

DATED

2023

- (1) WESTON HOMES PLC
- (2) WESTON (BUSINESS CENTRES) LIMITED
- (3) HSBC CORPORATE TRUSTEE COMPANY
(UK)LIMITED

TO

- (4) UTTLESFORD DISTRICT COUNCIL
- (5) ESSEX COUNTY COUNCIL

SECTION 106 DEED OF UNILATERAL UNDERTAKING

RELATING TO LAND AT BULL FIELD, WARISH HALL FARM, TAKELEY
PLANNING APPLICATION REFERENCE 62A/2023/0019

REFERENCE

JB/762107.30

ReedSmith

EME_ACTIVE-811820777.1-JBERRY-762107-00030

Reed Smith LLP
The Broadgate Tower
20 Primrose Street
London EC2A 2RS
Phone - +44 (0) 20 3116 3000
Fax - +44 (0) 20 3116 3999
DX1066 City / DX18 London

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GIVEN BY -

- (1) **Weston Homes Plc** (company registration number 2133568) of Weston Group Business Centre, Parsonage Road, Takeley, Essex CM22 6PU (the '**Developer**') and
- (2) **Weston (Business Centres) Limited** (company registration number 4345221) of Weston Group Business Centre, Parsonage Road, Takeley, Essex CM22 6PU (the '**Owner**')
- (3) **HSBC Corporate Trustee Company (UK) Limited** (company registration number 06447555) of 8 Canada Square, London E14 5HQ ('**the Mortgagee**')

TO -

- (4) **Uttlesford District Council** of Council Offices, London Road, Saffron Walden, Essex CB11 4ER ('**UDC**')
- (5) **Essex County Council** of County Hall, Market Road, Chelmsford CM1 1QH ('**ECC**')

1 DEFINITIONS

- 1.1 '**the 1964 Act**' shall mean the Public Libraries & Museums Act 1964
- 1.2 '**the 1972 Act**' shall mean the Local Government Act 1972
- 1.3 '**the 1990 Act**' shall mean the Town and Country Planning Act 1990
- 1.4 '**the 1999 Act**' shall mean the Contracts (Rights of Third Parties) Act 1999
- 1.5 '**the 2008 Act**' shall mean the Housing and Regeneration Act 2008
- 1.6 '**the 2011 Act**' shall mean the Localism Act 2011
- 1.7 '**Affordable Housing**' shall mean subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF that will be available to persons who cannot afford to buy or rent housing generally available on the open market including Affordable Rented Housing First Homes and Shared Ownership Housing unless other types of affordable housing are agreed in writing by UDC;
- 1.8 '**Affordable Housing Land**' shall mean the land on which the Affordable Housing Units will be constructed in accordance with the Permission as shown on the Affordable Housing Plan
- 1.9 '**Affordable Housing Plan**' shall mean the plan attached at **Annex 2** (Plan WH202C_10_P_10.33 Rev A Affordable Housing Strategy) identifying the number and location of the Affordable Housing Units included within the Development, the Affordable Housing Tenure Mix and the Affordable Housing Unit Mix (unless otherwise approved by UDC).
- 1.10 '**Affordable Housing Tenure Mix**' shall mean the different types of tenure of Affordable Housing to be provided within the Development and which shall (unless otherwise approved by UDC) comprise -
 - (a) Seventy percent (70%) Affordable Rented Housing Units
 - (b) Twenty five percent (25%) First Homes Units
 - (c) Five percent (5%) Shared Ownership Housing Unitsin each case rounded up or down to the nearest whole number of units
- 1.11 '**Affordable Housing Unit Mix**' shall mean the different types and size of Affordable Housing Units to be provided as part of the Development as shown on the Affordable Housing Unit Mix Table

- 1.12 **'Affordable Housing Units'** shall mean the thirty nine (39) units of accommodation shown on the Affordable Housing Plan to be constructed on the Affordable Housing Land
- 1.13 **'Affordable Rented Housing'** shall mean Affordable Housing provided by an Approved Body to households those in identified housing need where the rent level is capped at 80% of the local market rent (including any service charges, where applicable)
- 1.14 **'Affordable Rented Units'** shall mean the twenty seven (27) units of rented housing to be occupied as Affordable Rented Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.15 **'Allocations Policy'** shall mean UDC's Allocations Policy attached at **Annex 3** or any subsequent Allocations Policy replacing that policy
- 1.16 **'Approved Body'** shall mean any registered provider registered or eligible for registration with Homes England or successor organisation, any body organisation or company which is a registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by UDC and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord
- 1.17 **'Armed Services Member'** shall mean a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
- 1.18 **'CIL Regulations'** shall mean the Community Infrastructure Levy Regulations 2010
- 1.19 **'the Councils'** shall mean UDC and ECC
- 1.20 **'Decision Letter'** shall mean the decision letter issued by the Planning Inspector on behalf of the Secretary of State confirming whether or not the Permission is granted
- 1.21 **'Designated Protection Area'** shall mean an area designated under The Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 and which is subject to restrictions on staircasing of Shared Ownership Units in Homes England's capital funding guide;
- 1.22 **'the Development'** shall mean the development authorised by the Permission for construction of 96 dwellings (Class C3), including open space landscaping and associated infrastructure.
- 1.23 **'Development Standard'**

means a standard to fully comply with the following:-

- (a) "Technical housing standards – nationally described space standards" published by the Department for Communities and Local Government in March 2015
- (b) all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the Council from time to time
- (c) Approved Document Q: Security- Dwellings published by HM Government or any document which supersedes it.
- (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings)

and the same may be amended by written agreement of the Parties.

- 1.24 **'Discount Market Price'** shall mean a sum which is the Market Value discounted by at least 30%
- 1.25 **'Disposal'** shall mean a transfer of the freehold or (or in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:

- (a) a letting or sub-letting for no more than two years if the First Home owner is required to live elsewhere for the purpose of employment or due to redundancy or as a result of relationship breakdown to escape the risk of harm or to provide care or assistance to any person;
- (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes owner;
- (c) an Exempt Disposal

1.26 and **“Disposed”** and **“Disposing”** shall be construed accordingly; ‘Disposal’ shall mean a transfer of the freehold or (or in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:

- (a) a letting or sub-letting for no more than two years if the First Home owner is required to live elsewhere for the purpose of employment or due to redundancy or as a result of relationship breakdown to escape the risk of harm or to provide care or assistance to any person;
- (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes owner;
- (c) an Exempt Disposal

and **“Disposed”** and **“Disposing”** shall be construed accordingly;

1.27 **‘DPA Waiver’** shall mean a waiver issued by Homes England (or any other body with power to issue such a waiver) which would have the effect of waiving Designated Protected Area grant funding conditions applied by Homes England in relation to staircasing ownership of Shared Ownership Units in respect of all or part of the Land;

1.28 **‘Dwelling’** shall mean any residential dwelling including a house self-contained flat bungalow maisonette or other domestic property constructed as part of the Development or created by conversion of an existing building on the Land and for the avoidance of doubt for the purposes only of the Education Land Schedule and the Education Contributions Schedule of this Deed this definition shall exclude any dwelling that by condition set out in the Permission cannot under any circumstance be Occupied by persons under the age of nineteen (19) years of age

1.29 **‘ECC Monitoring Fee’** shall mean a fee of five hundred and fifty pounds (£550) per obligation due to ECC under this Deed and for the avoidance of doubt this is a total of four thousand nine hundred and fifty pounds sterling (£4,950) (no VAT) towards ECC’s reasonable and proper administration costs of monitoring and managing the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed or such lesser amount as the Inspector expressly states in the Decision Letter should be paid

1.30 **‘Eligibility Criteria (National)’** shall mean criteria which are met in respect of a purchase of a First Home if:

- (a) the purchaser is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer); and
- (b) the purchaser’s annual gross income (or in the case of a joint purchase, the joint purchasers’ joint annual gross income) does not exceed the Income Cap (National);

1.31 **‘Eligibility Criteria (Local)’** shall mean in relation to the First Home(s) the criteria set out in Paragraphs 4.1 – 4.3 of the UDC First Homes Planning Advice Notice 2022 or such other guidance applicable at the relevant time of such other criteria agreed with UDC

1.32 **‘Eligible Person’** shall mean a person or persons on the Housing Register that meets the qualifying criteria within the Allocations Policy (unless otherwise agreed by UDC in writing) and/or is considered by the Approved Body to be in need of an Affordable Housing Unit who is unable to compete in the normal open market for property in the District of Uttlesford and who (or one of whom) was born in the District of Uttlesford and/or lives in the District of Uttlesford and/or used to live in the District of Uttlesford but has been forced to move away because of a lack of affordable housing in the area and/or has a parent or children who live in the District of Uttlesford.

- 1.33 **'Estate Service Charge'** shall mean an estate service charge or rent charge for the Land representing a fair and proper proportion of the expenditure applicable to the particular Dwelling payable annually to the Management Company in respect of its administration and of insuring, maintaining and repairing and as necessary renewing the Public Open Space, and in accordance with the Management Scheme if the Public Open Space is not adopted
- 1.34 **'Exempt Disposal'** shall mean a disposal in one of the following circumstances:
- (a) a disposal to a spouse or civil partner upon the death of an owner;
 - (b) a disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of an owner;
 - (c) a disposal to a former spouse or former civil partner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;
 - (d) a disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling
 - (e) provided that in each case other than (d) the person to whom the disposal is made complies with the provisions relating to First Homes in this Deed;
- 1.35 **'Expert'** shall mean such expert as may from time to time be appointed for the purpose of resolving a relevant dispute being a barrister or solicitor or chartered surveyor or other person appropriately qualified to resolve the dispute (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of one of the parties by or on behalf of the President from time to time of the Bar Council or the Law Society or the Royal Institute of Chartered Surveyor
- 1.36 **'First Homes Contribution'** shall mean in circumstances where a sale of a First Homes Unit other than as First Homes Housing has taken place in accordance with the provisions of this Deed, the lower of the following two amounts:
- (a) 30% of the proceeds of sale; and
 - (b) the proceeds of sale less the amount due and outstanding to any mortgagee of the relevant First Homes Unit under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the owner of the First Homes Unit to the mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the owner of the First Homes Unit in connection with the sale of the First Homes Unit and which for the avoidance of doubt shall in each case be paid following the deduction of any stamp duty land tax payable
- 1.37 **'First Homes Housing'** shall mean Dwellings which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and 'First Home' shall be construed accordingly
- 1.38 **'First Homes Units'** shall mean the ten (10) units to be occupied as First Homes Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.39 **'First Time Buyer'** shall mean a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
- 1.40 **'Hatfield Forest Contribution'** shall mean the sum of fourteen thousand four hundred pounds (£14,400.00) Index-linked or such lesser amount as the Inspector expressly states in the Decision Letter should be paid which shall be used for the Hatfield Forest Contribution Purpose
- 1.41 **'Hatfield Forest Contribution Purpose'** shall mean the mitigation of the potential impact of the Development as a consequence of increased visitor numbers in the form of visitor and botanical monitoring and mitigation works carried out by or on behalf of the National Trust at Hatfield Forest

