County Council  
**Sent:** 28 July 2022 15:35  
**To:** SECC Admin  
**Subject:** FW: s.106 Agreement - Hempton Road, Deddington Phase 2 occ legal ref 55667 Ref Lidders Solicitors:MA:BUR00329/00006 [ROYT-LIVE.PEM0008.PEM0008-0003.FID158472] [FREETHS-ACTIVE.FID2710714]

Further to the email I have just sent about sealing the email below from Katherine Burge is the 4<sup>th</sup> one that needs attaching to the s106

Yours Emily

Emily FitzHerbert  
Solicitor (Environmental Team) (Legal Services)  
Directorate for Commercial Development, Assets and Investment  
01865 323855  
Oxfordshire County Council  
County Hall, New Road, Oxford, OX1 1ND  
DX 4310 Oxford



Email: [Emily.fitzherbert@oxfordshire.gov.uk](mailto:Emily.fitzherbert@oxfordshire.gov.uk)  
<http://www.oxfordshire.gov.uk>

Document: [M-055667]/[02177451]

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**From:** Katherine Burge <Katherine.Burge@freeths.co.uk>  
**Sent:** 27 July 2022 16:42  
**To:** Fitzherbert, Emily - Oxfordshire County Council <Emily.Fitzherbert@Oxfordshire.gov.uk>  
**Cc:** robert@webb-developments.com; Jessica Duck <JessicaDuck@roythornes.co.uk>  
**Subject:** RE: s.106 Agreement - Hempton Road, Deddington Phase 2 occ legal ref 55667 Ref Lidders Solicitors:MA:BUR00329/00006 [ROYT-LIVE.PEM0008.PEM0008-0003.FID158472] [FREETHS-ACTIVE.FID2710714]

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Dear Emily,

Following on from your email of 19<sup>th</sup> July 2022 addressed to Jess Duck, copy below, please take this email as confirmation from my client, Mary Anne Tadman, that the manuscript amendment made at recital G of the Section 106 Agreement was incorrect and that the original wording should be re-instated so that the date referred to in recital G is '6 November 2020'.

Kind regards

Katherine

---

**Katherine Burge**  
Managing Associate  
T: 01865 781081

**FREETHS**