

Hertfordshire County Council

Guide to Developer Infrastructure Contributions

Appendix 2 - The Legal Pack



2025 Update



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1.0 Introduction

An overview

- 1.1 This Legal Pack is an accompanying appendix of the Hertfordshire County Council Guide to Developer Infrastructure Contributions. This document sets out practical information to facilitate a streamlined legal process. It may be updated from time to time in accordance with current strategies within the Guide to Developer Contributions and updated approaches to wording legal agreements.
- 1.2 Upon agreement of terms with the relevant teams at the county council, three key teams are responsible for instructing the county council's Legal Services ("Legal Services"), namely:
 1. The Growth and Infrastructure Unit (non-transport);
 2. The Highways Planning Team (transport);
 3. The Estates Team (when the transfer of land is a requirement of the Section 106 agreement).

Other teams may also form part of this process where non-service-related teams are involved in the development process. This is less commonplace, but might include the local lead flood authority (LLFA), for example.

- 1.3 Upon agreement of heads of terms, Legal Services require a solicitor's undertaking for costs associated with the preparation of the Section 106 Agreement. A legal officer will then be assigned the case and work will commence on drafting. This can be a complex process and may require the exchange of draft versions of the deed between respective legal teams prior to agreement of a final version.
- 1.4 To support a streamlined process, the county council provides a template agreement in Chapter 2 and outlines details on those matters which usually attract debate in the following section. Applicants and their teams are advised to read this document in full and raise concerns as early as possible to avoid delays to the process.
- 1.5 The Environment Law Team is responsible for legal work on planning obligations within Legal Services and is contactable via the following email address: environmentlaw@hertfordshire.gov.uk.

Legal costs

- 1.6 As set out at paragraph 1.3 above, a solicitor's costs undertaking, or payment of money on account, for the county council's costs in the preparation and completion of the S106 deed, whether or not the matter proceeds to completion, is required before a legal officer commences any work on a S106 deed.
- 1.7 The Deed will also include a clause to provide for the payment of the county council's costs in its preparation. In all cases, an estimate of the likely costs and disbursements will be provided.

- 1.8 Please contact the email address provided at paragraph 1.5 for up to date details regarding the Environmental Law Team's hourly rates.

Proof of ownership of the development site

- 1.9 From the outset of any discussions regarding a proposed agreement or undertaking the planning applicant (or his/her solicitor) will need to provide the county council's legal officer with up to date copies of the registered title or a full epitome of title, where the land is unregistered, for the whole of the development site. This is because planning obligations bind the land and the law requires all persons with interests in the land to be party to the agreement/undertaking.
- 1.10 In addition, prior to completion of an agreement/undertaking, the County Council's legal officer will carry out a pre-completion search with H.M. Land Registry to ensure that there have been no changes to the interests in the development site during the course of any negotiations. It is advisable for owners' or developers' solicitors to regularly update the title position during negotiation of deeds to avoid last minute delays.

Timing for completion of S106 Agreements

- 1.11 It is accepted that due to the complexities often involved, it can take significant time to draft and finalise individual S106 agreements. The time taken will vary depending on the length and content of the agreement, and the consistency of definitions and approaches being proposed with definitions and approaches that the county council has previously been content to agree to. The more variations from previously agreed positions by the county council, the more complex the S106 drafting process will be and the longer it will take for the county council to review and accept.
- 1.12 Should the template agreement in Chapter 2 be used, or substantively used, then the county council would expect the timeframes for completion of a S106 relatively brief.
- 1.13 Where the template is not used and owners look to include definitions and approaches not used as standard by the county council, sufficient consideration of proposed wording will be required. This will add to the time spent drafting an individual S106 Agreement. In some instances, county council Legal Services will request justification or drafting from Owner legal teams and the speed of responses will have an impact on the total time to finalise an agreement.
- 1.14 The Legal Pack and draft template have been prepared to enable S106 agreements to be drafted and finalised with as little delay as possible if their contents are used.

"Walk away" provisions

- 1.15 In certain circumstances, the owner entering into a S106 agreement/ undertaking will want to include a clause within the agreement/ undertaking which allows the person with the burden of the obligation to "walk away" at a point in the future when

they dispose of (i.e. sell on or transfer) their interest in the site. Owners may seek to exclude and limit the liability of individual purchasers against whom the county council could enforce any breach, and in some cases, exclude any person/s from enforcement action.

- 1.16 In the majority of cases, this is resolved by the requirement to pay/comply with obligations prior to commencement. In those circumstances, walkaway provisions may operate where obligations are in fact paid/complied with prior to commencement. Applications will be considered on a case by case basis.
- 1.17 On larger sites, with phasing, "walk away" provisions are particularly problematic for the county council. This places risks on the county council and we would seek to limit these circumstances.
- 1.18 Where the payment of contributions is being offered on a phased basis, particularly where there might be occupations prior to the county council receiving those contributions, it would not be acceptable to the County Council to allow individual owner occupiers to 'walk away' from the obligation to pay the contributions, as it would leave the county council with neither payment nor anyone against whom to enforce.
- 1.19 The county council will not accept these types of clauses in respect of any disposal "in part" for example where a development site is sold/transferred in specific pieces.
- 1.20 The county council would expect the applicant to, for example, insert an indemnity into its sales packs for plot purchasers, to provide comfort to individual purchasers, whereby the purchaser is protected from the possibility of the county council enforcing on unsatisfied or outstanding obligations where a trigger has been breached.
- 1.21 Under certain conditions the county council may accept a bond that secures obligations and which may enable release of liability for individual owner occupiers. This will be considered on a case by case basis and in accordance with the provisions in paragraph 1.24 below.

Mediation/Arbitration Clauses

- 1.22 Generally, such provisions will only be necessary where there is a S106 obligation which requires further agreement at a later date. In such circumstances, it may be appropriate to include a mediation clause such as: -

"The parties to this Deed and their successors in title will attempt in good faith to negotiate a settlement to any claim or dispute between them arising out of or in connection with this Deed and if the matter is not resolved by negotiation the parties shall refer the dispute to mediation in accordance with the Centre for Dispute Resolution procedures

Notwithstanding the provisions of clause [xx] above the parties to this Deed and their successors in title shall reserve all their respective rights in the event that no agreed resolution shall be reached in the mediation referred to in clause [xx] above

and no party shall be deemed to be precluded from taking such interim formal steps as may be considered necessary to protect such party's position while the mediation or other procedure is pending or continuing."

- 1.23 As the county council has certain statutory functions to fulfil there may be a risk if, in the unlikely event, it was bound by an arbitration clause and subsequent arbitrator's decision, there is a risk of potential conflict between such a decision and its statutory duties. Therefore, in all cases where such provisions are necessary, the county council will take the approach that a mediation clause is acceptable but an arbitration clause is not. Such considerations are unlikely to be relevant where an agreement/ undertaking only requires payments of financial contributions as the sums and terms for payment and expenditure will have been agreed in advance of the legal agreement being completed, therefore, no further agreement will be necessary at a later date.

Bonds & Guarantors

- 1.24 A Bond may sometimes be required. The form and size of the bond will be dependent on the contribution/s required for the development. The bond should be an on-demand bond, in a form acceptable to the county council, and provided by a surety that is approved by the county council. Parent company guarantees will not be accepted in lieu of a Bond in any circumstance because in the event of a breach, the county council must be sure that any financial contributions and other obligations are capable of being complied with.

Triggers for payments

- 1.25 Wherever possible, the county council will seek the payment on any S106 contributions at the earliest possible trigger date i.e. prior to commencement of any development. Trigger dates later than commencement of any development carry additional risks for the county council and these will be assessed and addressed by appropriate means in the legal agreement and on a case by case basis. Later trigger dates will be considered on a case by case basis or in special circumstances and will tend to be more appropriate to strategic developments. However, it must be acknowledged that later trigger points increase the risk to the county council of not receiving funds and not being able to fully fund required infrastructure.

Phased developments and contributions

- 1.26 For outline applications, exact developer contribution requirements will not be known at the point of drafting a S106 agreement because the exact housing mix will not be known. A table with per unit costs will be agreed and included in the S106 agreement which will contain costs for individual units of different sizes, types and tenures to enable contributions to be calculated once a proposed housing mix is confirmed via the submission of a County Reserved Matters Mix Notice. Agreements should require developers to notify the county council of known housing mixes, at which point the county council will be able to notify the developer of the known contributions for the development or a particular phase of the development.

Owner requests

- 1.27 Owners will be able to submit a request to the county council to receive information related to the allocation and expenditure of its relevant contributions. This shall be limited to three written requests per year to avoid placing an unnecessary burden on the county council to provide such information for minimal public benefit.

Repayments of financial contributions

- 1.28 The inclusion of a repayment provision for any S106 contributions paid to the county council will be limited to S106 agreements. A unilateral undertaking is a unilateral promise on the part of one party in favour of another, therefore, by its nature it cannot require reciprocal acts by a third party. The county council will generally require a repayment period of ten years from the date of notification of completion of the Development and only sums that have not been expended will be refunded. This period will only be reduced in exceptional circumstances.
- 1.29 To prevent uncertainty following the expiry of a refund period, the county council will allow owners one year to seek the appropriate refund, after which, if a refund has not been requested, the county council will be able to use the contribution towards service improvements. If this period is not included in a S106 agreement, the county council is left without knowing whether refunds will ever be requested for expired and unspent contributions, and would have to hold the contribution for an infinite period due to the risk of potentially being asked to refund a contribution years after it might have spent it. Holding unspent contributions ad infinitum is not in the public interest and it is considered reasonable to permit developers a year to request refunds prior to the county council being able to use the funds more broadly towards service infrastructure.

