

Section 106 Agreement
relating to land north east of
Leicester

Dated

20 JULY

2016

Charnwood Borough Council (1)
Leicestershire County Council (2)
Leicester City Council (3)
Commercial Estates Projects Limited (4)
Anthony John Peacock Pochin (5)
Anthony John Peacock Pochin, Jayne Beverley
Peacock Pochin and John Reginald David Palmer (6)

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PARTIES

- (1) CHARNWOOD BOROUGH COUNCIL of Southfield Road, Loughborough, Leicestershire LE11 2TN (the "Borough Council");
- (2) LEICESTERSHIRE COUNTY COUNCIL of County Hall, Leicester Road, Glenfield, Leicester LE3 8RA whose registered office is (the "County Council");
- (3) LEICESTER CITY COUNCIL of 115 Charles Street, Leicester LE1 1FZ (the "City Council");
- (4) COMMERCIAL ESTATES PROJECTS LIMITED (Company number 02731442) whose registered office is at Sloane Square House, 1 Holbein Place, London, SW1W 8NS (the "Developer");
- (5) ANTHONY JOHN PEACOCK POCHIN of Barkby Hall, Barkby, Leicestershire ("Owner 1");
- (6) ANTHONY JOHN PEACOCK POCHIN, JAYNE BEVERLEY PEACOCK POCHIN, and JOHN REGINALD DAVID PALMER care of Barkby Hall, Barkby Leicestershire as trustees of the Pochin 1997 Accumulation and Maintenance Settlement ("Owner 2")

INTRODUCTION

- (A) The Developer wishes to construct the Development upon the Site and submitted the Application to the Borough Council on 20 December 2013.
- (B) Owner 1 and Owner 2 (in this Deed known together as the "Owner") have the benefit of such interests in the Site as are listed in Schedule 12.
- (C) Owner 2 enters into this Deed in its capacity as trustees of the Pochin 1997 Accumulation and Maintenance Settlement.
- (D) The Developer has the benefit of rights of pre-emption in relation to the interests of the Owner in the Site and enters into this Deed for the purposes of confirming its interest is bound and so as to give the covenants on its part set out herein.
- (E) The Council and the County Council are the local planning authorities for the Site for the purposes of the 1990 Act.
- (F) The County Council is also the local highway authority and local education authority for the Site.
- (G) The City Council is the local highway authority for the highways within its administrative area.
- (H) The Council resolved on 6 November 2014 to grant Planning Permission subject to the prior completion of this Deed in order to secure the planning obligations set out in that resolution.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 Definitions

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

1980 Act means the Highways Act 1980.

1990 Act means the Town and Country Planning Act 1990.

Additional Healthcare Contribution means the sum of up to £1,386,082 to be paid by the Owner to the Borough Council to be applied to the expansion of the Existing Healthcare Facilities in accordance with paragraph 8.7 of Schedule 3.

Additional Police Force Equipment Contribution	means the sum of £157,275 to be paid by the Owner to the Borough Council to be applied to the provision of equipment for the Police Force as follows: <ul style="list-style-type: none"> (a) the sum of £126,810 for vehicles; (b) the sum of £10,125 for additional radio call capacity; (c) the sum of £6,525 for police national database additions; and (d) the sum of £13,815 for additional call handling.
Additional Secondary School Site	means a Prepared and Serviced parcel of land on the Site of 2.65 hectares adjacent to the Secondary School Site that may accommodate (together with the Secondary School Site) the Premises for the Relocated Roundhill Academy in the general location shown on Plan 1.
Affordable Dwellings	means the Dwellings within the Development to be provided as Affordable Housing in accordance with the Affordable Housing Tenure Mix and the provisions of Schedule 7.
Affordable Housing	means residential accommodation where the rent or price is reduced directly or indirectly by means of public or private subsidies such that it can be afforded by persons or households on incomes whose needs cannot be met by the open market.
Affordable Housing Delivery Plan	means a plan for the delivery of the Affordable Dwellings within the Development to be submitted to and approved by the Borough Council (and any agreed amendments to such plan as may be agreed from time to time) containing the following: <ul style="list-style-type: none"> (a) the proposed quantum and distribution of Affordable Dwellings within the Phases of the Development including the general location of the Extra Care Scheme; and (b) the proposed size, type and tenure mix of the Affordable Dwellings within the Phases of the Development such that the type and tenure of the Affordable Housing across the whole Development shall be in accordance with the Affordable Housing Tenure Mix and Affordable Housing Size/Type Mix.
Affordable Housing Size/Type Mix	means the number and mix of sizes and types of Affordable Dwellings as set out in Table 1 in Schedule 7 or such other mix of sizes and types as may be agreed with the Borough Council.
Affordable Housing Statement	means a statement to be submitted by the Owner to the Borough Council for its approval with each Reserved Matters Application that provides for any Dwellings setting out how the Dwellings proposed in that Reserved Matters Application contribute to the delivery of the Affordable Housing Delivery

	Plan and the relevant Phase Specific Affordable Housing Delivery Plan.
Affordable Housing Tenure Mix	<p>means the following tenure mix in accordance with which the Affordable Dwellings shall be provided:</p> <p>(a) 80% Affordable Rent Dwellings; and</p> <p>(b) 20% Intermediate Dwellings;</p> <p>or such other tenure mix or type of tenure or tenures as may be agreed with the Borough Council.</p>
Affordable Rent Dwellings	means the Affordable Dwellings to be let by Registered Providers at a rent of no more than 80% of the local market rent (including service charges where applicable) to households who are eligible for social rented housing or such other equivalent affordable rented tenure as may be agreed by the Borough Council.
Allotment Specification	means the specification for provision of the Allotments set out at ANNEX 1 to Schedule 5.
Allotments	means the 4 hectares of land within the Development to be provided as allotments for residents of the Development (but without exclusion of others following Completion of the Development) in accordance with the Allotment Specification, any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions of Schedule 5 of this Deed.
Alternative Management Body	<p>means any of the following:</p> <p>(a) the Borough Council, the County Council or any other body or organisation reasonably created by or reasonably nominated by either of them;</p> <p>(b) a fully constituted parish, town or community council;</p> <p>(c) a residents' group having charitable or not-for-profit status;</p> <p>(d) any other trust body or organisation reasonably created by or on behalf of the Owner or reasonably nominated by the Owner; and</p> <p>(e) such other body as may be approved by the Borough Council.</p>
Amenity Green Space	means the 6 hectares of informal green space within the new residential neighbourhoods that shall be created within the Development to be provided in accordance with any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions of Schedule 5 of this Deed.
Application	means the hybrid application for outline planning permission dated 20 December 2013 submitted to the Borough Council and allocated reference number P/13/2498/2 namely an

application for an outline permission for a mixed use residential-led development, to be developed in phases, including: preparatory works including demolition as necessary; approximately 4,500 residential units (Use Class C3, including affordable homes); Class C2 (specialist) housing; up to 13 hectares of employment land (Use Classes B1(a), (b) and (c), B2 and B8); two local centres and one district centre (including uses in Use Classes A1 – A5, B1, C1, D1 and D2 and including a food-store (up to 4,500sqm gross) with associated car parking); provision for school facilities (including a 'reserve' site for secondary school); healthcare facilities; a reserve site for gypsies and travellers; open space including allotments; parks; natural and semi natural green space; amenity green spaces; facilities for children and young people; outdoor sports provision including playing pitches and tennis courts; associated infrastructure including footpaths/cycleways, a north west link road between Barkby Lane and the A607 with a bridge across the railway line; and associated engineering and landscaping works (including SUDs) and detailed planning permission for the construction of the southern link road connecting in to Sandhills Avenue including footpaths/cycleways, landscaping and associated engineering works (including SUDs).

Borough Council's Monitoring Costs

means the sum of £198,926 to be paid by the Owner to the Borough Council in accordance with clause 6, being the Borough Council's estimate of and to be applied by the Borough Council to its administration, assessment and monitoring costs and professional/consultants fees incurred in connection with the discharge of obligations in this Deed (including approval of and discussions relating to any plans, details, documents and reports hereunder in connection with satisfactory delivery of the Development) provided that for the avoidance of doubt such costs (including professional /consultants costs/ fees) shall not include costs/fees incurred in relation to the determination of any planning application once submitted by the Owner to the Borough Council under the Planning Permission and in respect of which the Borough Council has a statutory duty to determine.

Building Bulletin 103

means the Department for Education Building Bulletin 103: *Area Guidelines for Mainstream Schools* (or relevant successor guidelines).

Building Regulations

means regulations made under the Building Act 1984 or any replacement or re-enactment thereof.

Bungalows

means the 30 Affordable Rent Dwellings to be provided as single storey Houses suitable for accommodating older people.

Burial Space

means an area of land of 0.6 hectares to be provided by the Owner either within or outside the Site (the precise details of the location of which shall be agreed with the Borough

Council) for use as burial space.

Burial Space Marketing Strategy means a strategy as to the proposed marketing of the Burial Space to appropriate bodies that may be interested in owning and operating the Burial Space to be submitted to and approved by the Borough Council, which strategy shall include the following details:

- (a) identification of potential appropriate bodies to own and operate the Burial Space;
- (b) the steps intended to be taken and by which organisations(s) in marketing the Burial Space to the bodies identified in (a) above; and
- (c) the proposed date on which such marketing is intended to commence.

Business Day means a day other than a Saturday or Sunday or a public holiday.

Bus Services means the bus services between the Site, Syston, Queniborough and Leicester City Centre to serve the Development, which shall be provided in accordance with the Bus Strategy and which shall accord with and/or (as applicable) incorporate the following:

- (a) one pre-0700 hours bus arrival in Leicester City Centre and one post-1900 hours departure from Leicester City Centre from Mondays to Saturdays inclusive;
- (b) one pre-0900 hours bus arrival in Leicester City Centre and one post-1800 hours departure from Leicester City Centre on Sundays and bank holidays;
- (c) a minimum frequency of one bus every 30 minutes (2 buses per hour) commencing in accordance with subparagraph (e) below and increasing to a maximum of one bus every 15 minutes (4 buses per hour) by no later than Occupation of the 3,250th Dwelling **SAVE THAT** in the event that additional measures aimed at achieving target bus passenger numbers are required to be implemented by the Owner pursuant to paragraph 1.3 of Schedule 4 the frequency of the buses shall only be required to increase to a maximum of one bus every 20 minutes (3 buses per hour) by the Occupation of the last Dwelling in the Development to be Occupied;
- (d) buses shall have a minimum capacity of 40 passengers; and
- (e) bus services shall commence operating during the second year after Commencement and in any event no later than Occupation of 175 Dwellings.

