

DATED 10th May **2022**

CHARNWOOD BOROUGH COUNCIL

and

LEICESTERSHIRE COUNTY COUNCIL

and

ANTHONY RAYMOND SHUTTLEWOOD

and

BDW TRADING LIMITED

AGREEMENT

**Pursuant to Section 106 of the Town and Country Planning Act
1990 in respect land off Cossington Road Sileby, Leicestershire**

**Planning Application Ref: P/21/0491/2
Planning Appeal Ref: APP/X2410/W/21/3287864**

 **SHAKESPEAREMARTINEAU**

**Waterfront House
Station Street
Nottingham
NG2 3DQ**

File Ref: PAW 900118.477

THIS AGREEMENT is made on 10th May 2022

- (1) **CHARNWOOD BOROUGH COUNCIL** of Southfield Road Loughborough LE11 2TX ("the Borough Council");
- (2) **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Glenfield, Leicester, LE3 8RA ("the County Council");
- (3) **ANTHONY RAYMOND SHUTTLEWOOD** of Humble Farm Blackberry Lane Cossington Leicestershire LE7 4SE ("the Owner"); and
- (4) **BDW TRADING LIMITED** (Company Registration Number 03018173) whose registered office is situated at Barratt House Cartwright Way Forest Business Park Bardon Hill Coalville Leicestershire LE67 1UF ("the Developer")

RECITALS

- A. The Borough Council is the Local Planning Authority for the purposes of the Act for the area in which the Site is situated
- B. The County Council is the local highway authority and responsible for the provision of education, civic amenity and library facilities for the area in which the Site is situated
- C. The Owner is the freehold owner of the Site registered at the Land Registry with freehold title absolute as part of title number LT385999
- D. The Developer is the beneficiary of an option to purchase the Site dated 26 February 2021
- E. The Application was submitted to the Borough Council on 24 March 2021
- F. The Borough Council resolved to refuse planning permission for the Application on 17 September 2021
- G. The Developer has now submitted the Appeal to the Secretary of State
- H. The Owner and the Developer have agreed to enter into this Agreement with the intent that if the Appeal is allowed their interests in the Site shall be subject to

and with the intention that the covenants and obligations entered into by it should create planning obligations pursuant to Section 106 of the Act

- I. The obligations contained herein are conditional upon the provisions of clause 4 of this Agreement

NOW THIS AGREEMENT WITNESSES as follows: -

OPERATIVE PART

1. Definitions

For the purposes of this Agreement the following expressions shall have the following meanings:

“the Act” means the Town and Country Planning Act 1990 as amended

“Affordable Housing” has the meaning given to it in Annex 2 of the NPPF or any successor provisions which may be introduced from time to time including for the avoidance of doubt changes in policy or legislative changes

“Affordable Housing Commuted Sum” means a sum Index Linked which may be payable to the Borough Council pursuant to paragraph 2.6.2 of the Second Schedule and calculated as being 20% of the Open Market Value of the Affordable Housing Dwellings to which such payment relates

“Affordable Housing Dwellings” means thirty percent (30%) of the total number of Dwellings to be constructed in accordance with the Appeal Permission comprising of a mix of Affordable Rented Dwellings and Shared Ownership Housing such mix and tenure to be agreed in writing with the Borough Council and

	“Affordable Housing Dwelling” shall be construed accordingly
“Affordable Housing Scheme”	means the scheme for the provision of the Affordable Housing Dwellings as part of the Development to be submitted in accordance with paragraph 1.2 of the Second Schedule hereto or any replacement thereto containing details of the location of the Affordable Housing Dwellings the house types and size and tenure of the Affordable Housing Dwellings and details of the Registered Provider if known
“Affordable Rent”	means subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges where applicable) as so described in Annex 2 of the NPPF
“Affordable Rented Dwellings”	means Affordable Housing units that are let by the Borough Council and/or a Registered Provider to Eligible Persons in accordance with the Borough Council’s Allocation Policy and the terms of the Nomination Agreement at a rent up to 80% of local market rents
“Agreement”	means this deed of agreement
“Allocations Policy”	means the allocations procedure set out in the Sixth Schedule
“Allotments Contribution”	means the sum of One Hundred and Twelve Pounds and Ninety Two Pence (£112.92) Index Linked per Dwelling up to a maximum of Nineteen Thousand One Hundred and Ninety Seven Pounds (£19,197.00) Index Linked to be paid in accordance with paragraph 5 of the Second

Schedule and used for the creation of community growing space or additional allotment plots at Memorial Park, Sileby and for no other purpose

“the Appeal”

means the planning appeal made by the Developer to the Secretary of State following the refusal of the Application by the Borough Council and ascribed reference APP/X2410/W/21/3287864

“the Appeal Permission”

means the appeal decision issued by a Inspector on behalf of the Secretary of State pursuant to the Appeal

“the Application”

the application for outline planning permission submitted to the Borough Council for the Development and allocated reference number P/21/0491/2

“Base Rate”

the base rate from time to time of Barclays Bank plc

“Borough”

means the borough of Charnwood

“Borough Connection”

means an individual or individuals who satisfy any one or more of the following circumstances;

- a) applicants who are currently resident in settled accommodation within Charnwood and have been resident in settled accommodation within Charnwood for at least the last two (2) years;
- b) applicants who have been resident in settled accommodation within Charnwood

for at least three (3) out of the last five (5) years;

- c) applicants who have close adult relatives who are currently resident within Charnwood and who have been resident within Charnwood for at least the last five (5) years. Close adult relatives include parents/guardians, siblings or children over the age of eighteen (18) (including step-equivalents);
- d) applicants who have paid employment or a confirmed offer of paid employment within Charnwood (the applicant's main place of work must be located within Charnwood and employment would need to be for at least sixteen hours per week and on a contract that is permanent or expected to last for a period of at least twelve (12) months;