Indexation

- 1.30 Further to the information provided earlier on in this document, the following aims to assist in understanding the concept of indexation and how it is used by the county council.
- 1.31 Indexation is a method of ensuring that monies negotiated maintain a real value from the date of calculation to the time when they are paid, by being protected against cost inflation. It is also a method used to measure changes of construction costs and prices. Currently, financial contributions are based upon either a base date or figure (a figure is used if the index is prone to fluctuation as this gives certainty to all involved), which is reviewed from time to time. The base date/figure will be subject to indexation.
- 1.32 Some sums will be required to be index linked by reference to a regional factor to reflect the impact of geographical cost variation in addition to temporal variations, In these instances, the BCIS Regional Factor will be used and indexation will be applied at the point of payment of any particular payment, so might affect individual phased payments differently.

Indexation calculations are worked out in the following manner: with the italicised text relating to the indexation that contains a regional factor -

$A = B \times C/D \times E/100$ where

A is the total amount to be paid

B is the principal sum stated in the deed

C is the forecasted Index figure for the date upon which the interim payment is to be made *. (See note below regarding interim payment)

D is the base Index figure (or date) stated in the deed

E is the BCIS Tender Price Index by Location (Using 2000 boundaries data) for East of England

C/D = is equal or greater than 1, and

E/100 = is equal or greater than 1.

- 1.33 Indices provide information on actual and forecasted figures. The forecasted figures are not finalised for approximately one year after publication, so the most recent actual figures are only available for the previous year. In view of the above, the county council prefer to calculate an interim sum at the time of payment of the principal figure, followed by a final payment, one year later. This ensures that the Owner does not overpay (i.e. if the index drops), which would require the county council to make payment back to the owner or paying party. Officers will assist in the calculation of the indexation payments on request.

- 1.34 Please refer to the Guide to Developer Infrastructure Contributions for further information on indexation and the indices used by the county council.

Expenditure in advance of payments

- 1.35 The county council will require that any expenditure for such matters arising from or in anticipation of the proposed development incurred before the relevant S106 Contribution has been paid, are deducted from such contributions when they are finally received.

Land Transfers

- 1.36 In instances where a transfer of land to the county council is provided for within an agreement for the subsequent delivery of county council services, for example a new school, appropriate transfer details will also need to be secured. Flexibility is crucial to the county council to enable it to undertake its statutory responsibilities by delivering services when they are required. Decisions will be made on a case by case basis for when land should be transferred, and the county council will not agree to timescales or procedures which overly limit when land will be transferred.

- 1.37 The county council will normally agree not to take land in the first year post-commencement of a housing development that contains land for a county council facility as it accepts that developers would require a reasonable amount of time to service a parcel of land for the intended use of the land. However, seeing as service need, for example pupil yields, can build at different rates dependent on build-out rates and other factors, the county council will require extended periods to be able to call on land. The council will not seek to deliver service facilities before there is sufficient need for them, so will not agree to short call-on periods within an agreement.

Developer Built Schools

- 1.38 Where a Section 106 agreement secures the land and funding for a new school, the county council will usually procure the school building and arrange any necessary leasehold transfer to the provider. The county council would only support developer delivered education infrastructure, in lieu of contributions, by exception and in very limited circumstances; further information and the county council's 'Developer Built School Assessment and Delivery Framework' (the Framework) can be provided on request and developers are encouraged to engage with the county council as early as possible if they wish to discuss this option.

Securing delivery of non-council facilities

- 1.39 The county council will on occasion look to secure land or facilities via a legal agreement that it may not take ownership of once built. Examples could include childcare settings, children's homes and extra-care housing. The county council would have a statutory duty to ensure their delivery or to shape the market for such facilities in line with council policy and strategies, but it is possible that ownership and/or operation of such a facility becomes the responsibility of market providers. Throughout the planning application stage, prior to engagement of individual market operators, the council will be acting as an advocate for the future facility/owner and will look to ensure that appropriately sized and located facilities, with appropriate specifications and services are secured to enable a facility to operate successfully whether by the council or not.
- 1.40 In these circumstances, legal agreements should contain sufficient flexibility for transfer to council or other ownership and, in either case, should set out appropriate mechanisms and triggers for the council to approve the location, size, specification, transfer and occupation/operation of such facilities. This could involve facility-specific requirements such as marketing requirements to attract childcare providers as part of the approval process for new childcare settings or a requirement for a Care Quality Commission (CQC)-registered provider to be appointed to provide appropriate care services for older persons housing residents.

2.0 Template S106

HERTFORDSHIRE COUNTY COUNCIL

DRAFT SECTION 106 DEED OF AGREEMENT

Date: DAY/MONTH/YEAR

PARTIES:

1. HERTFORDSHIRE COUNTY COUNCIL of County Hall Hertford Hertfordshire SG13 8DE ("the County Council")
2.BOROUGH/DISTRICT COUNCIL ofHertfordshire ("the Council")
3.a company incorporated in England and Wales (Co. Regn. No.....) whose registered office is situate at.....("the Owner")
4. a company incorporated in England and Wales (Co. Regn. No) whose registered office is situate at("the Mortgagee")
5.a company incorporated in England and Wales (Co. Regn. No) whose registered office is situate at ("the Developer")

and the County Council and the Council [and] the Owner [the Developer and the Mortgagee] shall be known together as the Parties and the term Party shall be construed accordingly.

WHEREAS

- A. The County Council and the Council are local planning authorities for the purposes of the 1990 Act for the area in which the Site is situate and as such are the local planning authorities entitled to enforce the planning obligations hereinafter recited
- B. The County Council is [the Highway Authority the Education Authority the Libraries Authority the Social Services Authority the Waste Disposal Authority and the Fire and Rescue Authority] for Hertfordshire
- C. The Owner is the registered proprietor of the freehold of the whole of the Site with title [absolute] under title number [].
- D. The Mortgagee has the benefit of the charge over the Site dated [] between the Mortgagee and the [Owner]..
- E. [The Developer has [a conditional contract / an option dated []] to acquire the Site.]
- F. The [Owner/Developer] has submitted the Planning Application to the Council

- G. On [DATE] the Council resolved to grant the Planning Permission subject, among other things, to the prior completion of this Deed
- H. The Parties have agreed to enter into this Deed for the purpose of regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead

NOW THIS DEED WITNESSETH as follows:

OPERATIVE PART

1. DEFINITIONS

1.1 In this Deed the following expressions shall have the following meanings:-

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

“Adult Care Services Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Baseline Survey Collection Date” means the date on which baseline surveys are collected pursuant to paragraph 2.3

“BCIS Index” means the Building Cost Information Service All-in Tender Price Index published from time to time;

“BCIS Regional Factor” means the Building Cost Information Service Tender Price Index by Location (Using 2000 boundaries data) for East of England.

“Childcare Services 0-2 Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Childcare Services 5-11 Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Commencement Date” means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the expressions “Commence” and “Commencement” shall be construed accordingly;

“Completion” means when a certificate of practical completion has been issued by the appointed architect, engineer or project manager or other suitably qualified party to the Owner confirming that the Development or the relevant part of the Development is complete to be put into use

“County Contributions” means [the Adult Care Services Contribution the Childcare 0-2 Contribution the Childcare 5-11 Contribution the Fire and Rescue Service Contribution the Library Contribution the Primary Education Contribution the Secondary Education Contribution the Special Educational Needs and Disabilities (SEND) Contribution the Youth Contribution the Waste Service Recycling Centre Contribution the Waste Service Transfer Station Contribution] together;

“County Monitoring Contribution” means the sum of [] pounds (£) (index-linked) as hereinafter provided) towards the County Council’s reasonable and proper administrative costs of monitoring compliance with the provision of this Agreement;

“Development” means the development of the Site with [*insert description of the development*] in accordance with the documents submitted with the Planning Application;

“County Reserved Matters Mix Notice” means a notice served by the Owner on the County Council with details of size type tenure and/or total number of Dwellings being applied for in the relevant Reserved Matters Application in accordance with Table [] set out at Part [] of Schedule [] of this agreement;

County Reserved Matters Mix Contribution Notice” means a notice served by the County Council upon the Owner with the amount of each County Contribution calculated in accordance with Table [] as set out at Part [] of Schedule [] of this Agreement and reference to the size type tenure and/or total number of Dwellings as permitted by the Planning Permission and also the relevant Reserved Matters Approval and further detailed in the County Reserved Matters Mix Noticed served by the Owner;

“Executive Director of Growth and Environment” means the County Council’s Executive Director of Growth and Environment for the time being and his agents;

“Fire and Rescue Service” means that part of the County Council known as the Hertfordshire Fire and Rescue Service;

“Fire and Rescue Service Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved

Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Full Occupation” means occupation of all of the [XX Dwellings] to be built pursuant to the Planning Permission;

“Interest” means [4%] above the base lending rate of the Bank of England;

“Libraries Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Modeshift STARS Accreditation Framework” means the travel plan accreditation and awards framework for education, commercial and residential developments further details of which framework can be found at www.modeshiftstars.org (or any school travel plan accreditation framework and/or website as may replace the said framework and website);

“Monitoring Contribution” means the sum of [] pounds (£) (index-linked) as hereinafter provided);

“Occupy” “Occupation” and “Occupied” mean occupation for the purposes of the Planning Permission but not including occupation by personnel engaged in the construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;

“Plan” means the plan annexed to this Deed;

“Planning Application” means the application for [outline/full] planning permission submitted to the Council for the Development bearing the Council’s reference number [];

“Planning Permission” means the permission to be granted by way of approval of the Planning Application or from any reserved matters submissions or resulting from any other planning application covering all or part of the Site for any of the uses comprised in the Planning Application whether granted by variation alteration substitution addition or replacement PROVIDED THAT if any form of development within the Site which individually or in combination with any other permission for development would lead to levels of development exceeding those set out in the Planning Application that development shall be subject to additional planning obligations;