- 1.42 **'Health Care Contribution'** shall mean the sum of one hundred and twenty four thousand and thirty two pounds (£124,032) to mitigate the impact of the Development to be used towards the provision of additional capacity to accommodate patient growth generated by the Development within the Hertfordshire and West Essex Integrated Care Board to which the Health Care Indexation shall be added or such lesser amount as the Inspector expressly states in the Decision Letter should be paid
- 1.43 **'Health Care Indexation'** shall mean the amount that the Owners shall pay with and in addition to the Health Care Contribution paid that shall equal a sum calculated by taking the amount of the Health Care Contribution being paid and multiplying this amount by the percentage change shown in the Retail Price Index (RPI) (or in the event that the RPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by UDC) between the Index Point pertaining to the date of this Deed and the Index Point pertaining to the date the payment is made to UDC
- 1.44 **'the Highways Act'** shall mean the Highways Act 1980
- 1.45 **'Homes England'** shall mean the body set up by section 1 of the Housing and Regeneration Act 2008 or any successor organisation
- 1.46 **'Implementation'** shall mean the implementation of the Permission by the carrying out of any material operation (as defined by s. 56 of the 1990 Act) pursuant to the Permission but disregarding for the purposes of this Deed and for no other purpose the following operations -
- (a) site clearance
 - (b) demolition
 - (c) site survey
 - (d) ecological survey
 - (e) archaeological survey
 - (f) remediation
 - (g) erection of fences or hoardings
- and Implement and Implemented shall mutatis mutandis be construed accordingly
- 1.47 **'Implementation Date'** shall mean the date specified by the Developer to the Councils in a written notice served upon the Councils as the date upon which the Development authorised by the Permission is to be Implemented or if no such notice is served the date of Implementation
- 1.48 **'Income Cap (Local)'** shall mean such local income cap as may be published from time to time by UDC and is in force at the time of the relevant Disposal of the First Home it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local);
- 1.49 **'Income Cap (National)'** shall mean on the first sale of the First Home eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home
- 1.50 **'Inspector'** shall mean the planning inspector appointed by the Planning Inspectorate/ Secretary of State in determination of the Planning Application
- 1.51 **'the Land'** shall mean the land at Warish Hall Farm Smiths Green Lane Takeley shown edged in red on the Plan
- 1.52 **'LAP'** shall mean the local area of play to be provided within the publicly accessible Public Open Space where the items of play equipment/features are suitable for use by toddlers designed and laid out to meet relevant safety standards for play facilities from a reputable supplier and installed and inspected in accordance with their guidelines and to be maintained and managed in accordance with the Public Open Space Management Scheme;

- 1.53 **'Maintenance Period'** shall mean a period of twelve (12) months or if longer until the Public Open Space has been transferred to the Parish Council or Management Company (as applicable) from the date the Public Open Space has been fully constructed, completed and available for safe and immediate public use;
- 1.54 **'Management Company'** shall mean a company body or other entity responsible for the long-term management and maintenance of the Public Open Space if not adopted by the Parish Council;
- 1.55 **'Market Value'** shall mean the open market value as assessed by a Valuer as confirmed to UDC by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS)
- 1.56 **'Nominated Persons'** shall mean a person or persons nominated by UDC from their housing register to be offered an Affordable Housing Unit by the Approved Body (unless otherwise agreed in writing by UDC)
- 1.57 **'NPPF'** shall mean the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government and dated July 2021 or any replacement statement guidance note or circular which may amend, supplement or supersede it
- 1.58 **'Occupation'** shall mean occupation of a building constructed as part of the Development of the Land pursuant to the Permission and shall not include daytime occupation by workmen involved in the construction of the buildings the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and material and 'Occupy' 'Occupancy' and 'Occupied' shall be construed accordingly
- 1.59 **'Open Market Housing Units'** shall mean the Dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units
- 1.60 **'Owners'** shall mean together the Developer and the Owner together
- 1.61 **'Parish Council'** shall mean Takeley Parish Council or its statutory successor
- 1.62 **'Permission'** shall mean the planning permission granted by the Inspector on behalf of the Secretary of State in respect of the Planning Application
- 1.63 **'Plan'** shall mean the plan attached at **Annex 1** showing the Land
- 1.64 **'Planning Application'** shall mean the application made by the Developer under reference number 62A/2023/0019 **'Price Cap'** shall mean the amount for which a First Homes Unit is sold after the application of the Discount Market Price which on its first Disposal shall not exceed two hundred and fifty thousand pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
- 1.65 **'Prior's Wood Extension'** shall mean the extension to the east of the existing woodland shown marked and hatched in green on the Prior's Wood Extension Plan with reference number DWG NO 8749_103_c attached at **Annex 5** or such other area as may be agreed with UDC
- 1.66 **'Prior's Wood Delivery and Management Plan'** shall mean a scheme for the delivery and management of Prior's Wood/the Priors Wood Extension in perpetuity (initially for a period not less than 10 years to be provided in accordance with Forestry Commission England Criteria) including any measures to control public access routes through and within the site
- 1.67 **'Protected Tenant'** shall mean any tenant who -
- (a) has exercised the right to acquire pursuant to the 2008 Act or any statutory provision for the time being in force (including a preserved right to buy) (or any equivalent contractual right including the voluntary Right to Buy agreed between the Government and the National Housing Federation in 2015 and any extension or amendment thereto) in respect of a particular Affordable Housing Unit
 - (b) has exercised any statutory right to buy purchase or acquire (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

- (c) has been granted a shared ownership lease by the Approved Body and has become a 100% Staircaser

- 1.68 **'Public Open Space'** shall mean all landscaped areas not including private gardens or adopted roads
- 1.69 **'Public Open Space Commuted Sum'** shall mean the sum calculated by forecasting the total foreseeable cost incurred by the Parish Council to maintain the Public Open Space for a period of fifteen (15) years based on the schedule of rates from Spon's External Works and Landscape Price Book current at the date of transfer applied to the total area of the Public Open Space to be agreed between the parties
- 1.70 **'Public Open Space Delivery Plan'** shall mean a plan for the delivery of the Public Open Space and the sustainable drainage on the Land such plan to accord with details approved pursuant to discharge of relevant conditions on the Permission and/or any approval of a Reserved Matters Application (which approved Public Open Space Delivery Plan may be amended from time to time by agreement in writing between the Owners and UDC) and which plan is to include as a minimum:
- (a) description of the Public Open Space including the type of open space to be provided and any features (including but not limited to a Local Area of Play); and
- (b) if relevant a programme for the phased laying out of the Public Open Space and Local Area of Play
- 1.71 **'Public Open Space Management Scheme'** shall mean a scheme for the future maintenance and management of the Public Open Space that identifies the maintenance requirements for Public Open Space, including all ongoing maintenance operations, specifically identifying the management objective, task and timing and frequency of the operation of all the features of the Public Open Space to include hard and soft landscaping, surfacing materials, furniture, play equipment/features, refuse or other storage units, signs, lighting, boundary treatments, trees, shrubs and hedge plants and measures and details of the Management Company who is to undertake the ongoing future maintenance of the Public Open Space;
- 1.72 **'Retail Price Index'** shall mean the Index of Retail Prices compiled and published by His Majesty's Government from time to time
- 1.73 **'Secretary of State'** shall mean the Secretary of State for Levelling Up, Housing and Communities or such other Minister of Her Majesty's Government for the time being having or discharging the functions of the Secretary of State for the purposes of the 1990 Act
- 1.74 **'Shared Ownership Housing'** shall mean Intermediate Affordable Housing Units which will be offered for shared ownership by the Developer/Approved Body to persons in need of affordable housing as agreed with UDC under the Affordable Housing Plan
- 1.75 **'Shared Ownership Unit'** shall mean the two (2) units of Shared Ownership Housing (and 'Shared Ownership Units' shall be construed accordingly)
- 1.76 **'UDC Monitoring Fee'** shall mean a fee due to UDC under this Deed totalling seven thousand seven hundred and forty six pounds sterling (£7,746.00) (no VAT) towards UDC's reasonable and proper administration costs of monitoring and managing the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed or such lesser amount as the Inspector expressly states in the Decision Letter should be paid
- 1.77 **'Unit'** shall mean a house or self-contained flat or bungalow or any other Dwelling constructed as part of the Development and 'Units' shall be construed accordingly
- 1.78 **'Valuer'** shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a registered valuer appointed by the owner of a First Homes Unit and acting in an independent capacity
- 1.79 **'Wheelchair Adaptable'** means the Affordable Housing Units designed to be capable of meeting the requirements of Part M, Category 3 (Wheelchair user dwellings) M4(3)(2)(B) of Schedule 1 (paragraph 1) of the Building Regulations 2010 (as amended) and which, so far as is appropriate, are constructed in accordance with the relevant guidance contained within approved document part M (March 2015) or subsequent equivalent or similar replacement guidance.

1.80 **'Working Days'** shall mean any day from Monday to Friday inclusive which is not Christmas Day Good Friday a statutory bank holiday or a day between Christmas Day and New Year's Day

2 **RECITALS**

2.1 UDC is the local planning authority within the meaning of the 1990 Act for the District in which the Land is situated

2.2 ECC is the local planning authority and the local authority for statutory age and pre-statutory age education and childcare and the local highway authority for the County within which the Land is situated (which includes some highway land)

2.3 ECC is also the local library authority for the provision of library services under the 1964 Act and ECC is required to provide a comprehensive and efficient service for all persons resident working or studying in in the area in which the Land is located.

2.4 The Developer is the proprietor of the freehold interest registered at HM Land Registry under Title Number EX476530 being the majority of the Land

2.5 The Owner is proprietor of the leasehold interest in that part of the Land registered at HM Land Registry under Title Number EX991877

2.6 The Mortgagee is the registered proprietor of the charge dated 25 September 2020 referred to in entry number 8 of the charges register of Title Number EX476530 and has agreed to enter into this Deed to give its consent to the terms of this Deed.

2.7 The Developer has made the Planning Application which has been submitted to the Planning Inspectorate (PINS) for determination under s62A of the 1990 Act.

2.8 The Owners are satisfied that the obligations in this Deed are compliant with the requirements of regulation 122(2) of the CIL Regulations in that they are

(a) necessary to make the Development acceptable in planning terms

(b) directly related to the Development

(c) fairly and reasonably related in scale and kind to the Development

and that in accordance with regulation 122(2A) of the CIL Regulations any Monitoring Fee(s) to be paid fairly and reasonably relate in scale and kind to the Development and that the sums to be paid do not exceed the Councils' estimates of their costs of monitoring the Development over the lifetime of the obligations in this Deed

2.9 The Owners have agreed to enter into this Deed pursuant to the operative powers described in clause 3 for the purpose of regulating the Development and use of the Land in the event that the Permission is granted pursuant to determination of the Planning Application

3 **ENABLING POWERS AND OBLIGATIONS**

3.1 This Deed is entered into pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the 2011 Act and all other enabling powers

3.2 Such of the covenants contained herein as are capable of being planning obligations within the meaning of section 106 of the 1990 Act are declared to be planning obligations and as such are enforceable by UDC and ECC as hereinafter provided

4 **OBLIGATIONS UNDERTAKEN BY THE OWNERS**

4.1 With the intent that the Land shall be subject to the obligations and restrictions contained in this Deed for the purpose of restricting or regulating the Development and use of the Land so that the provisions of this Deed shall be enforceable against the Owners and their successors in title the Owners hereby undertake to observe and comply with the obligations contained in the Schedules to this Deed subject always to clause 4.2 hereof

4.2 The provisions and obligations contained in this clause 4 and the Schedules of this Deed shall only apply and shall be enforceable by UDC or ECC in such circumstances that the Inspector or the Secretary of State states clearly in the Decision Letter that such obligations are necessary and meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and PROVIDED THAT if the Inspector or the Secretary of State in the Decision Letter concludes that any of the planning obligations set out in the Deed are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the CIL Regulations and accordingly attaches no weight to that obligation in determining the Planning Application then the relevant obligation shall from the date of the Decision Letter cease to have effect and the Owners shall be under no obligation to comply with them