Bus Service Scheme	<p>means the scheme submitted by the Owner and approved by the Borough Council (in consultation with the County Council and City Council) setting out the following details of the provision by the Owner of the Bus Services:</p> <ul style="list-style-type: none"> (a) service route, timetables, fares, vehicles to be used, target usage and anticipated cost of providing the Bus Services; (b) indicative number and location of proposed bus stops, associated raised kerbs, flags and poles, shelters and real time information indicator boards within the Development; and (c) the methodology for monitoring and review of the Bus Services so as to maximise the success of a commercially viable service, <p>and any amendment to such scheme that may be approved by the Borough Council (in consultation with the County Council and City Council) PROVIDED ALWAYS THAT any such approved scheme and approved amendments shall be in accordance with the principles of the Bus Strategy.</p>
Bus Service Subsidy Cap	<p>means the sum of £1,687,000 being the estimated subsidy required to deliver the Bus Services in accordance with the Bus Service Scheme and the aims of the Bus Strategy based upon assumptions as to cost and bus passenger forecasts prior to actual costs and passenger use.</p>
Bus Service Subsidy Contingency	<p>means £1,095,000 being monies that may be spent in accordance with the Bus Strategy and paragraphs 1.3 and 1.4 of Schedule 4 in the event that the targets in the Bus Strategy are not being met in the delivery of the Bus Services.</p>
Bus Strategy	<p>means the document entitled <i>North East of Leicester SUE Bus Strategy May 2015</i> appended to this Deed at Annex 2 of Schedule 4.</p>
City Council's Highways Works	<p>means the works to the highway listed in Part 2 to ANNEX 1 to Schedule 4 (and each of them) and any Highway Works required pursuant to Conditions to be provided in connection with the Development or such amended list as may be agreed in writing with the City Council pursuant to a Highways Delivery Review.</p>
City Council's Monitoring Costs	<p>means the sum of £18,543.19 in accordance with clause 6 and to be applied by the City Council to its administration, assessment and monitoring costs and professional/consultants fees incurred in connection with the discharge of obligations in this Deed (including approval of and discussions relating to any plans, details, documents, reviews and reports hereunder in connection with satisfactory delivery of the Development) provided that for the avoidance of doubt such costs (including professional /consultants</p>

costs//fees) shall not include costs/fees incurred in relation to the determination of any planning application once submitted by the Owner to the Borough Council under the Planning Permission and in respect of which the Borough Council has a statutory duty to determine.

Civic Amenity Contribution	means the sum of £209,250 to be applied by the County Council to fund civic amenity measures and support waste collection services, which shall be operated from the existing civic amenity site at Mountsorrel or adjacent land to meet the needs of the Development.
Commencement	means where used in relation to the Development or any specified part thereof the carrying out of the first Material Operation in respect of the Development or such specified part thereof and 'Commence', 'Commenced' and 'Commence Development' shall be construed accordingly.
Commencement Date	means the date on which the Development is first begun by the carrying out of a Material Operation.
Community Centre Facilities	means the facilities for use by the community to be provided by the Owner in the Development within the District Centre (or as otherwise approved by the Borough Council) in accordance with the Community Centre Strategy and subject to the provisions of paragraph 1 of Schedule 3, comprising the Community Hall, the Police Facility and the Library Hub Facility together with shared communal facilities consisting of foyer, storage areas, kitchen, toilets (comprising male, female, disabled toilets and baby changing facilities), any necessary ancillary car parking, servicing and delivery areas and landscaping PROVIDED THAT the cost to the Owner of the provision of such facilities shall not exceed £1,900,000 (and for the avoidance of doubt this cap does not apply to the Healthcare Facility, Police Force Premises Site or Police Force Premises Contribution).
Community Centre Strategy	means a scheme for the delivery of the Community Centre Facilities to include the proposed phasing, marketing arrangements, timing of provision and specification of works for provision of a building or buildings to Shell Finish to contain the Community Centre Facilities and details of the proposed Management Arrangements for the Community Hall, such scheme to accord with the following: (a) the programme for delivery of such Community Centre Facilities as are to be provided shall be in accordance with the provisions of paragraph 1 of Schedule 3; and (b) regard shall be had to any potential for future location of the Healthcare Facility within the Community Centre.
Community Development	means a paid or voluntary person appointed on a full or part

Worker	time basis to facilitate activities and engagement with the community in accordance with the provisions of paragraph 5 of Schedule 3 for a period of up to 10 years.
Community Hall	means the hall that shall form part of the Community Centre Facilities which may be used for the benefit of the local community with a minimum aggregate floorspace of 575 square metres (gross internal area).
Community Liaison Group	means a forum to be set up by the Owner in agreement with the Borough Council to provide a forum for raising issues related to the Development which shall be effective throughout the construction of the Development and for a period of 6 months after Completion of the Development.
Completion	means the issue of a certificate of practical completion of the Development (or such part as may be specified) by the Owner's architect or other project consultant appointed by the Owner and "Complete" and "Completed" shall be construed accordingly.
Condition	means a condition imposed on the Planning Permission and where followed by a number shall be a reference to the condition bearing that number or such equivalent condition attached to any new planning permission granted pursuant to section 73 of the 1990 Act and/ or on any approval pursuant to section 96A of the 1990 Act.
County Council's Highways Works	means the works to the highway listed in Part 1 of Annex 1 to Schedule 4 (and each of them) and any highway works required pursuant to Conditions to be provided in connection with the Development or such amended list as may be agreed in writing with the County Council pursuant to a Highways Delivery Review.
County Council's Monitoring Costs	means the sum of £42,345 to be paid by the Owner to the County Council in accordance with clause 6 and to be applied by the County Council to its administration, assessment and monitoring costs and professional/consultants fees incurred in connection with the discharge of obligations in this Deed (including approval of and discussions relating to any plans, details, documents and reports hereunder in connection with satisfactory delivery of the Development).
Cycling Route	means Cycling Route 1, Cycling Route 2 and Cycling Route 3 and any of them.
Cycling Route 1	means a cycling route as shown on Plan 2 from Victoria Road East to Humberstone Road, from and including the junction of Gypsy Lane, via Victoria Road East, Hastings Road, Overton Road, and Uppingham Road to link into existing facilities and such route shall: <ul style="list-style-type: none"> (a) include provision of crossing facilities for cyclists at signal junctions and/or conversions of pelican crossings where required; and

- (b) be designed and constructed in accordance with any relevant nationally accepted standards prevailing at the time of its detailed design.

Cycling Route 2

means a cycling route as shown on Plan 2 from Barkby Road to Soar Valley College and Melton Road via footpath leading from Barkby Road to Peebles Way, and along Peebles Way to link into existing facilities and such route shall:

- (a) include provision of crossing facilities for cyclists at signal junctions and/or conversions of pelican crossings where required; and
- (b) be designed and constructed in accordance with any relevant nationally accepted standards prevailing at the time of its detailed design.

Cycling Route 3

means a cycling route as shown on Plan 2 from the Site to Barkby Road via Barkbythorpe Road excluding the section consisting of the junction of Barkbythorpe Lane and Humberstone Lane (and for the avoidance of doubt the Humberstone Lane/A563 Troon Way roundabout is included in the list of junctions contained within the Highways Delivery Strategy and shall be delivered in accordance with the relevant provisions in paragraph 2 of Schedule 4) and such route shall:

- (a) include provision of crossing facilities for cyclists at signal junctions and/or conversions of pelican crossings where required; and
- (b) be designed and constructed in accordance with any relevant nationally accepted standards prevailing at the time of its detailed design.

Cycling Route Contribution

means Cycling Route 1 Contribution, Cycling Route 2 Contribution and Cycling Route 3 Contribution and any of them.

Cycling Route 1 Contribution

means a sum of up to a maximum of £695,186.19 (the actual quantum of which shall be confirmed by the City Council in a Cycling Route Notice) to be paid by the Owner to the City Council to be applied by the City Council to provision of Cycling Route 1.

Cycling Route 2 Contribution

means a sum of up to a maximum of £399,828.45 (the actual quantum of which shall be confirmed by the City Council in a Cycling Route Notice) to be paid by the Owner to the City Council to be applied by the City Council to provision of Cycling Route 2.

Cycling Route 3 Contribution

means a sum of up to a maximum of £389,632.50 (the actual quantum of which shall be confirmed by the City Council in a Cycling Route Notice) to be paid by the Owner to the City Council to be applied by the City Council to provision of Cycling Route 3.

Cycling Route Notice

means a notice served by the City Council on the Owner setting out the detailed specification and cost of provision of a Cycling Route (for the avoidance of doubt such costs shall include costs associated with design, supervision, health & safety, inspection fees, securing any Necessary Consents, dealing with statutory undertakers or other third parties, maintenance/remedying of defects during a reasonable maintenance period until adoption, adoption of the Cycling Routes and a reasonable estimate of any potential liability associated with the works (including claims under Part 1 of the Land Compensation Act 1973)). The costs set out in such notice (or, in the event that any updated notice is issued by the City Council to the Owner following receipt and consideration of representations made to the City Council in accordance with paragraph 3.6 of Schedule 9, an updated notice) shall constitute confirmation of the actual quantum of the Cycling Route Contribution for the relevant Cycling Route PROVIDED THAT the amount payable by the Owner in respect of each Cycling Route shall not exceed the following:

- (a) £695,186.19 in respect of Cycling Route 1;
- (b) £399,828.45 in respect of Cycling Route 2; and
- (c) £389,632.50 in respect of Cycling Route 3.

Deed of Adherence

means a deed whereby all those with interests in the relevant Third Party Land agree by deed to bind such interests with the covenants, undertaking and planning obligations contained in this Deed insofar as any such covenants, undertaking and obligations at the date of such deed remain to be performed, discharged or satisfied, and each such deed of adherence shall be substantially in the following form:

- (a) in the case of any interest acquired by the Owner and/or Developer in Third Party Land, the form of deed at Schedule 10; and
- (b) in the case of any interest acquired by a person other than the Owner and/or Developer in Third Party Land, the form of deed at Schedule 11,

And, subject to the provisions of Clause 5, in each case must be entered into by Owner 1 and Owner 2 where they retain an interest (within the meaning and for the purposes of section 106 of the 1990 Act) in the Site bound by outstanding obligations under this Deed which would be extended to the Third Party Land if the Deed of Adherence is entered into.

Design and Access Statement

means the document entitled *Design and Access Statement* and dated December 2013 submitted with the Application.

Destination Park

means a park in the general location indicated by '1F' in the Landscape Framework Plan, close to other complementary facilities and incorporating facilities that appeal to all age

groups such park to be provided in accordance with the Destination Park Specification approved by the Borough Council pursuant to paragraph 3 of Schedule 5.

Destination Park Specification

means the specification for the Destination Park to be submitted and approved by the Borough Council, which shall include and/or incorporate the following:

- (a) one LEAP and one NEAP in the general locations labelled 3B4 and 3A4 on the Landscape Framework Plan or in such other locations within the Destination Park as may be approved by the Borough Council in this specification;
- (b) 1 item from the additional facilities listed in list A in Annex 2 of Schedule 5;
- (c) 2 items from the additional facilities listed in list B in Annex 2 of Schedule 5; and
- (d) timescale for delivery of the remainder of the Destination Park which shall be after those elements set out at paragraph 3.3(a) and (b)(i) of Schedule 5 that are required to be delivered under those paragraphs,

PROVIDED THAT the selection and specification for items under (b) and (c) to be approved by the Borough Council shall be accompanied by an options appraisal informed by prior consultation with the Borough Council.