“Primary Education Contribution” means the sum of ... (£...) comprising of... (£...) towards build costs and... (£...) towards land costs; or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in

accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Resident Travel Pack” means a welcome pack for occupants of the Dwellings containing all of the details of sustainable travel options in the local area ;

“RPI” means the measure of change in the prices charged for goods and services bought for consumption in the UK produced by the Office for National Statistics;

“Rights of Way Works” means the works to the rights of way network shown in principle only on drawing numbered [] annexed to this Deed (subject as mentioned in clause XX hereof) which works shall for the avoidance of doubt include [] together with such ancillary works as may be required by the Executive Director of Growth & Environment to facilitate the Development which ancillary works may without prejudice to the generality of the foregoing include the provision of surfacing and drainage, bridges & other furniture, signs & waymarkings, and any necessary alterations to statutory undertakers’ equipment;

“School Travel Plan” means a travel plan containing practical measures to promote active healthy safe and sustainable travel (including but not be limited to walking and cycling) to and from the Application Site which plan shall aim to:

- significantly reduce the number of car trips on school runs
- increase the number of pupils and adults travelling actively to school
- make school journeys safer
- reduce school gate congestion
- reduce pollution in and around the Site
- promote sustainable transport choices and encourage families to plan their journeys
- improve the health and fitness among the whole school community
- increase road safety skills
- build/strengthen links with the local community.

which School Travel Plan shall contain:

- as many of the activities and initiatives contained in the Modeshift STARS Accreditation Framework as are appropriate to the school;
- measures aimed at achieving Very Good, Excellent or Outstanding status under and in accordance with Modeshift STARS Accreditation Framework; and
- measures for improving and monitoring its effectiveness;

“School Travel Plan Review” means a data collection study reviewing and monitoring the provisions of the Travel Plan (as more fully set out therein) carried out annually on the corresponding calendar months for a period of [] years* commencing one year after the baseline survey collection date. All monitoring that forms part of the Travel Plan Annual Review to be carried out in accordance with the provisions of the County Council’s Travel Plan Guidance (such version current as at the date of commencement of the development);

“School Travel Plan Evaluation and Support Contribution” means the sum of [] index linked as hereinafter provided to be paid to the

County Council for the evaluating administering and monitoring the objectives of the Travel Plan.

[Note: the School Travel Plan Evaluation and Support Contribution is a calculated at a rate of £1,500 per year for seven years which covers 1 full cohort through a school].

“Secondary Education Contribution” means the sum of ... (£...) comprising of...(£...) towards build costs and...(£...) towards land costs; or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“Section 278 Agreement” means a valid agreement executed as a deed and to be entered into with the County Council pursuant, inter alia, to Section 278 of the Highways Act 1980 in respect of the Works;

“Site” means the land against which this Deed may be enforced which is known as [] Hertfordshire and registered at the Land Registry with Title Absolute under the Title Number [] all of which land is shown for identification purposes only edged red on the Plan;

“Special Educational Needs and Disabilities (SEND)” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“SPON’S Index” means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by the Building Cost Information Service (BCIS) as collated into a single index known as the Price Adjustment Formulae Indices (Civil Engineering) Series 2;

“Sustainable Transport Contribution” means the sum calculated in accordance with the table at [Schedule X] (index-linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project];

“Sustainable Travel Voucher” means a voucher incentive tangible or web hosted for the value of fifty pounds (£50) per flat unit or one hundred pounds (£100) per house unit forming part of the Development (index linked as hereinafter provided) to incentivise the uptake of public transport cycling or walking as appropriate to the Development

“Travel Plan” means [either the travel plan submitted as part of the Planning Application and approved by the County Council] [or the travel plan to be submitted by the Owner pursuant to paragraph [...] of Schedule [...] and approved by the County Council];

“**Travel Plan Annual Review**” means a data collection study reviewing and monitoring the provisions of the Travel Plan (as more fully set out therein) carried out annually in accordance with the provisions of clause 2.3(d) . All monitoring that forms part of the Travel Plan Annual Review to be carried out in accordance with the provisions of the County Council’s Travel Plan Guidance (such version current as at the date of commencement of the development).

“**Travel Plan Coordinator**” means the person appointed by the Owners and approved by the County Council who shall be responsible for managing on behalf of the Owners the implementation monitoring progression reporting and review of the Travel Plan in order to achieve its objectives and targets;

“**Travel Plan Evaluation and Support Contribution**” means the sum of [£8,862] (index-linked) as hereinafter provided to be paid to the County Council for evaluating administering and monitoring the objectives of the Travel Plan [Note: the Travel Plan Evaluation and Support Contribution is a calculated at a rate of £1,772.40 per year for(a) five years post-full occupation for residential developments or (b) five years post-first occupation for Workplace, Visitor or Educational Schemes]

“**Travel Plan Guidance**” means the County Council’s document entitled ‘Travel Plan Guidance’ (as current at the time of application) which can be found at <https://www.hertfordshire.gov.uk/travelplans>;

“**Travel Plan Remedial Measures Notice**” means a notice in writing served on the Owner via the Travel Plan Co-ordinator by the County Council where the Owner has failed to meet one or more of the targets identified in the Travel Plan specifying the remedial measures and/or actions required to be taken by the Owner to remedy the failed implementation towards the agreed targets with a reasonable time provision.

“**Waste Services Recycling Centre Contribution**” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“**Waste Services Transfer Station Contribution**” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

“**Works**” shall mean the works to the highway shown in principle only on drawing numbered [] annexed to this Deed (subject as mentioned in clause 11 hereof) which works shall for the avoidance of doubt include [] together with such ancillary works as may be required by the Executive Director of Growth and Environment to facilitate the Development which ancillary works may without prejudice to the generality of the foregoing include the provision of

street lighting traffic signs carriageway markings footways cycle-ways street furniture and drainage and any necessary alterations to statutory undertakers' equipment;

“Working Day” means any day other than a Saturday or a Sunday or a Public Holiday;

“Youth Contribution” means the sum of ... (£...); or the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix Notice; or the sum of ... (£..) plus the sum to be calculated in accordance with the table at schedule [] based on the size, type, tenure and/or total number of dwellings confirmed in the County Reserved Matters Mix (Index linked as hereinafter provided) towards the cost of [insert details of specific infrastructure project] and/or alternative provision serving the development;

1.2 In this Deed:-

- 1.2.1 the clause headings do not affect its interpretation;
- 1.2.2 words of the masculine gender shall incorporate the feminine and neuter genders and words of the singular shall include the plural and vice versa;
- 1.2.3 the reference to any statute or section of a statute includes any modification extension or re-enactment of that Act for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given under that Act or deriving validity from it;
- 1.2.4 any reference to a clause, a paragraph or a schedule is unless the context otherwise requires a reference to a clause, a paragraph or a schedule of this Deed and any reference to a sub clause is a reference to a sub clause of the clause in which the reference appears;
- 1.2.5 references to the Site include any part of it;
- 1.2.6 where two or more people form a party to this Deed the obligations they undertake may be enforced against them all jointly or against each of them individually;
- 1.2.7 references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County Council the successors to their respective functions;
- 1.2.8 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing and words denoting an obligation on the Owner to do any act matter or thing include an obligation to procure that it be done;
- [1.2.9 references in this Deed to "development" shall have the meaning given by Section 55 of the 1990 Act]

EFFECT OF THIS DEED

- 2.1. This Deed is entered into pursuant to Section 106 of the 1990 Act. To the extent that they fall within the terms of Section 106 of the 1990 Act the obligations contained in this Deed are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council and the County Council and which the Parties agree comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010;
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in Section 111 Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers;
- 2.3 The Owner enters into the obligations for itself and its successors in title with the Council and the County Council to the intent that the obligations hereunder shall be enforceable not only against the Owner but also against the successors in title of the Owner and any person claiming through or under the Owner an interest or estate in the Site or any part thereof PROVIDED THAT
 - 2.3.1 The obligations in favour of the County Council contained in this Deed shall not be binding against any individual owner or occupier or any mortgagee of any individual owner or occupier of a Dwelling comprised within the Development Occupying a Dwelling within a specific Phase of the Development or Reserved Matters Approval in relation to the County Contributions and obligations made by the Owner to the County Council once the County Contributions have been complied with by the Owner to the County Council in respect of that specific Phase of a specific Reserved Matters Approval (in respect of the County Contributions).
- 2.4 Prior to the Commencement of Development the Owner shall agree the Phasing Plan with the Council and County Council and for the avoidance of doubt the Development shall be Commenced and carried out in accordance with the Phasing Plan, and Phase 0 shall be Commenced first and "Phase 1" shall be the Phase containing Dwellings which Commences first, "Phase 2" shall be the Phase containing Dwellings which Commences second and so on.

CONDITIONALITY

3. This Deed is conditional upon:-
 - (i) the grant of the Planning Permission; and
 - (ii) the Commencement of Developmentsave for those obligations in this Deed which are specified as having either immediate or earlier effect

OWNER'S COVENANTS

- 4.1 The Owner covenants with the Council and County Council:-

- (i) to observe and perform the covenants restrictions stipulations and obligations contained in Schedule 1 hereto
- (ii) to give the County Council and the Council no less than five (5) Working Days' notice of the Commencement Date such notice to be given prior to the Commencement Date in writing using the proforma set out in Schedule 2 hereto
- (iii) to give the County Council and the Council no less than five (5) Working Days' notice of the Occupation of the Development/
- (iv) to give the County Council and the Council no less than five (5) Working Days' notice of Completion of the Development such notice to be in writing using the proforma set out in Schedule 2 hereto
- (v) upon completion of this Deed pay to the Council and the County Council their costs in connection with the preparation negotiation and completion of this Deed
- (vi) to serve the Council the County Reserved Matters Mix Notice.