4.3 The liability of the Owners or any one or more of them under this Deed shall cease once they have parted with their relevant respective interest in the Land or any relevant part thereof (in which event the obligations of the Owners under this Deed shall cease only in relation to that part or those parts of the Land which is or are transferred by them and for the avoidance of doubt once any of the Owners has transferred all parts of the Land owned by that Owner, the obligations on that Owner shall cease) but not so as to release any party from liability for any breaches hereof arising prior to the transfer and for the purposes of this Deed any easement covenant or similar right shall not constitute an interest in the Land

5 **MORTGAGEE'S CONSENT**

5.1 The Mortgagee consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land

5.2 The Mortgagee shall not be liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land and continues with or carries out the Development itself

6 **NOTICE OF IMPLEMENTATION**

6.1 The Developer will give the Councils not less than 20 Working Days' notice of its intention to Implement the Permission specifying the intended Implementation Date

6.2 Forthwith upon Implementation the Developer will give the Councils notice of Implementation

7 **PROVISOS AND INTERPRETATION**

7.1 No provision of this deed shall be interpreted so as to take effect contrary to law or the rights powers duties and obligations of the Councils in the exercise of any of their statutory functions or otherwise

7.2 If any provision of this deed shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law, such provision shall to that extent be deemed not to form part of this deed and the enforceability of the remainder of this deed shall not be affected

7.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may (unless there is an express provision in this deed to the contrary) be enforced against them jointly and severally

7.4 No waiver (whether express or implied) by the Councils of any breach or default in performing or observing any of the obligations, covenants or terms and conditions of this deed shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the said obligations, covenants or terms and conditions or from acting upon any subsequent breach or default

7.5 Any provision contained in this deed requiring the consent or approval of any party hereto shall be deemed to incorporate a proviso that such consent or approval shall not be unreasonably withheld or delayed

7.6 The headings in this deed do not affect its interpretation

7.7 Unless the context otherwise requires references to sub-clauses, clauses and schedules are to sub-clauses, clauses and schedules of this deed

7.8 Unless the context otherwise so requires

- 7.8.1 references to Councils and the Owners include their respective permitted successors and assigns and in the cases of Councils shall include the successors to their statutory functions
- 7.8.2 references to statutory provisions include those statutory provisions as amended or re-enacted and
- 7.8.3 references to any gender include all genders and words importing the singular include the plural and vice versa.

8 AGREEMENTS AND DECLARATIONS

- 8.1 The obligations contained in the Schedules of this deed shall take effect only upon the Implementation Date and in the event that the Permission is not granted or is granted but not implemented and expires, the obligations contained in the Schedules shall absolutely cease and determine without further obligation upon the Owners or their successors in title
- 8.2 The obligations contained in the Schedules of this deed shall absolutely cease and determine without further obligation upon the Owners or their successors in title if the Permission is revoked, quashed, is modified without the consent of the Owners expires or if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission
- 8.3 Nothing in this deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Permission as defined herein)
- 8.4 The obligations under this deed shall not be enforceable against:
- 8.4.1 persons who purchase or take leases of Open Market Housing Units the successors in title mortgagees or chargees or receivers of such persons or
- 8.4.2 a Shared Ownership Leaseholder who has (by virtue of a DPA Waiver) staircased to or otherwise acquired 100% ownership or a tenant of an Affordable Housing Unit who exercises the right to acquire or other statutory right or in each case their successors in title
- 8.4.3 in respect of any Affordable Housing Unit, a mortgagee or chargee or receiver who has first complied with its duty pursuant to paragraph 1.2 of Part 3 Schedule 1
- 8.4.4 any statutory undertaker/utility provider which acquires any part of the Land or an interest in it for the purposes of a statutory function
- 8.5 This deed constitutes a Local Land Charge and shall be registered as such if the Permission is granted provided that following the performance and full satisfaction of all the terms of this Deed or if this Deed is determined pursuant to clause 8.2 (and subject to the payment of UDC's reasonable and proper costs and charges), UDC shall on the written request of the Owner or Developer cancel all entries made in the local land charges register in respect of this Deed.
- 8.6 No variation to this deed shall be effective unless made by deed and for the avoidance of doubt the consent, seal, signature, execution or approval of any tenant or occupier of the Development or their mortgagees shall not be required to vary any part of this deed nor shall any other party who has no liability under this deed or any interest in the Land
- 8.7 Save where it is expressly excluded, if at any time Value Added Tax ('VAT') is or becomes chargeable in respect of any supply made in accordance with the provisions of this deed then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall issue a valid and appropriate VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

9 MONITORING FEE

Prior to Implementation the Developer shall pay the ECC Monitoring Fee to ECC and the UDC Monitoring Fee to UDC

10 EXCLUSION OF THE 1999 ACT

For the purposes of the 1999 Act it is agreed that nothing in this deed shall confer on any third party any right to enforce or any benefit of any term of this deed

11 **NOTICES**

11.1 Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this deed as the address for the receiving party or such other address as shall from time to time be notified by a party to this deed as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office

11.2 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this deed to be made which are addressed to UDC shall be addressed to the Council Offices, London Road, Saffron Walden, Essex CB11 4ER marked for the attention of the Director of Planning of UDC and those which are addressed to ECC shall be addressed to the S106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH AND to development.equiry@essex.gov.uk

12 **ENTIRE DEED**

This deed the Schedules and the documents annexed hereto or otherwise referred to herein contain all the provisions between the parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the parties relating to that subject matter

13 **COSTS**

Upon the execution of this deed the Developer will pay the reasonable legal costs incurred of both UDC and ECC in connection with the negotiation preparation completion and registration of this deed

14 **DISPUTE RESOLUTION**

14.1 Without prejudice to UDC's or ECC's exercise of their statutory functions, in the event that UDC or ECC do not agree or approve any details, scheme or appraisal submitted to it by the Owners for such agreement or approval under the terms of this Deed the Owners shall use all reasonable endeavours to consult and engage with UDC and or ECC (as appropriate) and pay regard to any representations made by the UDC and or ECC (as appropriate) in an effort to reach agreement with UDC and or ECC (as appropriate) for a period of no less than 20 Working Days from receipt of the relevant UDC or ECC communication stating that consent, approval or agreement is not given.

14.2 In the event that the relevant matter is not approved or agreed within the 20 Working Days period referred to above then the Owners shall provide to UDC and or ECC (as appropriate) a suggested suitable person to act as an independent and suitable person holding appropriate professional qualifications to be appointed to determine the matter and if UDC and or ECC (as appropriate) agrees to the suggested person or does not respond within 10 Working Days the expert is to be the person suggested by the Owners and the Owners shall appoint that person to act as an expert and the Owners accept and acknowledge that the decision of such an expert shall be final and binding on the Owners in the absence of manifest error and the Owners undertake that they shall carry out the Development in accordance with the matters as determined by the expert PROVIDED THAT if UDC or ECC notifies the Owners within 5 Working Days that it does not agree to the suggested person to act as an expert, then if the Owners and UDC or ECC cannot agree the identity of the expert within a further period of 5 Working Days the Owners will refer the appointment of the expert to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert.

14.3 In the event that an expert is to be appointed by the Owners (whether it is the person it suggests or a person identified by the president of the Law Society) then the Owners shall ensure that any such expert shall be an independent and fit person of at least 10 years professional experience of the matter in issue holding appropriate professional qualifications.

14.4 The terms of reference of the expert appointed by the Owners to determine a matter shall comprise the following:

14.4.1 the expert shall call for written representations from the parties to the dispute within ten Working Days of a reference to him under this Deed and the parties may within such period also exchange such representations PROVIDED THAT nothing in this Clause shall require UDC or ECC to participate in such process but it may do so if it so wishes; and

14.4.2 the expert shall provide the Owners with a written decision (including his reasons) within twenty Working Days of the last date for receipt of counter-representations;

14.5 The provision of this Clause shall not affect the ability of UDC or ECC 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 Deed and consequential and interim orders and relief.

15 **JURISDICTION**

This deed is to be governed by and interpreted in accordance with the law of England and the courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this deed

16 **SECTION 73 VARIATION**

If UDC agrees in writing following an application under section 73 of the 1990 Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act, the covenants or provisions of this deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless UDC in determining the application for the new planning permission indicate that consequential amendments are required to this deed to reflect the impact of the section 73 application, in which case a separate deed under section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission

In witness whereof the parties hereto have executed this Unilateral Undertaking as a deed the day and year before written

Executed as a deed by)
Weston Homes Plc)
acting by a director and its)
secretary or two directors)
Director
Director/Secretary

.....
Director
.....
Director/Secretary

Executed as a Deed by)
Weston (Business Centres) Limited)
acting by a director and its)
secretary or two directors)

.....
Director
.....
Director/Secretary

EXECUTED as a DEED)
by **HSBC CORPORATE TRUSTEE**)
COMPANY (UK) LIMITED acting by)
its attorney/director)

.....

Attorney/Director

Name

Witnessed by:
.....

Witness Name:

Witness Address:
.....
.....

SCHEDULE 1

OBLIGATIONS GIVEN TO UDC

The Owners covenant with UDC as follows -

PART 1 AFFORDABLE HOUSING

1 GENERAL

- 1.1 To construct the Affordable Housing Units on the Affordable Housing Land in accordance with the approved Affordable Housing Plan and the Affordable Housing Units will be positioned on the Affordable Housing Land unless otherwise agreed with UDC.
- 1.2 The Affordable Housing Units shall comprise not less than 40% of the total of all Dwellings constructed in accordance with the Permission PROVIDED THAT any fraction of a unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%. That 5% of the Affordable Housing Units shall be Wheelchair Adaptable unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.3 Not to permit the first Occupation of more than 75% of the Open Market Housing Units until such time as all of the Affordable Housing Units have been constructed and are available for Occupation and the Affordable Rented Housing and Shared Ownership Housing has been transferred to an Approved Body (unless such a transfer is not required pursuant to the Affordable Housing Plan) or until a binding agreement for such transfer has been completed and FOR THE AVOIDANCE OF DOUBT the Owners may complete a binding agreement with an Approved Body for the completion and transfer of the Affordable Rented Housing and Shared Ownership Housing and Affordable Housing Land within the entire Development or for several Phases
- 1.4 After the substantial completion of the Affordable Housing Units no Affordable Housing Unit (save for the First Homes) shall be Occupied unless in respect of the Affordable Housing Units concerned there is compliance with the following (which for the avoidance of any doubt does not apply to First Homes):
- 1.5 Upon completion of the Affordable Housing Units and thereafter the Approved Body will allocate each Affordable Housing Unit to a Nominated Person provided by the Council in accordance with the Nominations Agreement appended at **Annex 6** (into which the Approved Body would have entered into) and the following provisions:
 - 1.5.1 Not later than twenty (20) Working Days from the date of completion of each Affordable Housing Unit or a notice from a tenant of an Affordable Rented Unit that he wishes to relinquish his tenancy or a leaseholder of a Shared Ownership Unit wishes to sell his interest of a Shared Ownership Unit the Approved Body will give notice thereof to UDC as regards the Affordable Housing Unit;
 - 1.5.2 Within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC of receiving the notice from the Approved Body under the provisions of paragraph 1.5.1 UDC will give details of the Nominated Person for each Affordable Housing Unit to the Approved Body
 - 1.5.3 Upon receiving details of the Nominated Person from the Council to procure that the Approved Body will within twenty (20) Working Days or such other time as is agreed between the Approved Body and the Council offer to grant the tenancy of the Affordable Rented Unit to the Nominated Person or the transfer and lease of any Shared Ownership Unit to the Nominated Person
- 1.6 If UDC fails to give details of a Nominated Person under the provisions of the Nominations Agreement and paragraph 1.5.2 the Approved Body shall have the right to grant an Affordable Rented Unit tenancy or a transfer and lease of a Shared Ownership Unit to any Eligible Person who is considered by the Approved Body to be in need of an Affordable Housing Unit
- 1.7 Where UDC fails to give details of a Nominated Person under the provisions of the Nominations Agreement and paragraph 1.5.2 and the Approved Body does not have notice or details of an Eligible Person who it can nominate or house pursuant to paragraph 1.6. above the Approved Body may grant a tenancy of an Affordable Rented Unit or a transfer and lease of a Shared Ownership Unit to

any person who it considers to be in need of an Affordable Housing Unit and who complies with its letting policy and/or the Allocations Policy