Determination Notice

means a notice served pursuant to clause 13 requiring referral of any dispute or difference between the Parties to be determined under clause 13, proposing an appropriate Specialist and specifying the nature and substance of the dispute and the relief sought in relation to the dispute.

Development

means the development permitted pursuant to the Planning Permission.

Development Parcel

means a development area or parcel of the Development as identified in the Phasing Plan.

Dispute Resolution Procedure

means the procedure set out in clause 13.

District Centre

means the district centre to be provided as part of the Development in the location shown for illustrative purposes on Plan 3 in accordance with the documents submitted with the Application.

Dwelling

means any dwelling (including a Bungalow, House or Flat) constructed pursuant to the Planning Permission.

Education and Community Use Survey

means a written assessment of the Roundhill Academy Playing Fields submitted by the Owner and approved by the Borough Council and the County Council which assessment shall establish the total area, use and condition of the Existing

Sports Provision at the Roundhill Academy Playing Fields including hours of use by Roundhill Academy and any community or other groups and the range of sports accommodated in a 12 month period, for the purpose of establishing the baseline position for the design, layout and assessment of the Replacement Sports Provision.

Education Delivery Review	means a review of the deadlines for delivery of one or more of any of the following: (a) one or more of the five Forms of Entry of the Primary Schools; (b) such of the Secondary Education Delivery Options as the Owner may have elected to provide; which review may propose amendments to the same and which shall be carried out and served on the Education Delivery Review Partners in accordance with the parameters and requirements set out in paragraph 5 of Schedule 2.
Education Delivery Review Partner	means the Owner, the County Council, the Borough Council and the Education Liaison Group or any of them.
Education Delivery Review Table	means the table set out in Annex 2 to Schedule 2 to this Deed.
Education Liaison Group	means the group established pursuant to and in accordance with paragraph 5 of Schedule 2.
Education Liaison Group Terms of Reference	means the terms of reference by which the Education Liaison Group shall operate as annexed at Annex 3 to Schedule 2 or such other terms as may be agreed between the Owner, Borough Council and the County Council.
Education Provider	means any body or entity which is authorised by the Department for Education (or relevant successor body fulfilling the same functions) to provide non-fee paying all-ability education to children of statutory school age.
Existing Healthcare Facilities	means all or each of the existing local healthcare facilities at: (a) Silverdale Drive, Thurmaston; (b) 573a Melton Road, Thurmaston; (c) 577 Melton Road, Thurmaston; and (d) 22 Maidenwell Avenue, Hamilton.
Existing Sports Provision	means the existing playing fields, sports pitches, ancillary buildings and informal social areas including Roundhill Academy Playing Fields which will be affected by the construction of the Western North West Link Road as shown for illustrative purposes on Plan 4.
Extra Care Dwellings	means the 60 Affordable Rent Dwellings to be provided within the Extra Care Scheme in accordance with the provisions of paragraph 3 of Schedule 7.

Extra Care Replacement Dwellings	means the 54 x 2 bedroom Flats and 36 x 1 bedroom Flats to be provided as Affordable Dwellings within the Development subject to the Owner being discharged from its obligation to provide the Extra Care Scheme pursuant to the procedure in paragraph 3 of Schedule 7.
Extra Care Scheme	means the scheme comprising the Extra Care Dwellings and such associated ancillary shared facilities and services as are normally provided in association with residential accommodation where varying amounts of care and support are provided to the residents and to be provided in accordance with the Extra Care Specification.
Extra Care Scheme Agreement	means an agreement made between the Owner and a Registered Provider for the construction and transfer of the Extra Care Scheme on terms to be agreed between the Owner and the Registered Provider.
Extra Care Scheme Marketing Strategy	means a strategy as to the proposed marketing of the Extra Care Scheme to Registered Providers to be submitted to and approved by the Borough Council pursuant to paragraph 3 of Schedule 7 and to include the following details: <ul style="list-style-type: none"> (a) identification of potential appropriate Registered Providers; (b) the steps intended to be taken and by which organisations(s) in marketing the Extra Care Scheme to the Registered Providers identified in (a) above; and (c) the proposed date on which such marketing is intended to commence.
Extra Care Scheme Specification	means the specification for the Extra Care Scheme detailing the ancillary shared facilities and services to be provided within the Extra Care Scheme and the anticipated delivery plan for the Extra Care Scheme.
Fifth Off Site Walking and Cycling Scheme	means an enhancement scheme to the existing walking and cycling network on Colby Drive to ensure that the Development is fully served by high quality non-motorised routes to locations outside the Site as shown for illustrative purposes on Plan 5 such scheme to including installation of signs and lighting.
Fifth Off Site Walking and Cycling Scheme Contribution	means the sum of £15,000 to be paid by the Owner to the County Council to be applied by the County Council to the provision of the Fifth Off Site Walking and Cycling Scheme.
First Healthcare Contribution	means the sum of £288,724 to be paid by the Owner to the Borough Council to be applied to the expansion of the Existing Healthcare Facilities in accordance with paragraph 8.1 of Schedule 3.
First Off Site Walking and	means an enhancement scheme to the existing walking and

Cycling Scheme	cycling network between Barkby Lane and Melton Road to Syston Rail Station to ensure that the Development is fully served by high quality non-motorised routes to locations outside the Site as shown for illustrative purposes on Plan 5 such scheme to include installation of cycle facilities and improvements to existing footways.
First Off Site Walking and Cycling Scheme Contribution	means a maximum sum of £319,262.90 to be paid by the Owner to the County Council to be applied by the County Council to the provision of the First Off Site Walking and Cycling Scheme.
Flat	means a Dwelling which is a separate and self-contained residential unit that forms part of a building within the Development.
Form of Entry	means, in relation to a Primary School, a pupil capacity of 210 (or such lower pupil capacity as may be agreed between the Parties).
Fourth Off Site Walking and Cycling Scheme	means an enhancement scheme to the existing walking and cycling network on bridleway J26 from Alderton Close to Watermead Park South to ensure that the Development is fully served by high quality non-motorised routes to locations outside the Site as shown for illustrative purposes on Plan 5 such scheme to include appropriate resurfacing and lighting.
Fourth Off Site Walking and Cycling Scheme Contribution	means the sum of £140,000 to be paid by the Owner to the County Council to be applied by the County Council to the provision of the Fourth Off Site Walking and Cycling Scheme.
Gypsies and Travellers	means persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of Travelling Showpeople or circus people travelling together as such.
HCA	means the Homes and Communities Agency or any other body and/or successor body fulfilling the same functions.
Health Service Body	means NHS England or its successor body within the National Health Service or a nominee of the same or such other body commissioning health services in the vicinity of the Development as may be agreed by the Borough Council.
Healthcare Contribution	means the First Healthcare Contribution, the Second Healthcare Contribution or the Additional Healthcare Contribution or all of them.
Healthcare Facility	means floorspace within the District Centre for use by a Health Service Body as a GP surgery and capable of accommodating up to 7 consulting rooms and 2 treatment rooms and any other appropriate associated ancillary and/or complementary healthcare facilities or other such provision as

	may be approved in writing by the Borough Council having regard to payments for the expansion of Existing Healthcare Facilities off Site, which floorspace may or may not be co-located with other uses within the Development.
Healthcare Facility Lease	means a lease of the Healthcare Facility made on reasonable arm's length commercial terms with a Health Service Body, such terms to include the Healthcare Facility Lease Terms.
Healthcare Facility Lease Terms	means the terms set out at paragraph 3 of Annex 1 to Schedule 3.
Healthcare Facility Marketing Strategy	means a strategy as to the proposed marketing of the Healthcare Facility to Health Service Bodies to be submitted to and approved by the Borough Council pursuant to paragraph 8 of Schedule 3 and to include the following details: <ul style="list-style-type: none"> (a) identification of the potential occupiers for the Healthcare Facility; (b) the steps intended to be taken in marketing and letting the Healthcare Facility including how the potential occupiers are to be targeted; (c) the terms upon which the Healthcare Facility is to be leased to reflect the terms set out in paragraph 3 of Annex 1 to Schedule 3; (d) how the marketing will be undertaken and by which organisation(s); and (e) the date upon which such marketing is to commence and the timescales applicable to the marketing and letting of the Healthcare Facility.
Highways Agreement	means a binding and completed agreement to be entered into by the Owner and the relevant highway authority pursuant to Section 38 and Section 278 or either of them and any other relevant provisions of the 1980 Act for the delivery of the relevant Highway Works.
Highways Delivery Review	means a review of the highway impacts of the Development and the Highways Delivery Strategy which review shall be submitted in accordance with paragraph 2 of Schedule 4 and shall take account of the following: <ul style="list-style-type: none"> (a) progress of the Development and existing and anticipated capacity on the highway network; (b) any variations to the matters set out in the Highways Delivery Strategy, including the timing of any Highway Works in the event that the Highways Delivery Review establishes that an earlier Trigger Event is required than specified PROVIDED THAT no amendments may be required pursuant to this Deed to Trigger Events specified in the Conditions; (c) (as appropriate) the Bus Service Scheme;

- (d) existing speed limits and weight restrictions and whether changes are required;
- (e) existing and proposed routing of construction traffic;
- (f) the latest results of traffic monitoring based on counts on new and existing highways;
- (g) a review of the delivery of sustainable transport connections; and
- (h) such other matters to which it would be reasonable and appropriate to have regard, including for the avoidance of doubt the outcome of any review undertaken in relation to the Trigger Event under any planning condition in respect of the southern access road.

Highways Delivery Strategy

means a strategy approved by the County Council, City Council and Borough Council in accordance with Schedule 4 setting out the following:

- (a) the elements of the Highways Works to be provided in connection with the Development (including for the avoidance of doubt those required pursuant to Conditions);
- (b) the estimated costs of provision and the timing of delivery of those Highway Works contained in Annex 1 to Schedule 4 only, including the proposed Trigger Event if different to that set out in Annex 1 to Schedule 4; and
- (c) any other measures arising from and specified in a Highways Delivery Review specifying in each case the proposed Trigger Event.

Highways Works

means the County Council's Highways Works and the City Council's Highways Works.

HomeBuy Agent

means the organisation appointed by the HCA to manage the eligibility for and allocation of intermediate affordable homes.

House

means a Dwelling which is not a Flat.

Housing Allocations Scheme

means a statutory allocation scheme which is administered by or on behalf of the Borough Council in order to offer tenants of affordable rented accommodation a choice of accommodation and the opportunity to express preferences about the accommodation to be allocated to them.