COUNTY COUNCIL'S COVENANTS

- 5.1 The County Council hereby covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purpose(s) specified in this Deed for which they are paid
- 5.2 The County Council covenants with the Owner following receipt of a written request (limited to three occasions per year) from the Owner, to provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed and upon receipt by the County of its reasonable costs of doing so;
- 5.3 The County Council further covenants with the Owner that it will pay to the Owner a sum, equal to the amount of any payment made by the Owner to the County Council under this Deed which has not been expended allocated or approved in accordance with the provisions of this Deed within ten (10) years of the date of receipt by the County Council of notice of completion of the Development pursuant to clause [4.1(iii)] together with any interest accrued PROVIDED THAT such written request shall only be made within one (1) year commencing from the date of expiry of the aforementioned ten (10) year period and in the event of no written request being made within such period any unexpended sum together with accrued interest shall be release free of any liability and obligations to the County Council PROVIDED THAT the County Council shall apply any unexpended sum only to a suitable provision serving the development and in full compliance with Regulation 122 of the CIL Regulations 2010;
- 5.4 Within [21] days of receipt of the County Reserved Matters Mix Notice serve the Owner the County Reserved Matters Mix Contributions Notice

EXPENDITURE IN ADVANCE OF RECEIPT OF CONTRIBUTIONS

6. If prior to the receipt of any of the Sustainable Transport Contribution and County Contributions the County Council incurs any expenditure in providing additional primary education secondary education Special Educational Needs and Disabilities (SEND) libraries youth waste services recycling centre waste services transfer stations childcare 0-2 childcare 5-11 facilities and sustainable transport measures as the case may be the need for which arises from or in anticipation of the Development then the County Council may immediately following receipt of the Sustainable Transport Contribution and County Contributions apply such expenditure incurred

INDEXATION

- 7.1 The County Contributions shall [each] be index linked by reference to the BCIS Index figure of [**Q1 2024....**] to the finalised figure applicable to the quarter in which the contribution is paid
- 7.2 Where any sum is required to be index linked by reference to the BCIS Index that sum payable shall be increased in accordance with any change in the Building Cost Information Service All-in Tender Price Index published from time to time by the application of the formula $A = B \times (C \div D) \times E/100$ where:-
- A is the total amount to be paid;
- B is the principal sum stated in this deed;
- C is the BCIS Index for the date upon which the interim payment described below is actually paid and;
- D is the BCIS figure specified in clause 7.1.
- E is the BCIS Tender Price Index by Location (Using 2000 boundaries data) for East of England) on the date which the County Contribution payment is paid
- C/D = is equal or greater than 1, and
- $E/100$ = is equal or greater than 1.
- 7.3 The Sustainable Transport Contribution shall be index-linked to movements in the SPON'S Index from [**March 2024.....**] to the date on which the Sustainable Transport Contribution is paid
- 7.4 The County Monitoring Contribution and/or the Travel Plan Evaluation and Support Contribution] and [Sustainable Travel Voucher] shall be index-linked by reference to the RPI Index figure of Q1 2024 to the finalised figure applicable to the month in which the Monitoring Contribution is paid
- 7.5 The Schools Travel Plan Evaluation and Support Contribution shall be index linked by reference to the RPI Index figure of Q1 2024 to the finalised figure applicable to the month in which the Schools Travel Plan Evaluation and Support Contribution is paid
- 7.6 Where any sum to be paid to the County Council under the terms of this Deed is required to be indexed then an interim payment shall initially be made based on the latest available figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written

demand by the County Council or the payer of the interim payment (as the case may be) once the relevant indices have been finalised

- 7.7 Any money payable to the County Council under this Deed shall be paid in full without deduction or set-off and if not paid on the date due shall in every case bear Interest on so much thereof as shall from time to time be due and owing from the date the payment was due to the date of actual payment.

MISCELLANEOUS

- 8.1 The Owner hereby warrants that it is the owner of the freehold of the Site and that no other party has an interest in the Site save as disclosed in writing to the Director of Law and Governance of the County Council prior to completion of this Deed
- 8.2 This Deed shall be registered as a local land charge by the Council
- 8.3 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title or a statutory successor to a party hereto
- 8.4 Any notice to the parties hereto under this Deed shall be deemed to be sufficiently served if delivered personally or sent by email or sent by recorded delivery service to the following officials/persons at the respective addresses hereinafter specified:

In respect of the
Owner :

In respect of the
Council:

In respect of the
County Council:

Director of Law and
Governance,

Hertfordshire County
Council,

County Hall,

Pegs Lane,

Hertford,

Herts

SG13 8DE

growth@hertfordshir
e.gov.uk

(ref :)

- 8.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provision of this Deed.

- 8.6 Nothing in this Deed shall be construed as imposing a contractual obligation upon the Council as to the issue of the Planning Permission or as restricting the exercise by the Council or the County Council of any powers exercisable by them respectively under the 1990 Act or under any other Act or authority
- 8.7 No waiver whether express or implied by the County Council or Council of any breach or default by the Owner in performing or observing any of the obligations contained herein shall constitute a continuing waiver and no such waiver shall prevent the County Council or the Council from enforcing the relevant obligations or from acting upon any subsequent breach or default
- 8.8 This Deed shall cease to have any effect (insofar only as it has not been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or if the Commencement Date has not been initiated in accordance with section 56 of the 1990 Act before the expiration of the period specified in the Planning Permission
- 8.9 Where the approval, consent, expression of satisfaction, agreement, confirmation or certification of the Council or County Council or any officer of the Council or County Council is required for any purpose under or in connection with the terms of this Deed such approval, consent, expression of satisfaction, agreement, confirmation, or certification shall not be unreasonably withheld or delayed
- 8.10 Without prejudice to the Council's and the County Council's statutory rights the Owner hereby grants to the Council and/or the County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter the such parts of the Site to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed.
9. PLANNING CONSENTS GRANTED PURSUANT TO SECTION 73 OF THE ACT
- 9.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act (as amended) and unless otherwise agreed between the Council and the County Council, with effect from the date that the any new planning permission is granted pursuant to Section 73 of the Act (as amended):
- 9.2 The obligations in this Agreement shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the Act and the Site itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the Act;
- 9.3 The definitions of Planning Application, Development and Planning Permission in this Agreement shall be construed to include references to any applications under Section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and
- 9.4 This Agreement shall be endorsed with the following words in respect of any future Section 73 application:
- “The obligations in this Agreement relate to and bind the Site in respect of which a new planning permission referenced [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)”

provided that nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act or of the Council or the County the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the Act whether by way of a new deed or supplemental deed pursuant to Section 106A of the Act and provided further that to the extent that any of the obligations in this Agreement have already been discharged at the date that any new planning permission is granted under Section 73 of the Act they shall remain discharged for the purposes of that new planning permission

VALUE ADDED TAX

10. All consideration given in accordance with the terms of this Deed shall be exclusive of any valued added tax properly payable

JURISDICTION

11. This Deed is governed by and interpreted in accordance with the law of England and Wales

WORKS

12. If the Department for Transport technical design standards or advice is amended after the date of this Deed the Executive Director of Growth and Environment shall be at liberty to review the Works and require any amendments he deems necessary to ensure that the Works comply with the revised standards and advice **SAVE THAT** in circumstances where detailed contract drawings have been approved in writing by the Executive Director of Growth and Environment and the Works are commenced within three months of the date of the written approval then the Executive Director of Growth and Environment shall not seek any amendments to the Works

MORTGAGEE'S CONSENT

13. The Mortgagee hereby consents to the Owner entering into this Deed and agrees that the security of the Charge over the Site shall take effect subject to this Deed **PROVIDED THAT** the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

DISPUTES

14. For the avoidance of doubt references to 'party' or 'parties' in this clause 13 exclude the County Council and the County Council shall not be required to submit to or be bound by the provisions of Clauses 14.1 – 14....

DELIVERY

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

IN WITNESS whereof the parties hereto have executed this Deed but the same remains undelivered until the day and year first before written

SCHEDULE 1

The Owners Covenants stipulations and Obligations

Sustainable Transport Contribution

- 1.1 To pay the Sustainable Transport Contribution to the County Council prior to the Commencement Date
- 1.2 Not to Commence the Development until the Sustainable Transport Contribution has been paid in accordance with paragraph 1.1 of this Schedule

Travel Plan

- 2.1 Prior to first Occupation of the Development
 - (a) To submit a draft Travel Plan for written approval to the County Council and obtain such approval
 - (b) To nominate a Travel Plan Coordinator for written approval of the County Council and obtain such approval and such nomination shall include contact details for the proposed Travel Plan Coordinator and the nature of their relationship to the Owners
- 2.2 Not to Occupy nor cause nor permit Occupation of the Development until the Travel Plan has been submitted to and approved by the County Council.
- 2.3 To carry out baseline surveys and submit an updated Travel Plan to the County Council to be approved, including amended targets where relevant, within 3 months of first Occupation of the Development.
- 2.4 To carry out baseline surveys upon the occupation of the XXXth Dwelling and submit an updated Travel Plan to be approved by the County Council, including amended targets where relevant, within 3 months of occupation of the XXXth Dwelling
- 2.5 to submit a draft Resident Travel Pack and the Sustainable Travel Voucher to the County Council for written approval by the County Council no less than three months prior to first Occupation
- 2.6 not to Occupy or permit or allow Occupation of any Dwelling until the draft Resident Travel Pack and Sustainable Travel Voucher have been approved in writing by the County Council
- 2.7 to provide a Resident Travel Pack to each Dwelling forming part of the Development within one (1) month of the first two Occupations of each Dwelling
- 2.8 to provide a Sustainable Travel Voucher to each Dwelling forming part of the Development within one (1) month of the first Occupation of each Dwelling

[Drafting Note: paragraph 2.3 applies to all developments. Paragraphs 2.4 to 2.8 apply to residential developments only].