- 1.8 In respect of any of the Affordable Rented Units becoming vacant after the initial allocation following the completion of the Affordable Housing Units UDC shall in accordance with paragraph 1.7 above be given the sole opportunity by the Approved Body to nominate the Nominated Persons up to a maximum of 75% (seventy-five per cent) of such vacant Affordable Rented Units
- 1.9 To procure that the terms of the tenancy agreements for the Affordable Rented Units and the terms of the transfers and leases of the Shared Ownership Units shall be in accordance with the regulations and guidance of Homes England
- 1.10 The Approved Body will not:
 - 1.10.1 Subject to paragraph 1.10.2 below transfer the freehold or leasehold interest in the Land on which the Affordable Housing Units are constructed or any Affordable Housing Unit (save for a transfer of the freehold interest or long leasehold interest of an Affordable Housing Unit to an occupier of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the freehold interest or long leasehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right) to any person firm or company other than an Approved Body and the transfer to the Approved Body shall include a covenant that the Approved Body comply with the terms of this Deed;
 - 1.10.2 Sell let or dispose (except by way of legal charge) of any Affordable Housing Unit or allow or permit or suffer any Affordable Housing Unit to be sold let or disposed of other than in accordance with paragraphs 1.5 to 1.9 of this Schedule.
- 1.11 To procure that the Approved Body will give UDC one month's written notice of the intended transfer of the freehold or leasehold interest in the Affordable Housing Land or of any Affordable Housing Unit to another Approved Body. For the avoidance of doubt this does not include the transfer of the freehold or leasehold interest in an Affordable Housing Unit to an occupier of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the freehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right.
- 1.14 If the Affordable Housing Units are vested or transferred to another provider pursuant to a proposal made by the Homes England pursuant to Section 152 of the Housing and Regeneration Act 2008 then the provisions of this Deed shall continue (notwithstanding paragraph 1.11 above) in respect of such other provider
- 1.15 For the purposes of this Schedule only the expression 'transfer' or 'transferred' shall mean a transfer of the freehold or grant of a lease with a term of not less than 125 years of the Affordable Housing Units or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners (unless otherwise agreed with UDC)
- 1.16 For the purposes of this Schedule only Disposal shall not include an Exempt Disposal
- 1.17 That subject to the provisions of this Deed the Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing
- 1.18 To serve on UDC Notice not less than 15 Working Days after the first Occupation of 75% of the Open Market Housing Units
- 1.19 The transfers of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be with vacant possession
- 1.20 The transfer deeds for the transfer of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be prepared by the Owners and shall contain:
 - 1.20.1 a grant by the Owners to the Approved Body of all rights of access and passage of services and all other rights reasonably necessary for the beneficial use and enjoyment of the Units
 - 1.20.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development and the beneficial use and enjoyment of the remainder of the Land and

- 1.20.3 such other covenants as the Owners may reasonably require for the maintenance of the Development once it is completed and the preservation of the appearance thereof

PART 2 FIRST HOMES

1 FIRST HOMES

1.1 Ten (10) of the Dwellings on the Land shall be identified reserved and set aside as the First Homes Units in accordance with the Affordable Housing Plan and shall be retained as First Homes Housing in perpetuity subject to the terms of this Schedule and shall not be visually distinguishable from the Open Market Housing Units based upon their external appearance or of an inferior internal specification to the Open Market Housing Units provided that variations to the internal specifications of the First Homes shall be permitted and further provided that the requirements of this paragraph shall not apply to a First Homes owner.

1.2 All First Homes shall:

1.2.1 be constructed to the Development Standard current at the time of Implementation and

1.2.2 no less than the standard applied to the Open Market Housing Units.

1.3 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:

1.3.1 the Eligibility Criteria (National); and

1.3.2 the Eligibility Criteria (Local);

Provided that if after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) paragraph 1.3.2 shall cease to apply;

1.4 Subject to paragraphs 1.5-1.12 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a mortgagee.

1.5 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

1.5.1 UDC has been provided with evidence that:

(a) the intended purchaser meets the Eligibility Criteria (National) and meets the Eligibility Criteria (Local) (if applicable);

(b) the Dwelling is being Disposed of as a First Home at the Discount Market Price; and

(c) the transfer of the First Home includes:

(i) a definition of the "Council" which shall be 'Uttlesford District Council';

(ii) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in Schedule 1 Part 2 of the S106 Unilateral Undertaking a copy of which is attached hereto as the Annexure.

(d) a definition of "S106 Unilateral Undertaking" in the following terms:

"the unilateral undertaking made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] given by (1) Weston Homes to the Council (3) and Essex County Council (4)"

- (e) a provision that the Land is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions;
- (f) a copy of the First Homes Provisions in an Annexure.

1.6 On the first Disposal of a First Homes Unit to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Uttlesford District Council of Council Offices, London Road, Saffron Walden CB11 4ER or their conveyancer that the provisions of clause XX (the First Homes Provisions) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

1.7 The owner of a First Homes Unit (which for the purposes of this clause shall include the Developer) may apply to UDC to Dispose of it other than as First Homes Housing on the grounds that either:

1.7.1 the Dwelling has been actively marketed as First Homes Housing for three (3) months (and in the case of a first Disposal the three (3) months shall be calculated from a date no earlier than three (3) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as First Homes Housing but it has not been possible to Dispose of that Dwelling as First Homes Housing; or

1.7.2 requiring the owner of a First Homes Unit to undertake active marketing for the period specified in paragraph 1.7.1 before being able to Dispose of the Dwelling other than as First Homes Housing would be likely to cause the owner of the First Homes Unit undue hardship

1.8 Upon receipt of an application served in accordance with paragraph 1.7 UDC shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the Discount Market Price

1.9 If UDC is satisfied that either of the grounds in paragraph 1.7 above have been made out it shall confirm in writing within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.7 that the relevant Dwelling may be Disposed of:

1.9.1 to UDC at the Discount Market Price; or

1.9.2 (if UDC confirms that it does not wish to acquire the relevant Dwelling) other than as a First Homes Unit

and if the Council fails to issue such confirmation then it shall be deemed to have confirmed that the relevant Dwelling may be disposed of other than as a First Homes Unit

1.10 and on the issue of that written confirmation or deemed issue thereof the obligations in this Deed which apply to First Homes Housing shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.13 which shall cease to apply on receipt of payment by UDC where the relevant Dwelling is Disposed of other than as a First Homes Unit

1.11 If UDC does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.7 above have been made out then it shall within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.7 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of the Dwelling as a First Homes Unit and the timescale (which shall be no longer than six (6) months) and if the Council fails to serve such notice then such steps shall be deemed not to be required

1.12 If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Homes Unit he may serve notice on UDC following which UDC must within ten (10) Working Days issue

confirmation in writing that the Dwelling may be Disposed of other than as a First Homes Unit and if the Council fails to issue such confirmation then it shall be deemed to have been issued

- 1.13 Where a Dwelling is Disposed of other than as a First Homes Unit or to UDC at the Discount Market Price the owner of the First Homes Unit shall pay to UDC forthwith upon receipt of the proceeds of sale the First Homes Contribution
- 1.14 Any person who purchases a First Homes Unit free of the restrictions relating to First Homes Housing in this Deed pursuant to the provisions in paragraphs 1.6 to 1.12 shall not be liable to pay the Additional First Homes Contribution to UDC.
- 1.15 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.16-1.18 below.
- 1.16 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies UDC in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 1.17 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies UDC and UDC consents in writing to the proposed letting or sub-letting. UDC covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below
 - 1.17.1 the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment
 - 1.17.2 the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
 - 1.17.3 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
 - 1.17.4 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
 - 1.17.5 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
 - 1.17.6 the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person
- 1.18 A letting or sub-letting permitted pursuant to paragraph 1.16 or 1.17 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.19 Nothing in this Deed prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.

PART 3 MORTGAGEES AND EXCLUSIONS

1 MORTGAGEES

It is hereby agreed and declared

- 1.1 The affordable housing obligations and restrictions contained in this deed (including for the avoidance of doubt in this Part) shall not bind -
- 1.1.1 a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a 'Receiver')) of the whole or any part of the Affordable Housing Units and/or the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT such mortgagee or chargee or Receiver has first complied with the provisions of paragraph 1.2 of this Part or
- 1.1.2 a Protected Tenant or
- 1.1.3 a 100% Staircaser or
- 1.1.4 any mortgagee or chargee or receiver of a 100% Staircaser or Protected Tenant or
- 1.1.5 any mortgagee or chargee or receiver of an occupier of an Affordable Housing Unit and
- 1.1.6 any person or body deriving title through or from any of the parties mentioned in paragraphs 1.1.1-1.1.5 above
- 1.2 Any mortgagee or chargee or Receiver claiming the protection granted by paragraph 1.1.1 above must first -
- 1.2.1 give written notice to UDC of its intention to dispose of the Affordable Housing Units and/or the Affordable Housing Land specified in the notice and thereafter shall give an opportunity
- 1.2.2 to another Approved Body (the name and address of which shall be given to UDC forthwith) for a period of one (1) month from the date of the written notice to purchase the specified Affordable Housing Units and/or the Affordable Housing Land and thereafter
- 1.2.3 to UDC for a further period of two (2) months to purchase the specified Affordable Housing Units and/or the Affordable Housing Land
- in either case 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
- 1.2.4 if such disposal has not completed on the expiration of both periods referred to above (and for the avoidance of doubt totalling a three-month period from the date of the written notice), the mortgagee or chargee or Receiver shall be entitled to dispose of the specified Affordable Housing Units and/or the Affordable Housing Land free from the affordable housing provisions set out in this Part, which provisions shall determine absolutely
- 1.2.5 During the three-month period from the date of the written notice, the mortgagee or chargee or Receiver shall use reasonable endeavours to reply to enquiries raised by UDC or by an Approved Body in relation to the specified Affordable Housing Units and/or the Affordable Housing Land as expeditiously as possible so as to ensure the completion of any disposal within the said three-month period.
- 1.2.6 In respect of the First Homes Housing once notice in accordance with para 1.2.1 above has been given the mortgagee or chargee or Receiver shall be free to sell that First Home at its full Market Value Provided That it shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to UDC the First Homes Contribution and UDC shall within twenty (20) Working Days of such receipt provide a completed application to enable the removal of the restriction on title set out at paragraph 1.5 of Part 2 above

**PART 4
PUBLIC OPEN SPACE**

1 PUBLIC OPEN SPACE

Prior to first Occupation of the Development to submit the Public Open Space Delivery Plan and Public Open Space Management Scheme to UDC and not to allow or permit the first Occupation of the Development until the Public Open Space Delivery Plan and Public Open Space Management Scheme has been submitted to UDC and UDC has approved in writing the Public Open Space Delivery Plan and the Public Open Space Management Scheme.