Index

means the All in Tender Price Index of the Building Cost Information Service ("BCIS") as published by the Royal Institution of Chartered Surveyors ("RICS") or in the event that the RICS shall change the basis of compilation or cease to compile or publish the said index such other index as the parties hereto shall agree or in default of agreement such

index as shall be determined by an arbitrator appointed by the President of the RICS for the purposes of this Deed in all cases to ensure as nearly as possible that the sums of money involved shall fluctuate in accordance with the general level of the building industry costs.

Indoor Sports Facilities	means a 4 court sports hall of no less than 34.5 metres by 20 metres with a 7.4 metre ceiling height, together with appropriate ancillary storage, changing and office facilities designed having regard to Sport England Guidance <i>Sports Halls Design & Layouts Updated and Combined Guidance (February 2012)</i> where relevant.
Intermediate Dwellings	means the Affordable Dwellings to be provided on a Shared Ownership basis or on the basis of such other intermediate sale or intermediate rent tenure as shall be agreed by the Borough Council.
Junction Improvements	means the following: <ul style="list-style-type: none">(a) timing alterations to Fosse Way/High Street junction, Syston;(b) a new MOVA unit and validation work at A607 Newark Road/Humberstone Lane, Thurmaston signal junction; and(c) signal timing validations x 2 at the Barkby Lane/Barkby Thorpe Lane Junction, Syston shuttle signals.
Junction Improvements Contribution	means the sum of £11,500 to be paid by the Owner to the County Council to be applied by the County Council to the Junction Improvements.
Landscape Framework Plan	means the document of the same name and the Green Infrastructure Study, both dated December 2013 and submitted with the Application.
Library Facilities Contribution	means the sum of £237,110 for the provision and/or enhancement of existing or new local library facilities to serve the Development.
Library Hub Facility	means a net internal floorspace not exceeding 150 square metres to be provided within the Community Centre Facilities to Shell Finish for use for the provision of library services to the public and such other appropriate ancillary and related uses as may be agreed between the Owner, the Borough Council and the County Council.
Library Hub Facility Lease	means a lease of the Library Hub Facility to the County Council or such other body or persons as the County Council and the Owner may agree on terms that shall include the Library Hub Facility Lease Terms.
Library Hub Lease Terms	means the terms of the Library Hub Facility Lease set out at paragraph 2 of Annex 1 to Schedule 3.

Management Arrangements	means the arrangements for the ongoing management and maintenance of the Development or specified part thereof approved pursuant to the relevant provisions of this Deed in accordance with Schedule 6.
Management Company	means a management company to be approved in writing by the Borough Council pursuant to the provisions of this Deed for the purposes of managing and maintaining the Development or such specified part thereof.
Market Dwelling	means a Dwelling constructed pursuant to the Planning Permission which is not an Affordable Dwelling.
Market Value	means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion, and by reference to RICS professional standards, UK : RICS Valuation – Professional Standards UK January 2014 (revised April 2015).
Material Operation	means a material operation as defined in Section 56(4) of the 1990 Act and forming part of the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, construction of site accommodation compounds erection of any temporary means of enclosure, the temporary display of site notices or advertisements.
Minor Non-Residential Unit	means a Non-Residential Unit with a floorspace of 150 square metres or less (net internal area).
Natural and Semi-Natural Green Space	means the 61 hectares of natural and semi-natural green space including woodland to be provided within the Development in accordance with any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions of Schedule 5 of this Deed.
Necessary Consents	means all such statutory, regulatory and third party consents, agreements, approvals and licences as may be necessary in order to enable delivery of the required works, facility, service or activity in question.
Non-Residential Unit	means those units within the Development used or to be used other than for purposes falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
Occupation	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out, decoration, occupation for

marketing or display or occupation in relation to security operations and in the case of a Dwelling the date of Occupation shall be deemed to be the date of legal completion of the freehold sale or grant of a leasehold interest in the relevant Dwelling and "Occupy" and "Occupied" shall be construed accordingly.

Occupier	means the occupier of any Dwelling or Non-Residential Unit.
Off-Site Primary School Contribution	means the sum of £362,970.30 to be paid by the Owner to the County Council to be applied to the provision of 30 primary school pupil places outside of the Site which places shall meet the demand for primary school places arising from the Development.
Off Site Traffic Management Measures	means traffic management measures comprising speed limit changes and one way gates to: <ul style="list-style-type: none">(a) Beeby Road/Barkby Lane, Barkby;(b) Barkby Thorpe; and(c) (if not undertaken in any event) Beeby Road, Scraftoft.
Off Site Traffic Management Measures Contribution	means the sum of £51,400 to be paid by the Owner to the County Council to be applied by the County Council to the Off Site Traffic Management Measures PROVIDED THAT if the measures summarised at paragraph (c) of the definition of Off Site Traffic Management Measures have already been undertaken the sum shall be £50,200.
Ofsted	means the Office for Standards in Education, Children Services and Skills or relevant successor body fulfilling the same functions.
Orchards	means land within the Development to be laid out and provided as orchards in accordance with any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions of Schedule 5 of this Deed.
Outdoor Sports Facilities	means the 29 hectares of land within the Development to be laid out and provided as formal and informal outdoor sports facilities (including any necessary ancillary parking and changing facilities) in accordance with Performance Quality Standards, any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions of Schedule 5 of this Deed.
Owner's Land	means those parts of the Site listed in Schedule 12 and shown edged and hatched blue on Plan 6.
Parks	means the 48 hectares of park land (including the Destination Park) to be provided within the Development in accordance with any relevant provisions of the Public Open Space Strategy, the Landscape Framework Plan and the provisions

	of Schedule 5 of this Deed.
Performance Quality Standards	means the performance quality standards for the relevant sport(s) published by the Institute of Groundsmanship in consultation with selected national governing bodies or such other pitch performance quality standards as may be endorsed by Sport England (or relevant successor body fulfilling the same functions) where relevant to the sports, facilities for which are being provided.
Phase	means a phase of the Development as identified in the approved Phasing Plan.
Phase Specific Affordable Housing Delivery Plan	means a plan for the delivery of Affordable Dwellings within a Phase and parts of a Phase (including any Development Parcels within the Phase) to be submitted to and approved by the Borough Council (and any amendments to such plan as may be agreed from time to time) which plan shall comply with the Affordable Housing Delivery Plan and shall contain the following: <ul style="list-style-type: none"> (a) the proposed distribution of Affordable Dwellings within the Phase (including within Development Parcels falling within the Phase); (b) the proposed type and tenure mix of the Affordable Dwellings within the Phase in question such that the type and tenure of the Affordable Dwellings across the whole Development shall be in accordance with the Affordable Housing Tenure Mix and Affordable Housing Size/Type Mix; and (c) the proposed rights of nomination by the Borough Council of persons to Occupy the Affordable Dwellings in that Phase (if any).
Phase Specific Children and Young Persons Strategy	means a strategy to be submitted to and approved by the Borough Council pursuant to and in accordance with paragraph 4 of Schedule 5 which shall detail how the approved Site Wide Children and Young Persons Strategy shall be implemented within a particular Phase (including any Development Parcels falling within that Phase) and which shall include details of the timing of delivery of any Play Facilities to be delivered within the Phase in question.
Phasing Plan	means the plan showing the Phases and Development Parcels of the Development approved pursuant to the relevant Condition or such revision thereof as may be agreed with the Borough Council.
Plan	where followed by a number shall be a reference to the plan bearing that number as referred to in and appended at Schedule 8 to this Deed.
Planning Permission	means the planning permission to be granted by the Borough Council in respect of the Application the form of which is set

out in Schedule 1.

Play Facilities	means the 7 sites for children and 7 sites for young people to be provided on a total of no less than 0.56 hectares of land within the Development in accordance with any relevant provisions of the Public Open Space Strategy, the approved Site Wide Children and Young Persons Strategy, the Landscape Framework Plan and the further provisions of Schedule 5 of this Deed.
Police Facility	means a net internal floorspace not exceeding 10 square metres to be provided within the Community Centre Facilities to Shell Finish for use by the Police Force.
Police Force	means the Leicestershire Constabulary Police Authority and any relevant successor to its statutory functions.
Police Force Contributions	means the Police Force Premises Contribution, the Police Force Equipment Contribution and the Additional Police Force Equipment Contribution and each of them.
Police Force Equipment Contribution	means the sum of £257,971 to be paid by the Owner to the Borough Council further to paragraph 2.7 of Schedule 3 to be applied to provision of equipment for the Police Force as follows: <ul style="list-style-type: none">(a) the sum of £214,583 for equipment and training costs associated with the additional staff required to police the Development;(b) the sum of £32,888 for automatic number plate recognition;(c) the sum of £1,500 for mobile CCTV; and(d) the sum of £9,000 for equipment required for the Police Facility (in the event that the Borough Council confirms pursuant to the provisions of paragraph 1.3 of Schedule 3 that the Police Facility is required).
Police Force Facility Lease	means a lease of the Police Facility to the Police Force the terms of which shall include those set out in the Police Force Facility Lease Terms.
Police Force Facility Lease Terms	means the terms of the Police Force Facility Lease set out at paragraph 1 of Annex 1 to Schedule 3.
Police Force Premises	means premises for use by the Police Force to meet the policing needs arising from the Development to be provided in one or more of the following locations: <ul style="list-style-type: none">(a) on the Police Force Premises Site; or(b) at or in the vicinity of any of the existing Police Force premises at Loughborough, Enderby or Hamilton

PROVIDED THAT in the case of (b) the application of any Police Force Contribution relating to the provision of the premises for the Police Force shall not result in a breach of

the Community Infrastructure Levy Regulations 2010 (for the avoidance of doubt such monies shall not be used to fund or provide a project for which 5 or more contributions shall have previously been secured for that project within the district of the Borough Council since 6 April 2010 but this proviso in relation to (b) shall no longer apply in the event that Regulation 123 of the Community Infrastructure Levy Regulations 2010 is amended after the date of this Deed so as to remove pooling restrictions).

Police Force Premises
Construction Contribution

means the sum of £1,256,406 to be applied to the construction and fitting out of the Police Force Premises.

Police Force Premises
Contribution

means the following contributions to be paid by the Owner to the Borough Council further to paragraph 2 of Schedule 3 to be applied to the provision or adaptation of the Police Force Premises :

- (a) Police Force Premises Design and Feasibility Contribution; and
- (b) Police Force Premises Construction Contribution.

Police Force Premises Design
and Feasibility Contribution

means the sum of £171,328 to be applied to such costs as may be incurred by the Police Force in assessing the feasibility of the appropriate location (subject always to compliance with the provisions of this Deed) for the Police Force Premises and development and design costs of the Police Force Premises.

Police Force Premises Site

means a Prepared and Serviced site of no less than 0.1 ha within the District Centre capable of accommodating (subject to the provisions of paragraph 2 of Schedule 3) the Police Force Premises.