"Bus Display Contribution"	means the sum of One Hundred and Twenty Pounds (£120.00) Index Linked
"Bus Flag Contribution"	means the sum of One Hundred and Seventy Pounds (£170.00) Index Linked
"Bus Passes"	means two adult bus passes per dwelling entitling the holder of each bus pass to travel free of charge on local bus services over a period of six months commencing from the first Occupation of each Dwelling
"Bus Pass Contribution"	means the sum of Eight Hundred and Sixty Pounds (£860.00) Index Linked per Dwelling

	payable by the Owners to the County Council towards the provision of Bus Passes in accordance with the provisions hereof
“Bus Shelter Contribution”	means the sum of Four Thousand Five Hundred Pounds (£4500.00) Index Linked
“Bus Stop Improvement Contribution”	means the sum of Seven Thousand Pounds (£7,000.00) Index Linked
“Certificate of Compliance”	a certificate issued by the Borough Council confirming that the On Site Public Open Space has been completed and maintained for a period of 12 months to the Borough Council's reasonable satisfaction
“Choice Based Lettings System”	the choice based lettings scheme operated by the Borough Council under which applicants are able to express preference for available properties by applying (or bidding) for advertised properties;
“CIL Regulations”	means the Community Infrastructure Levy Regulations 2010 as amended
“Civic Amenities Contribution”	means the sum of Fifty One Pounds and Sixty Seven Pence (£51.67) per Dwelling Index Linked
“Commencement of Development”	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Agreement 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, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and **“Commence Development”** shall be construed accordingly

“Community Infrastructure Levy”

means a tax, tariff or charge introduced by the Borough Council in accordance with regulations made pursuant to the Planning Act 2008 including the Community Infrastructure Levy Regulations 2010 or any subsequent legislation to fund the delivery of infrastructure known as the “community infrastructure levy” or known by any other name and **“CIL”** shall be construed accordingly

“County Council Monitoring Costs Contribution”

means the sum of Three Hundred Pounds (£300.00) or 0.5% of the value of any contribution due under this Agreement per obligation the greater amount payable towards the County Council’s costs of monitoring compliance with the obligations contained within the Third Schedule

“Development”

the development of the Site for up to 170 Dwellings (including affordable housing) with all matters reserved other than access together with associated landscaping and other infrastructure permitted by the Appeal Permission

“Due Date”

the date upon which any payment due under any provisions of this Agreement is made

“Dwellings”

means any dwelling (including a house, flat or maisonette) to be constructed pursuant to the Appeal Permission and for the avoidance of

doubt shall include Open Market Dwellings and Affordable Housing Dwellings and **“Dwelling”** shall be construed accordingly

“Early Years Contribution”

means such sum as shall be calculated as follows:

$$(\pounds 523.94 \times A) = B$$

Where:

A = the total number of Dwellings with two or more bedrooms;

B = the total Early Years Contribution payable up to a maximum of Eighty Nine Thousand and Seventy Pounds (£89,070.00) Index Linked

“Eligible Person”

means a person or household in need of an Affordable Housing Dwelling (because their needs are not met by the market) as determined with regard to local incomes and local house prices and identified in accordance with the provisions of the Allocations Policy and with preference given to households with a Borough Connection or criteria for Affordable Housing adopted from time to time by the Borough Council and **“Eligible Persons”** shall be construed accordingly

“Healthcare Contribution”

means such sum as shall be calculated as follows:

$$(A \times 2.42 \times 0.16 \times \pounds 1,902 = B)$$

Where:

A = the total number of Dwellings;

B = the total Healthcare Contribution such sum to be capped at not more than One Hundred and Twenty Five Thousand Two Hundred and Sixty Nine Pounds and Seventy Six Pence (£125,269.76) payable (Index Linked)

“Healthcare Provider” means the West Leicestershire Clinical Commissioning Group or any successor body

“Housing SPD” means the Borough Council’s supplementary planning document adopted by the Borough Council in May 2017 or any other successor document to provide guidance on affordable housing, housing mix, houses in multiple occupation and campus and purpose built accommodation as may be amended by the Borough Council from time to time

“Index ” means:-

- i) in relation to the financial contributions payable to the County Council the RCIS and Building Cost Inflation Service All in Tender Price Index or (during any period where no such index exists) the index which replaces the same or is the nearest equivalent
- ii) in relation to the financial contributions payable to the Borough Council the Retail Price Index (RPI) or (during any period where no such index exists) the index which replaces it

“Index Linked”	any financial contributions payable by the Owners pursuant to this Agreement shall be increased by an amount equivalent to the increase in the Index from the date of this Agreement EXCEPT in regards to the Early Years Contribution the Primary Education Contribution the Primary Transport Contribution the Secondary Education Contribution and the SEN Contribution will be from the date of 1 st July 2021 and the Index from the date on which payment falls due or is received whichever is the greater
“Inspector”	means a representative of the planning inspectorate appointed on behalf of the Secretary of State to determine the Appeal
“Interest”	interest at 4% above the base lending rate of Barclays Bank Plc from time to time
“Library Facilities Contribution”	means the sum of Fifteen Pounds and Nine Pence (£15.09) per one-bedroom Dwelling and Thirty Pounds and Eighteen Pence (£30.18) per Dwelling with two (2) or more bedrooms Index Linked
“Nomination Agreement”	means the agreement for the terms and provisions of the Borough Council’s Choice Based Lettings System;
“NPPF”	means National Planning Policy Framework published by The Ministry of Housing Communities and Local Government in July 2021
“Occupation	occupation of the Site for the purposes permitted by the Appeal Permission but for the purposes of

this Agreement only not including occupation by personnel engaged in construction fitting out or decoration marketing display or security operations and **“Occupy”** and **“Occupied”** shall be construed accordingly

“On Site Public Open Space”

means an area or areas within the Site to be laid out as public open space comprising not less than:

- 0.13ha parks;
- 0.82 ha natural and semi-natural open space
- 0.19ha amenity green space; and
- a combined LEAP/LAP
- one young persons facility

“On Site Public Open Space Scheme”

means the scheme for the provision and maintenance of the On Site Public Open Space to be agreed in writing with the Borough Council

“Open Market Dwelling”

means a dwelling to be erected on the Site other than an Affordable Housing Dwelling constructed pursuant to the Appeal Permission and **“Open Market Dwellings”** shall be construed accordingly

“Open Market Value”

means a figure agreed in writing between the Owners and the Borough Council based on the average of three independent valuations each circulated having regard to the estimated amount for which the relevant Dwelling or Dwellings could reasonable be expected to sell in the open

market as Open Market Dwelling(s) on the date of valuation between a willing buyer and a willing seller

“Outdoor Sports Facilities Contribution” means the sum of Three Hundred and Twenty Nine Pounds and Thirty Six Pence (£329.36) Index Linked per Dwelling up to a maximum of Fifty-Five Thousand Nine Hundred and Ninety Two Pounds (£55,992.00) Index Linked to be paid in accordance with paragraph 3 of the Second Schedule in respect of the provision of an improved football pitch and associated ancillary provision at Memorial Park, Sileby and/or enhanced pitch and ancillary provision at Sileby Town Cricket Club and/or enhanced provision at Sileby Bowls Club and for no other purpose whatsoever.

