DATED 2010

DAVID WILSON HOMES LIMITED
- and -

THE COUNCIL OF THE BOROUGH OF CHARNWOOD
- and -

LEICESTERSHIRE COUNTY COUNCIL

________________________________________

AGREEMENT
under Section 106 of the Town and Country Planning Act 1990
relating to land on the North East Side of Loughborough Road, Hathern

________________________________________

Marrons
1 Meridian South
Meridian Business Park
Leicester
LE19 1WY
Tel: 0116 289 2200
Fax: 0870 905 6617

Ref: JAB 194-257-6
THIS AGREEMENT is made the day of 2010

BETWEEN

1. DAVID WILSON HOMES LIMITED whose registered office is situate at Barratt House Cartwright Way Forest Business Park Bardon Hill Coalville Leicestershire (Company Registration Number 00830271) (hereinafter called “the Owner”)

2. THE COUNCIL OF THE BOROUGH OF CHARNWOOD of Council Offices, Southfields, Loughborough, Leicestershire (hereinafter called “the Borough Council”)

3. LEICESTERSHIRE COUNTY COUNCIL of County Hall Glenfield Leicester LE3 8RA (hereinafter called “the County Council”)

WHEREAS

A) The words and phrases used in this agreement shall have the respective meanings set out in clause 1 hereof

B) The Borough Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area in which the Land is situated

C) The County Council is the authority responsible for highways and libraries for the area in which the Land is situated

D) The Owner is the freehold owner of the Land registered at HM Land Registry under official copy title number LT152573

E) The Owner has applied to the Borough Council for the Planning Permission

F) The Owner is desirous of entering into planning obligations with the Borough Council and the County Council pursuant to Section 106 of the Act in the manner hereinafter appearing
1. NOW THIS AGREEMENT WITNESSETH as follows:-

“the Act” the Town and Country Planning Act 1990 (as amended)

“Affordable Dwelling(s)” the seventeen Dwellings to be constructed as part of the Development on the Land thirteen of which are to be Social Rented Dwellings and four of which are to be Shared Ownership Dwellings

“Affordable Housing” housing provided by means of a subsidy enabling the sale price or rental to be lower than the prevailing market prices or market rents in the Borough of Charnwood to be made available to people who because of their low incomes cannot afford to buy or rent houses generally available on the open market

“Affordable Housing Provider(s)” a social landlord registered with the Homes and Communities Agency under the Housing and Regeneration Act 2008

“Allotment Car Parking” the six car parking spaces to be laid out as part of the Development for use as car parking spaces by allotment holders at the allotments adjoining the Development

“Borough Council Monitoring Costs Contribution” the sum of Two Hundred and Fifty Pounds (£250.00) per contribution or 0.5% of the total value of each contribution (whichever is the greater) payable by the Owner to the Borough Council under this Agreement such sum to be paid per obligation towards the Borough Council’s costs of monitoring compliance with the provision of the Affordable Dwellings the Allotment Car Parking the Healthcare Contribution the Informal Open Space and the Off Site Children’s Play Contribution

“Bus Stop Information Display Contribution” the sum of One Hundred and Ninety Pounds (£190.00)