- 2.9 To at all times during Occupation of the Development:

- (a) comply with the terms of the Travel Plan including but not limited to implementing any actions by the specified dates in the Travel Plan.
- (b) promote and publicise the agreed Travel Plan to owners occupiers and visitors to the Development
- (c) implement the Travel Plan by the dates or within the time limits set out in the Action Plan section of the Travel Plan
- (d) carry out the Travel Plan Annual Review annually on the corresponding calendar month for a period of []* years commencing one year after the Baseline Survey Collection Date and submit a written report setting out the findings of such review to the County Council within three (3) calendar months from the date of each Travel Plan Annual Review such report shall include (but shall not be limited to) recommendations for amendments or improvements to the approved Travel Plan whether or not the objectives of the Travel Plan have been achieved.

**Drafting Note: Residential annual reviews to be carried out in accordance with the timings in 2.3 and then annually for five years post Full Occupation of the Development*

Employment, Leisure, Workplace and Visitor Travel Plan annual reviews to be carried out annually for five years post first Occupation of the Development

- (e) comply with any variations or amendments to the Travel Plan permitted by this Deed which shall in addition include any reasonable amendments or improvements required by the County Council following review of the report submitted in subparagraph (d) above and notified in writing to the Owners within three (3) calendar months from the date of receipt of such report.
- (f) That it will in relation to the Site include in any transfer lease or occupier's licence of any part or parts of the Site a covenant that the purchaser tenant or occupier will comply with the approved Travel Plan for such part or parts of the Site once it has been approved by the County Council and further that it will use all reasonable endeavours to enforce such obligation against any such purchaser tenant or occupier/
- (g) Within twenty (20) Working Days of the letting of the Site or any part or parts thereof it will procure the delivery to the County Council of a notice giving the following details
 - (i) the name and address of the purchaser and/or tenant;
 - (ii) a description of the premises demised;
 - (iii) the length of the term; and
 - (iv) a sufficient extract of the lease setting out the terms of the covenant expressed in favour of the County Council in relation to the Travel Plan

School Travel Plan Obligations

Drafting Note: relevant to school developments only

2.10 School Travel Plan and Modeshift STARS Accreditation Framework

The Owner hereby covenants with the County:

2.10.1 Prior to Occupation the Owner shall:

- 2.10.1.1 appoint and retain a Travel Plan Coordinator and give written notice of the such appointment to the County;
- 2.10.1.2 prepare and submit a School Travel Plan to the County for its written approval; and
- 2.10.1.3 register the School Travel Plan with Modeshift STARS Accreditation Framework.

2.10.2 The Owner shall ensure that:

- 2.10.2.1 within twelve (12) calendar months of Occupation the School Travel Plan achieves a minimum of Good status under and in accordance with the Modeshift STARS Accreditation Framework
- 2.10.2.2 that the said minimum Good status referred to in paragraph 2.10.2.1 above is retained for a period of seven (7) years from the date accreditation is first achieved

2.10.3 The Owner shall ensure that during the seven (7) years referred to in paragraph 1.2 above the School Travel Plan shall achieve a Very Good, Excellent or Outstanding status under and in accordance with the Modeshift STARS Accreditation Framework

2.10.4 The Owner shall not Occupy nor cause nor permit Occupation until:

- 2.10.4.1 the Travel Plan Coordinator has been appointed and written notice of such appointment has been given to the County in accordance with paragraph 2.10.1.1 of this Schedule 1;
- 2.10.4.2 it shall have prepared and submitted the School Travel Plan to the County and until the School Travel Plan has been approved in writing by the County in accordance with paragraph 2.10.1.2 of this Schedule 1; and
- 2.10.4.3 it shall have registered the School Travel Plan with the Modeshift STARS Accreditation Framework in accordance with paragraph 2.10.1.3 of this Schedule 1.

2.10.5 The Owner shall not Occupy nor cause nor permit Occupation otherwise than in full compliance with paragraphs 2.10.2.1 and 2.10.2.2 and 2.10.3 of this Schedule 1.

Travel Plan Evaluation and Support

- 3.1 To pay the Travel Plan Evaluation and Support Contribution / School Travel Plan Evaluation and Support Contribution to the County Council prior to the Commencement Date as a contribution to be allocated to and spent by the local highway authority for Hertfordshire towards the costs of monitoring and administering any travel plan required pursuant to the Planning Permission
- 3.2 Not to Commence nor cause nor permit Commencement until the Travel Plan Evaluation and Support Contribution / School Travel Plan Evaluation and Support Contribution has been paid to the County Council in accordance with paragraph 3.1 of this Schedule

Travel Plan Submitted with the Planning Application

- 4.1 Not to occupy or permit the Site or any part of the Site to be occupied for purposes pursuant to the Planning Permission until it has prepared and secured the written approval (which shall not be unreasonably withheld) of the County Council to the Travel Plan in respect of the part or parts to be occupied
- 4.2 That if it or its successors in title occupy the Site or any part of the Site pursuant to the Development it or they will implement the approved Travel Plan relating to the Site or that part of the Site and shall use all reasonable endeavours to achieve the targets set therein
- 4.3 That it will in relation to the Site include in any tenant's lease or occupier's licence of any part or parts of the Site a covenant that the tenant or occupier will implement the Travel Plan for such part or parts of the Site once it has been approved by the County Council and further that it will use all reasonable endeavours to enforce such obligation against any such tenant or occupier
- 4.4 Within twenty (20) Working Days of the letting of the Site or any part or parts thereof it will procure the delivery to the County Council of a notice giving the following details
 - (i) the name and address of the tenant;
 - (ii) a description of the premises demised;
 - (iii) the length of the term; and
 - (iv) a sufficient extract of the lease setting out the terms of the covenant expressed in favour of the County Council in relation to the TP

Travel Plan Remedial Notice

- 5.1 If a Travel Plan Remedial Measures Notice is served upon the Owner by the County Council the Owner shall carry out the measures and actions specified in the Travel Plan Remedial Measures Notice in accordance with the timescales set out within it;
- 5.2 If in the reasonable opinion of the County Council the Owner has failed to comply with the Travel Plan Remedial Measures Notice within the timescales specified therein Owner acknowledges that they will be in breach of this Agreement and that the County Council may take such further action in respect of that breach or breaches as it considers appropriate without further recourse to the Owner

Adult Care Services Contribution Libraries Contribution Youth Contribution Childcare 0-2 Contribution Childcare 5-11 Contribution Fire and Rescue Services Contribution Primary Education Contribution Secondary Education Contribution Special Educational Needs and Disabilities (SEND) Contribution Waste Services Recycling Centre and Waste Services Transfer Station Contribution

- 6.1 To pay the [Adult Care Services Contribution Libraries Contribution Youth Contribution Childcare 0-2 Contribution Childcare 5-11 Nursery Education Contribution Fire and Rescue Services Contribution Primary Education Contribution Secondary Education Contribution Special Educational Needs and Disabilities (SEND) Contribution Waste Services Recycling Centre and Waste Services Transfer Station Contribution] to the County Council prior to the Commencement Date

- 6.2 Not to Commence the Development until the [Adult Care Services Contribution Libraries Contribution Youth Contribution Childcare 0-2 Contribution Childcare 5-11 Nursery Education Contribution Fire and Rescue Services Contribution Primary Education Contribution Secondary Education Contribution Special Educational Needs and Disabilities (SEND) Contribution Waste Services Recycling Centre and Waste Services Transfer Station Contribution] have been paid in accordance with paragraph 6.1 of this Schedule

Highway & Rights of Way Works

- 8.1 Not to Occupy nor cause nor permit Occupation of any part of the Development (or not to Commence the Development) until such time as the Works have been completed by the Owner to the satisfaction of the County Council as evidenced by issue of a certificate of completion by the Executive Director of Growth and Environment in respect of the Works in accordance with the Section 278 Agreement
- 8.2 Not to Occupy nor cause nor permit Occupation of any part of the Development (or not to Commence the Development) until such time as the Rights of Way Works have been completed by the Owner to the satisfaction of the County Council as evidenced by issue of a certificate of completion by the Executive Director of Growth & Environment in respect of the Works in accordance with the specification

Obligations Monitoring

- 9.1 To pay the County Monitoring Contribution to the County Council prior to the Commencement Date as a contribution to be allocated to and spent by the County Council towards the costs of monitoring and administering any obligations required pursuant to the Planning Permission
- 9.2 Not to Commence nor cause nor permit Commencement until the County Monitoring Contribution has been paid to the County Council in accordance with paragraph 9.1 of this Schedule

SCHEDULE 2

Proforma - Event Notification and Payment

PURSUANT TO SECTION 106 AGREEMENT/UNILATERAL UNDERTAKING

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

HCC LEGAL REFERENCE

SITE ADDRESS

.....

.....

SITE OWNER DETAILS

Name

Contact name

Address

.....

.....

Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date – date :.....

Occupation of Development (Number if relevant) – date:.....

Completion of Development – date:

COMPLIANCE WITH OBLIGATION(S)

Schedule Paragraph

Details of obligation and compliance

.....

PAYMENT OF S106 CONTRIBUTIONS

Payment Type	Amount (X)	Interim Indexation (Y)	Final Indexation (Z)	Total (X+Y)	Payable to
Example Education (primary)	£	£	£	£	County Council

Payment of S106 contributions can be made by BACS, CHAPS or cheque. In any event the form should be completed to ensure the payment is identified correctly and forward to:

a) The Chief Legal Officer

Hertfordshire County Council
County Hall,
Pegs Lane
Hertford
Hertfordshire
SG13 8DE
(Ref :)

b) To [.....] District /Borough Council

Check address in deed.