“Parties” means one or all or any combination of the parties to this

“Plan” the plan attached to this Agreement at the First Schedule

“Planning Obligation(s)” means the covenants contained within clauses 5.1 and 5.2 and the Second Schedule and the Third Schedule hereto

“Primary Education Contribution” means such sum as shall be calculated as follows:

$$(\pounds 18,356.00 \times 0.043 \times A) + (\pounds 18,356.00 \times 0.3 \times B) \\ = C$$

Where:

A = the total number of Dwellings which comprise two-bedroom flats or apartments;

B = the total number of Dwellings not being a flat or apartment with two or more bedrooms;

C = the total Primary Education Contribution payable (Index Linked)

“Primary Transport Contribution”

means the sum of Two Hundred and Twenty Thousand Four Hundred Pounds (£220,400.00) Index Linked

“Registered Provider”

means either:

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

“RP Chargee”

any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or charge or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) including a housing administrator (each a “Receiver”) of the Registered Provider or the successors in title to such mortgagee or chargee or Receiver

“Secondary Education Contribution”

means such sum as shall be calculated as follows:

$$(\pounds 17,876.00 \times 0.0267 \times A) + (\pounds 17,876.00 \times 0.167 \times B) = C$$

Where:

A = the total number of Dwellings which comprise two-bedroom flats or apartments;

B = the total number of Dwellings not being a flat or apartment with two or more bedrooms;

C = the total Secondary Education Contribution payable (Index Linked)

“SEN Contribution”

means such sum as shall be calculated as follows:

$$(\pounds 65,664.00 \times 0.00363 \times A) + (\pounds 81,531.00 \times 0.004 \times A) = B$$

Where:

A = the total number of Dwellings with two or more bedrooms

B = the total SEN Contribution payable (Index Linked)

“Site”

the land against which this Agreement may be enforced as shown edged red on the Plan

“Shared Ownership Housing”

means an Affordable Housing Dwelling sold by the Registered Provider on a Shared Ownership Lease

“Shared Ownership Lease”	means a form of tenure defined by Section 2(6) of the Housing Act 1996. under which a percentage of the equity is sold whilst rent is payable on the remainder
“Staircase Out”	means the exercise of a right of a tenant under a lease to purchase an increased share of the equity up to 100% and accordingly to become the owner of the Dwelling
“STARS Contribution”	means the sum of Six Thousand Pounds (£6,000.00) Index Linked
“Travel Pack”	a 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 by the private car and “Travel Packs” shall be construed accordingly
“Travel Pack Contribution”	means the sum of Fifty Two Pounds and Eight Five Pence (£52.85) Index Linked per Dwelling
“VAT”	value added tax chargeable under the Value Added Tax Act 1994
“Working Day”	any day excluding Saturday, Sunday or a bank holiday in England and the expression “Working Days” shall be construed accordingly

2. Construction of this Agreement

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement

- 2.2 In the event of any conflict between the provisions of this Agreement and any document annexed hereto as referred to herein the terms and conditions of this Agreement will prevail
- 2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner
- 2.5 In this Agreement the relevant Planning Obligations shall have the following effect:
 - 2.5.1 the Planning Obligations shall be binding on the Owner only and to the extent that it has an interest within the meaning of Section 106 of the Act in the part of the Site to which the Planning Obligation relates at the time when it falls due to be performed;
 - 2.5.2 the Owner shall be released from its Planning Obligations with respect to a particular part of the Site following the transfer of its interest in that part of the Site except in respect of existing breaches relating to the part of the Site at the time of the transfer; and
- 2.6 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality) and reference to a company shall include any company corporation
- 2.7 Any reference to an Act of Parliament shall include any modification, extension, re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it
- 2.8 References to the Borough Council, the County Council, the Owner, and the Developer or to any other Party to this Agreement shall include their successors in title and assigns and to any person deriving title through or under or the successors to their respective statutory functions

2.9 The headings and contents list are for reference only and shall not affect construction

2.10 Any covenant or obligation by any Party not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done

3. **Legal Basis**

3.1 The Agreement is made pursuant to Section 106 of the Act and the covenants and obligations in this Agreement are planning obligations for the purposes of Section 106 of the Act so as to bind the Site and each and every part thereof and are enforceable by the Borough Council and where appropriate the County Council as the Local Planning Authorities against the Owners their successors in title and assigns and the other parties to this Agreement

3.2 To the extent that any of the obligations covenants restrictions and requirements contained herein are not planning obligations within the meaning of Section 106 of the Act they are entered into pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity hereto or facilitating the enforcement of the obligations hereto

3.3 Nothing in this Agreement grants planning permission or any other approval consent or permission required from the Borough Council in the exercise of any other statutory functions

3.4 If the Borough Council agrees pursuant to an application under Section 73 of the Town and Country Planning Act 1990 to any variation or release of any condition contained in the Appeal Permission or if any such condition is varied or released following an appeal under Section 78 of the Town and Country Planning Act 1990 the covenants or provisions of this Agreement may be deemed to bind the varied permission and to apply in equal terms to the new planning permission subject to contrary agreement between the parties hereto

4. Commencement

4.1 With the exception of clauses 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15, 18, and 19 (which take effect immediately), and clause 5.1 in so far as it applies to paragraph 1.1 of the Second Schedule only (which take effect prior to the Commencement of Development) this Agreement is conditional upon:

- (i) the grant of the Appeal Permission; and
- (ii) the Commencement of Development;

4.2 The obligations contained in clause 5 and the Second Schedule and the Third Schedule hereto are each conditional upon the Inspector recording in their decision letter that they are satisfied that the obligation(s) concerned each meet the statutory tests set out in regulation 122 of the CIL Regulations. For the avoidance of doubt where the Inspector finds any part of clause 5 and/or the Second Schedule and/or the Third Schedule to not meet the statutory tests set out in regulation 122 of the CIL Regulations then this shall not affect the validity or enforceability of the remaining obligations within clause 5 and/or the Second Schedule and/or the Third Schedule which shall prevail.