“Bus Pass(es)” up to two passes issued by the County Council to encourage travel on the local
<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Bus Pass Contribution”</td>
<td>the sum of Thirty Two Thousand Two Pounds and Eight Pence (£32,002.08)</td>
</tr>
<tr>
<td>“Bus Stop Improvements Contribution”</td>
<td>the sum of Six Thousand and Four Hundred and Twenty Pounds (£6,420.00)</td>
</tr>
<tr>
<td>“Commencement of Development”</td>
<td>the earliest date on which any material operations (as defined by Section 56(4) of the Act) pursuant to the Planning Permission is begun on the Land with the exception of any works carried out in connection with any archaeological investigations of the Land or trial holes or other operations to establish the ground conditions of the Land</td>
</tr>
<tr>
<td>“County Council Monitoring Costs Contribution”</td>
<td>the sum of Two Hundred and Fifty Pounds (£250.00) per contribution or 0.5% of the total value of each contribution (whichever is the greater) payable by the Owner to the County Council under this Agreement such sum to be paid per obligation towards the County Council’s costs of monitoring compliance with the Library Contribution the Bus Pass Contribution the Travel Pack Contribution the Bus Stop Improvements Contribution the Bus Stop Information Display Contribution the Travel Plan the Cycleway Improvements Contribution the Traffic Calming Contribution and the Traffic Signal Contribution</td>
</tr>
<tr>
<td>“Cycleway Improvements Contribution”</td>
<td>the sum of Twelve Thousand Pounds (£12,000.00)</td>
</tr>
<tr>
<td>“the Development”</td>
<td>the development carried out pursuant to the Planning Permission</td>
</tr>
<tr>
<td>“Dwelling(s)”</td>
<td>a residential unit built pursuant to the Planning Permission</td>
</tr>
<tr>
<td>“Healthcare Contribution”</td>
<td>the sum of Fifty Eight Thousand Three Hundred and Forty Two Pounds</td>
</tr>
</tbody>
</table>
“Index” means as set out in the First Schedule

“Informal Open Space” the informal open space to be laid out on-site as part of the Development as shown for illustrative purposes on the Plan

“Informal Open Space Management Scheme” a scheme to be prepared by the Owner and agreed in writing between the Owner and the Borough Council setting out the Owners intentions for the long term management of the Informal Open Space

“Land” all that land on the north east side of Loughborough Road, Hathern shown edged red on the Plan

“Library Contribution” the sum of Three Thousand Five Hundred and Thirty Pounds (£3,530.00)

“Occupation” the beneficial occupation for the purposes of which the Dwelling was granted Planning Permission but shall exclude occupation for the purposes of fit out or marketing

“Off Site Children’s Play Contribution” the sum of Sixty One Thousand Eight Hundred and Twenty Eight Pounds (£61,828.00)

“Open Market Dwellings” all the Dwellings to be constructed on the Land pursuant to the Planning Permission with the exception of the Affordable Dwellings

“the PCT” the Leicestershire County and Rutland Primary Care Trust

“the Plan” the plan attached to this Agreement

“the Planning Permission” the planning permission issued by the Borough Council pursuant to planning application number P/10/0415/2 registered on 19 March 2010 for residential development of 58 Dwellings

“President” means the president or any other acting
senior officer of the Royal Institution of Chartered Surveyors for the time being

“Shared Ownership Dwellings” the four Dwellings to be constructed as part of the Development on plots 43 and 53-55 to be purchased on a shared equity basis whereby not more than 75% and not less than 25% of the equity is initially sold to the purchaser by the Affordable Housing Provider with flexibility to increase their degree of ownership if they so wish

“Social Rented Dwellings” the thirteen Dwellings to be constructed as part of the Development on plots 7-10, 34-38 and 47-50 to be let under a tenancy by an Affordable Housing Provider

“Startrak Contribution” the sum of Seven Thousand Pounds (£7,000.00)

“Traffic Calming Contribution” the sum of Ten Thousand Pounds (£10,000.00)

“Traffic Signal Contribution” the sum of One Thousand and Five Hundred Pounds (£1,500.00)

“Travel Plan” the document to be submitted by the Owner to the County Council outlining the proposed sustainable transport measures to be implemented in connection with the Development

“Travel Pack/(s)” the pack produced by the County Council for each Dwelling providing information on public transport and other means of travel to and from the Development other than the private car

“Travel Pack Contribution” the sum of Two Thousand Seven Hundred and Eight Four Pounds (£2,784.00)

And the Interpretation Act 1978 shall apply to this agreement

2. This Agreement is made in pursuance of Section 106 Act and all other powers enabling and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement by the
Borough Council and the County Council of the respective obligations herein contained with the intent to bind the Owner’s interest in the Land

3. Each covenant by the Owner contained herein is a planning obligation for the purpose of Section 106 of the Act and is enforceable by the Borough Council.