Premises

means the building(s), premises, playing fields, playgrounds and other space to be occupied by a School.

Prepared and Serviced Site

means in relation to the Site or any part thereof such as may be specified in the relevant provision of this Deed:

- (a) levelled, all works to protect, remove or record existing archaeological remains have been carried out in accordance with any agreed scheme, all rubbish has been removed, remediated to an appropriate standard, any necessary regulatory consents have been obtained and any necessary protected species mitigation measures implemented to enable the intended works to be carried out and no interests, physical constraints or encumbrances exist which shall materially affect the proposed use of the relevant land; and
- (b) having connections for mains water, sewerage, gas, electricity and telecommunications appropriate to the proposed use of the relevant land and adequate for

the purposes of the prospective users of such land and either at the boundary of the site of the relevant facility or reasonably proximate to it to enable connections to be made thereto and with sufficient vehicular and pedestrian access to the land from a public highway and in relation to Primary School Site 2 and Primary School Site 3 only this and the Development shall be carried out in such a way as to ensure that Primary School Site 2 and Primary School Site 3 are not precluded from accommodating a larger Primary School on each of them than the Owner provides in accordance with its obligations in this Deed should the County Council choose (at its own cost) to expand either or both of Primary School 2 and Primary School 3 before or after their Completion and Transfer and the Owners shall cooperate with the County Council in this regard in relation to the manner in which the County Council would like such sites to be Prepared and Serviced (but for the avoidance of doubt the Owner shall not be obliged to incur any additional costs than it would be required to incur in relation to compliance with its obligations to provide Primary School 2 and Primary School 3 under this Deed),

and "Prepared and Serviced" shall be construed accordingly.

Primary School	means Primary School 1, Primary School 2 and Primary School 3 and each of them.
Primary School 1	means the school for educating children between the ages of four and eleven with two Forms of Entry and a pupil capacity of 420 to be provided on the Primary School 1 Site.
Primary School 2	means the school for educating children between the ages of four and eleven with either two Forms of Entry and a pupil capacity of 420 or three Forms of Entry and a pupil capacity of 630 to be provided on the Primary School 2 Site.
Primary School 3	means the school for educating children between the ages of four and eleven with one Form of Entry and a pupil capacity of 210 that may be provided (subject to the provisions of Schedule 2) on the Primary School 3 Site.
Primary School 1 Contribution	means the sum of £5,350,000 payable by the Owner to the County Council in accordance with paragraph 2.10 of Schedule 2 to be applied by the County Council to constructing the Premises for Primary School 1 on the Primary School 1 Site.
Primary School 2 Contribution	means: <ul style="list-style-type: none">(a) the sum of £5,350,000 in the event that Primary School 2 is to comprise 2 Forms of Entry; or(b) the sum of £7,599,000 in the event that Primary

School 2 is to comprise 3 Forms of Entry;

in either case payable by the Owner to the County Council in accordance with paragraph 2.21 of Schedule 2 to be applied by the County Council to constructing the Premises for Primary School 2 on the Primary School 2 Site.

- Primary School 3 Contribution means the sum of £3,100,000 payable in the event that Primary School 3 is required in accordance with paragraph 2.29 of Schedule 2 to be applied by the County Council to constructing the Premises for Primary School 3 on the Primary School 3 Site.
- Primary School 2 Notice means the notice to be served by the Owner on the County Council requesting the Council to confirm to the Owner in writing whether it requires Primary School 2 to provide 2 Forms of Entry or 3 Forms of Entry.
- Primary School Site means the Primary School 1 Site, the Primary School 2 Site or the Primary School 3 Site and "Primary School Sites" shall be construed accordingly.
- Primary School 1 Site means a Prepared and Serviced parcel of land of 1.93 hectares to accommodate Premises for Primary School 1 the general location of which is shown on Plan 7 or such other Prepared and Serviced parcel of land within the Site as the Borough Council, the County Council and the Owner shall agree.
- Primary School 2 Site means (subject to the provisions of paragraph 2.14 of Schedule 2) a Prepared and Serviced parcel of land of 2.86 hectares to accommodate Premises for Primary School 2 the general location of which is shown on Plan 8 or such other Prepared and Serviced parcel of land within the Site as the Borough Council, the County Council and the Owner shall agree.
- Primary School 3 Site means a Prepared and Serviced parcel of land of 1.93 hectares to accommodate Premises for Primary School 3 the general location of which is shown on Plan 9 or such other Prepared and Serviced parcel of land within the Site as the Borough Council, the County Council and the Owner shall agree.
- Primary School Specification means the specification for the construction and provision of Primary School 1, Primary School 2 and (as the case may be) Primary School 3 which shall be in accordance with the standard of accommodation necessary to accord with Building Bulletin 103 PROVIDED THAT the cost to the Owner of providing the Primary Schools in accordance with such specification shall not exceed:
- (a) the sum of £5,350,000 for Primary School 1;
 - (b) the sum of £5,350,000 for Primary School 2 in the event that it comprises 2 Forms of Entry or

£7,599,000 for Primary School 2 in the event that Primary School 2 comprises 3 Forms of Entry; and

- (c) (if Primary School 3 is provided) the sum of £3,100,000 for Primary School 3.

Provided

means when the relevant Affordable Dwelling has been:

- (a) Completed on a Prepared and Serviced Site to the reasonable satisfaction of the Borough Council as evidenced in writing pursuant to:
- (i) the relevant Reserved Matters Approval; and
 - (ii) the relevant Phase Specific Affordable Housing Delivery Plan;
- (b) Transferred to a Registered Provider; and
- (c) notification of the Transfer has been given to the Borough Council.

PRoW Improvements

means signage and structure improvements including installation of stiles to the existing PRoW network to ensure that the Development is fully served by quality non-motorised routes to locations on the periphery of the Site as listed below:

- (a) Public Footpaths J6 and J7 between Main Street, Barkby and the Site;
- (b) Public Footpath J10 from Queen Street, Barkby Thorpe to and through the Site;
- (c) Public Footpath J13 from Queen Street, Barkby Thorpe to and through the Site;
- (d) Public Footpath J14 between Beeby Road, Barkby and The Groom Lane; and
- (e) Public Footpath J49 between King Street, Barkby Thorpe and the Site.

PRoW Improvements Contribution

means the sum of £1,363.77 to be paid by the Owner to the County Council to be applied by the County Council to provision of the PRoW Improvements.

Public Open Space Elements

means any or all of the following:

- (a) Play Facilities;
- (b) Parks (including the Destination Park);
- (c) Natural and Semi-Natural Green Space;
- (d) Amenity Green Space;
- (e) Outdoor Sports Facilities;
- (f) Indoor Sports Facilities;
- (g) Allotments; and

	(h) Orchards
Public Open Space Strategy	means any site wide and Phase specific public open space strategies that relate to the Public Open Space Elements in the Development approved pursuant to the relevant Conditions.
Qualifying Persons	means persons or households who prior to Occupation have been identified by the Borough Council, HomeBuy Agent or Registered Provider as in need of Affordable Housing.
Reasonable Endeavours	means that the Party under such an obligation will not thereby be required to take proceedings (including any appeal) in any court, public inquiry or other hearing (unless specified to the contrary) but subject thereto has diligently pursued the following to the standard of that required of the relevant Party over a reasonable period of time (which may either be specified in the relevant obligation or in the absence of this such period of time as is reasonable in the circumstances) in order to achieve the desired result: <ul style="list-style-type: none"> (a) methods commercially and reasonably prudent and likely to achieve the desired result; and (b) in the event a first reasonable attempt at securing the result has failed then (unless there are no reasonable alternatives) one further reasonable alternative such method of achieving the desired result. <p>PROVIDED THAT this shall not require any Party to sacrifice its own commercial interests, nor shall it require any Party to continue with such endeavours to comply if it is reasonable to conclude that all further efforts would be futile (but for the avoidance of doubt this proviso is subject to any specific agreed steps or time periods set out in or agreed pursuant to the obligation in question).</p>
Registered Provider	means a registered provider as defined in the Housing and Regeneration Act 2008 or any equivalent association or organisation from time to time permitted by law to provide Affordable Housing or such other registered provider as may be proposed by the Owner and approved by the Borough Council.
Relocated Roundhill Academy	means Premises with a pupil capacity of 1,200 that may be provided in accordance with the provisions of paragraph 3 of Schedule 2 to enable the relocation of the Roundhill Academy such that it shall be accommodated within the Development on the Secondary School Site and the Additional Secondary School Site.
Relocated Roundhill Academy Contribution	means the sum of £16,727,200 to be paid by the Owner to the County Council to be applied to the provision of the Relocated Roundhill Academy.
Relocated Roundhill Academy Specification	means the specification for the construction and provision of the Relocated Roundhill Academy which specification shall be

in accordance with the standard of accommodation necessary to accord with Building Bulletin 103 PROVIDED THAT the cost to the Owner of providing the Relocated Roundhill Academy in accordance with such specification shall not exceed £16,727,200.

Replacement Sports Provision	means the replacement playing fields, replacement sports pitches and ancillary buildings which are to be provided in accordance with paragraph 1 of Schedule 5 to replace the Existing Sports Provision.
Replacement Sports Provision Strategy	means a strategy informed by the Education and Community Use Survey setting out the details of the provision of the Replacement Sports Provision as further required in paragraph 1 of Schedule 5 such strategy to include general standards for maintenance of the Replacement Sports Provision.
Reserved Matters Application	means an application for approval of any matters reserved pursuant to a Condition.
Reserved Matters Approval	means an approval of a Reserved Matters Application.
Roundhill Academy	means the Roundhill Academy School at 997 Melton Road, Thurmaston, Leicester LE4 8GU with a current pupil capacity of 750 pupils.
Roundhill Academy Extension	means the Premises that may be provided on the Roundhill Academy Site in accordance with the provisions of paragraph 3 of Schedule 2 to enable the Roundhill Academy to accommodate an additional pupil capacity of 450 PROVIDED THAT no part of such Premises shall be constructed in a manner that shall result in any detrimental impact upon the Roundhill Academy Playing Fields and PROVIDED FURTHER THAT in the event that such Premises cannot be fully accommodated within the Roundhill Academy Site, the extension shall include the minimum amount of land necessary to make up the shortfall required to enable provision of those Premises in accordance with Building Bulletin 103 (the "Roundhill Academy Extension Land").
Roundhill Academy Extension Contribution	means the sum of £13,433,941 to be paid by the Owner to the County Council to be applied to the expansion of pupil capacity at the existing Roundhill Academy.
Roundhill Academy Extension Specification	means the specification for the construction of the Roundhill Academy Extension which specification shall be of the standard of accommodation necessary to accord with Building Bulletin 103 PROVIDED THAT the cost to the Owner of producing such extension in accordance with such specification shall not exceed £13,433,941.
Roundhill Academy Playing Fields	means the existing playing fields, sports pitches and other sports facilities including ancillary buildings and facilities at the existing playing fields of the Roundhill Academy as shown on Plan 10 and which for the avoidance of doubt in the event that