5. Covenants by the Owners

- 5.1 The Owners covenant with the Borough Council to comply with the obligations contained within the Second Schedule
- 5.2 The Owners covenant with the County Council to comply with the obligations contained within the Third Schedule

6. The Developer

6.1 The Developer acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement PROVIDED THAT the Developer shall have no liability under this Agreement unless and until it acquires an interest in the Land not being only an option or conditional contract save for the obligation contained in clause 6.2 which shall solely be a Developer obligation

- 6.2 The Developer shall pay to the Borough Council and the County Council upon execution of this Agreement their reasonable and proper legal costs incurred in the preparation negotiation and completion of this Agreement

7. The Borough Council's and County Council's Covenants

- 7.1 The Borough Council covenants with the Owners to comply with the obligations contained within the Fourth Schedule
- 7.2 The County Council covenants with the Owner to comply with the obligations contained within the Fifth Schedule

8. Miscellaneous

- 8.1 Unless expressly stated no provisions of this Agreement confer any rights in favour of any person under the Contracts (Rights of Third Parties) Act 1999
- 8.2 This Agreement shall be registrable as a local land charge by the Borough Council
- 8.3 Where the agreement, approval, consent or expression of satisfaction is required by the parties hereto under the terms of this Agreement such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction required to be given on behalf of:
- (i) the Borough Council shall be in writing by the Head of Planning and Regeneration; and
 - (ii) the County Council shall be in writing to the Team Manager Planning Obligations Team
- 8.4 Following the performance and satisfaction of all the obligations contained in this Agreement the Borough Council shall on written request from the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

- 8.5 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement. For the avoidance of doubt where the Inspector finds any clause of this Agreement to be invalid illegal or unenforceable upon Appeal then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement which shall prevail.
- 8.6 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Appeal Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.7 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Appeal Permission) granted (whether or not on appeal) after the date of this Agreement
- 8.8 Nothing contained or implied in this Agreement shall prejudice or affect the rights, discretions, powers, duties and obligations of the Borough Council and/or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority and such rights discretions powers duties and obligations may be as fully and effectively exercised as if the Borough Council and/or the County Council were not a party to this Agreement

9. Enforceability and Liability

- 9.1 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site or that part of the Site in which the breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest
- 9.2 This Agreement shall not be enforceable against owners occupiers or tenants of Dwellings constructed pursuant to the Appeal Permission nor against those deriving title from them

9.3 This Agreement shall not be enforceable against a statutory undertaker who acquires any part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage or telecommunication services is not to be treated as a person deriving title from the Owners for the purposes of Section 106 (3) of the Act

9.4 This Agreement shall not be enforceable against any subsequent chargee of the Owner unless and until they become a chargee in possession at which point they shall be liable for any breach of this Agreement caused whilst they are a chargee in possession but shall otherwise not be liable under this Agreement but for the avoidance of doubt any successor thereto shall be so liable

10. **Councils' Discretion**

10.1 FOR THE AVOIDANCE OF DOUBT nothing herein contained shall prejudice or affect the rights, discretions, powers, duties and obligations of the Borough Council and County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority

11. **CIL**

11.1 If at any time hereafter a CIL becomes payable in respect of the Development or any part of it, the parties will use reasonable endeavours to agree (where legally necessary) variations to this Agreement with the intent that the planning benefits of this Agreement should continue to be secured and delivered and all physical works required to be provided hereunder are carried out (whether for physical, social or green infrastructure) BUT THAT THE Owner shall not be in a position where they are required to pay twice for the same item of infrastructure

12. **Waiver**

12.1 No waiver (whether expressed or implied) by the Borough Council or the County Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Borough Council or the County

Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

13. Change in Ownership

- 13.1 The Owner agrees to give the Borough Council and County Council immediate written notice of any change in ownership of any of its interests in the Site other than the sale of individual Dwellings occurring before or all the obligations under this Agreement has 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

14. Notices

- 14.1 Any notice, consent or approval required to be given under this Agreement shall be in writing and shall be delivered personally or sent by pre-paid recorded delivery post
- 14.2 The address for service of any such notice, consent or approval as aforesaid shall be:
- (i) in the case of service upon the Borough Council addressed to the Head of Planning and Regeneration or such other address for service as shall have been previously notified by the Borough Council to the Owners; and
 - (ii) In the case of the County Council addressed to Head of Planning and Historic and Natural Environment, County Hall, Glenfield, LE3 8RA or such other address for service as shall have been previously notified by the County Council to the Owners; and
 - (iii) in the case of the Owner to the address contained herein or such other address for service as shall have been previously notified by the Owner to the Borough Council and County Council

- (iv) in the case of the Developer to the address contained herein or such other address for service as shall have previously been notified by the Developer to the Borough Council and the County Council

14.3 A notice, consent or approval required or authorised to be given under this Agreement shall be deemed to be served as follows:

- (i) if personally served at the time of delivery and if posted at the time when it would be received in the ordinary course of business
- (ii) to prove such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice, consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope

15. **Dispute Resolution**

15.1 In the event of any dispute or difference arising between the parties to this Agreement in respect of any matter contained in this Agreement such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the president (or equivalent person) for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties to the dispute or difference and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares

15.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 15.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor of not less than fifteen years post qualification experience to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the

parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares

- 15.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty Working Days after the conclusion of any hearing that takes place or twenty Working Days after he has received any file or written representation
- 15.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten Working Days
- 15.5 The provisions of this clause shall not affect the ability of the Borough Council or County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Agreement and consequential and interim orders and relief

16. Interest

- 16.1 If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment

17. VAT

- 17.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable

18. Jurisdiction

- 18.1 This Agreement is governed by and interpreted in accordance with the laws of England

19. Delivery

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

IN WITNESS WHEREOF the parties hereto have executed this Agreement as a deed on the day and year first before written

THE FIRST SCHEDULE

Plan



M. J. Daniel
a R. Schuttner

[illegible][illegible]

THE SECOND SCHEDULE

The Owners' Covenants with the Borough Council

The Owners covenant with the Borough Council as follows:

1. Affordable Housing

- 1.1 Not to Commence Development unless and until the Owners shall have submitted in writing to the Borough Council and obtained the written approval of the Borough Council to the Affordable Housing Scheme for the provision of the Affordable Housing Dwellings as part of the Development (such approval not to be unreasonably withheld or delayed)
- 1.2 To provide the Affordable Housing Dwellings in accordance with the Affordable Housing Scheme or any variations agreed in writing by the Borough Council thereto
- 1.3 Not to Occupy or to permit the Occupation of more than 70% of the Market Dwellings until the Affordable Housing Dwellings have been constructed ready for Occupation and the freehold interest in them has been transferred to a Registered Provider
- 1.4 In the event of no Registered Provider taking delivery of some or all of the Affordable Rented Dwellings prior to Occupation of no more than 70% of the Open Market Dwellings to be constructed for whatever reason including no grant or insufficient grant funding being available, the Owners shall:
 - 1.4.1 give to the Borough Council notice in writing of their failure to enter into such contract; and
 - 1.4.2 demonstrate to the reasonable satisfaction of the Borough Council that reasonable endeavours have been used to secure such an agreement by providing the Borough Council with the following information:
 - (i) an explanation of the marketing strategy employed to dispose of the Affordable Housing to include copies of all marketing material and details of the length of time the Affordable Housing were marketed;

- (ii) a copy of any offer letter; and
 - (iii) a copy of any responses to the offer letter
- 1.5 In the event of no Registered Provider taking delivery of some or all of the Affordable Housing prior to Occupation of no more than 70% of the Open Market Dwellings is not found for whatever reason, the Borough Council shall at its discretion elect that the Owner either
 - 1.5.1 agree with the Borough Council as a first solution an alternative tenure mix or reduction in the Affordable Housing Dwellings to make the package more attractive to a Registered Provider or the Local Housing Authority; or
 - 1.5.2 If the alternative package does not successfully attract a Registered Provider (or a Local Housing Authority) then the cascade will provide a mechanism for the following option of gifting a reasonable proportion of the Affordable Housing Dwellings to the Borough Council
 - 1.5.3 pay the Borough Council the Affordable Housing Commuted Sum in accordance with the Housing SPD
- 1.6 If the Borough Council elects to receive the Affordable Housing Commuted Sum pursuant to paragraph 1.5.2 above the Owner shall pay the Affordable Housing Commuted Sum to the Borough Council within Twenty (20) Working Days of the sum being agreed between the parties and upon payment of the Affordable Housing Commuted Sum the relevant Affordable Housing Dwellings to which the Affordable Housing Commuted Sum relates shall become immediately available for sale as Open Market Dwellings and be released from any and all obligations contained within this Agreement.
- 1.7 Subject to paragraph 1.6 above no Affordable Housing Dwellings constructed on the Site shall be Occupied other than as Affordable Housing in accordance with provisions of this Agreement
- 1.8 The Owner shall ensure that any transfer of any of the Affordable Housing to a Registered Provider shall contain the following provisions:-

- 1.8.1 the grant and reservation by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Dwellings and the remainder of the Dwellings constructed or to be constructed as part of the Development
- 1.8.2 the imposition of such covenants as the Owner shall reasonably require as are consistent with the sale of any of the Dwellings within the Development
- 1.9 To notify the Borough Council within Ten (10) Working Days of the transfer of any of the Affordable Housing Dwellings to a Registered Provider of the date of such transfer and to provide the Borough Council with details of the Registered Provider to which the Affordable Housing Dwellings were transferred
- 1.10 Subject to the provisions of this Agreement no Affordable Housing for Rent shall be used for any purpose other than the provision of affordable housing for rent under the Borough Council's Allocation Policy to persons in need of affordable housing with a Borough Connection.
- 1.11 To ensure that the Affordable Housing Dwellings shall not be used other than for Affordable Housing provided that this clause shall not be binding on:
 - 1.11.1 an RP Chargee PROVIDED THAT
 - i) such RP Chargee shall first give written notice to the Borough Council of its intention to dispose of the Affordable Housing Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Dwellings to another Registered Provider or to the Borough Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies interest and costs and expenses , and
 - ii) if such disposal is not completed within the three-month period the RP Chargee shall be entitled to dispose of the Affordable Housing Dwelling free from the Affordable Housing provisions in this Agreement which shall determine absolutely PROVIDED FURTHER THAT at all times the rights

and obligations in this paragraph 1.11 shall not require the RP Chargee to act contrary to its duties under the charge or mortgage

- 1.11.2 any person acquiring an interest in an Affordable Housing Dwelling under a statutory right to buy or acquire the said Affordable Housing Dwelling
- 1.11.3a lessee under a shared ownership lease of an Affordable Housing Dwelling or a mortgagee or chargee of a shared ownership lease granted in respect of an Affordable Housing Dwelling
- 1.11.4a person who has staircased under a shared ownership lease or an Affordable Housing Dwelling to acquire the freehold of the said Affordable Housing Dwelling or a mortgagee or chargee of such an Affordable Housing Dwelling
- 1.11.5 any person deriving title from any such person as is mentioned in 1.11.1 to 1.11.4 above
- 1.12 Nothing contained in this Agreement shall prevent a Registered Provider to whom any of the Affordable Housing Dwellings are transferred from disposing of all or any of the Affordable Housing Dwellings under Section 180 of the Housing and Regeneration Act 2008

2. On Site Public Open Space

- 2.1 Not to Occupy or permit Occupation of any Dwellings on the Site until the On Site Public Open Space Scheme has been submitted to and approved in writing by the Borough Council (such approval not to be unreasonably withheld or delayed)
- 2.2 Not to Occupy or permit Occupation of more than 85% of the Dwellings on the Site or such other timescale as shall be agreed in writing with the Borough Council until the On Site Public Open Space has been laid out and landscaped in accordance with the On Site Public Open Space Scheme
- 2.3 To write to the Borough Council inviting the Borough Council to inspect the On Site Public Open Space and for the Borough Council to confirm in writing that it has been provided in accordance with the On Site Public Open Space Scheme and the Owners shall carry out such additional works as reasonably requested

by the Borough Council so that the Borough Council can issue a certificate to that effect ("the Provisional Certificate") AND where the Borough Council has not inspected the On Site Public Open Space or has not served any notice requiring additional works to the On Site Public Open Space or issued the Provisional Certificate within one month of the written invitation (or any later invitation pursuant to a notice requiring additional works) the Provisional Certificate shall be deemed to have been issued two months from the date of the latest written invitation.