4. The covenants contained in clause 33 are also enforceable by the County Council.

5. INSOFAR as any of the covenants restrictions and obligations contained in this Agreement are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in Sections 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other powers enabling the parties hereto to enter into the Agreement and in consideration of the covenants restrictions and obligations hereinafter contained.

**GENERAL PROVISIONS**

**Liability**

6. The covenants contained in clause 33 and clause 34 hereof and the other provisions of this Agreement shall be enforceable only against the owners for the time being of the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

7. No person will be liable for any breach of this Agreement unless they hold an interest in the part of the land in respect of which the breach occurs or held such an interest at the date of the breach provided that they shall remain liable for any breach arising prior to their disposing of their interest.

8. The obligations contained in this Agreement shall not be enforceable against individual purchasers or lessees of the Dwellings on the Land.
constructed pursuant to the Planning Permission or against statutory undertakers in relation to any parts of the Land acquired by them for electricity substations, gas governor stations, or pumping stations or against anyone whose only interest in the Land or any part of it is in the nature of the benefit of an easement or covenant.

9. Wherever there is a person or persons as a party to this Agreement and where they undertake to perform or observe an obligation, all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

10. References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Borough Council and the County Council the successors to their respective statutory functions.

11. This Deed shall be registerable as a local land charge by the Borough Council.

**Contingencies**

12. The obligations contained in clause 33 and clause 34 shall be conditional upon and shall not take effect until the Planning Permission has been issued and Commencement of Development has taken place.

13. In the event of:

13.1 the expiration of the Planning Permission or

13.2 the revocation of the Planning Permission or

13.3 the quashing of the Planning Permission

the obligations of the Owner under this Agreement shall thereupon cease absolutely.

14. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other
than the Planning Permission) granted (whether or not on appeal) after
the date of this Agreement in respect of which development this
Agreement will not apply

**Commencement of Development**

15. The Development shall not commence until the Owner has given the
Borough Council and the County Council seven days prior written
notice of the Commencement of Development and the date on which
Commencement of Development has taken place shall be confirmed by
exchange of correspondence between the Owner and the Borough
Council PROVIDED THAT default in giving notice or confirming the
date by exchange of correspondence shall not prevent Commencement
of Development occurring

**Approvals**

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

**Notices**

17. Any notice or other written communication to be served by one party
upon any other pursuant to the terms of this Agreement shall be
deemed to have been validly served if delivered by hand facsimile
transmission or sent by pre-paid registered or recorded delivery post to
the party to be served at its address herein specified or such other
address as may from time to time be notified for the purpose by notice
served under this Agreement specifically referring to this clause and
the intention of the notice to notify an address thereunder and for the
County Council shall be addressed to the County Solicitor and for the
Borough Council shall be addressed to the Head of Legal Services
18. Any such notice or other written communication to be given by the County Council or the Borough Council shall be deemed valid and effectual if on its face value it is signed on behalf of the County Council or the Borough Council by an Officer or duly authorised signatory thereof.

**Transfer of Land**

19. When pursuant to this Agreement a party is required to transfer land then the Transferor and the Transferee shall each be responsible for discharging their own legal costs unless otherwise stated.

**Time Periods**

20. It is agreed between the parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between the Owner, the County Council and the Borough Council.

**Third Parties**

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

**Perpetuity Period**

22. For the purposes of such parts of this Agreement as may be subject to the law against perpetuities the perpetuity period shall be a period of 80 years from the date hereof.

**Council’s Discretion**
23. FOR THE AVOIDANCE OF DOUBT nothing herein contained shall prejudice or affect the Borough Council and the County Council’s rights powers duties and obligations in the exercise of its functions as a local authority and all such rights powers duties and obligations under all public or private statute bye-laws orders regulations and otherwise may be as fully and effectually exercised in relation to the proposed Development and any other subject matter of this Agreement as if this Agreement has not been executed by the Borough Council or the County Council in their capacity as local planning authorities.