SCHEDULE 3

**Calculation of Libraries Contribution Youth Contribution Childcare 0-2 Contribution
Childcare 5-11 Contribution Primary Education Contribution Secondary Education
Contribution Special Educational Needs and Disabilities (SEND) Contribution Fire and
Rescue Services Contribution Waste Services Recycling Centre Contribution Waste
Services Transfer Station Contribution Sustainable Transport Contribution**

Application/Development Mix

HOUSES				FLATS		
Number of bedrooms	A) Open Market or Shared Ownership*	B) Affordable Rent & Social Rent**		Number of bedrooms	A) Open Market or Shared Ownership*	B) Affordable Rent & Social Rent**
1				1		
2				2		
3				3		
4+				4+		
Total				Total		

The tenure terms set out in the tables reflect the terminology used with the submitted Application. Should alternative definitions/types of tenure of units be applicable in the future (e.g. at such time that Reserved Matters Applications are submitted and/or as reflected in updated Hertfordshire County Council guidance) then they should be characterised and included as follows:

** Market value housing and shared ownership is taken to include other categories of dwelling which act in substantially the same way with regard to pupil yield, with tenure characteristics similar to open market dwellings and dwellings provided for sale that offer a route to ownership for those who could not achieve homes ownership through the market*

*** Affordable rent and social rent housing is taken to include any future categories of affordable dwelling which might display the tenure characteristics of 100% rented, reflecting needs assessed dwellings for which the rent is set below local market rents*

This table is indicative only and would need to be reviewed in relation to specific applications

Hertfordshire County Council Services

Contributions Table and Calculator

Service Need	HOUSES				FLATS			
	1 bed	2 bed	3 bed	4+ bed	1 bed	2 bed	3 bed	4+ bed
Childcare 0-2								
Childcare 5-11								
Primary education								
Secondary education								
Special Educational Needs and Disabilities (SEND)								
Fire and Rescue Services								
Library facilities								
Waste Services Recycling Centre								
Waste Services Transfer Station								
Youth facilities								
Sustainable transport*								

Note: The above base costs and dates are regularly reviewed and will change/be updated over time.

The COMMON SEAL of)
HERTFORDSHIRE COUNTY)
COUNCIL was hereunto affixed)
in the presence of:-)

[The COMMON SEAL of)
)
was hereunto affixed to this)
Deed in the presence of:-)

The COMMON SEAL of)
)
was hereunto affixed to this)
Deed in the presence of:-)

The COMMON SEAL of)
)
was hereunto affixed to this)
Deed in the presence of:-)]

[Other forms of attestation

Date _____ 20[]

HERTFORDSHIRE COUNTY COUNCIL

- and -

BOROUGH/DISTRICT COUNCIL

- and –

.....

-and-

.....

Deed of Agreement pursuant to S.106
Town and Country Planning Act 1990
(as amended) in relation to the
development of Site at
[.....]

QUENTIN BAKER
Director of Law and Governance
County Hall
Hertford
SG13 8DE

HCC LEGAL REF:

SCHEDULE 4

School Land Transfer Requirements (where the developer is required to transfer land to the county council for school use)

1. Commencement Notice

The TRANSFEROR will serve not less than 6 months' notice on TRANSFeree of its intended date for Commencement of the Development ("the Commencement Notice") and will serve notice that Commencement has taken place no later than 7 days following Commencement.

2. Site to be transferred (The Education Land)

The TRANSFEROR (tbc)

The TRANSFeree (HCC)

The land to be transferred - A minimum net developable site area of [tbc]ha (excluding woodland, SUDS areas etc) is to be made available and transferred to HCC in accordance with the provisions below and the sample TP1 attached, that land being that shown edged red on the attached OS Land Registry compatible plan, with the Servicing Works having been fully completed.

The site is to be provided by the TRANSFEROR to the TRANSFeree in a fully secure, fenced, and serviced state, suitable* for the provision of a [size of school – tbc] with appropriate drop off and parking.

The TRANSFEROR is required to undertake the Servicing Works within 12 months of the Scheme Commencement Date unless otherwise agreed in writing with HCC. The TRANSFEROR shall serve notice that Completion of the 'Servicing Works' has taken place no more than 7 days following Practical Completion of the same. The TRANSFEROR shall transfer the land to the TRANSFeree within 3 months of the TRANSFeree receiving notice of Practical Completion of the 'Servicing Works'.

TRANSFeree to be able to call for the site with the period of five [5] years from the Scheme Completion date subject to service of a minimum of 12 months prior notice at which point, they will confirm the critical dates for completion of the 'Servicing Works' and the provisional School opening date.

*The site to be transferred being one that is;

- Of regular shape
- relatively flat (not more than 1:40 gradient) to align with pedestrian and vehicular access from connecting roads. Adjoining site levels of the proposed development to be consistent with the school land.
- Standard trench fill / strip foundations can be used

- free of physical landscape or topographical features including water features (above ground and underground attenuation features) or other items (including overhead power cables) which might constrain its development and use for its intended purpose.
- Free from underground obstructions or abnormal conditions that would be restrictive to foundation construction.
- No covenants are in place in relation to the land and no restrictions on the land have been negotiated with neighbouring parties.
- The Owner shall provide results of site investigations for the proposed School Land carried out to the relevant current British and European Standards, including BS 5930, BS EN 1997 – 1 BSEN 1997 – 2 and all related standards referred to therein. This shall determine load bearing capacity of soils, soil types (and depths), type and location of any contamination and ground water level or abnormal ground conditions which may require further investigations.
- Insurances through collateral warranties with rights for assignment for all site investigations completed by the developer will provide the County Council with redress from the provider in the event of error or inaccuracy.
- Drainage – there will be a requirement by the approving authorities to provide a drainage strategy. The Owner will design and install a network to facilitate additional and appropriate capacity including surface water storage. A connection will be available at the site boundary. Foul water capacity will be available to the site boundary and will connect to an adoptable drainage system. The connection points for both foul and surface water drainage will be located to avoid the need to provide pumping infrastructure. The school land shall be located to prevent surface water runoff from any adjacent land being attenuated on the school land. SUDs/ Attenuation features should be provided off site. In the event adequate off-site capacity cannot be provided, a larger school site may be capable of accommodating on site provision but must serve the school only. The Developer is expected to contact the Lead Local Flood Authority (LLFA) for the preferred method of draining water. The school will attenuate its own surface water run-off at greenfield run-off rates. The strategic SUDs network by the developer is to accommodate the surface water outfall from the school land at greenfield run-off rates.
- Free from contamination (to such extent as is appropriate for the intended use of the site). Not to deposit any waste, hazardous material or other materials that would prejudice the development of the school land.
- Developers must be aware of HCC's commitment towards delivering a 20% improvement in biodiversity on site (Biodiversity Net Gain (BNG)) Sites must include provision for the County Council to be able to achieve the minimum requirements for BNG as set out in planning legislation.
- Free from any protected species (any appropriate mitigation measures to be wholly completed by the transferor).
- Within Flood Zone 1 located away from natural water courses/ditches. Free draining across the whole site and not liable for flooding or record of previous flooding.
- A hydrant should be available in accordance with HCC Site Servicing Specification.

- On the completion of the development, noise levels at the school boundary must be compliant with British Standard Requirements and Building Bulletin BB93 for Acoustic Design of Schools.
- Consistent low levels of air pollutants (gases and particulates) likely to adversely impact upon the health and wellbeing of all users. Baseline air quality monitoring of a nature and scope proportionate to the sensitivity of the proposed location and to be agreed by the County Council should be undertaken in advance of a planning application being submitted; reliance solely upon modelled assessments will not be considered a sufficient method through which the exposure of the school community to poor air quality can be objectively considered.
- Having direct access from a developer constructed and maintained highway of an adoptable standard with achievable/viable opportunity for walking and cycling as the preferred mode of travel. Entry location agreed with HCC. Off site infrastructure delivered by the Developer to, as a minimum, comply with the requirements of the 'Safe Routes to School Design Guidance' and supplementary guidance issued by the National Transport Authority.
- Vacant possession with no permanent building or structure on the school land or below ground. Any pre-existing buildings/structures or other built features are to be demolished and the remains to be removed from the site prior to the land being transferred and surface levelled.
- Developer expected to provide the correct electricity supply (depending on school size) to meet HCC's requirements. New build schools will be net carbon zero in operation so sufficient electricity supply will be required. Compliance with 'Hertfordshire School Site Servicing Specification 2024.11.29' is required.
- Centrally located within the development or as otherwise agreed with the County Council to support sustainable transport links. Provision to include safe crossings for pedestrians across roadways in close proximity to the school site.
- All utilities are available to provide connection (within an accessible service route) at a location agreed with HCC. Please refer to "Hertfordshire School Site Servicing Specification 2024.11.29".
- Where existing trees and woodlands form part of the site, appropriate measures shall be taken, in accordance with Local Planning Policy and BS5837 to retain and enhance or remove trees in accordance with an Arboricultural Report or planning condition. There should be no TPO trees or ancient woodlands, wildlife havens on site.
- Site boundary to be free of any existing features that may hinder the installation of 2.4m high weld mesh fencing.
- Public rights of way should be agreed upon and located to boundary edges and not included in Gross Site Area.
- Free from invasive plants and or other hazardous species (including but not limited to Japanese Knotweed).
- Free from protected plants as noted within Schedule 8 of the Wildlife and Countryside Act 1981.
- Site to be free of environmental / designations such as scheduled monuments.

- Provide confirmation of adjacent land uses to confirm that such uses will not be detrimental to the operation of a school site.
- If no existing adoptable highway access is available to the site, confirmation that a school construction access/haul road will be provided to facilitate the school development programme.
- Specification of the haul road to be minimum of 300mm Type 1, 300mm Type 3, suitably levelled and compacted to a width allowing use by heavy goods vehicles, with passing places at suitable locations.