- 2.4 To maintain the On Site Public Open Space following the issue of the Provisional Certificate for a period of 12 months ("the Maintenance Period") and if any tree or shrub or other planting seeding or turfing dies or becomes diseased or for any reason fails to become established during that period to reinstate or replace it as necessary and in the case of any tree shrub or any other planted material the replacement should be the same size and species or such other size and species as may be agreed with the Borough Council
- 2.5 On the expiration of the Maintenance Period the Owner shall invite the Borough Council in writing to inspect the On Site Public Open Space and issue a certificate confirming it remains in accordance with the On Site Public Open Space Scheme ("the Final Certificate").
- 2.6 Where the Borough Council serves a notice requiring the remedying of defects on the On Site Public Open Space ("Defect Notice") within one month of the invitation pursuant to paragraph 2.5 of this Schedule the Owner shall remedy such defects to the reasonable satisfaction of the Borough Council within one month of the date on which the Defect Notice is served unless agreed otherwise between the parties in writing and invite the Borough Council in writing to re-inspect the On Site Public Open Space.
- 2.7 Where the Borough Council has not inspected the On Site Public Open Space or has not served any Defect Notice or issued the Final Certificate within one month of the written invitation (or any later invitation pursuant to a Defect Notice) the Final Certificate shall be deemed to have been issued one month from the date of the latest written invitation

2.8 Following the issue of the Final Certificate the Owner shall transfer to a management company the On Site Public Open Space for the sum of One Pound (£1.00) and no Dwelling shall be occupied unless and until the management company is agreed with the Borough Council and the Owner has delivered to the Borough Council a deed (duly executed on behalf of the company) which provides that:

- i. the constitution of the management company shall not be altered without the prior written consent of the Borough Council;
- ii. the management company shall carry out the maintenance of the On Site Public Open Space in accordance with the On Site Public Open Space Scheme;
- iii. the management company shall provide to the Council such information as to charges or expenses levied by it on residential occupiers of Dwellings ("Service Charges") as the Borough Council may reasonably require and that such Service Charge shall at all times be reasonable;
- iv. a Borough Council representative (an officer or a councillor) with no voting rights is to be included on the management board of the management company;
- v. any dispute between the Borough Council and the management company as to whether the terms or quanta of Service Charges is/are reasonable may be referred to an expert pursuant to Clause 15 for determination and that such Service Charges shall then be in accordance with the expert's determination; and
- vi. that the provisions of said deed shall be enforceable by the Borough Council against the management company.

2.9 The Owner shall ensure that the transfer of the On Site Public Open Space to the management company includes a covenant on the part of the transferee to maintain the On Site Public Open Space and a covenant on the part of the transferee for the benefit of the retained land not to use the On Site Public Open Space for anything other than public open space

2.10 The Owner shall ensure that:

- (a) any disposal of any Open Market Dwelling secures appropriate provisions to be included in the sale documentation to secure the payment of an appropriate annual payment to the management company sufficient to secure the ongoing requirements of the maintenance and upkeep of the On Site Public Open Space
- (b) the transferee of any Open Market Dwelling has entered into a covenant:
 - i. to pay an annual service charge to the management company; and
 - ii. not to transfer assign sub-let licence or otherwise dispose of the said Dwelling without ensuring that such transfer assignment sub-lease licence or other disposal contains a like covenant as above
- (c) The Owner shall not wind up the management company nor alter its constitution without the prior written consent of the Borough Council unless the whole of the Development shall have been demolished
- (d) If the management company takes any step in connection with:
 - i. any suspension or re-scheduling of its payments, a moratorium of any of its indebtedness or its dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or others);
 - ii. the appointment of a liquidator, a receiver (including administrative officer in respect of it or any of its assets (including any person requesting the lender to appoint an administrator); or
 - iii. any analogous procedure in any jurisdiction

Then it will be the responsibility of the Owner to maintain the On Site Public Open Space in accordance with the On Site Public Open Space Scheme

- 2.11 Until the On Site Public Open Space Scheme is transferred to the management company it shall be maintained by the Owner in accordance with the On Site Public Open Space Scheme

3. Outdoor Sports Facilities Contribution

3.1 To pay the Outdoor Sports Facilities Contribution to the Borough Council as follows:

3.1.1 25% of the Outdoor Sports Facilities Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

3.1.2 a further 25% of the Outdoor Sports Facilities Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;

3.1.3 a further 25% of the Outdoor Sports Facilities Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;

3.1.4 the remaining 25% of the Outdoor Sports Facilities Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

4. Healthcare Contribution

4.1 To pay the Healthcare Contribution to the Borough Council as follows:

4.1.1 25% of the Healthcare Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

4.1.2 a further 25% of the Healthcare Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;

4.1.3 a further 25% of the Healthcare Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;

4.1.4 the remaining 25% of the Healthcare Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

5. Allotments Contribution

5.1 To pay the Allotments Contribution to the Borough Council as follows:

5.1.1 25% of the Allotments Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

- 5.1.2 a further 25% of the Allotments Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;
- 5.1.3 a further 25% of the Allotments Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;
- 5.1.4 the remaining 25% of the Allotments Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

THE THIRD SCHEDULE

The Owners' covenants to the County Council

The Owners covenant with the County Council as follows:

1. Primary Education Contribution

1.1 To pay the Primary Education Contribution to the County Council as follows:

- 1.1.1 25% of the Primary Education Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;
- 1.1.2 a further 25% of the Primary Education Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;
- 1.1.3 a further 25% of the Primary Education Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;
- 1.1.4 the remaining 25% of the Primary Education Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

2. Primary Transport Contribution

2.1 To pay the Primary Transport Contribution to the County Council as follows:

- 2.1.1 The first Thirty Eight Thousand Pounds (£38,000.00) of the Primary Transport Contribution to be paid prior to the first Occupation of the 1st Dwelling to be Occupied
- 2.1.2 A further Sixty Eight Thousand Four Hundred Pounds (£68,400.00) of the Primary Transport Contribution to be paid prior to the first Occupation of the 60th Dwelling to be Occupied
- 2.1.3 The remaining One Hundred and Fourteen Thousand Pounds (£114,000.00) of the Primary Transport Contribution to be paid prior to the first Occupation of the 120th Dwelling to be Occupied