- 1.1 To amend the Public Open Space Management Scheme only with UDC's prior written consent.
- 1.2 To provide the LAP fully constructed, completed and available for safe and immediate public use prior to first Occupation of the final Dwelling and not to allow or permit the first Occupation of the final Dwelling until the LAP has been so provided.
- 1.3 To provide the Public Open Space in accordance with the approved Public Open Space Delivery Plan and Public Open Space Management Scheme fully constructed, completed and available for safe and immediate public use prior to first Occupation of the final Dwelling and not to allow or permit the first Occupation of the final Dwelling until the Public Open Space have been so provided.
- 1.4 To keep the Public Open Space (including the LAP) open, and available for public recreational use until transfer to the Management Company or the Parish Council
- 1.5 Prior to completion of the Maintenance Period the Owners shall offer to transfer the Public Open Space (including the LAP) to the Parish Council at no cost ("the Offer") and the Parish Council shall confirm in writing whether it accepts the Offer within 40 Working Days of receipt.
- 1.6 If the Parish Council confirms in writing that it accepts the Offer within 40 Working Days of its receipt the Owners shall Transfer the Public Open Space to the Parish Council in accordance with the terms of this Deed and shall pay the Public Open Space Contribution to the Parish Council within 10 Working Days of completion of the Maintenance Period or acceptance of the Offer whichever is the later and shall pay the Public Open Space Commuted Sum.
- 1.7 If the Parish Council confirms in writing that it does not accept the Offer or fails to respond to the Offer within 40 Working Days of receipt the Owners shall transfer the Public Open Space (including the LAP) to the Management Company in accordance with the terms of this Deed.
- 1.8 Following the transfer of the Public Open Space (including the LAP) to the Management Company or the Parish Council it shall be responsible for maintaining the entire Public Open Space (including the LAP and any parts of the Public Open Space which have been retained by the Owners for access to any part of the Land) in accordance with the approved Public Open Space Management Scheme.
- 1.9 Unless transfer to the Parish Council has been agreed not to first Occupy any Open Market Housing Unit until a Management Company has been formed and the Owners have provided evidence of the formation of the Management Company to UDC (including a certified copy of the Memorandum and Articles of Association of the Management Company) which shall include the following details (where applicable):
 - 1.9.1 its corporate structure
 - 1.9.2 its registered office and correspondence address
 - 1.9.3 its directors and officers (where known)
 - 1.9.4 The means of funding the Management Company in respect of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Management Company in perpetuity including details of any service charge to be paid by residents of the Development.
 - 1.9.5 Details of insurances as shall be appropriate in respect of the use of the Public Open Space managed by the Management Company and against damage by those comprehensive risks as are reasonable to insure against.

- 1.10 Not to wind up the Management Company or substantially alter its constitution without the prior written consent of UDC
- 1.11 The Owners will procure that the owner of each Dwelling covenants substantially in the form set out below (or in such other form as agreed in advance by UDC in writing) with the Management Company and that such covenants are contained in relevant disposal documents:
- 1.11.1 to pay the estimated Estate Service Charge (or an appropriate proportion of it in respect of the payment due on the date of the completion of the disposal) to the Management Company in advance of the Estate Service Charge payment date or if later immediately on receipt of a demand for payment from the Management Company; and
- 1.11.2 immediately on receiving any further Estate Service Charge demand, to pay to the Management Company any shortfall between the estimated Estate Service Charge paid and the amount of the Estate Service Charge set out in any further demand;
- 1.11.3 not to dispose (other than by way of mortgage or assured shorthold tenancy) of the Dwelling unless the dispone enters into and delivers direct to the Management Company a direct covenant with the Management Company in the form set out at paragraph 1.12.
- 1.11.4 to procure that an application is made to the Land Registry for entry of a restriction onto the register of the title of each Dwelling comprised in the Development in standard form L in Schedule 4 of the Land Registration Rules 2003 namely "no disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before entry of this restriction is to be registered without a certificate signed by a conveyancer that the provisions of paragraph [] (the provisions referred to at paragraph [] above) of the transfer dated [] and made between [] (1) and [] (2) have been complied with or that they do not apply to the disposition]"
- 1.12 The Owners shall maintain the Public Open Space for the Maintenance Period and any transfer the Public Open Space to the Management Company or the Parish Council shall be free of incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall;
- 1.12.1 be a transfer of the entire freehold interest of the Public Open Space and LAP and the (SAVE FOR any part of the Public Open Space required by the Owners for access to any part of the Land at the Owners' absolute discretion);
- 1.12.2 be free from any pre-emption or option agreement;
- 1.12.3 be free from any mortgage, charge, lien or other such incumbrance;
- 1.12.4 include all usual and necessary rights of way with or without vehicles;
- 1.12.5 be subject to rights of access to the public in perpetuity;
- 1.12.6 reserve any usual and necessary rights to use existing services and to lay and use new roads and services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same along with rights of entry for maintenance and repair of adjoining land and premises;
- 1.12.7 not require consideration in excess of one pound (£1) for either area;
- 1.12.8 contain covenants in favour of UDC and
- 1.12.9 pursuant to Section 33 of the Local Government (Miscellaneous provisions) Act 1982 to the effect that the Management Company or Parish Council as the case may be shall maintain, repair, replace as necessary and generally manage the Public Open Space and LAP in strict accordance with the Public Open Space Management Scheme and the principles of good estate management to the intent that the Public Open Space and LAP remains fit for purpose and available for safe use by the public in perpetuity;
- 1.12.10 include provisions securing the sole use of the Public Open Space (including the LAP) for the recreational enjoyment of the public as amenity open space; and
- 1.12.11 include a declaration that no area of the Public Open Space (including the LAP) is dedicated as public highway or public footpaths other than those public footpaths already existing that are been

retained on the Land nor that any use by the public of any part of the Public Open Space (including the LAP) shall be taken in any way as an intention by the Owners to dedicate the same as highway.

**PART 5
HEALTH CARE CONTRIBUTION**

1

- 1.1 The Owners shall pay the Health Care Contribution to UDC in the following instalments:
 - 1.1.1 50% of the Health Care Contribution prior to the Occupation of 50% of the Dwellings; and
 - 1.1.2 the residual 50% of the Health Care Contribution prior to the Occupation of the final Dwelling.
- 1.2 The Owners shall not permit or allow the Occupation of more than 50% of the Dwellings until 50% of the Health Care Contribution has been paid to UDC and shall not permit or allow the Occupation of the final Dwelling until the residual 50% of the Health Care Contribution has been paid to UDC.

**PART 6
HATFIELD FOREST CONTRIBUTION**

the Owners covenant with UDC in respect of the Development to pay the Hatfield Forest Contribution to UDC on or prior to Occupation of the Development and shall permit not Occupation of the Development until the Hatfield Forest Contribution has been paid to UDC.

**PART 7
PRIOR'S WOOD**

- 1 The Owners covenant with UDC as follows -

- 1.1 The Owners hereby covenant with UDC to submit the Prior's Wood Delivery and Management Plan to UDC prior to Implementation of the Development and not to Implement the Development unless and until the Prior's Wood Delivery and Management Plan has been approved in writing by UDC
- 1.2 UDC shall use reasonable endeavours to provide approval in writing of the Prior's Wood Delivery and Management Plan within 40 Working Days its receipt and the Prior's Wood Delivery and Management Plan shall be deemed to be approved by UDC after 40 Working Days following its submission to UDC in the event that UDC does not notify the Owners with reasons prior to the expiry of such 30 Working Day period why the Prior's Wood Delivery and Management Plan is not approved
- 1.3 The Owners further covenant with UDC to provide and maintain the Prior's Wood Extension in accordance with the approved Prior's Wood Delivery and Management Plan
- 1.4 The Owners may include in each transfer or lease of a Dwelling an obligation to contribute an annual amount which together with fair contributions from other purchasers or leaseholders of the Dwellings shall be sufficient to enable the Owners to discharge their obligations under this agreement in relation to the Prior's Wood Extension

SCHEDULE 2

OBLIGATIONS GIVEN TO ECC

PART 1 EDUCATION CONTRIBUTION

1 In this part 1 of Schedule 2 unless the context requires otherwise the following words and expressions shall have the following meaning:

Completion Notice means the notice served by the Developer and or the Owner on ECC pursuant to paragraph 2.6

Early Years and Childcare Contribution means the Early Years and Childcare Pupil Product multiplied by the cost generator of nineteen thousand four hundred and twenty five pounds (£19,425)

Early Years and Childcare Product means the sum of Qualifying Flats multiplied by 0.045 plus the Qualifying Houses multiplied by 0.09;

Early Years and Childcare Purposes means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or care of children between the ages of 0 to 5 (both inclusive) including those with special educational needs [at (insert provision and description of works)] and or within a 3 mile radius of the Development and including the reimbursement of capital funding for such provision made by ECC in anticipation of the Early Years and Childcare Contribution

Education Contribution means the sum of the Early Years and Childcare Contribution and the Primary Education Contribution and the Secondary Education Contribution and the Secondary School Transport Contribution to which sums the Relevant Education Indexation shall be added

Education Index means the Department for Business Innovation and Skills Tender Price Index of Public Sector Building Non-housing (PUBSEC Index) or in the event that the PUBSEC Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC;

Education Index Point means a point on the most recently published edition of the relevant index at the time of use;

Education Purposes means the Early Years and Childcare Purposes and the Primary Education Purposes and the Secondary Education Purposes and the Secondary School Transport Purposes

Flat means a Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons;

House means a Dwelling that does not meet the definition of a Flat;

Notice of Implementation means the written notice served pursuant to paragraph 2.4

Payment Notice means a written notice advising of a proposed payment served pursuant to paragraph 2.5

Primary Education Contribution means the Primary Pupil Product multiplied by the cost generator of nineteen thousand four hundred and twenty five pounds (£19,425)

Primary Education Purposes means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or care of children between the ages of 4 to 11 (both inclusive) including those with special educational needs within 3 miles of the Development or Roseacres Primary School including any successor institution and including the reimbursement of capital funding for such provision made by ECC in anticipation of the Primary Education Contribution

Primary Pupil Product means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

Qualifying Flats means the number of Flats that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms;

Qualifying Houses means the number of Houses that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms;

Qualifying Housing Units means the Qualifying Houses and Qualifying Flats;

Relevant Education Indexation means the amounts that the Owner shall pay with and/or agree in addition to each part of the Education Contribution paid that shall in each case equal a sum calculated by taking the amount of the Education Contribution being paid and multiplying this amount by the percentage change in the Education Index between the Education Index point pertaining to June 2023 and Index point pertaining to the date payment is made to ECC;

Secondary Education Contribution means the Secondary Pupil Product multiplied by the cost generator of twenty six thousand seven hundred and seventeen pounds sterling (£26,717)

Secondary Education Purposes means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or care of children between the ages of 11 to 19 (both inclusive) including those with special educational needs at Forest Hall School or within 3 miles of the Development including any successor institution including the reimbursement of capital funding for such provision made by ECC in anticipation of the Secondary Education Contribution

Secondary Pupil Product means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2.]