3. Transfer Sum

The transfer sum shall be a peppercorn for the unencumbered freehold interest of the [tbc]ha site with all required access rights.

4. Use by Transferor prior to transfer:

- (a) Not to use the School Land for any other purpose than those falling within Use Class F1 or Use Class F2 of the Use Classes Order 1987 (as amended) or community uses or playing fields or temporarily in connection with operations being carried out to construct the Development (and for the avoidance of doubt if in so doing shall re-instate the School Land to accord strictly with the School Site Specification removing all items and hard standings and leaving no trace contamination).

5. Site Management

Responsibility for site management and grounds maintenance will remain with the TRANSFEROR until such time as a suitable access has been provided and the site boundaries are secure. The TRANSFEREE (or its nominees) will be permitted access in order to undertake all necessary ground surveys and site investigations as in 6 below.

6. Access

The TRANSFEREE and its nominees will require vehicular and pedestrian access prior to completion of the land transfer.

Post completion of transfer and prior to the new adoptable highway service access being created access will be required for surveys, ground works and construction traffic.

- Temporary access to be provided by the TRANSFEROR (the nature of such access to be fit for the purposes of undertaking all necessary due diligence having regard to site conditions generally) prior to completion of the land transfer
- The Owner shall (without cost to the County Council) provide a licence to the County Council to enter onto the School Land prior to transfer to enable surveys, investigations and minor preparatory works to be

undertaken free of charge for the purposes of undertaking investigations of the School Land.

- Transferee should have rights of access into developers retained land to fulfil any obligation connected with school site planning, construction & maintenance.

7. Highway and Cycle Access & Footways

The TRANSFEROR is obligated to construct a highways and cycle access and footways access to adoptable standard, incorporating all necessary service connections to 1m inside the boundary of the school site, prior to land transfer unless otherwise agreed in writing with HCC. In the event that a road access is not built to adoptable standard, the Transferor will provide a construction access road and footpaths throughout and at all times after the transfer of the school site and until the vehicular and cycle access and footways access have been fully completed to adoptable standards. If there is to be any delay in the provision of the road and footpaths TRANSFEE may require no less inconvenient temporary access routes to be made available.

8. Occupancy Restriction – District Dependent?

The occupancy of the [tbc] residential dwelling is to be subject to the highways and cycling access and footways and site services to the Education Land having first been satisfactorily provided to adoptable standard.

9. Services

Based on a [example shown is for a 2FE Primary School + 30-place FTE nursery] it is currently anticipated that the minimum services will be required (unless otherwise agreed in writing between TRANSFEE and the TRANSFEROR) are those contained within the Hertfordshire School Site Servicing Specification - DRAFT 2024.09.04.

‘Servicing Works’ means:

- a) Vehicular, cycle and pedestrian access/es completed to base course level surfaced footways signing lighting kerbing and all necessary services and service apparatus to serve the Education Land shall be completed to 1m within the site boundary
- b) Foul and surface water sewers of adequate capacity ready for use connected to adoptable sewers or a completed and functional urban drainage system to serve the Education Land in respect of which an agreement with a drainage undertaker (or other equivalent) for its maintenance and upkeep will be entered into
- c) Pipes wires and cables which are connected to service media with adequate capacity for the supply of gas water electricity telephone data transfer facilities and telecommunications signals

- d) Any related supports poles stays or other ancillary or related plant equipment machinery apparatus structures ducts conduits drains sewers ditches drains watercourses or other conducting media
- e) Together with any necessary rights easements wayleaves or licences.
- f) The Owner to provide a co-ordinated plan showing site boundary lines and to have accurately pegged the site together with securing its boundaries with security Heras or security fencing and all in accordance with that co-ordinated plan agreed by the transferee's surveyor.

Services for wider estate:

Services for wider estate must not be under or on the school site. Any existing services on or under the school site must be removed. Transferee is unavailable to provide service corridors to developer.

10. Opening of School

TRANSFEREE will provide a minimum of 6 months notice of its intention to commence the school building works and will provide notice within 7 days of commencement.

11. Timing – summary

If the new school is to be a Free School it will be subject to a separate agreement between TRANSFEREE and the DfE or its agent the EFA.

To summarise:

1. **6 months prior to Commencement** – TRANSFEROR serves notice of intended Commencement ("the Commencement Notice").
2. **7 days following Commencement** – TRANSFEROR serves notice that development has Commenced.
3. **6 months prior to intended date for completion of the Servicing Works** – TRANSFEROR to serve notice of estimated completion date of Servicing Works.
4. **Within 7 days of practical completion of the Servicing Works** - the TRANSFEROR to serve notice confirming the same.
5. **[DDMMYY] or [number of years tbc] after the commencement of the scheme (whichever is the sooner)** – TRANSFEROR to have completed the Servicing Works.
6. **Within 3 months of completion of the Servicing Works** - TRANSFEREE to accept transfer of land.
7. TRANSFEREE will serve **not less than 6 months' notice of intention to commence school build**.
8. TRANSFEREE will serve **notice of commencement of school build within 7 days** of commencing.
9. TRANSFEREE will serve not less than **6 months' notice of school opening date**.

Setting out the timings and process for delivery a new school site:

<u>Stage/ Process</u>	<u>Description</u>	<u>Timing</u>
Calling on land	Notify the owner that we are calling on the land.	To not serve less than 3 months prior written notice on the County Council of their intended date for Commencement of overall notice.
Service works	Complete services and notify HCC	Owner has a maximum of 12 months to complete from receiving notice.
Transfer of land	Owner transferring land to HCC in writing	Must be completed within 3 months of notification that services are complete. (HCC could begin legal work before service works are completed as long as they are underway). Pegging/Fencing of land must be completed on transfer date.
Handover of land	Production of handover note by CJ for another consultant as being fit by HCC.	Boundary survey and pegging/fencing on transfer date.
Planning permission	HCC applying for planning permission to build the school.	HCC could apply for planning permission before the land is transferred but would need to notify the owner/s. Allow maximum a year for planning permission to be completed.
The contracting of building works	First stage of planning progress – begin contracting external companies for the build.	Procurement of school build may begin before land is transferred but contract must be signed once land is in HCC ownership. Fencing and security needs to be in

		place prior to contract and construction begins.
Construction begins	Building the school	Construction start is mainly linked to school opening date – Normally an 18 th month period for a primary school build. Secondary school builds may take longer (24-month period) due to grass seeding for playing fields. (Timings subject to confirmation with DCD)
After construction	Commissioning of all building systems needed, snagging of defects, fit out by academy (4 months), academy lease legal work and funding agreement (From DfE) & HCC to hand over collateral warranties plans and operating manuals. Also includes final time checks.	This happens mainly across a 6–8-month period. Final fixes of defects run over because of issues arising once school has opened.
Completion	School is ready to open.	To open the school within 36 months of completion of the Transfer or the September following such period of 36 months. (Not including the year for completing service works.)

12. Non-Financial Obligations

The provision of ..

S278 Works [tbc].

Rights of Way Works

13. Legal Costs

Land transfer costs: each part to pay their own legal and professional costs.

14. VAT

VAT election status [tbc].

15. Other terms

Subject to satisfactory site surveys and reports

Subject to TRANSFEREE Cabinet Approval

Subject to TRANSFEROR board approval

Appendix 1: Template Transfer: TP1

HM Land Registry

Transfer of part of registered title(s)

TP1

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

1	Title number(s) out of which the property is transferred []
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property: Land at [] being the [Primary] School Site at The property is identified ☒ on the attached plan number [] and shown: edged red comprising [] area ☐ on the title plan(s) of the above titles and shown:

Remember to date this deed with the day of completion, but not before it has been signed and witnessed.

Give full name(s) of **all** of the persons transferring the property.

Complete as appropriate where the transferor is a company.

Give full name(s) of **all** the persons to be shown as registered proprietors.

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

4	Date:
5	Transferor: [] For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix: For overseas companies (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee for entry in the register: HERTFORDSHIRE COUNTY COUNCIL For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix: For overseas companies (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
7	Transferee's intended address(es) for service for entry in the register: County Hall Pegs Lane Hertford Hertfordshire SG13 8DE

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

8	The transferor transfers the property to the transferee
9	Consideration ☒ The transferor has received from the transferee for the Property the sum of £1.00 ☐ The transfer is not for money or anything that has a monetary value ☐ Insert other receipt as appropriate:
10	The transferor transfers with ☒ full title guarantee ☐ limited title guarantee
11	Declaration of trust. The transferee is more than one person and ☐ they are to hold the property on trust for themselves as joint tenants ☐ they are to hold the property on trust for themselves as tenants in common in equal shares

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

- an ‘X’ is placed:
 - in the first box, or
 - in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, *or*
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to [Joint property ownership](#) and [practice guide 24: private trusts of land](#) for further guidance. These are both available on the GOV.UK website.