Application of this Agreement

24. If the Borough Council agree pursuant to an application under Section 73 of the Act to any variation or release of any condition contained in the Planning Permission or if any such condition is varied or released following an appeal under Section 78 of the Act the covenants or provisions of this Agreement shall be deemed to bind the varied permission and apply in equal terms to the new planning permission.

Arbitration

25. Any dispute or difference between the parties (other than a dispute or difference touching or concerning the meaning or construction of this Agreement in which case either party may seek a declaration of the Court) as to any matter under or in connection with this Agreement shall be submitted for the determination of an expert and the following provisions of this clause apply to any submission and to any other matter required to be dealt with by an expert:

a) the expert shall be appointed by the parties jointly or in default of agreement within 10 clear working days after any party has given to the others a written request requiring the appointment of an expert by the President on the request of any party who shall appoint an independent surveyor or other person qualified in the discipline that the President deems appropriate for the dispute or difference in question;
b) the expert so appointed must:-

i. act as an expert and not as an arbitrator;

ii. afford the parties the opportunity within reasonable time limits to make representations to him;

iii. inform each party of the representations of the others;

iv. afford each party the opportunity within reasonable time limits to make submissions to him on the representations of the others; and

v. notify the parties of this decision with reasons as quickly as practicable;

c) the fees and expenses of the expert including the cost of his nomination shall be borne equally by the parties who shall bear their own costs as to the submission and determination of the dispute or difference by the expert; and

d) the expert’s determination is to be conclusive and binding on the parties except:-

i. where there is a manifest error; and/or

ii. on a matter of law

26. Any party may pay the share of the expert’s fees and expenses due from any other party on behalf of such other party if such share is not paid within 28 clear working days of demand by the expert in which case the amount so paid plus all incidental expenses shall become a debt due and immediately payable to the paying party from such other party

Jurisdiction

27. This Agreement is governed by and interpreted in accordance with the laws of England and Wales.
Delivery

28. The provisions of this Agreement shall be of no effect until this Agreement has been dated

Legal Costs and Monitoring Costs Contribution

29. The Owner covenants to pay to the Borough Council and the County Council on the execution hereof their reasonable legal costs in respect of the cost of preparation and execution of this Agreement

30. Not to allow or permit any Commencement of Development unless and until the Borough Council Monitoring Costs Contribution has been paid to the Borough Council

31. Not to allow or permit any Commencement of Development unless and until the County Council Monitoring Costs Contribution has been paid to the County Council

Indexation

32. All monies payable pursuant to clauses 30 and 31 and 33 and 34 shall be adjusted by reference to the Index from the date of the Planning Permission or the date of this Agreement whichever is the earliest date until the date(s) payment is actually made

THE OWNERS OBLIGATIONS TO THE COUNTY COUNCIL

33. The Owner hereby covenant with the County Council pursuant to Section 106 of the Act as follows:-

33.1 To notify the County Council of the first Occupation of the first Dwelling and the first Occupation of the final Dwelling

Bus Pass Contribution

33.2 Not to allow or permit the Occupation of any Dwelling unless and until 50% (Sixteen Thousand and one Pound and Four Pence) of the Bus Pass Contribution has been paid by the Owner to the County Council
33.3 Not to allow or permit the Occupation of more that 27 Dwellings unless and until the remaining 50% (Sixteen Thousand and one Pound and Four Pence) of the Bus Pass Contribution has been paid to the County Council EXCEPT THAT the County Council and the Owner may by agreement defer the payment to a later date

33.4 To provide within the contract for sale of the first sale of each Dwelling a covenant by the occupier that if the occupier is provided with a Bus Pass (within a six month period from the date of first Occupation) it will sign a written acknowledgement of receipt of the Bus Pass and provide the receipt to the Owner within fourteen days of receipt of the Bus Pass

**Travel Pack Contribution**

33.5 Not to allow or permit any Commencement of Development unless and until the Travel Pack Contribution and has been paid by the Owner to the County Council