Secondary School Transport Contribution means the Secondary Pupil Product multiplied by the cost generator of five pounds sterling and twenty four pence (£5.24) multiplied by one hundred and ninety (190) being the average days in an academic year multiplied by five (5) (being the number of years a pupil is in secondary school)

Secondary School Transport Purposes means the transportation of children generated by the Development to a secondary school with capacity

SONIA Rate means the Sterling Overnight Index Average an assessment of the rate of interest ECC can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors and SONIA Rate shall be construed accordingly

Triggers means when the Education Contributions are or part thereof are due to be paid to ECC

Unit Mix means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Flats or Qualifying Houses.

2 The Owners hereby covenant with ECC:

2.1 to pay twenty five percent (25%) of the Education Contribution to ECC prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until twenty five percent (25%) of the Education Contribution have been received by ECC

2.2 to pay fifty percent (50%) of the Education Contribution to ECC prior to first Occupation of twenty five percent (25%) of the Dwellings on the Development and not to cause permit or allow Occupation of more than twenty five percent (25%) of the Dwellings on the Development unless and until the further fifty percent (50%) of the Education Contribution have been received by ECC in full

2.3 to pay the remaining fifty percent (50%) of the Education Contribution to ECC prior to first Occupation of seventy five percent (75%) of they Dwellings on the Development and not to cause permit or allow first Occupation of more than seventy five (75%) of any Dwellings on the Development unless and until the remaining 50 percent (50%) of the Education Contribution have been received by ECC in full

2.4 to serve on ECC the Notice of Implementation not less than three (3) months prior to Implementation stating the expected Implementation Date an estimate of the Triggers and any further information stipulated in the Schedules to this Deed

- 2.5 to serve on ECC the Payment Notice between sixty (60) and thirty (30) Working Days prior to the date that each and any payment is due to be made to ECC under this Deed stating the date that such payment becomes due and any further information stipulated in the Schedules to this Deed
- 2.6 to serve on ECC the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Deed and for the avoidance of doubt any dispute regarding any notice to be served under this Deed may be resolved through the 2 mechanisms set out in [Clause 14] of this Deed.
- 2.7 to serve on ECC notice of Occupation of the first Dwelling within 1 (one) month thereof and on a 6 (six) monthly basis thereafter indicating the Unit Mix of Occupied Dwellings the Unit Mix of Dwellings that are completed but not Occupied the Unit Mix of Dwellings that are under construction and the Unit Mix of Dwellings where construction work has yet to start at the time the notice is served
- 3 The Notice of Implementation shall in addition to that information stipulated in paragraph 2.2 to this Deed state the Unit Mix and in the event that the Unit Mix constructed or to be constructed should at any time differ from the Unit Mix notified to ECC then the Owner/ Developer shall serve on ECC a further notice stating the revised Unit Mix within ten (10) Working Days of the revised Unit Mix being decided and in the further event that the Owner/ Developer fails to serve any notice set out in this Paragraph 3 of this Schedule ECC may estimate and determine the Unit Mix as it sees fit acting reasonably.
- 4 The Payment Notice shall state the Unit Mix on which the payment is to be based.
- 5 The Completion Notice shall state the final Unit Mix.
- 6 It is hereby agreed and declared:
- 6.1 In the event that the Education Contribution is paid later than dates set out in paragraph 2.1 then the amount of the Education Contribution or part thereof payable by the Owner/ Developer shall in addition include either an amount equal to any percentage increase in build costs shown by the Education Index between the Education Index Point prevailing at the date payment is due and the Education Index Point prevailing at the date of actual payment multiplied by the Education Contribution due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the SONIA Rate from the date payment is due until the date payment of the Education Contribution is received by ECC
- 6.2 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Education Contribution or part thereof paid was based the Owner hereby covenant to pay to ECC as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by ECC form part of the Education Contribution.
- 6.3 In the event that the Education Contribution is overpaid by the Owner [and or Developer] then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC have spent the Education Contribution or have entered into a legally binding contract or obligation to spend the Education Contribution

PART 2 EDUCATION SITE

- 1 In this part 2 of Schedule 2 the following expressions shall have the following meanings:

Collateral Warranties means if relevant any deeds of collateral warranties in a form reasonably required and provided by ECC and or the ECC's Nominee in relation to the Education Site Works from (where applicable):

- (a) the appointed design and build contractor and or the Professional Team and all sub-contractors; or
- (b) where the Developer undertakes the Education Site Works, the Developer, Professional Team and all sub-contractors

Competent Authority means any statutory undertaker or any statutory public local or other authority or regulatory body or any court of law or government department or any of them or any of their duly authorised officers;

ECC's Nominee means any person(s) company (ies) body (ies) or organisation(s) that ECC shall employ fund or work in partnership with in connection with the design construction commissioning running or maintenance of the Education Facility and for the avoidance of doubt ECC's Nominee may include any providers of free state education or childcare of any type;

Contracts means the contracts entered into by the Developer in relation to the Education Site Works including (but not limited to) sub-contracts and any appointments with the Professional Team;

ECC's Surveyor means such surveyor or other consultant appointed by ECC from time to time to monitor the Education Site Works;

Education Facility means indoor and outdoor facilities for education childcare sports and ancillary uses (paid or otherwise) commensurate to the capacity of the Education Site;

Education Site means that part of the Land comprising no less than 1 hectare of agricultural land in the proximity of Roseacres Primary School within the area outlined in blue on the Education Site Access Plan ;

Education Site Access Plan means the plan attached at **Annex 4** (or as otherwise agreed in writing by ECC and the Developer upon ECC serving the Education Site Notice on the Developer) setting out the location design and specification of routes on the Land that shall prior to the completion of the transfer of the Education Site be granted rights of access by the Developer to ECC and which shall provide the following access up to the boundary of the Education Site without ransom-strip unrestricted separate:

- (a) pedestrian and emergency vehicle access via a paved pedestrianised public area of at least one hundred (100) metres square abutting the boundary of the Education Site and
- (b) a vehicular access to the boundary of the Education Site for grounds maintenance purposes and emergency vehicles only and
- (c) a vehicular access to the boundary of the Education Site for delivery and emergency access only and
- (d) any additional access infrastructure

that ECC may reasonably require to adequately and properly serve and service the Education Site;

Education Site Notice means the notice that ECC may serve on the Developer pursuant to Paragraph 3 of this Schedule within the Education Site Option Period

Education Site Option Period means a period of time starting with the date of Implementation and ending ten (10) years after the date of Implementation;

Education Site Specification means the criteria set out in the 'Education Site Specification' appended to this Schedule at Appendix 2 with which the Education Site must comply

Education Site Transfer Terms means all terms and conditions in this Deed to be met by the Developer to facilitate the transfer of the Education Site to ECC or to ECC's Nominee which shall include the requirement to provide a cleared site broadly level with surrounding areas free from encumbrances buildings or other surface structures fenced by a (two) 2 metre high welded mesh

polyester powder coated (conforming to BS1722-16:1992) fence with vertical wire diameter of at least 5mm and horizontal wire diameter of at least 7mm conforming to BS 1722 Part 14:2001 'specification for open mesh steel panel fences Category 1 (general purpose fences up to 2.4m high)';

Education Site Works means all reasonable works required to render the Education Site congruent to the Education Site Specification and fit for an Education Facility in all respects to the satisfaction of ECC;

Law means but is not limited to any applicable Act of Parliament, statutory legislation, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978 (as amended), exercise of the Royal Prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, bylaw, regulatory policy, guidance or industry code, judgment of a relevant Court of law, or directives or requirements of any Regulatory Body of which the Provider is bound to comply and any reference to **Laws** shall be construed accordingly;

Minimum Insurance Requirements means the minimum insurance requirements set out at Appendix 1 of this Schedule 2;

Notice of Completion of Making Good means the certificate or written statement issued by the Developer or in accordance with the Building Contract certifying that any defects, shrinkages or faults appearing in the Works during the Rectification Period have been made good;

Professional Team means the architects, structural engineers, mechanical and electrical engineers and any other consultant or subcontractor with design responsibility from time to time employed by the Building Contractor or the Developer as applicable, in connection with the carrying out and completion of the Works;

Practical Completion in this Schedule means the issue of a Practical Completion Statement issued by the relevant architect, builder or contractor confirming the point at which the Education Site Works have been completed, inspected and agreed by ECC and available to be occupied for use as an Education Facility with all agreed services connected and agreed access to and from any common areas of the Development required to access the Education Site except for minor defects that can be put right without undue interference or disturbance to the occupiers of the Education Site;

Practical Completion Statement means the written statement issued in accordance with the Contracts stating that Practical Completion has occurred according to the terms of the Contracts and setting out the date on which Practical Completion occurred where the Developer has appointed a contractor to carry out the Education Site Works; or the Developer stating that Practical Completion has occurred where the Developer has carried out the Education Site Works;

Rectification Period means a period of 2 years following Practical Completion of Education Site Works;

Requisite Consents means planning permission (any conditions attached to planning permission), building regulation approvals, by-law approvals, and any other consents, licences and authorisations required from any Competent Authority for the carrying out of the Education Site Works;

Remedial Works means works required to render the Education Site congruent to the Education Site Specification and as an Education Facility; and

Utilities means gas water electricity telephone broadband foul drainage and surface water drainage (including such legal rights as ECC considers necessary for the discharge of surface water over adjoining land) and any and all other media services and or utilities as may in ECC's reasonable view be appropriate with appropriate rights to use all relevant delivery infrastructure

- 2 From the date of this Deed the Developer hereby covenants:
 - 2.1 not to use or allow or permit any works or activities to be carried out on the Education Site that may render the Education Site unsuitable for use as an Education Facility in any way or add to the cost or time taken to construct an Education Facility
 - 2.2 to share with and provide at no cost to ECC and or ECC's Nominee as appropriate any relevant data studies surveys drawings reports mapping and or other evidence held that may be of assistance in the design and or construction and or commissioning of an Education Facility on the Education Site

that shall for the avoidance of doubt include such information pertaining to topography ecology archaeology contamination arboriculture noise including depths invert levels and manhole locations

- 3 At any time during the Education Site Notice Option Period ECC may at ECC's total discretion serve the Education Site Notice on the Developer
- 4 On service of the Education Site Notice the Developer hereby covenants with immediate effect:
 - 4.1 to grant to ECC and the ECC's Nominee the right to the free and uninterrupted use passage and running of all Utilities and the like over through and along all Utilities infrastructure (permanent and or temporary) and the like which shall at the time exist or which shall within eighty (80) years of the Implementation Date exist on the Site and if required by ECC (acting reasonably) grant such legal rights as ECC considers necessary for the discharge of surface water through land adjacent to and in the vicinity of the Education Site;
 - 4.2 to grant to ECC and ECC's Nominee the free and uninterrupted rights of way with or without vehicles and for all purposes over any roads or routes (temporary or permanent) on the Site constructed or to be constructed within a period of eighty (80) years from the Implementation Date which are intended for public or construction use; and
 - 4.3 to agree the form of the Collateral Warranties with ECC prior to entering into the Contracts and provide Collateral Warranties backed by appropriate insurance in a form as agreed by ECC for the benefit of ECC and or the ECC's Nominee for a period of 12 years from Practical Completion of the Education Site Works and such Collateral Warranties to be provided prior to the earlier of Practical Completion;
- 5 The Developer hereby covenants to within six (6) months of the date on which the Education Site Notice is served:
 - 5.1 with all due diligence to complete in full the Education Site Works to ECC's satisfaction
 - 5.2 to allow and grant ECC and or ECC's Nominees free uninterrupted access to the Education Site with or without vehicles plant and machinery for the purposes of investigation or verification that the Education Site Works have been satisfactorily completed and or for the purposes of carrying out works for the laying out of playing fields or any other works which ECC may reasonably require in pursuit of the establishment of an Education Facility
 - 5.3 to agree in writing with ECC the Education Site Access Plan ensuring always that there are no ransom strips that prevent full access to the Education Site and to provide and grant to ECC and ECC's Nominee full uninterrupted access to the Education Site in accordance with the Education Site Access Plan over a temporary route and surface suitable for the free and uninterrupted passage ingress and egress of plant machinery vehicles and pedestrians over the Site from the existing maintainable highway to the boundary of Education Site such route being agreed between the Developer and ECC which shall remain in existence and be maintained at the Developer's expense until such time as a permanent maintainable highway has been provided over such route and which is open to the public to the boundary of the Education Site pursuant to Paragraph 11.1 of this Schedule
 - 5.4 to provide any relevant Collateral Warranties relating to the Education Site Works for the benefit of ECC and or the ECC's Nominee and for a period of 12 years from Practical Completion of the Education Site Works each of which:
 - (a) shall be in a form to be agreed with ECC prior to entering into the Contracts;
 - (b) are entered into as a deed;
 - (c) warrants that:
 - (i) the Building Contractor, Professional Team and any Sub Contractors have complied and will continue to comply with the Contracts; or
 - (ii) the Developer has complied and will continue to comply with its obligations set out in this Part 2 Schedule 2
 - (d) includes obligations to exercise reasonable skill and care in carrying out any design;