3. Secondary Education Contribution

3.1 To pay the Secondary Education Contribution to the County Council as follows:

3.1.1 25% of the Secondary Education Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

3.1.2 a further 25% of the Secondary Education Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;

3.1.3 a further 25% of the Secondary Education Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;

3.1.4 the remaining 25% of the Secondary Education Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

4. SEN Contribution

4.1 To pay the SEN Contribution if any to the County Council as follows:

4.1.1 25% of the SEN Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

4.1.2 a further 25% of the SEN Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;

4.1.3 a further 25% of the SEN Contribution prior to the first Occupation of the 85th Dwelling to be Occupied

4.1.4 the remaining 25% of the SEN Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

5. Early Years Contribution

5.1 To pay the Early Years Contribution to the County Council as follows:

5.1.1 25% of the Early Years Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;

- 5.1.2 a further 25% of the Early Years Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied;
- 5.1.3 a further 25% of the Early Years Contribution prior to the first Occupation of the 85th Dwelling to be Occupied;
- 5.1.4 the remaining 25% of the Early Years Contribution prior to the first Occupation of the 127th Dwelling to be Occupied

6. Library Facilities Contribution

- 6.1 To pay the Library Facilities Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

7. Civic Amenities Contribution

- 7.1 To pay the Civic Amenities Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

8. Bus Display Contribution

- 8.1 To pay the Bus Display Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

9. Bus Flag Contribution

- 9.1 To pay the Bus Flag Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

10. Bus Shelter Contribution

- 10.1 To pay the Bus Shelter Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

11. Bus Stop Improvements Contribution

- 11.1 To pay the Bus Stop Improvement Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

12. STARS Contribution

- 12.1 To pay the STARS Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied

13. Bus Pass Contribution

- 13.1 To pay the Bus Pass Contribution as follows:-

- 13.1.1 25% of the Bus Pass Contribution prior to the first Occupation of the 1st Dwelling to be Occupied;
- 13.1.2 a further 25% of the Bus Pass Contribution prior to the first Occupation of the 42nd Dwelling to be Occupied EXCEPT THAT the County Council and the Owner may by agreement defer such payment to a later date
- 13.1.3 a further 25% of the Bus Pass Contribution prior to the first Occupation of the 85th Dwelling to be Occupied EXCEPT THAT the County Council and the Owner may by agreement defer such payment to a later date
- 13.1.4 the remaining 25% of the Bus Pass Contribution prior to the first Occupation of the 127th Dwelling to be Occupied EXCEPT THAT the County Council and the Owner may by agreement defer such payment to a later date

14. Travel Pack Contribution

- 14.1 To pay the Travel Pack Contribution to the County Council prior to the first Occupation of the 1st Dwelling to be Occupied:

15. County Council Monitoring Costs Contribution

- 15.1 To pay the County Council Monitoring Costs Contribution prior to the first Occupation of the 1st Dwelling to be Occupied

THE FOURTH SCHEDULE

The Borough Council's Covenants

The Borough Council covenants with the Owners as follows:

Affordable Housing Commuted Sum

1. To use the Affordable Housing Commuted Sum (if any) solely for the delivery of Affordable Housing from time to time anywhere in the Borough where a need has been identified

Outdoor Facilities Contribution

2. To use the Outdoor Sports Facilities Contribution for the provisions of an improved football pitch and associated ancillary provision at Memorial Park, Sileby and/or enhanced pitch and ancillary provision at Sileby Town Cricket Club and/or enhanced provision at Sileby Bowls Club and for no other purpose whatsoever

Allotments Contribution

3. To use the Allotments Contribution solely for the creation of community growing space or additional allotment plots at Memorial Park, Sileby and for no other purpose whatsoever

Healthcare Contribution

4. To pay the Healthcare Contribution to the Healthcare Provider upon receipt of the contribution from the Owner and a document from the Healthcare Provider covenanting to the Owner and the Borough Council that it will apply the Healthcare Contribution for the purposes of providing additional capacity at Highgate Medical Centre and Banks Surgery to provide clinical accommodation for the residents of the Development and for no other purposes whatsoever and further if the Healthcare Contribution has not been expended for the defined purposes within a period of five years from the date of payment of the Healthcare Contribution to the Healthcare Provider by the Borough Council to refund directly to the Owner any unspent portion of the Healthcare Contribution

Monitoring

5. In the event that all or any of the Outdoor Facilities Contribution and/or the Allotments Contribution and/or the Affordable Housing Commuted Sum is received but not applied for the purpose stated herein within 5 years of receipt of the final instalment of the said contribution to refund to the party who paid the said contribution to the Borough Council any unexpended contribution along with Interest thereon from the date of any payment until the date of repayment
6. Upon written request to furnish the Owner with full details of the expenditure by the Borough Council of all monies paid to the Borough Council by the Owner pursuant to this Agreement such details shall be provided to the Owner by way of a written statement

THE FIFTH SCHEDULE

The County Council's Covenants

The County Council covenants with the Owners as follows:

Primary Education Contribution

1. To apply the Primary Education Contribution solely towards improving remodelling or enhancing Sileby Redlands Community Primary School or such other primary school as will provide additional capacity to accommodate pupil growth from the development and for no other purpose whatsoever

Primary Transport Contribution

2. To apply the Primary Transport Contribution solely towards transporting pupils resident within the Development to such primary school as will accommodate them and for no other purpose whatsoever

Secondary Education Contribution

3. To apply the Secondary Education Contribution solely towards improving remodelling or enhancing Humphrey Perkins School or such other secondary school as will provide additional capacity to accommodate pupil growth from the development and for no other purpose whatsoever

SEN Contribution

4. To apply the SEN Contribution solely towards providing special educational needs facilities at Ashmount School in Loughborough or such other special educational needs facilities as will provide additional capacity to accommodate pupil growth from the Development and for no other purpose whatsoever

Early Years Contribution

5. To apply the Early Years Contribution solely towards the provision of early years places at Cossington Primary school or other schools or early learning provision in the locality of the Development which the residents of the Development would

usually be expected to attend, or the creation of new premises and for no other purpose whatsoever

Library Facilities Contribution

6. To apply the Library Facilities Contribution solely towards the provision of facilities at Sileby library and for no other purpose whatsoever