	the Roundhill Academy Extension is constructed shall not be permitted to be detrimentally impacted by such construction.
Roundhill Academy Site	means the site on which the Roundhill Academy is located the boundaries of which are shown on Plan 11.
School	means Primary School 1, Primary School 2, Primary School 3, the Secondary School and the Relocated Roundhill Academy and each of them.
School Sites	means the Primary School 1 Site, Primary School 2 Site, Primary School 3 Site, the Secondary School Site, the Additional Secondary School Site and the Roundhill Academy Extension Land and each of them and "School Site" shall be construed accordingly.
School Site Transfer Terms	means the terms of transfer for the School Sites, which shall include those set out in ANNEX 1 to Schedule 2.
Second Healthcare Contribution	means the sum of £584,770 (or £70,172 subject to the operation of paragraph 8.2(b) of Schedule 3) to be paid by the Owner to the Borough Council to be applied to the expansion of the Existing Healthcare Facilities in accordance with paragraph 8.2 of Schedule 3.
Second Off Site Walking and Cycling Scheme	means an enhancement scheme to the existing walking and cycling network at Barkby Thorpe Lane from the Site to the A607 roundabout to ensure that the Development is fully served by high quality non-motorised routes to locations outside the Site as shown for illustrative purposes on Plan 5 such scheme to include provision of cycle facilities and improvements to existing footways.
Second Off Site Walking and Cycling Scheme Contribution	means a maximum sum of £249,651.55 to be paid by the Owner to the County Council to be applied by the County Council to the provision of the Second Off Site Walking and Cycling Scheme.
Secondary Education Notice	means the notice to be served by the Owner on the County Council in accordance with paragraph 3.3 of Schedule 2.
Secondary Education Delivery Options	shall have the meaning set out in paragraph 3 of Schedule 2.
Secondary School	means a school for the full time education of children between the ages of 11 and 16 with a pupil capacity of 750 to be provided on the Secondary School Site.
Secondary School Contribution	means the sum of £16,727,200 to be paid by the Owner to the County Council to be applied by the County Council to constructing the Premises for the Secondary School.
Secondary School Site	means a Prepared and Serviced parcel of land on the Site of 6.03 hectares that may accommodate the Premises for the Secondary School or (together with the Additional Secondary School Site) the Relocated Roundhill Academy the general location of which is shown for illustrative purposes on Plan 12.

Secondary School Specification	means the specification for construction and provision of the Secondary School with a pupil capacity of 750 which specification shall be in accordance with the standard of accommodation necessary to accord with Building Bulletin 103 PROVIDED THAT the cost to the Owner of providing the Secondary School in accordance with such specification shall not exceed £16,727,200.
Shared Ownership Dwelling	means an Intermediate Dwelling provided under the terms of a Shared Ownership Lease by which the lessee of the Intermediate Dwelling (being also the Occupier of such Intermediate Dwelling then or on completion) obtains a share of the equity in an Intermediate Dwelling ranging between 25% and 75% from a Registered Provider who retains any remainder and in respect of which rent is payable on the remaining equity and which allows the lessee to purchase all of the remaining equity and "Shared Ownership" shall be construed accordingly.
Shared Ownership Lease	means a lease of a Shared Ownership Dwelling disposed of on shared ownership lease terms within the meaning of section 70(4) of the Housing and Regeneration Act 2008.
Shell Finish	means fitted out to shell standard (in accordance with such Building Regulations requirements applicable at the time as may be relevant to a shell fit-out) with structural concrete floors internal block-work walls and capped service connections for gas electricity water and foul drainage services and reasonable provision for telecommunications and broadband services to each floor.
Site	means the land shown edged red on Plan 13.
Site Wide Children and Young Persons Strategy	means the strategy to be submitted to and approved by the Borough Council in accordance with paragraph 4.1 of Schedule 5 that shall be informed by the Design and Access Statement and the Landscape Framework Plan and shall set out outline details of the following: <ul style="list-style-type: none"> (a) the range of activities that the Play Facilities will support; (b) the location, phasing, timing and distribution of Play Facilities throughout the Development; (c) the qualities of the proposed homezones that will provide and encourage informal play opportunities; (d) the aspects of the layout of the Development that will enable children and young people to travel independently in safety around it; and (e) compliance with other Council strategies relevant to children and young persons.
Specialist	means the person as defined and to be appointed pursuant to

Clause 13 (Dispute Resolution).

Sport England Guidance	means design and cost guidance published by Sport England and/or relevant successor body fulfilling the same functions.
Standard Conditions	means the Standard Commercial Property Conditions (Second Edition).
Temporary Library Facilities	means temporary library facilities and/or services to be provided by the Owner to serve the Development in a form to be approved by the County Council (which may comprise temporary use of a retail unit within the Development or a mobile facility) PROVIDED ALWAYS THAT the cost to the Owner of provision of such facilities and/or services shall not exceed £30,000.
Tenure Blind	means, in relation to Affordable Dwellings, generally equivalent to Market Dwellings in terms of external appearance.
Third Off Site Walking and Cycling Scheme	means an enhancement scheme to the existing walking and cycling network at footpath J34 and J10 from Barkby Thorpe Lane to Melton Road to ensure that the Development is fully served by high quality non-motorised routes to locations outside the Site as shown for illustrative purposes on Plan 5 such scheme to include provision of cycle facilities and improvements to existing footpaths.
Third Off Site Walking and Cycling Scheme Contribution	means a maximum sum of £318,465.30 to be paid by the Owner to the County Council to be applied by the County Council to the provision of the Third Off Site Walking and Cycling Scheme.
Third Party Land	means the land shown edged and hatched blue on Plan 14 annexed hereto.
Transfer	means, unless specified otherwise in this Deed or the contrary intention appears, the transfer by way of the freehold interest in the relevant land in a Prepared and Serviced condition, and: <ul style="list-style-type: none">(a) in the case of the Burial Space a transfer of the freehold interest with a restrictive covenant to ensure that the Burial Space shall not be used other than for the purpose of providing burial space;(b) in the case of the School Sites:<ul style="list-style-type: none">(i) if the transfer is required to be to the County Council, by way of freehold transfer to the County Council on terms that shall include the School Site Transfer Terms; and(ii) if the transfer is required to be to an Education Provider, by way of either freehold transfer on terms that shall include the School Site Transfer Terms

or leasehold transfer by way of a lease for a term of no less than 125 years;

- (c) in the case of the Traveller Land a transfer of the freehold interest with a restrictive covenant to ensure that it shall not be used other than to accommodate pitches for the benefit of Gypsies and Travellers and/or plots for Travelling Showpeople;
- (d) in the case of the Police Force Premises Site, by way of either freehold transfer or leasehold transfer for a term of no less than 125 years and in each case for consideration of no more than £1 at the time of transfer

and "Transferred" shall be construed accordingly.

Travel Packs	means the pack of information (including two application forms for Travel Passes) to be provided for each Dwelling containing information on public transport and other means of travel to and from the Development other than by the private car.
Travel Passes	means an adult bus pass issued by a local bus service provider following the application by an Occupier of any Dwelling, such pass to entitle the holder thereof, to travel free of charge for a period of 6 months from the date of issue on any local bus services serving the Development.
Travel Pass Contribution	means a contribution to be agreed and paid in instalments in accordance with paragraph 2.15 of the Bus Strategy and paragraph 3.1(c) of Schedule 4 by the Owner to the County Council to be applied to the provision of Travel Passes.
Travel Plan Monitoring Fee	means the sum of £11,337.50 to be paid by the Owner to the County Council to be applied by the County Council towards the review and monitoring of the Travel Plans.
Travel Plans	means the plans aimed at achieving and maintaining reduced travel, traffic and parking impacts from the Development and to provide and promote use of more sustainable transport choices to and from the Development to be approved pursuant to the relevant Conditions.
Traveller Land	means up to a total of 1.1 hectares of Prepared and Serviced land within the Site which shall be provided unless otherwise agreed with the Borough Council as follows: <ul style="list-style-type: none">(a) a parcel of land to accommodate four pitches for the benefit of Gypsies and Travellers; and(b) a parcel of land to accommodate four plots for Travelling Showpeople; in each case in accordance with the approved Traveller Land Strategy .
Traveller Land Strategy	means a strategy to be agreed by the Owner and the Borough

Council (in consultation with the County Council) to inform a future planning application for the Traveller Land by considering the potential suitable locations, design and layout of the Traveller Land, such strategy to include details of:

- (a) pitch measurements;
- (b) pitch layout;
- (c) landscaping;
- (d) boundary treatment;
- (e) servicing of the site by way of electricity, water and drainage; and
- (f) an analysis of possible locations (in a suitable location for the Traveller Land with a reasonable prospect of the site being available and developed in accordance with the provisions of this Deed relating to the Traveller Land) informed by local and national policy and guidance applicable to provision of sites for Gypsies and Travellers and Travelling Showpeople at the time of submission of the strategy.

Travelling Showpeople

means members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, education or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and Travellers.

Trigger Event

means the relevant restriction on or target number or percentage of Occupations of Dwellings (including Market Dwellings or Affordable Dwellings) as set out in or approved under any provision of this Deed or in or under any Condition, scheme, strategy or similar and the expression "Trigger Number" shall in each instance used be the number or percentage of Dwellings (including Market Dwellings or Affordable Dwellings) which corresponds to the relevant Trigger Event PROVIDED THAT where in any case the Trigger Event is changed by agreement between the Owner and the Borough Council or otherwise in accordance with the terms of this Deed then the Trigger Event and Trigger Number for the purposes of this Deed shall be as the same shall be approved by the Borough Council.

Western North West Link Road

means the western section of the north west link road between Melton Road and the A607 as shown on Plan 15.

- 1.2 Where in this Deed reference is made to a clause, paragraph, schedule or plan it is to a clause, paragraph, schedule or plan in this Deed and unless the contrary is expressed, references within a schedule to a paragraph is a reference to a paragraph within that schedule.
- 1.3 Headings used in this Deed are an aid to interpretation only and do not form part of this Deed.