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

☐ they are to hold the property on trust:

12 Additional provisions

1 Definitions

1.1 In this transfer the following words and expressions have the following meanings

“Conditions for Entry”

the conditions to which any right to enter granted in clause 2 or excepted and reserved by Clause 3 is subject, which are that the right shall be subject to the person exercising the right:

(a) effecting entry at a reasonable time (or at any time in an emergency)

	(b) giving reasonable notice to the person whose premises are being entered (but no notice needs to be given in an emergency); (c) causing as little damage as possible to the premises being entered and promptly making good any damage caused to the reasonable satisfaction of the person whose premises are being entered; (d) complying with the reasonable requirements of the person whose premises are being entered in relation to the exercise of the right of entry; and (e) only over such unbuilt parts of the Retained Land and the Property as are reasonably necessary
“Educational Use”	use as a Primary School for instruction and teaching in an educational setting along with associated ancillary uses (to include but not limited to school clubs, holiday and sports clubs, nursery and pre school provision, special health learning or educational needs provision, family centres and other relevant community use or uses) including drop-off and car parking facilities
“Estate Roads”	the roads footpaths and accessways on the Retained Land and affording access to the Property
“Primary School”	means any school providing education to primary school

children and avoidance	and/or nursery aged shall include (for the of doubt) local authority controlled school, academy and free schools
“Retained Land”	the land shown edged blue on the Plan number[] attached comprised in the Title Number (excluding the Property)
“Permitted Use ”	means Educational Use as first use save that once the Property has been developed for the Educational Use the Transferee may apply for the removal of the restrictive covenant limiting the use of the Property or any parts thereof to Educational Use and if removed thereafter there shall be no such restriction on use
”Relevant Authority”	any or all statutory corporations local or other authorities and all bodies exercising statutory rights powers or obligations which includes (but is not limited to) the providers of highway, planning, drainage, Services and a company to which the powers of such any other authority or body or company are delegated
“Services”	means water, soil, effluent, gas, electricity, oil, energy, telecommunications, television and all other services and utilities

“Service Media”

means all media for the supply and removal of Services and shall include (but not be limited to) ducts, gutters, pipes, drains (including sustainable urban drainage systems) sewers, sewage and other pump controls, meters, traps, valves and other media, plant, equipment or apparatus for conducting, controlling or measuring water, soil, gas, smoke, Electricity, telecommunications, transmission or reception systems, watercourses, and other conducting media and things of a like nature

“Statutory Agreement”

of

and/or

Industry

Services

of

means an agreement under Section 38 and/or section 278

The Highways Act 1980

Section 104 of the Water

Act 1991 and/or any other agreement regarding

and Service Media with any statutory undertaker or other Relevant Authority or body

relating to access and/or the supply of Services to the Property or any other aspect

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Property context	The development of the or Retained Land (as the permits)
1.2	References to the owners of the Property are to the Transferee and its successors in title to the Property and references to the owners of the Retained Land are to the Transferor and its successors in title to the Retained Land.
1.3	References to the Property include the whole and every part of the Property and references to the Retained Land include the whole and every part of the Retained Land.
1.4	References to clauses are to clauses set out in this Panel 12 unless the reference is to a clause in another deed or document.
2	Rights granted for the benefit of the Property
2.1	This transfer is made together with the following rights over the Retained Land in fee simple for the benefit of the Property and may be exercised by the Transferee and its successors in title and all persons authorised by them (whether expressly or impliedly): (a) the right to connect into and use for the free and uninterrupted use and passage of the Services to and from the Property via the (i) Service Media already passing through or laid in under or over the Retained Land and which

serve or are intended to serve the Property; and

(ii) Service Media passing through or in under or over the Retained Land which are installed or constructed 80 years from the date of this transfer;

(b) the right of subjacent and lateral support and protection for the Property from the adjoining parts of the Retained Land and any buildings on it;

(c) subject to complying with the Conditions for Entry and subject to the route of such connections or access being approved by the Transferor (such approval not to be unreasonably withheld or delayed) the right to enter the adjoining parts of the Retained Land with or without agents, professional advisers, workmen and equipment so far as is reasonably necessary to:

(i) inspect repair maintain install re-route, replace or connect into Service Media now existing or which may be laid under such parts of the Retained Land subject to the person or persons entering the Retained Land to exercise the above rights shall obtain all necessary consents from all relevant authorities prior to carrying out any such works and

(ii) enter on to the Retained Land to carry out landscaping planting or field maintenance works to the Property and to deliver any off-site planning works that may arise out of any planning permissions or Statutory

Agreement in respect of delivery of the primary school on the Property; and

- (iii) pending adoption of the Service Media the right to enter onto so much of the Retained Land as is necessary and which does not have a building on it and is not intended to have a building on it with or without vehicles and any such workmen tools appliances and other equipment as may be reasonably necessary to lay construct inspect maintain connect to adjust cleanse repair alter renew services and service apparatus at or after the date hereof on over or through any part of the Retained Land subject always to the Transferor's approval of the route and point of and method of connection to services and subject to capacity for such services being available and making good all damage or disturbance forthwith which may be caused to the Retained Land.

2.2 Until such time as the Estate Roads are adopted and maintained at the public expense the right of way with and without vehicles (in common with the owners of the Retained Land and those authorised by them) over and along the Estate Roads and on foot and bicycles over and along the paths constructed or to be constructed on the Retained Land at all times and for all purposes in accessing and egressing from the Property to and from the nearest public highway

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

3 Rights reserved for the benefit of other land

3.1 The following rights over the Property are reserved for the benefit of the Retained Land:

(a) the right of subjacent and lateral support for the Retained Land and any buildings on it from the adjoining parts of the Property;

(b) the right to divert or alter the Service Media within the Retained Land which serve the Property PROVIDED THAT the amenity offered to the Property thereby is no less commodious and causes as little disruption as possible to the Services and the Property and the Transferor gives the Transferee prior written reasonable notice of such diversion or alteration and such works are carried out at the Transferor's sole cost

Include words of covenant.

4 Restrictive covenants by the Transferee

4.1 The Transferee covenants with the Transferor for the benefit of the Retained Land and to bind the Property and each and every part thereof into whosoever hands the same may come:

Not use the Property for any purposes other than the Permitted Use as first use save that in the event that an application to remove restrictions on use is made as contemplated by the terms of this transfer and such restrictions are removed then this clause shall not apply

4.2 Not to do or agree to anything which will delay, hinder or prevent the development of the Retained Land in accordance with the planning permission **PROVIDED ALWAYS THAT** the development or preparation of the Property for the Permitted Use shall not be a breach of this obligation and **PROVIDED ALSO THAT** nothing in this clauses shall be interpreted as fettering or restricting the Transferee's discretion as a local authority.

4.3 Not to dispose of the Property without such disponee entering into a direct deed of covenant with the Transferor to perform the positive obligations in clause 5

5. Positive Covenants by the Transferee

5.1 Save that nothing in this clause shall be interpreted as fettering or restricting the Transferee's discretion as highways education or lead local flood or local authority and/or affect the use of the Property for the Permitted Use, the Transferee covenants with the Transferor that

subject to the Transferor fully indemnifying the Transferee against any proper and reasonably incurred costs liabilities or proper expenses that arise either directly or indirectly and are suffered and/or incurred by them

that at the written request of the Transferor it shall enter into any Statutory Agreement and/or any variation to the planning agreement (as landowner only and with no financial liability) which may be required by any

competent or Relevant Authority in relation to the Transferor's development of the Retained Land.

6. Restrictive covenants by the Transferor

6.1 The Transferor covenants with the Transferee for the benefit of the Property and so as to bind the Retained Land and each and every part thereof into whose hands the same may come:

- (a) not to use or permit to be used the Property for any purpose other than undertaking works needed to ensure that the required Service Media and Estate Roads serving the Property can be provided; and
- (b) not to develop use or cause to be developed or used the Property (other than in accordance with any planning permission) as anything other than a primary school; and
- (c) not to allow any party to unlawfully occupy the Property or any part thereof nor to allow any party to obtain rights in over or under the Property; and
- (d) not to deposit any debris, waste or hazardous materials (including wastes pollutants, contaminants or other substances including without limitation liquids, solids, gases, ions and noise) that may be harmful to human health or other life or to the environment or to property that would prejudice the development of the Property for the Permitted Use; and
- (e) [not to contest any application by the Transferee to vary any restrictions on Permitted Use as contemplated by the terms of this Transfer in the event that the Transferee can reasonably demonstrate that any

Include words of covenant.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

alternate use of the Property will not adversely impact any development constructed on the Retained Land]

7. Positive Covenants by the Transferor

7.1 The Transferor covenants with the Transferee that subject to the Transferee indemnifying the Transferor against any proper and reasonably incurred costs liabilities or proper expenses that arise either directly or indirectly and are suffered and / or incurred by them that at the written request of the Transferee it shall enter into any Statutory Agreement which may be required by any competent or Relevant Authorities in relation to the Transferees development of the Property site for its Permitted Use.

Other

8. Agreements and declarations

8.1 The Transferor and the Transferee apply to the Land Registrar for the benefit of the easements and other rights set out in **clause 2** to be noted on the title number of the Property.

8.2 The Transferor and the Transferee apply to the Land Registrar for the benefit of the easements and other rights set out in **clause 3** to be noted on the title number(s) of the Retained Land.

8.3 The Transferor and the Transferee declare that section 62 Law of Property Act 1925 does not apply to this transfer and no legal or other rights are granted over the Retained Land for the benefit of the Property by this transfer except for those expressly granted by this transfer.

8.4 The Parties agree and undertake with each other that they will co-operate with each other and act in good faith with each other and will without unreasonable delay join in any necessary agreements reasonably required by the other (subject to any reasonable indemnities being give and reasonable provision for costs being made) required for the development of ether Parties land and/or the adoption of any Estate Roads or access roads and footpaths, estate sewers and any Service Media and any connections thereto.

8.5 For the purposes of giving the Transferor a full and sufficient indemnity but not further or otherwise, the Transferee covenants with the Transferor that as from the date of this Transfer the Transferee will observe and perform the matters contained or referred to in the Property and Charges registers of the above title (other than financial charges) so far as they relate to the Property, subsist and are enforceable and will keep the Transferor indemnified against all actions, proceedings, costs, claims, demands and liabilities in respect of any future breach of them.

8.6 A person who is not a party to this Transfer has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Transfer but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 11 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to [Joint property ownership](#) and [practice guide 24: private trusts of land](#) for further guidance.

Remember to date this deed in panel 4.

9. Execution

[Execution Block for Transferee]

The Common Seal of **HERTFORDSHIRE**)
COUNTY COUNCIL was hereunto affixed in)
the presence of:)

.....
 Authorised signatory

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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