**Bus Stop Improvement Contribution**

33.6 Not to allow or permit the Occupation of any Dwelling unless and until the Bus Stop Improvement Contribution has been paid by the Owner to the County Council

**Bus Stop Information Display Contribution**

33.7 Not to allow or permit the Occupation of any Dwelling unless and until the Bus Stop Information Display Contribution has been paid by the Owner to the County Council

**Startrak Contribution**

33.8 Not to permit the Occupation of any Dwelling unless and until the Startrak Contribution has been paid by the Owner to the County Council
Cycleway Improvements Contribution

33.9 Not to permit the Occupation of the tenth Dwelling unless and until the Cycleway Improvements Contribution has been paid by the Owner to the County Council

Library Contribution

33.10 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Library Contribution has been paid by the Owner to the County Council

Traffic Calming Contribution

33.11 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Traffic Calming Contribution has been paid by the Owner to the County Council

Traffic Signal Contribution

33.12 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Traffic Signal Contribution has been paid by the Owner to the County Council

Travel Plan

33.13 Not to allow or permit the Occupation of any Dwelling unless and until the Travel Plan has been submitted to and approved in writing by the County Council

THE OWNERS OBLIGATIONS TO THE BOROUGH COUNCIL

34. The Owner hereby covenants with the Borough Council pursuant to Section 106 of the Act as follows:-

34.1 To notify the Borough Council of the first Occupation of:

34.1.1 the first Dwelling; and
34.1.2 the tenth Dwelling; and

34.1.3 the twentieth Open Market Dwelling

**Affordable Housing**

34.2 Not to permit the Occupation of the twentieth Open Market Dwelling unless and until:

34.2.1 The Affordable Dwellings have been constructed and completed to a state ready for Occupation; and

34.2.2 The freehold of the Affordable Dwellings has been transferred to an Affordable Housing Provider along with sufficient rights and services to enable Occupation at a price agreed with the Affordable Housing Provider which shall enable it to let those units comprising the Social Rented Dwellings and to dispose of the units comprising the Shared Ownership Dwellings by way of a shared ownership lease to persons in need of Affordable Housing

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

**Informal Open Space**

34.4 Not to allow or permit the Occupation of any Dwelling unless and until the Informal Open Space Management Scheme has been submitted by the Owner to Borough Council and has been approved in writing by the Borough Council

34.5 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Informal Open Space has been laid out by the Owner

34.6 To maintain the Informal Open Space in perpetuity in accordance with the Informal Open Space Management Scheme
Allotment Car Parking

34.7 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Allotment Car Parking has been laid out

34.8 To notify the Borough Council within fourteen days of the Allotment Car parking being laid out

34.9 Following the written approval of the Borough Council required by clause 36.1 to offer to transfer the Allotment Car Parking to the owners of the allotments PROVIDED THAT such transfer shall be for nominal consideration subject to normal terms and conditions and subject to a covenant restricting use of the Allotment Car Parking to the purpose of providing additional car parking facilities at the Hathern allotments

Healthcare Contribution

34.10 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Healthcare Contribution has been paid by the Owner to the Borough Council

Off Site Children’s Play Contribution

34.11 Not to allow or permit the Occupation of the tenth Dwelling unless and until the Off Site Children’s Play Contribution has been paid by the Owner to the Borough Council

COUNTY COUNCIL’S OBLIGATIONS TO THE OWNER

35. The County Council hereby covenants with the Owner pursuant to Section 106 of the Act as follows:-

Library Contribution

35.1 To apply the Library Contribution received by the County Council solely as a contribution towards the improvement of library facilities at libraries which would ordinarily be expected to be attended by residents of the Development
**Travel Pack Contribution**

35.2 To apply the Travel Pack Contribution solely towards the cost of producing Travel Packs

35.3 To provide to every new household on first Occupation a Travel Pack which shall include details of the free bus pass scheme and application forms for the Bus Passes to enable the Occupiers to apply to the County Council for up to two Bus Passes at any time prior to the expiry of the period ending six months immediately following the legal completion date of the first transfer of the relevant Dwelling.