- 1.4 Except where expressly stated to the contrary a reference to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, modified or re-enacted.
- 1.5 Words incorporating the singular include the plural and vice versa and words importing any gender include every gender.
- 1.6 Words importing persons include firms, companies, other corporate bodies or legal entities and vice versa.
- 1.7 Save where it expressly states otherwise, references to the Owner shall include reference to its successors in title and persons deriving title from it and its permitted assigns and references to the Borough Council, City Council and the County Council shall include their statutory successors.
- 1.8 References to "Parties" shall mean the parties to this Deed and reference to "Party" shall mean any one of the parties (including relevant successors in accordance with the principles under paragraph 1.7 above).
- 1.9 Words denoting an obligation on a Party to do any act matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction.
- 1.10 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 Statutory Provisions

- 2.1 This Deed is made pursuant to Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972, Section 278 of the 1980 Act and Section 1 of the Localism Act 2011.
- 2.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the 1990 Act which bind the Owner's Land and, subject to clause 2.4 below, are jointly and severally enforceable against the Owner (which for the avoidance of doubt shall include any of the parties comprising the Owner) by the Borough Council and the County Council as local planning authority.
- 2.3 The covenants, restrictions and requirements imposed upon the Owner under this Deed which are expressed as being owed to the City Council are jointly and severally enforceable against the Owner (which for the avoidance of doubt shall include any of the parties comprising the Owner) by the City Council as local highway authority for the land within its administrative area and such covenants, restrictions and requirements shall also be deemed to be given to and enforceable by the Borough Council as local planning authority following a request to do so by the City Council in the event of default.
- 2.4 The liability of Owner 2 (excluding any successors in title, persons deriving title and permitted assigns) shall be limited to the value of the assets of the Pochin 1997 Accumulation and Maintenance Settlement trust from time to time.

3 Conditionality

- 3.1 The Deed shall come into effect immediately upon completion save as follows:
- (a) paragraphs 2.1, 2.2, 3.2, 4 and 5 of Schedule 2; paragraphs 2.1, 2.2, 2.7 to 2.10, 4.1, 6, 8.1 of Schedule 3; paragraph 1, 2.1 to 2.3 and 2.5 of Schedule 5; Schedule 6 and paragraphs 1 and 2 of Schedule 7, which shall not come into effect until grant of the Planning Permission; and

- (b) clause 6; paragraphs 2.3, 2.29, 3.1 and 3.3 to 3.19 of Schedule 2; paragraphs 1, 2.3 to 2.6, 3, 4.3, 5, 7 and 8.2 to 8.9 of Schedule 3; Schedule 4; paragraphs 2.4 and 2.6, 3 and 4 of Schedule 5; and paragraphs 3 and 4 of Schedule 7, which shall not come into effect until the Commencement Date,

and for the avoidance of doubt any annex to any Schedule shall come into effect simultaneously with the relevant associated substantive provisions.

4 Obligations of the Owner and the Developer

4.1 The Owner covenants with the Borough Council:

- (a) to comply with the obligations on its part contained in this Deed (including the Schedules hereto) at the times and in the manner provided therein;
- (b) to notify the Borough Council no more than fourteen days before and no less than seven days in advance of the Commencement and thereafter to confirm the date in writing to the Borough Council; and
- (c) to notify the Borough Council of the reaching of any Occupation thresholds in relation to Dwellings mentioned in this Deed within 30 Business Days of such thresholds being reached.

4.2 The Owner covenants with the City Council and the County Council to comply with the obligations on its part contained in this Deed (including the Schedules hereto) at the times and in the manner provided therein.

4.3 The Developer covenants as follows:

- (a) to pay to the Borough Council on completion of this Deed the reasonable legal costs of the Borough Council incurred in the negotiation, preparation and creation of this Deed;
- (b) to pay to the City Council on completion of this Deed the reasonable legal costs of the City Council incurred in the negotiation, preparation and creation of this Deed;
- (c) to pay to the County Council on completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation, preparation and creation of this Deed.

5 Third Party Land

5.1 The Owner and the Developer covenant not to assist in any way in the carrying out of any part of the Development on any land forming part of the Third Party Land unless a Deed of Adherence has been entered into in relation to such land and in particular covenant not to allow any temporary or permanent rights of access or easements or assisting in any way in the provision of services in relation thereto.

5.2 The Borough Council, the City Council and the County Council shall not enter into a Deed of Adherence unless Owner 1 and Owner 2 are also signatories to such Deed of Adherence where they retain an interest (within the meaning and for the purposes of Section 106 of the 1990 Act) in the Site at the relevant time unless otherwise agreed in writing with Owner 1 and Owner 2. Notwithstanding clause 1.7 the benefit of this covenant shall not extend to successors in title of Owner 1 and Owner 2 save (for the purposes of this clause only) as follows:

- (a) in the case of Owner 1, the benefit of this covenant shall extend to any persons who are a successor in title by virtue of being a beneficiary under Owner 1's will and to their beneficiaries under their will and to be extended for future generations in this manner where Owner 1's interest is inherited; and

- (b) in the case of Owner 2, the benefit of this covenant shall extend to any persons who are a successor in title by virtue of being a trustee of the Pochin 1997 Accumulation and Maintenance Settlement or beneficiary of that Settlement capable of receiving benefit from the Pochin 1997 Accumulation and Maintenance Settlement at the date of this Deed.
- 5.3 Owner 1 and Owner 2 shall use Reasonable Endeavours to enter into a Deed of Adherence and shall not unreasonably refuse or delay entering into any such Deed of Adherence PROVIDED THAT it shall be reasonable to do so where no completed written contractual arrangements are in place between Owner 1 and Owner 2 (excluding any successors in title to Owner 1 and Owner 2 save those set out in clause 5.2(a) and clause 5.2(b) above) and owners of the relevant Third Party Land or part thereof for reasonable equalisation of shared infrastructure and other costs (a "Collaboration Agreement"). Owner 1 and Owner 2 shall use Reasonable Endeavours to enter into a Collaboration Agreement where a request is made to enter into a Deed of Adherence by an owner of any part of the Third Party Land and Owner 1 and Owner 2 shall not unreasonably refuse or delay entering into the same. For the avoidance of doubt in the case of any dispute arising as to reasonableness for the purposes of this clause any Party to this Deed may refer the matter for determination by a Specialist under the Dispute Resolution Procedure.
- 5.4 In submission of details pursuant to the Planning Permission (including pursuant to the Conditions) the Owner and the Developer covenant not to submit details other than in a form that would not allow any part of the Development to be carried out on any land forming part of the Third Party Land (and in a form that would be a satisfactory form of development without inclusion of any Third Party Land) unless a Deed of Adherence has been entered into in relation to such land.
- 5.5 Upon the Owner or the Developer or both of them acquiring any freehold or leasehold interest in any land forming part of the Third Party Land the relevant party shall notify the Borough Council and, unless the Borough Council confirms otherwise, enter into a Deed of Adherence in relation to such land and Commencement shall not be carried out on that acquired land until a Deed of Adherence has been entered into in relation to it.

6 Monitoring Information and Monitoring Costs

- 6.1 The Owner shall prepare and provide an annual return ("Annual Monitoring Return") detailing for the period of 12 months prior to the date of the relevant annual return the performance and satisfaction of the relevant obligations under this Deed such report to include as a minimum the following matters:
- (a) number of Dwellings completed to date;
 - (b) number of Affordable Dwellings completed (including tenure) to date;
 - (c) mix of Dwellings (according to the number of bedrooms) completed;
 - (d) infrastructure provided – social, green, physical;
 - (e) employment space completed (m²);
 - (f) retail space (Class A1-A5 use) completed (m²);
 - (g) number of jobs/businesses on Site;
 - (h) details of all payments made under this Deed, including the amount (principal sum and indexation and interest stated separately) and date of payment;
 - (i) (to the extent not covered by (a) to (h) above) the obligations in this Deed that have fallen due and confirmation of compliance with the same; and

- (j) details of which Occupiers have been provided with a Travel Pack and Travel Passes in accordance with the relevant provisions of this Deed.
- 6.2 The Owner shall submit the Annual Monitoring Return to the Borough Council:
- (a) in the case of the first return on or before the 30th day of April first occurring after the date 9 months following the date of Commencement;
 - (b) in the case of each subsequent return on or before the 30th day of April in each year during which the Development is being implemented; and
 - (c) in the case of the final return on or before the 30th day of April in the year following the completion of the Development.
- 6.3 The Owner shall pay to the Borough Council the Borough Council's Monitoring Costs as follows:
- (a) £13,261.74 upon Commencement;
 - (b) £13,261.74 prior to Occupation of the 300th Dwelling;
 - (c) £13,261.74 prior to Occupation of the 600th Dwelling;
 - (d) £13,261.74 prior to Occupation of the 900th Dwelling;
 - (e) £13,261.74 prior to Occupation of the 1,200th Dwelling;
 - (f) £13,261.73 prior to Occupation of the 1,500th Dwelling;
 - (g) £13,261.73 prior to Occupation of the 1,800th Dwelling;
 - (h) £13,261.73 prior to Occupation of the 2,100th Dwelling;
 - (i) £13,261.73 prior to Occupation of the 2,400th Dwelling;
 - (j) £13,261.73 prior to Occupation of the 2,700th Dwelling;
 - (k) £13,261.73 prior to Occupation of the 3,000th Dwelling;
 - (l) £13,261.73 prior to Occupation of the 3,300th Dwelling;
 - (m) £13,261.73 prior to Occupation of the 3,600th Dwelling;
 - (n) £13,261.73 prior to Occupation of the 3,900th Dwelling; and
 - (o) £13,261.73 prior to Occupation of the 4,200th Dwelling.
- 6.4 The Owner shall not Commence the Development or (as the case may be) Occupy or permit Occupation of more than the number of Dwellings specified in clauses 6.3(b) – (o) unless and until it has paid to the Borough Council the relevant instalment of the Borough Council's Monitoring Costs.
- 6.5 The Owner shall pay the County Council's Monitoring Costs to the County Council as follows:
- (a) 20% of the County Council's Monitoring Costs upon Commencement;
 - (b) 20% prior to Occupation of the 900th Dwelling;
 - (c) 20% prior to Occupation of the 1,800th Dwelling;
 - (d) 20% prior to Occupation of the 2,700th Dwelling; and
 - (e) 20% prior to Occupation of the 3,600th Dwelling.
- 6.6 The Owner shall not Commence Development or (as the case may be) Occupy or permit Occupation of more than the number of Dwellings specified in clauses 6.5(a) - 6.5(e) unless and

until it has paid to the County Council the relevant instalment of the County Council's Monitoring Costs.

6.7 The Owner shall not Commence or (as the case may be) Occupy or permit Occupation of the number of Dwellings set out below unless and until it has paid to the City Council the City Council's Monitoring Costs as follows:

- (a) 20% of the City Council's Monitoring Costs upon Commencement;
- (b) 20% prior to Occupation of the 900th Dwelling;
- (c) 20% prior to Occupation of the 1,800th Dwelling;
- (d) 20% prior to Occupation of the 2,700th Dwelling; and
- (e) 20% prior to Occupation of the 3,600th Dwelling.