Civic Amenities Contribution

7. To apply the Civic Amenities Contribution solely towards the provision of facilities at Mountsorrel Household Waste and Recycling Centre and for no other purpose whatsoever

Bus Flag Contribution

8. To apply the Bus Flag Contribution solely towards the provision of flag and pole at bus stop ID 260008534 and for no other purpose whatsoever

Bus Display Contribution

9. To apply the Bus Display Contribution solely towards the provision of an information display case at bus stop ID 260008534 and for no other purpose whatsoever

Bus Shelter Contribution

10. To apply the Bus Stop Contribution solely towards the provision of a new bus shelter at bus stop ID 260008504 and for no other purpose whatsoever

Bus Stop Improvement Contribution

11. To apply the Bus Stop Improvement Contribution solely towards the provision of raised kerbs to allow level access to support modern bus fleets with low floor capabilities at bus stop ID 260008534 and bus stop ID 260008504 and for no other purpose whatsoever

STARS Contribution

12. To apply the STARS Contribution solely towards the encouragement of sustainable travel, the support of the travel plan co-ordinator and monitoring of the travel plan and for no other purpose whatsoever

Travel Pack Contribution

13. To apply the Travel Pack Contribution received by the County Council solely as a contribution towards the cost of preparing and distributing Travel Packs and for no other purpose whatsoever

Bus Pass Obligations

14. To apply the Bus Pass Contribution solely for the provision the Bus Passes to the Occupants of Dwellings who complete and return the application forms in the Travel Pack
15. Upon receipt of a written request to account in writing to the Owners with full details of the number of Bus Passes issued
16. At the end of a period of nine months after the notification of the Occupation of the final Dwelling to be constructed pursuant to the Appeal Permission to repay to the Owners any unexpended portion of the Bus Pass Contribution along with interest calculated at the base rate of Barclays Bank Plc thereon from the date of any payment until the date of repayment

Monitoring

16. In the event that all or any of the Primary Education Contribution and/or the Primary Transport Contribution and/or the Secondary Education Contribution and/or the SEN Contribution and/or the Early Years Contribution and/or the Library Facilities Contribution and/or the Civic amenities Contribution and/or the Bus Shelter Contribution and/or the Bus Stop Improvements Contribution and/or the Bus Flag Contribution and/or the STARS Contribution and/or the Travel Pack Contribution and/or Bus Display Contribution are received but not applied for the purposes stated herein within ten years of the receipt of the final

instalment of the said contribution to refund to the party who paid the said contribution to the County Council any unexpended contribution along with interest calculated at the base rate of Barclays Bank Plc thereon from the date of any payment until the date of repayment

17. Upon written request to furnish the Owners with full details of the expenditure by the County Council of all monies paid to the County Council by the Owners pursuant to this Agreement such details shall be provided to the Owners by way of a written statement

SIXTH SCHEDULE

(Allocations Policy)

1. The Registered Provider shall give at least 10 days prior written notice to the Borough Council of the date on which each Affordable Housing Unit will be available for initial Occupation.
2. Subject to the provisions of paragraph 4 and 5 of this Schedule all Affordable Rented Housing must be advertised through the Borough Council's Choice Based Lettings Scheme and rented to Eligible Persons with a Borough Connection in need of Affordable Housing who have been nominated by the Borough Council in accordance with the provisions of the Allocations Policy or criteria for Affordable Housing adopted from time to time by the Borough Council.
3. The receiving Registered Provider will abide fully with the terms and conditions of the Nomination Agreement .
4. In the event that the Borough Council fails to nominate a new tenant within six weeks of being notified of the vacancy pursuant to paragraph 1 or 2 of this Schedule the Registered Provider will have the right to select the tenant of the Dwelling from its own applicants in accordance with the provisions of paragraph 5 of this Schedule. This procedure will apply to all subsequent lettings.
5. If the provisions of paragraph 4 of this Schedule apply then the relevant Affordable Rented Housing must be rented to persons who in the reasonable opinion of the Registered Provider are in need of Affordable Housing and have a Borough Connection **PROVIDED THAT** in the event that a household with a Borough Connection cannot be found within six weeks of the date the provisions of this paragraph apply from then the requirement for such persons to have a Borough Connection shall cease to apply.
6. If the Shared Ownership Housing are transferred to a Registered Provider they must be disposed of to Eligible Persons and any Registered Provider shall in relation to all Shared Ownership Housing disposed of by the Registered

Provider provide the Borough Council with details of the sale price, date of sale, postal address and purchaser within one calendar month of such sale.

7. In the event that a household with a Borough Connection cannot be found within six weeks of the date the provisions of this paragraph apply from then the requirement for such persons to have a Borough Connection shall cease to apply.

The **COMMON SEAL** of)
CHARNWOOD BOROUGH COUNCIL)
 was hereto affixed in the presence of :)

[Handwritten signature]

Authorised Signatory:



The **COMMON SEAL** of)
LEICESTERSHIRE COUNTY COUNCIL)
 was hereto affixed in the presence of:)

[Handwritten signature]

Authorised Signatory:



38814(b)

SIGNED as a **DEED** by)
ANTHONY RAYMOND SHUTTLEWOOD)
 in the presence of:)

[Handwritten signature: AR Shuttlewood]

Witness signature *[Handwritten signature: BM Rivolta]*

Witness name *[Handwritten name: BETTY MARINA RIVOLTA]*

Witness address *[Handwritten address: 7, CHALFONT DRIVE]*

[Handwritten address: SILEBY LEICESTER]

Witness occupation *[Handwritten occupation: RETIRED]*

EXECUTED as a DEED by)
 BDW TRADING LIMITED)
 by two of its Attorneys appointed under a)
 Power of Attorney dated 24 January 2022)



Attorney.....ANTONY ROWAN

Witness signature.....R. Shepherd

Witness name.....R. Shepherd

Witness address.....David Wilson Homes East Midlands

Forest Business Park, Cartwright Way

Witness occupation.....BA...Bardon Hill, Leicestershire, LE67 1GL

Attorney.....STEVE BOWEN

Witness signature.....R. Shepherd

Witness name.....R. Shepherd

Witness address.....David Wilson Homes East Midlands

Witness occupation.....BA...Forest Business Park, Cartwright Way

Bardon Hill, Leicestershire, LE67 1GL