- (e) includes obligations to exercise reasonable skill and care not to use or specify for use any deleterious materials;
 - (f) meets the Minimum Insurance Requirements;
 - (g) grants to the beneficiary an irrevocable and royalty-free licence to use any intellectual property rights in relation to the Works vested in the Developer, Building Contractor, any Sub-contractor and the Professional Team;
 - (h) contains no exclusions that affect the liability of the Developer, Building Contractor, Sub-Contractor or Professional Team to the beneficiary;
 - (i) provides to the beneficiary the right to assign the Collateral Warranties; and
- 6 The Developer shall take any action reasonable required by ECC to enforce the Contracts and shall be responsible for all associated costs where:
- 6.1 it is not legally possible for Collateral Warranties to be obtained; and
 - 6.2 there is a genuine default or defect with the Works
- 7 The Developer shall procure that:
- 7.1 ECC is given at least 10 Working Days' notice of the intention to inspect the Education Site Works for the purpose of issuing the Practical Completion Statement and allow ECC and ECC's Surveyor to attend the inspection;
 - 7.2 a copy of the Practical Completion Statement is given to ECC as soon as practicable after its issue together with a copy of any accompanying snagging list; and
 - 7.3 The issue of the Practical Completion Statement shall be conclusive evidence binding on the parties that the Education Site Works have been completed, subject to the Developer's obligations during the Rectification Period and without prejudice to any outstanding breach by the Developer of the terms of this Deed;
- 8 During the Rectification Period:
- 8.1 The Developer shall remedy or procure the remedy of any defects, shrinkages or faults appearing in the construction of the Education Site Works during the Rectification Period including those notified by the ECC's Nominee; and
 - 8.2 The Developer shall, in a timely manner, make good any snagging issues. Snagging to be limited to standard or defective workmanship, product failure or latent defects as agreed between the Developer and ECC's approved inspector before snagging work is carried out
 - 8.3 ECC or ECC's Surveyor may make written representations to the Developer identifying defects, shrinkages or faults in the Education Site Works, and the Developer shall remedy or shall enforce the contractor's obligations under the Contracts to remedy any defects, shrinkages or faults appearing in the Education Site Works during the Rectification Period including those notified by ECC.; and
 - 8.4 In the event of dispute regarding defective works, the parties agree to follow the provisions of Clause 14 (Disputes Provisions).
- 9 The Developer shall procure that:
- 9.1 ECC is given at least 10 Working Days' notice of the intention to inspect the Education Site Works for the purpose of issuing the Notice of Completion of Making Good and that ECC and ECC's Surveyor are permitted to attend the inspection; and
 - 9.2 ECC is given a copy of the Notice of Completion of Making Good as soon as practicable after its issue.
- 10 In the event that the Education Site is found by ECC not to meet the Education Site Specification in full to allow ECC or the ECC's Nominee to:

- 10.1 access the Education Site and carry out Remedial Works; and
- 10.2 recover all costs reasonably incurred by ECC or the ECC's Nominee and any incidental expenses in connection with the Remedial Works from the Developer and or the Developer's Guarantor within twenty eight (28) days of completion of the Remedial Works
- 10.3 to complete the transfer free of all encumbrances and restrictions of the Education Site to ECC or if so directed by ECC to the ECC's Nominee on the Education Site Transfer Terms in exchange for consideration not exceeding in total the sum of one pound sterling (£1)
- 10.4 They shall pay the legal costs incurred by ECC for all aspects of the legal process to include but not limited to legal costs in connection with the preparation, negotiation and completion of the Collateral Warranties and ECC's reasonable legal costs and disbursements in relation to the preparation and completion of the transfer document.
- 10.5 They shall pay the costs of ECC's Surveyor including but not limited to all inspection fees
- 11 The Developer hereby covenant to within eighteen (18) months of the date on which the Education Site Notice is served
 - 11.1 provide the access as set out and agreed by ECC in the Education Site Access Plan
 - 11.2 agree with ECC and then provide and install including any necessary traffic regulation orders appropriate road signage pertaining to the Education Facility all at the Developer's expense
 - 11.3 provide footways three (3) metres in width to all highways (excluding non-thru-routes) as necessary within the immediate vicinity of the Education Site

PART 3

LIBRARY CONTRIBUTION

- 1.1 **In this part 3 of Schedule 2 the following words and expressions shall have the following meaning:**

Library Contribution means the sum of seventy-seven pounds and eighty pence (£77.80) per Dwelling to which sum the Relevant Library Indexation shall be added

Library Contribution Purposes means the use of the Library Contribution towards the upgrading of existing facilities at Stansted Mountfitchet Library to include, but not limited to, additional furniture, technology and stock

Library Index means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

Library Index Point means a point on the most recently published edition of the Library Index at the time of use

Relevant Library Indexation means the amount that the Owner shall pay with and in addition to the Library Contribution paid that shall in each case equal a sum calculated by taking the amount of the Library Contribution being paid and multiplying this amount by the percentage change shown in the Library Index between the Library Index Point pertaining to April 2020 and the date of the most recent index point published in relation to the date the payment made to ECC

2. The Owners hereby covenant with ECC:

2.1 To pay the Library Contribution to ECC prior to Implementation of the Development and not Implement the Development (or allow, cause or permit the Implementation of the Development) unless and until the Library Contribution has been paid to ECC in full;

2.2 In the event that the Library Contribution is paid later than dates set out in paragraph 2.1 of this Schedule then the amount of the Library Contribution or part thereof payable by the Owner shall in addition include either an amount equal to any percentage increase in build costs shown by the Library Index between the Library Index Point prevailing at the date the payment is due and the Library Index Point prevailing at the date of actual payment to ECC multiplied by the Library Contribution due or if greater an amount pertaining to interest on the Library Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Library Contribution is received by ECC;

- 3 In the event that the Library Contribution is overpaid by the Owners then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC have spent the Library Contribution or have entered into a legally binding contract or obligation to spend the Library Contribution.

4. It is hereby agreed and declared:

4.1 In the event that the Dwellings to be constructed on the Development does not match the Dwellings on which the Library Contribution or part thereof paid was based the Owner hereby covenant to pay to ECC as soon as the revised Dwellings becomes apparent any additional amount pertaining to the difference between the amount of the Library Contribution paid and the amount of the Library Contribution that would have been payable using the revised Dwellings and any such additional amount shall from the date payment is received by ECC form part of the Library Contribution.

PART 4

SUSTAINABLE TRANSPORT CONTRIBUTION

1 In this part 4 of Schedule 2 unless the context requires otherwise the following words, expressions and terms shall have the following meanings:

Sustainable Transport Index means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

Sustainable Transport Index Point means a point on the most recently published edition of the Sustainable Transport Index at the time of use

Sustainable Transport Contribution means the sum of £326,400 (three hundred and twenty six thousand four hundred pounds) payable to ECC to which sum the Relevant Sustainable Transport Indexation shall be added;

Sustainable Transport Contribution Purposes means the use of the Sustainable Transport Contribution to fund improvements to enhance bus services between the development, Bishops Stortford, local amenities and/or Stansted Airport improving the frequency, quality and/or geographical cover of bus routes that serve the Site. In addition, funding may contribute to the design and implementation of a cycle route between Takeley and Stansted Airport and Takeley and shall include the reimbursement of capital funding for such provision made by ECC in anticipation of the receipt of the Sustainable Transport Contribution

Relevant Sustainable Transport Indexation means the amount that the Owner shall pay with and in addition to the Sustainable Transport Contribution paid that shall equal a sum calculated by taking the amount of the Sustainable Transport Contribution being paid and multiplying this amount by the percentage change shown in the Sustainable Transport Index between the Sustainable Transport Index Point pertaining to October 2023 and the Sustainable Transport Index Point pertaining to the date the payment is made to ECC

2 The Owner hereby covenants with ECC:

2.1 to pay (fifty) 50% of the Sustainable Transport Contribution to ECC prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until (fifty) 50% the Sustainable Transport Contribution has been received by ECC

2.2 to pay the remaining (fifty) 50% of the Sustainable Transport Contribution to ECC on the second anniversary of the initial payment of the Sustainable Transport Contribution under 2.1 above

2.3 In the event that the Sustainable Transport Contribution is paid later than dates set out in paragraph 2.1 and 2.2 above of this Schedule then the amount of the Sustainable Transport Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the General Index between the Index Point prevailing at the date the payment is due and the Index Point prevailing at the date of actual payment to ECC multiplied by the Sustainable Transport Contribution due or if greater an amount pertaining to interest on the Sustainable Transport Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Sustainable Transport Contribution is received by ECC;

3 In the event that the Sustainable Transport Contribution is overpaid by the Owner then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC have spent the Sustainable Transport Contribution or have entered into a legally binding contract or obligation to spend the Sustainable Transport Contribution

4 It is hereby agreed that:

- 4.1 ECC may utilise up to two percent (2%) of the total amount of the Sustainable Transport Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty-Five Pounds (£2,645) plus the Relevant Sustainable Transport Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owner to form part of the definition of use of the Sustainable Transport Contribution Purposes.
- 4.2 In the event the Sustainable Transport Contribution that is overpaid by the Owner then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC have spent the Sustainable Transport Contribution or have entered into a legally binding contract or obligation to spend the Sustainable Transport Contribution

PART 5 HIGHWAY CONTRIBUTION

1. In this Schedule unless the context requires otherwise the following words, expressions and terms shall have the following meanings:

Highway Index mean the Department for Business Innovation and Skills Price Adjustment Formulae Indices (Civil Engineering) Series 2 (BIS) or in the event that the BIS is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

Highway Index Point means a point on the most recently published edition of the Highway Index at the time of use

Highway Contribution means the sum of £86,258.71 (eighty six thousand two hundred and fifty eight pounds seventy one pence) payable to ECC to which sum the Relevant Highway Indexation shall be added;

Highway Contribution Purposes means the use of the Highway Contribution to carry out upgrade works for the provision of real time passenger information displays at the following bus stops: Chestnut Way (adj), Chestnut Way (opp), The Four Ashes (adj), The Four Ashes (near) to include installation, and a commuted sum towards the cost of energy and maintenance for a 15 year period and part replacement costs.