**Bus Pass Contribution**

35.4 Upon receipt of an application for a Bus Pass(es) from the first occupier of each Dwelling to apply the Bus Pass Contribution towards the cost of funding the Bus Pass(es)

35.5 If at any time prior to the expiry of a period ending six months after the notification of the Occupation of the final Dwelling all of the Bus Pass Contribution has been expended the County Council will calculate the sum anticipated to be required to provide such Bus Passes for the remainder of the Dwellings and shall notify the Owner of the additional sum to be paid by them to enable the County Council to provide Bus Passes in accordance with clause 35.4 above.

35.6 At the end of a period of nine months after the notification of the Occupation of the final Dwelling it will repay to the person who made the payment any unexpended portion of the Bus Pass Contribution.

35.7 In the event of any change of occupier(s) of any of the Dwellings during the six month period commencing with the first Occupation of that particular Dwelling the new owners can apply for and the County Council will provide (subject to the proviso set out in this clause) up to two free Bus Passes for all subsequent occupiers of the aforesaid Dwelling for the remainder of the six month period such period commencing from the first Occupation of the aforesaid Dwelling
PROVIDED THAT no more than two Bus Passes shall be issued to the adult occupiers of any Dwelling at any one time.

35.8 At six monthly intervals commencing from the payment of the Bus Pass Contribution to account in writing to the Owner with full details of the number of Bus Passes issued.

**Bus Stop Information Display Contribution**

35.9 To apply the Bus Stop Information Display Contribution solely towards the cost of funding the provision of information displays at the two bus stops nearest the Development

**Bus Stop Improvements Contribution**

35.10 To apply the Bus Stop Improvements Contribution solely towards the cost of funding works to provide/improve shelters or other facilities including the provision of raised and dropped kerbs to allow for level access at the two bus stops nearest the Development

**Startrak Contribution**

35.11 To apply the Startrak Contribution solely towards the costs of funding the provision of the startrak real time information displays at the two bus stops nearest the Development

**Cycleway Improvements Contribution**

35.12 To apply the Cycleway Improvements Contribution solely towards the costs of funding cycleway improvements to the A6 within the vicinity of the Development

**Traffic Calming Contribution**

35.13 To apply the Traffic Calming Contribution solely towards the costs of funding the provision of traffic calming works within the vicinity of the Development

**Traffic Signal Contribution**
35.14 To apply the Traffic Signal Contribution solely towards the cost of validating the existing traffic signals at the junction of Narrow Lane and Loughborough Road (A6)

**County Council Monitoring Costs Contribution**

35.15 To apply the County Council Monitoring Costs Contribution towards the administrative costs of confirming compliance with the Library Contribution the Bus Pass Contribution the Travel Pack Contribution the Bus Stop Improvement Contribution the Bus Stop Information Display Contribution the Startrak Contribution the Travel Plan the Cycleway Improvements Contribution the Traffic Calming Contribution and the Traffic Signal Contribution

35.16 Upon written request to furnish the Owner with full details of the expenditure by the County Council of all monies paid to the County Council by the Owner pursuant to clause 33 such details shall be provided to the Owner by way of a written statement

35.17 That in the event of all or any of the Library Contribution or the Travel Pack Contribution or the Bus Stop Information Display Contribution or the Startrak Contribution or the Bus Stop Improvements Contribution or the Cycleway Improvements Contribution or the Traffic Calming Contribution or the Traffic Signal Contribution being received by the County Council but not applied for the purposes stated in clauses 35.1 and 35.2 and 35.9 to 35.15 inclusive within five years of the receipt of each contribution to refund to the party who paid the contribution to the County Council any unexpended contribution along with all interest accrued

**BOROUGH COUNCIL'S OBLIGATIONS TO THE OWNER**

36. The Borough Council hereby covenants with the Owner pursuant to Section 106 of the Town and Country Planning Act 1990 as follows:-