7 **Enforceability and Enforcement of Obligations**

7.1 The obligations contained in this Deed shall not be binding upon nor enforceable against:

- (a) subject to paragraphs 4.2 to 4.6 (inclusive and the qualifications contained therein) of Schedule 7 in relation to the Affordable Dwellings, any individual owner, tenant or occupier of any individual Dwelling and their successors in title and their mortgagee (or any receiver appointed by such mortgagee) and any person who is a successor in title or derives title through or under any such mortgagee (or such receiver) PROVIDED THAT this sub-clause shall not apply in relation to any person who owns, leases or occupies more than one Dwelling within the Development;
- (b) any individual owner, tenant or occupier of any Minor Non-Residential Unit and their successors in title and mortgagee (or any receiver appointed by such mortgagee) and any person who is a successor in title or derives title through or under any such mortgagee (or such receiver) PROVIDED THAT this sub-clause shall not apply in relation to any person who owns, leases or occupies more than one Minor Non-Residential Unit within the Development; and
- (c) any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services within or from the Site and for no other purpose.

7.2 No person shall be liable for any breach of the planning obligations or other provisions contained in this Deed occurring after it has parted with its interest in the Site or the part in respect of which such breach occurs (but without prejudice to the liability of such person for any breach occurring prior to its parting with such interest).

7.3 Where either of the Borough Council, City Council or the County Council become aware of a breach or non-compliance with a provision of this Deed they shall be entitled to serve notice of such breach upon the Owner and the notice of breach shall state the nature of the breach, the steps required to remedy the breach and a reasonable timescale for remedying the breach PROVIDED THAT this shall be without prejudice to other rights or remedies of the Borough Council, City Council or the County Council.

7.4 The Owner shall within 20 Business Days of receiving the said notice (without prejudice to or limitation of any other actions open to it) give written notification to the Borough Council, City Council or the County Council (as the case may be) of its response to the notice including any claim that it will remedy the breach within the stated timescale, that the timescale is too short or that it rejects the notice for the reason that no breach has occurred and explanation of why it believes this to be case.

7.5 In the event of a dispute arising regarding the notice of breach the matter shall be determined by a Specialist through the Dispute Resolution Procedure.

8 Borough Council's Covenants

8.1 The Borough Council covenants with the Owner to comply with the obligations on its part contained in this Deed (including in the Schedules hereto) at the times and in the manner provided therein.

9 City Council and County Council's Covenants

9.1 The County Council covenants with the Owner to comply with the obligations on its part contained in this Deed (including in the Schedules hereto) at the times and in the manner provided therein.

9.2 The City Council covenants with the Owner to comply with the obligations on its part contained in this Deed (including in the Schedules hereto) at the times and in the manner provided therein.

10 Indexation

10.1 All sums referred to in this Deed as payable by the Owner (including any caps on contributions or liability), the amount referred to in the proviso to paragraph 2.5 of Schedule 3 and the cap on the sum payable from the net proceeds of the sale of the County Council's interest in the Roundhill Academy Site referred to in paragraph 2.5 of Schedule 9 shall be adjusted by an amount equal to the percentage change in the relevant Index between the date of the Index figure last published on the date of this Deed and the Index figure last published at the date on which the relevant sum is payable or relevant cap or limit of liability is being applied.

11 VAT

11.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof.

11.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of any financial contribution then to the extent that VAT had not been previously charged in respect of that contribution the Borough Council, City Council and County Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

12 Notices

12.1 Any notice or other communication to be given under or in connection with this Deed shall be in writing, which for this purpose shall not include e-mail and should be addressed as provided in clause 12.4.

12.2 Where sent by post, the notice or communication shall be sent by registered post or such other form of postage which requires a signature upon delivery and any other form of postage shall not be effective for the purposes of this Deed.

12.3 Any such notice or other communication, if so addressed, shall be deemed to have been received as follows:

- (a) if delivered by hand, upon delivery at the relevant address except that where any such notice or other communication is delivered by hand after 4 p.m. such notice or other communication shall be deemed to be received at 9.00 a.m. on the next following Business Day;
- (b) if sent by post, at 9.00 a.m. on the second Business Day after the date of posting PROVIDED THAT if clear evidence is produced by the recipient that the notice or communication was delivered after the second Business Day following its posting, then the date of delivery shall be the actual date of delivery; and

- (c) if sent by facsimile, when successfully transmitted except that where any such notice or other communication is or would otherwise be deemed to be received after 4 p.m., such notice or other communication shall be deemed to be received at 9.00 a.m. on the next following Business Day.

12.4 Subject to clause 12.5 the address, relevant addressee and reference for each party are:

For the Borough Council:

Address: The address set out of the front of this Deed or the relevant Head Office from time to time where the Borough Council no longer occupies this address

Relevant addressee: Head of Planning & Regeneration and Head of Strategic Support ;

Reference: P/13/2498/2

For the County Council:

Address: County Hall, Leicester Road, Glenfield, Leicester LE3 8RA

Relevant addressee: County Solicitor;

Reference: CXPHE/281/AJC;

For the City Council:

Address: Leicester City Council, Floor 2, Halford Wing, City Hall, Leicester LE1 1FZ;

Relevant addressee: Head of Planning, Transportation and Economic Development and, in the case of notices of a legal nature these should be addressed to Head of Law (Commercial, Property & Planning and copied to Head of Planning, Transportation and Economic Development;

For the Developer:

Address: Sloane Square House, 1 Holbein Place, London, SW1W 8NS;

Relevant addressee: Jon Kenny

For the Owner:

Address: c/o Fisher German, 40 High Street, Market Harborough, Leicestershire LE16 7NX

Relevant addressee: John Palmer

- 12.5 A Party may give notice of a change to its name, address, facsimile number or relevant addressee for the purposes of this clause provided that such notification shall only be effective on:
- (a) the date specified in the notification as the date on which the change is to take place; or
 - (b) if no date is specified or the date specified is less than 5 clear Business Days after the date on which notice is received or deemed to be received, the fifth Business Day after notice of any such change is given.

13 Determination Of Disputes

- 13.1 Subject always to clause 13.9, if any dispute arises relating to or arising out of the terms of this Deed, either Party may give to the other Party or Parties a Determination Notice.
- 13.2 For the purposes of this clause 13 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than 10 years' professional experience in the area to which the dispute relates.
- 13.3 The Specialist shall be appointed by agreement between the Parties or (if within 10 Business Days after service of the Determination Notice the Parties have been unable to so agree then on the application of any of the Parties) by such a person as the Parties shall agree to be appropriate having regard to the nature of the dispute or difference in question.
- 13.4 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 13.3.
- 13.5 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.
- 13.6 The Specialist is to act as an independent expert and:
- (a) each party may make written representations within 10 Business Days of his appointment and will copy the written representations to the other party;
 - (b) each party is to have a further 10 Business Days to make written comments on the other's representations and will copy the written comments to the other party;
 - (c) the Specialist 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;
 - (d) the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
 - (e) the Specialist 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
 - (f) the Specialist is to use all reasonable endeavours to publish his decision within 25 Business Days of his appointment.
- 13.7 Except where stated to the contrary in this Deed, responsibility for the costs of referring a dispute to a Specialist under this clause 13, including costs connected with the appointment of the

Specialist, the Specialist's own costs and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

13.8 The Specialist's decision shall (save in the case of fraud or manifest error) be final and binding on the Parties.

13.9 This clause 13 shall not apply to disputes relating to matters of law or the construction or interpretation of this Deed which shall only be subject to the jurisdiction of the courts of England.

14 Contracts (Rights of Third Parties) Act 1999

14.1 Save in the case of the successors in title, persons deriving title and permitted assigns of the Owner who are bound by this Deed, a person who is not a Party to this Deed shall not have any right to enforce any term of this Deed under the Contract (Rights of Third Parties) Act 1999. For the avoidance of doubt this shall be the case even where the terms are expressed to be for the benefit of another party, nor shall any such third party have any rights of approval in regard to or anywhere over any future variations to this Deed.

15 Miscellaneous

15.1 Each clause, sub-clause or schedule shall be separate distinct and severable from each other to the extent only that if any clause, sub-clause or schedule becomes or is invalid because of a change of circumstances or any other unforeseen reasons or if any one or more of such clause, sub-clause or schedule shall be held by the Courts to be void for any reason whatsoever but would be valid if severed or any wording was deleted or any time period reduced or scope of activities or area covered diminished then the Parties shall each co-operate and act reasonably so as to agree necessary modifications in such circumstances so as to give effect to the intentions of the original provisions and to ensure such clause sub-clause schedule or paragraph be valid shall apply without prejudice to any other clause, sub-clause or schedule contained herein.

15.2 In the event of the planning obligations contained in this Deed being modified a note or memorandum thereof shall be endorsed upon this Deed.

15.3 If the Planning Permission shall expire before the Development has begun within the meaning of Sections 91, 92 or 93 of the 1990 Act or is quashed and refused upon redetermination or revoked or is otherwise withdrawn without the consent of the Owner or its successors in title this Deed shall have no further effect thereupon.

15.4 Nothing in this Deed shall be construed as prohibiting or limiting any right to develop the Site or any part of it in accordance with a planning permission (other than the Planning Permission) granted by the Borough Council or by the relevant Secretary of State on appeal or by reference to him after this date.

16 Approvals by the Parties

16.1 Where an approval, agreement, consent, authority, confirmation or expression of satisfaction is required by the Owner from the Borough Council and/or the County Council and/or the City Council (or vice versa where an approval, agreement, consent, authority, confirmation or expression of satisfaction is required by any such Party from the Owner) under the terms of this Deed such approval, agreement, consent, authority confirmation or expression of satisfaction must be in writing unless expressly stated otherwise within this Deed and shall not be unreasonably withheld or delayed (having due regard to the Borough Council's or (as the case may be) the County Council's or the City Council's respective statutory duties and functions).

16.2 Where it is provided in this Deed that any document or other matter is required to be agreed or approved by any of the Parties and a timescale for such agreement or approval being given is not specified, the relevant provision shall be deemed to be subject to a proviso that the Party in receipt

of the submission and/or request for agreement or approval shall proceed expeditiously to consider such submission and/or request and if a decision is not issued within a period of 35 Business Days following the date of the submission or request for the agreement or approval in question, then the matter may be referred to a Specialist for determination pursuant to the Dispute Resolution Procedure.

16.3 Where any Party issues a refusal then reasons for that decision shall at the request of any other Party be provided in writing.

17 Waiver

17.1 No waiver (whether expressed or implied) by the Borough Council, the County Council or Owner 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 Borough Council or the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

18 Change in ownership

18.1 The Owner agrees with the Borough Council to give the Borough Council written notice of any change in ownership of any of its interests in the Site (with the exception of individual Dwellings) occurring before all 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.

19 Non Fetter

19.1 Nothing herein contained or implied shall prejudice or affect the rights, powers, duties and obligations of the Borough Council, County Council and City Council in the exercise of their statutory functions as a local authority and the statutory rights, powers, duties and obligations of the Borough Council, County Council and City Council may be fully and effectually exercised in relation to the Site or any part thereof.

20 Duty to act reasonably and in good faith

20.1 The Parties agree with one another to act reasonably and in good faith in the fulfilment of the obligations in this Deed.

21 Jurisdiction

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

22 Delivery

22.1 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.

In witness whereof the Parties hereto have executed this Deed on the day and year first before written.