Relevant Highway Indexation means the amount that the Owner shall pay with and in addition to the Highway Contribution paid that shall equal a sum calculated by taking the amount of the Highway Contribution being paid and multiplying this amount by the percentage change shown in the Highway Index between the Highway Index Point pertaining to October 2023 and the Highway Index Point pertaining to the date the payment is made to ECC

2. The Owner hereby covenants with ECC:

2.1 to pay the Highway Contribution to ECC prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until the Highway Contribution has been paid to ECC in full (100%)

2.2 In the event that the Highway Contribution is paid later than dates set out in paragraph 2.1 above of this Schedule then the amount of the Highway Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the General Index between the Index Point prevailing at the date the payment is due and the Index Point prevailing at the date of actual payment to ECC multiplied by the Highway Contribution due or if greater an amount pertaining to interest on the Highway Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Highway Contribution is received by ECC;

2.3 In the event that the Highway Contribution is overpaid by the Owner then ECC shall be under no obligation to return any such overpaid sum in whole or in part if in good faith ECC have spent the Highway Contribution or have entered into a legally binding contract or obligation to spend the Highway Contribution

3. It is hereby agreed that:

3.1 ECC may utilise up to two percent (2%) of the total amount of the Highway Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty-Five Pounds (£2,645) plus the Relevant Highway

Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owner to form part of the definition of use of the Highway Contribution Purposes.

PART 6

RESIDENTS TRAVEL PLAN MONITORING FEE AND TRAVEL PACK

1. In this Schedule unless the context requires otherwise the following words, expressions and terms shall have the following meanings:

Relevant Sustainable Travel Indexation means the amount that the Owner shall pay with and in addition to each part of the Residential Travel Plan Monitoring Fee paid that shall in each case equal a sum calculated by taking the amount of the Residential Travel Plan Monitoring Fee being paid and multiplying this amount by the percentage change shown in the Sustainable Travel Index between the Index Point pertaining to April 2021 and the date payment is made to ECC

Residential Travel Information Pack means a specific district or borough tailor-made booklet aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel and shall contain the following:

- (a) guidance and promotional material on the use of sustainable modes of travel;
- (b) details on walking, cycling, trains, buses, park & ride, taxis, car sharing, car clubs, electric vehicles, school transport and personalised journey planning services;
- (c) reference to travel websites, resources and support services for each mode of travel, information provided by Essex County Council and Uttlesford District Council
- (d) details of local travel campaigns and networking/support groups; and
- (e) to include one weekly travel vouchers for use with the relevant local public transport operator;

Residential Travel Plan means the Travel Plan imposed by condition on the Permission

Residential Travel Plan Monitoring Fee means a non-refundable annual payment of one thousand six hundred and ninety pounds (£1,690) plus Relevant Sustainable Travel Indexation payable towards the monitoring by ECC of the implementation of the Residential Travel Plan to ensure that (a) monitoring is conducted in line with Residential Travel Plan monitoring protocols and (b) the Residential Travel Plan remains an "active" document with the overarching aim to secure a modal shift from the private car and increase the number of people using sustainable modes of travel

Sustainable Travel Index means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

Travel Vouchers shall mean tickets/passes/ vouchers or other means of accessing transport or journey planning information as agreed with the County including the following as a minimum (one weekly pas per household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) for each eligible member of the household AND access to an online tool to generate personalised travel plans using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information).

2. The Owner hereby covenants with ECC

2.1 To pay the first annual payment of the Residential Travel Plan Monitoring Fee to ECC prior to first Occupation of any Dwellings on the Development and not to Occupy allow cause or permit to be Occupied any Dwellings on the Development unless and until the first annual payment of the Residential Travel Plan Monitoring Fee has been paid to ECC

2.2 To pay the Residential Travel Plan Monitoring Fee to ECC on each subsequent anniversary following the first annual payment of the Residential Travel Plan Monitoring Fee until the anniversary

immediately following the first Occupation of the final Dwelling on the Development but in any event for no more than 10 payments in total of the Residential Travel Plan Monitoring Fee and in the case of late payments of the Residential Travel Plan Monitoring Fee interest shall be payable by the Owner from the date payment is due to the date payment is made on which late sums interest shall accrue under the SONIA Rate

2.3 To submit a draft Residential Travel Information Pack (including Travel Vouchers) to ECC for written approval prior to first Occupation of a Dwelling on the Development and not to Occupy allow cause or permit to be Occupied any Dwellings on the Development prior to the Residential Travel Information Pack (including Travel Vouchers) being submitted to and approved in writing by ECC

2.4 to provide the first occupier of each Dwelling with an approved Residential Travel Information Pack and Travel Vouchers prior to Occupation of any Dwelling on the Development and not to Occupy allow cause or permit to be Occupied any Dwellings on the Development unless and until the Owners have provided the first occupiers with an approved Residential Travel Information Pack and Travel Voucher at the expense of the Owner

APPENDIX 1: MINIMUM INSURANCE REQUIREMENTS

- 1 The Collateral Warranties shall meet the following minimum insurance requirements:
 - 1.1 Collateral Warranties from the Developer or Building Contractor - professional indemnity insurance of £10,000,000 (ten million pounds) on an each and every claim basis for a period of not less than twelve (12) years from the date of Practical Completion.
 - 1.2 Collateral Warranties from Sub Contractors - professional indemnity insurance of £1,000,000(one million pounds) on an each and every claim basis for a period of not less than twelve (12) years from the date of Practical Completion; and
 - 1.3 Collateral Warranties from the Professional Team - professional indemnity insurance of £1,000,000(one million pounds) on an each and every claim basis for a period of not less than twelve (12) years from the date of Practical Completion.

APPENDIX 2: EDUCATION SITE SPECIFICATION

- 1 Subject to the express written agreement of ECC:
 - 1.1 Education Site Specification Checklist
 - 1.2 The Education Site shall be or have:-
 - (a) Land suitable in size for the construction of high quality education buildings and outside spaces
 - (b) Flat ground
 - (c) Broadly level (a gradient of 1 in 70, across the width, is ideal to assist water run-off from most pitches)
 - (d) Level with surrounding areas
 - (e) Suitable points of vehicular access for construction purposes
 - (f) Suitable points of vehicular access to the playing fields
 - (g) Suitable points of vehicular access for emergency purposes
 - (h) Adjacent to suitable areas of public realm for congregation at ingress and egress
 - (i) Roughly rectangular in shape
 - (j) Sufficient width and length for size of an education facility
 - (k) At least 30cm of clean free draining stone free topsoil (see note 1 below)
 - (l) Free draining
 - (m) Capable of accommodating standard trench fill / strip foundations
 - (n) Suitably fenced including gates at all proposed access points (see note 2 below)
 - (o) Accessible from suitable public and/or private highways and safe direct walking & cycling routes
 - (p) Centrally located to the overall development or area the school will serve
 - (q) Well located in relation to other neighbourhood facilities and public realm
 - (r) Well located in relation to the public transport network
 - (s) Not crossed by any public rights of way or access wayleaves
 - (t) Not liable to flooding
 - (u) Not crossed by or bounded by any power-lines including underground power lines (other than those serving the Education Site)
 - (v) Not crossed by and sufficiently distant from any gas mains (other than those serving the Education Site)
 - (w) Outside the cordon sanitaire of any sewage plant
 - (x) Free of items or structures of archaeological interest
 - (y) Free from protected species or habitats of special interest
 - (z) Not part of a conservation area or subject to any special planning authority restrictions

- (aa) Free of pollution, contamination and other risk factors
- (bb) Free of soil and water table contamination
- (cc) Outside any current or proposed 55db LAeq (30min) noise source or contour
- (dd) Free from radiation or potential sources thereof
- (ee) Compliant with air quality standards
- (ff) Free from invasive plants such as Japanese Knotweed
- (gg) Not affected by ground gasses and vapours
- (hh) Not affected by potential sources of light pollution e.g. major roads, car parks or industry
- (ii) Sufficiently distant from any land use that could cause public anxiety such as:-
 - (i) Chemical or petro-chemical production or storage
 - (ii) Establishments storing or handling live viruses
 - (iii) Facilities housing or treating people with a history of violence or a threat to children
 - (iv) Incinerators
 - (v) Sites currently or previously used for land fill or rubbish disposal
 - (vi) Aviation or high speed transportation e.g. train lines or helipads
 - (vii) Major roads or traffic honeypots e.g. large retail outlets
 - (viii) Prisons or facilities for persons with a history of offending
 - (ix) Phone or radio masts and transmitters
 - (x) High voltage power lines
 - (xi) Firing ranges, premises storing live ordnance / ammunition or UXB sites
 - (xii) Land or buildings with a use emitting a strong odour
 - (xiii) Quarries or other major sources of dust
 - (xiv) Premises housing dangerous animals, birds, reptiles or insects
- (jj) Free from encumbrances that may need to be removed
- (kk) Free of buildings and other surface structures
- (ll) Free from trees on the site
- (mm) Free of pipes, conduit chambers, cables and the like and within 10 metres of the site (other than those serving the Education Site)
- (nn) Free of ponds, ditches or water courses
- (oo) Free from foundations, fuel tanks and other buried structures
- (pp) Free from spoil and fly tipping
- (qq) Free from filled spaces including mineral workings and land fill
- (rr) Free of void spaces including wells, sumps and pits
- (ss) Compliant with the HSE PADHI assessment

Note 1 Soil Quality Requirement

The levels of any compound in the soil, to a depth of at least three metres below the final soil level, shall not exceed figures set for residential end use as defined by the Soil Guideline Values (SGV) derived using the Contaminated Land Exposure Assessment (CLEA) model and published by the Environment Agency and also the Generic Assessment Criteria values published by Land Quality Management and the Chartered Institute of Environmental Health at the time of the assessment. Any contaminants leaching from the site must not exceed the levels published in the United Kingdom Environmental Quality Standards (statutory and proposed).

Note 2 Fence Requirements

Prior to transfer to ECC the Education Site must be fenced by a (two) 2 metre high welded mesh polyester powder coated (conforming to BS1722-16:1992) fence with vertical wire diameter of at least 5mm and horizontal wire diameter of at least 7mm conforming to BS 1722 Part 14:2001 'specification for open mesh steel panel fences Category 1 (general purpose fences up to 2.4m high)' and gated at all highway access points.

Where congruent to vegetation or soft landscaping the fence must be supplemented by rabbit-proof fencing that shall be a minimum of 0.9m in height. The rabbit-proof fencing must be constructed with wire netting, to be 18-gauge (1.2mm diameter) with 31mm hexagonal mesh conforming to the appropriate British Standard and European DIN Standard. The base of the fence must be turned outwards from the school site by a minimum of 150mm and buried with clean topsoil. The specification for the rabbit fencing, including all posts, struts and stakes must also be in accordance with CIRIA report C645 'A Guide to Rabbit Management'.

Where appropriate, fencing should be supplemented by landscaping. New tree and shrub planting should also be protected with individual rabbit guards. Species should be considered carefully to ensure that plants will not prove a burden to the school either in terms of maintenance, safety and or security.

ANNEX 1

PLAN

ANNEX 2
AFFORDABLE HOUSING PLAN

ANNEX 3

UDC ALLOCATIONS POLICY

ANNEX 4
EDUCATION SITE ACCESS PLAN

ANNEX 5

PRIOR'S WOOD EXTENSION PLAN

ANNEX 6
NOMINATIONS AGREEMENT