**Allotment Car Parking**
36.1 Following notification from the Owner that the Allotment Car Parking has been laid out to inspect the Allotment Car Parking within 21 days and PROVIDED that the Allotment Car Parking has been laid out to the reasonable satisfaction of the Borough Council to issue written approval to the Owner confirming that it has discharged its obligation for the purposes of clause 34.9 above

**Off Site Children’s Play Contribution**

36.2 To apply the Off Site Children’s Play Contribution solely towards the cost of funding the provision and maintenance of children’s play facilities within the vicinity of the Development

**Healthcare Contribution**

36.3 To hold the Healthcare Contribution on trust for the PCT and to transfer the Healthcare Contribution to the PCT when a request is received from the PCT that it requires the Healthcare Contribution to improve healthcare facilities within Hathern

36.4 That in the event of all or any of the Healthcare Contribution or the Off Site Children’s Play Contribution being received by the Borough Council but not applied for the purpose stated in clauses 36.2 and 36.3 above within 5 years of its receipt to refund to the party who paid the Healthcare Contribution or the Off Site Children’s Play Contribution to the Borough Council any unexpended contribution along with all interest accrued

**Borough Council Monitoring Costs Contribution**

36.5 To apply the Borough Council Monitoring Costs Contribution towards the administrative costs of confirming compliance with the Healthcare Contribution and the Off Site Children’s Play Contribution

36.6 Upon written request from the Owner to furnish the Owner with full details of expenditure by the Borough Council of all monies paid to the Borough Council by the Owner pursuant to the Healthcare
Contribution and the Off Site Children’s Play Contribution which details shall be provided to the Owner by way of a written statement.

IN WITNESS WHEREOF this Agreement is executed in the manner hereinafter appearing the day and year first before written.
FIRST SCHEDULE

1. In this Schedule:-

"Index" means

(i) In respect of the Healthcare Contribution and the Borough Council’s Monitoring Costs Contribution the All Items Retail Prices Index published by the Office of National Statistics contained in the Monthly Digest of Statistics (or contained in any official publication substituted therefor) or such other index as may from time to time be published in substitution therefor or if for any reason the Index shall be abolished, there shall be substituted for the purposes of this Schedule, such index of food price costs (including the altered All Items Retail Prices Index) as may from time to time be published by or under the authority of any Ministry or Department of Her Majesty's Government and if no such index is published, the parties thereto shall endeavour to agree such other index as shall most closely reflect changes in the costs of living; and

(ii) In the case of the Off Site Children’s Play Contribution the Library Contribution the Bus Pass Contribution the Travel Pack Contribution the Bus Stop Improvement Contribution the Bus Stop Information Display Contribution the Startrak Contribution the Cycleway Improvements Contribution the Traffic Calming Contribution the Traffic Signal Contribution and the County Council’s Monitoring Costs Contribution the All in Tender Price Index of Buildings Cost Information Services ("BCIS") as published by the Royal Institute of Chartered Surveyors ("RICS") or in the event that the RICS shall change the basis of compilation or cease to compile or publish the said Index such other Index as the parties hereto shall agree or in default of agreement such Index as shall be
determined by an Arbitrator appointed by the President of the
RICS for the purposes of this Agreement in all cases to ensure
as nearly as possible that the sums of money involved shall
fluctuate in accordance with the general level of the building
industry costs

"Base Index Date" means the date of the grant of planning permission

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

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

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

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

Where: 
"A" equals the relevant contribution
"B" equals the Base Index Figure
"C" equals the Final Index Figure

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

EXECUTED as a DEED by DAVID

WILSON HOMES LIMITED by two of its Attorneys appointed under a Power of Attorney dated 20 May 2010

Attorney ............................................

Witness signature .................................

Witness name ......................................

Witness address ..................................

Witness occupation ..............................

Attorney ............................................

Witness signature .................................

Witness name ......................................

Witness address ..................................

Witness occupation ..............................
THE COMMON SEAL of THE )
COUNCIL OF THE BOROUGH )
OF CHARNWOOD )
was hereunto affixed in the )
presence of:- )

Authorised Signatory

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

Authorised Signatory